NOTE

LET THERE BE LIGHT: WHO GETS TO PLAY GOD WITH OUR DAYLIGHT?

I. INTRODUCTION

Twice each year in the United States, the majority of the population endures a legislative manipulation of time, endearingly known as Daylight Saving Time ("DST").[1] Like clockwork, every March and November, journalists flock to their editors with articles ranting and raving about the hardships and/or delights associated with the time shift.[2] For many, however, the physical and mental toll of this measly one-hour swing is more than they are willing to handle,[3] and, as a result, many state legislatures and lobbyists are seeking changes.[4] There are two primary solutions put forth by those who take issue with the changing of the clock: (1) stop it altogether and return to standard time,[5] or (2) adopt DST permanently.[6]

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1. *See Time Change 2020 in the United States*, TIMEANDDATE.COM, https://www.timeanddate.com/time/change/usa (last visited July 10, 2020) (stating the clocks moved forward to DST on March 8th and reverted to standard time on November 1st in 2020).

2. *Compare* Harry Enten, *Complaining About the Change to Daylight Saving Time? You're in the Minority.*, CNN (Mar. 10, 2018, 4:36 PM), https://www.cnn.com/2018/03/10/politics/america-stop-complaining-daylight-saving-time/index.html ("The majority of people . . . actually aren't disrupted at all by DST."), *with* Dave Mosher, *Daylight Saving Time Begins on Sunday, and You Should Be Furious*, BUS. INSIDER (Mar. 10, 2018, 10:24 AM), https://www.businessinsider.com/when-does-daylight-savings-time-start-march-2018-3 ("[M]any Americans believe the practice is not worth the hassle, and studies suggest it may cause more problems than it solves.").

3. *See* Anthony Boldin, *Poll: 74 Percent of Americans Want to End Daylight Saving Time, but Keep the Later Sunsets*, ENDDAYLIGHTSAVINGTIME.ORG (Nov. 2, 2017), https://enddaylightsavingtime.org/poll-74-percent-americans-want-end-daylight-saving-time-keep-later-sunsets.

4. *See* Maya Wei-Hass, *Tired of Daylight Saving Time? These Places Are Trying to End It.*, NAT'L GEOGRAPHIC (Mar. 8, 2019), https://www.nationalgeographic.com/science/2019/03/tired-of-daylight-saving-time-these-states-trying-to-end-clock-changes (identifying Florida, Washington, Oregon, California, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine as states making efforts to adjust their clocks permanently to DST).

5. *See* Jamie Ducharme, *The Reason Some States Don't Observe Daylight Saving Time*, TIME (Nov. 4, 2017), https://time.com/5005600/states-without-daylight-savings-time.

6. Reid Wilson, *Dozens of States Consider Move to Permanent Daylight Saving Time*, HILL (May 12, 2019, 8:30 AM), https://thehill.com/homenews/state-watch/443201-dozens-of-states-consider-move-to-permanent-daylight-savings-time.

Pursuant to federal law, states have the power to opt out of DST to remain on Standard Time;[7] however, the statute does not grant the states the right to remain on DST year-round.[8] Nonetheless, in recent years, several states have proposed and passed bills authorizing the adoption of year-round DST.[9] All of these bills, however, contain one minor caveat: they are conditioned upon a congressional amendment to the existing federal statute that would allow their implementation.[10]

Various arguments have been set forth regarding the benefits and detriments of DST.[11] However, these discussions often fail to reflect upon how these benefits and detriments impact the states in disparate ways.[12] Due to inherent geographical differences, it is essential that these pros and cons are viewed through a geographically cognizant lens.[13]

This Note will begin in Part II by examining the history of DST in the United States, exploring both the issues that it sought to address and the subsequent problems that arose as a result of its application.[14] Part III will explore the arguments set forth by proponents and detractors of the current possible time arrangements (namely, permanent standard time, alternating between DST and Standard Time, and permanent DST).[15] However, rather than evaluating these arguments on their merits or shortcomings, this Note will explore these issues in light of their inconsistent impact on different geographic areas of the country.[16] Finally, Part IV will propose an amendment to the Uniform Time Act which would allow states to opt in to DST year-round via their elected

7. 15 U.S.C. § 260a(a) (1967) (amended 2005) ("[A]ny State that lies entirely within one time zone may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable during that period.").

8. *Id.* § 260a(b) ("It is hereby declared that 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 this section.").

9. *See* Wei-Hass, *supra* note 4.

10. *See, e.g.*, FLA. STAT. ANN. § 1.025 (West 2018) ("If the United States Congress amends 15 U.S.C. s. 260a to authorize states to observe daylight saving time year-round, it is the intent of the Legislature that daylight saving time shall be the year-round standard time of the entire state and all of its political subdivisions."). The conditional language in these bills is, of course, in recognition of the Supremacy Clause of the Constitution. U.S. CONST. art. VI, cl. 2.

11. *See, e.g.*, Brian Handwerk, *The Case for and Against Daylight Saving Time*, NAT'L GEOGRAPHIC (Nov. 3, 2016), https://www.nationalgeographic.com/news/2016/11/daylight-saving-time-2016-why-change-clocks (referencing, for example, energy conservation, health, scheduling issues, and leisure as benefits and downsides to DST).

12. *See id.*

13. *See infra* Part III.

14. *See infra* Part II.

15. *See infra* Part III.

16. *See infra* Part III.

state legislatures, offering states the opportunity to act in accordance with the wishes of their constituencies.[17]

II. DST: A BRIEF HISTORY

From its conception in the minds of two unique historic characters[18] to its wide application in modern society,[19] the story of DST has been a wild ride of acceptance, rejection, debate, and change.[20] This Part will start at the beginning, tracing the history of DST from a mere idea to a worldwide phenomenon.[21]

A. The Eccentric Pioneers

The idea that changing our schedules in relation to the sun could offer an economic benefit to society was first presented in a humorous musing of Benjamin Franklin in 1784.[22] While living in Paris and serving as the American minister to France,[23] Franklin had an epiphany when he saw the sunlight coming through his window at just 6:00 a.m.[24] He realized that much of the population in France was sleeping well-beyond sunrise, and, on the other hand, burning candles for hours beyond sunset.[25] He whimsically made various estimates, such as the hours each night that candles were burned and the number of hours people were sleeping past sunrise, in coming to the astounding conclusion that Paris could save an estimated 96,075,000 livres tournois annually,[26] an amount that would equate to more than $270 million today.[27] Rather than proposing a changing of the clocks, Franklin

17. *See infra* Part IV.

18. *See infra* Part II.A.

19. Kyle Fitzpatrick, *When Do Clocks Change Around the World? And Why?*, GUARDIAN (Oct. 21, 2019, 5:16 AM), https://www.theguardian.com/news/2019/oct/21/spring-forward-fall-back-who-changes-the-clocks-when-and-why (estimating that about seventy countries around the world use DST).

20. *See* discussion *infra* Part II.A–F.

21. *See* discussion *infra* Part II.A–F.

22. *See* BENJAMIN FRANKLIN, *Daylight Saving: To the Authors of* The Journal of Paris (1784), *reprinted in* THE INGENIOUS DR. FRANKLIN: SELECTED SCIENTIFIC LETTERS OF BENJAMIN FRANKLIN 17, 17-22 (Nathan G. Goodman ed., 1931) (describing a proposal as to why people should change their schedules in relation to the sun).

23. DAVID PRERAU, SEIZE THE DAYLIGHT: THE CURIOUS AND CONTENTIOUS STORY OF DAYLIGHT SAVING TIME xii (2005).

24. *See* FRANKLIN, *supra* note 22, at 17-18.

25. *See id.* at 17-19.

26. *See id.* at 20. The livre tournois was the currency used in France up until the eighteenth century. *Livre Tournois*, LEXICO, https://www.lexico.com/definition/livre_tournois (last visited July 10, 2020).

27. *See* PRERAU, *supra* note 23, at xiii. Prerau estimated that 96 million livres tournois equaled about $200 million in 2005. *Id.* $200 million in 2005 is the equivalent of more than $270 million in 2020. *Value of 2005 US Dollars Today*, INFLATIONTOOL, https://www.inflationtool.com/us-dollar/2005-to-present-value?amount=200000000 (last visited

suggested that a tax be laid on all windows with shutters to keep the light out, that candle supply be limited to one pound per family per week, and that church bells be rung and canons fired at sunrise to wake people from their slumber.[28] While there is no doubt that Franklin was having fun and exaggerating his estimates, he concluded, by pointing to a legitimate underlying principle, that "it is impossible that so sensible a people, under such circumstances, should have lived so long by the smokey, unwholesome, and enormously expensive light of candles, if they had really known, that they might have had as much pure light of the sun for nothing."[29]

The idea was all but forgotten until 1905, when a wealthy and well-known designer and builder, William Willett, experienced a similar epiphany to that of Benjamin Franklin.[30] While out for an early morning horseback ride, he realized that he was the only one awake at that hour.[31] As he thought about this conundrum, it occurred to him that there was little time after work to enjoy the daylight before sunset.[32] Unlike Franklin, Willett was not joking around when, two years later, he proposed that the clocks shift forward in twenty-minute increments each Sunday in April and shift backward in the same fashion in September.[33] Willett echoed the economic benefits set forth by Benjamin Franklin, and without humor or exaggeration, estimated that Great Britain and Ireland could save £2,500,000 a year.[34] Additionally, he calculated that by age twenty-eight an individual could gain an additional year of sunlight.[35]

This time around, the idea did not fall on deaf ears, and one year later, Robert Pearce, a Member of Parliament, introduced what became known as Pearce's Daylight Saving Bill in the House of Commons.[36] However, the Bill experienced significant pushback, primarily on the grounds that having to change the clocks up to eight times each year was unwieldy, and several Members of Parliament suggested other alternatives.[37] The legislative committee ultimately decided to revise the Bill to implement only two shifts a year: one one-hour shift forward on

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July 10, 2020).

28. *See* FRANKLIN, *supra* note 22, at 20-22.

29. *See id.*

30. *See* Richard Mellor, *The Builder Who Changed How the World Keeps Time*, BBC (Mar. 11, 2016), https://www.bbc.com/future/article/20160310-the-builder-who-changed-how-the-world-keeps-time.

31. *See id.*

32. *See id.*

33. *See* WILLIAM WILLETT, THE WASTE OF DAYLIGHT (1907), *reprinted in* DONALD DE CARLE, BRITISH TIME 152, 152 (1947), https://webexhibits.org/daylightsaving/willett.html.

34. *Id.* at 153.

35. *Id.*

36. *See* PRERAU, *supra* note 23, at 9.

37. *See id.* at 10-11.

the third Sunday in April and one one-hour shift back on the third Sunday in September.[38] Willett was satisfied with the changes and fully supported the new Bill.[39]

Support for the Bill was widespread, as the President of the Royale College of Physicians, the Manager of the National Bank, and other prominent businessmen, along with several representatives from the railroad companies, and even Sir Robert Ball—the best-known astronomer of the time—all voiced their support for the positive impacts the Bill could have on health and industry.[40] However, the Bill was also met with fierce opposition, and it became apparent that the Bill lacked the backing in Parliament to progress into law.[41]

For several years thereafter, Willett and members of Parliament in favor of his notion made push after push to transform his idea into law.[42] However, Willett's dream was repeatedly rejected,[43] and on March 4, 1915, Willett passed away at the age of fifty-eight.[44]

Despite Willett's untimely death, his idea remained alive.[45] In February 1916, a year and a half into World War I, the idea of using DST—this time, primarily as an energy conservation measure—returned to the forefront of legislative debate.[46] While the British continued the contentious deliberations, the German Federal Council enacted DST as a wartime measure.[47] Following Germany's enactment, many other European nations followed suit.[48] Having seen positive impacts of the measures around Europe, the British Parliament passed into law the Summer Time Act of 1916, implementing DST for the duration of the War.[49] That summer, Britain enjoyed its first DST, which was widely regarded as a success.[50]

38. *See id.* at 11-12.
39. *Id.* at 12.
40. *See id.* at 12-14.
41. *See id.* at 20-21.
42. *See id.* at 21-23.
43. *See id.*
44. *Id.* at 24; *William Willett Dies*, N.Y. TIMES, Mar. 5, 1915, at 9.
45. *See* PRERAU, *supra* note 23, at 52.
46. *See id.*
47. *See id.* at 53.
48. *See id.* at 55 (naming Austria-Hungary, Holland, Denmark, and Sweden as countries that followed suit).
49. *See id.* at 57.
50. *See British Clocks Set Back*, N.Y. TIMES, Oct. 1, 1916, at 4 ("The Daylight Saving Plan . . . is generally considered to have proved a success, even the farmers, who at first objected to it, having become reconciled to the innovation.").

B. The Introduction of DST in America

Across the pond, the United States had managed to keep itself out of the War, and, accordingly, little attention was paid to the sweeping changes to the clocks in Europe.[51] The notion of DST had, however, made its way across the Atlantic with growing support, thanks to the unrelenting efforts of Willett.[52] Amid frustrations of his unsuccessful campaign in Britain, Willett had written a letter to every member of the United States Congress in 1909 in hopes that action in America could prompt a British response.[53] While the legislature had not yet given the idea serious consideration, the movement for DST began spreading around the country.[54]

It was not until April 6, 1917, when the United States declared war on Germany, that the idea of DST was met with serious consideration.[55] Senator William Calder, a Brooklyn Republican, and Representative William Borland, a Kansas City Democrat, drafted what became known as the Calder-Borland Bill, which called for five months of DST between May and September.[56] Supporters of the Bill contended that an extra hour of daylight would allow for increased food production, fuel conservation, and health improvements.[57] On the other hand, farmers and members of the railroad association staunchly opposed the Bill, suggesting that the confusion could create dangerous conditions on the railways and create significant inconvenience to farmers who were already attuned to the natural sun schedule.[58] Given the demands of the war, the most persuasive argument came from government experts who estimated that "millions of dollars will be saved in fuel in the seven months during which the standard time shall be advanced one hour."[59]

On March 19, 1918, after nearly a year of deliberations in Congress, President Woodrow Wilson signed the Standard Time Act into law.[60] The Bill simultaneously set a standard time to govern all

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51. *See* PRERAU, *supra* note 23, at 71.

52. *See id.* at 71-72.

53. *See Would Add an Hour to Our Summer Day*, N.Y. TIMES, Feb. 7, 1909, at C3.

54. *See* PRERAU, *supra* note 23, at 74, 80 (mentioning Cleveland and Detroit as two key cities in the movement, which later spread to New York, Pittsburgh, and Boston).

55. *See Pleads for Daylight Bill*, N.Y. TIMES, June 29, 1917, at 7 (quoting Representative William P. Borland: "We are at war with Germany, the same highly organized and scientifically efficient country which first adopted this plan, and it is imperative we bring the American business machine and the American human machine to the highest point of efficiency.").

56. *See* PRERAU, *supra* note 23, at 85; A. Lincoln Filene, *Status of the Daylight Saving Plan*, AM. CITY, Jan.–June 1918, at 217, 217 (noting that the Bill was amended to span seven months from April to October instead of the original five months proposed).

57. *See* PRERAU, *supra* note 23, at 85-87.

58. *See id.* at 87, 89, 104-05.

59. *7 Months' Saving of Daylight Voted*, N.Y. TIMES, Mar. 16, 1918, at 1.

60. *See Daylight Saving Which Begins Today*, N.Y. TIMES, Mar. 31, 1918, at 14.

United States time zones and implemented the first DST schedule into the calendar.[61] Just two weeks later, Americans enjoyed their first DST when the clocks moved forward at 2:00 a.m. on Sunday, March 31, 1918.[62] The first Daylight Saving season was largely a success, and the majority of the newspapers, magazines, and the public at large seemed to approve of the change.[63]

Unfortunately for those who enjoyed the change, without the justification of the war effort, agricultural interests began to successfully lobby Congress to repeal DST.[64] The sun already dictated the farmers' schedule, and moving the clocks an hour ahead simply complicated labor conditions.[65] The problem stemmed from the fact that the cows required milking at twelve-hour intervals.[66] This meant that the farmers still had to wake up on the same schedule before sunrise, which required an additional expense in the form of artificial light.[67] On the back end, the farmers were working an extra hour into the evening with the extended daylight, making it challenging to attend community activities.[68] Despite two presidential vetoes,[69] Congress overrode the second veto, and the Bill was officially repealed on August 20, 1919.[70]

C. DST Survives on the Local Level

Despite the repeal, Willett's idea just would not go away.[71] Now that the federal government was staying away from DST, the decision to add the extra hour was left to the individual cities or states.[72] New York City and many other municipalities turned to their local legislatures to

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61. Standard Time Act, Pub. L. 65-106, ch. 24, § 3, 40 Stat. 450, 450-51 (1918) (repealed 1919) (calling for the clocks to be set forward one hour on the last Sunday in March and to be turned back on the last Sunday in October).

62. *See Daylight Saving Which Begins Today*, *supra* note 60.

63. *See* PRERAU, *supra* note 23, at 99-100; *Wants Clocks Kept Ahead*, N.Y. TIMES, Oct. 8, 1918, at 10 ("Investigation by the board in twenty of the largest cities show that in all but Pittsburgh large quantities of coal were saved by the law and it is estimated that in those cities alone 100,000 tons would be saved this [w]inter.").

64. *Congress for Repeal of Daylight Saving*, N.Y. TIMES, June 19, 1919, at 13 ("Repeal was strongly urged upon Congress by agricultural interests, which contended that farm labor conditions were complicated by the [D]aylight [S]aving system.").

65. *See id.*

66. MICHAEL DOWNING, SPRING FORWARD: THE ANNUAL MADNESS OF DAYLIGHT SAVING TIME 23 (2005).

67. *See id.*

68. *Id.* at 24 (quoting Representative King as stating: "The farmer cannot attend the country schoolhouse debate in the evening because he can not get there before half-past nine to save his soul").

69. *See President Vetoes Daylight Repeal*, N.Y. TIMES, Aug. 16, 1919, at 7.

70. *Daylight Saving Act Now Stands Repealed*, N.Y. TIMES, Aug. 21, 1919, at 1.

71. *See Plan Local Action to Save Daylight*, N.Y. TIMES, Aug. 23, 1919, at 11. The National Daylight Saving Association organized to influence legislators on the municipal level to adopt DST, despite failures at the national level. *See id.*

72. *See* PRERAU, *supra* note 23, at 110.

reinstate the extra hour of daylight, and some did so without missing a single sunny summer.[73] Each year the trend continued, and more and more of the country had passed local Daylight Saving bills.[74] By 1931, 483 different cities and towns had adopted DST.[75] Throughout the 1930s, more and more states began mandating DST state-wide,[76] but upon the onset of World War II, United States senators, once again, began the push to mandate DST nationwide.[77]

With the threat of World War II looming, President Franklin Roosevelt proposed a bill "to promote the national defense and the conservation of electrical energy by permitting the establishment of daylight saving time."[78] After the Japanese attacks on Pearl Harbor, the daylight saving discussion was catapulted to the forefront of legislative attention.[79] This time, however, Congress sought year-round DST.[80] On January 20, 1942, "An Act to Promote the National Security and Defense by Establishing Daylight Saving Time" was signed into law, with a caveat that the law would cease to be in effect six months after the end of the war.[81]

D. Post-World War II

At the end of World War II, several members of Congress decided that the six-month wait for the automatic repeal of "War Time" (DST) was too long and introduced bills to repeal the law immediately.[82] Again, farmers were at the forefront of those pressuring Congress to repeal the wartime measures.[83] In September 1945, the measures were repealed

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73. *See City and Suburbs Set Clocks Ahead*, N.Y. TIMES, Mar. 28, 1920, at 1. New York was the first state to adopt DST at the state level, but municipalities within New York had created their own laws. *Id.* As a result, even in the event of a state-level repeal, these municipalities would have continued observing DST. *Id.*

74. *See 14 States Observe Daylight Saving*, N.Y. TIMES, June 30, 1925, at 9 (noting that DST was observed in two entire states and 280 cities and villages in twelve other states).

75. *Daylight Saving Returns; 483 Cities Turn Clocks Ahead*, N.Y. TIMES, Apr. 26, 1931, at 1.

76. *Daylight-Saving Time Has Gains and Losses*, N.Y. TIMES, Apr. 12, 1938, at 18 (noting New Hampshire had recently mandated state-wide observance of DST).

77. *Senators Urge Daylight Saving*, N.Y. TIMES, Dec. 19, 1941, at 4 ("A nation-wide daylight saving plan to offset wartime blackouts was demanded in the Senate today.").

78. *See* PRERAU, *supra* note 23, at 146.

79. *See id.* at 146-47.

80. *See id.* at 147; *see also* George Gallup, *Change to Daylight Time All Year 'Round Found Favored by Majority in Gallup Poll*, N.Y. TIMES, Jan. 4, 1942, at 41 (showing fifty-seven percent of participants nationwide in favor of year-round DST).

81. *See* PRERAU, *supra* note 23, at 148.

82. *See Congress Leaders Promise to End Daylight Saving Time by Sept. 30*, N.Y. TIMES, Sept. 9, 1945, at 1 (noting that Congressional leaders did not expect any votes against the repeal).

83. *See* C.P. Trussell, *End of War Time Is Promised Farmer; Members of Congress Plan Quick Repeal*, N.Y. TIMES, Aug. 18, 1945, at 13 ("Impatient members of Congress are giving assurances to more impatient farmers, cows and chickens that War Time is slated to end before the close of the six-month post-war period written into the law which moved the clocks forward an hour at 2 [a].[m]. on Feb. 9, 1942."); *Farmers Demand 'Sun-Time' Again*, N.Y. TIMES, July 15, 1945, at

only three weeks after the end of the war.[84] Despite official estimates that over 5,000,000,000 kilowatt-hours of electricity had been saved in three years, urban supporters were unable to overcome the strength of rural opposition.[85] Control of the clocks returned to the local level, but as time progressed, the varying time zones became exceedingly convoluted.[86] Then-President Harry Truman was not opposed to DST generally but acknowledged the problems that arose from each locality setting its own time standards.[87] All across the country, a variety of strange applications of daylight saving measures arose.[88] For example, in Palm Springs, California, the heat of the desert sun made an extra hour of daylight unattractive.[89] However, in the winter, the sun was obstructed by eleven-thousand-foot Mount San Jacinto from 3 p.m. on, so residents desperately sought an additional hour of daylight.[90] As a result, the city of Palm Springs applied DST strictly to the winter, while the rest of California applied either standard time or only observed DST in the summer.[91] Another bizarre scenario arose in Minonk, Illinois, where the city council accidentally set the date for DST to commence one week early.[92] By the time the error was realized, it was too late to make a change, and the 2500 residents of Minonk spent one week on DST while 150 million other Americans remained on Standard Time.[93]

By the late 1950s to the early 1960s, the chaos had become excessive.[94] In Iowa, there were nearly two dozen different arrangements for beginning and ending DST.[95] In Nashville, Tennessee, television stations, schools, and hospitals all observed DST, but many businesses

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44 ("In no uncertain terms, farmers are swamping their Congressmen with letters complaining that Congress had no business fooling around with God-given time.").

84. *See Turn Back Clocks One Hour Tonight*, N.Y. TIMES, Sept. 29, 1945, at 1.

85. *See Farmers Demand 'Sun-Time' Again*, *supra* note 83, at 44.

86. *See generally* Felix Belair Jr., *Uniform Daylight Saving Time Sought*, N.Y. TIMES, Mar. 7, 1965, at 24 (citing issues across the nation with state-by-state, county-by-county, and even town-by-town time differences).

87. *See* PRERAU, *supra* note 23, at 157 (quoting Truman: "We built those time zones so that [there would not be] time differences of fifteen minutes between cities ten miles apart").

88. *See id.* at 159.

89. *See id.*

90. *Id.*; Tracy Conrad, *Sun Time in the Desert*, DESERT SUN (Dec. 22, 2019, 6:00 AM), https://www.desertsun.com/story/life/entertainment/events/2019/12/22/sun-time-desert/2723739001 (quoting Charles Horrworth, the Vice President of the American Hotel Association: "Why should the mountains, no matter how beautiful, be permitted to deny you an extra hour of sunshine when a quick twist of the wrist as applied to the clock will do the trick[?]").

91. *See* PRERAU, *supra* note 23, at 159.

92. *See id.* at 160.

93. *See id.*

94. *See Some Daylight Saving to End, but Not Here*, N.Y. TIMES, Sept. 26, 1959, at 46 ("Daylight Saving Time will end tomorrow in a crazy-quilt pattern of communities across the country.").

95. *See* Wilson, *supra* note 6.

chose not to.[96] In Minnesota, the cities of Minneapolis and St. Paul, with downtown areas separated by just a few miles, began DST two weeks apart.[97] Upon the early shift to DST, eighteen suburbs followed suit with the early shift, while four remained on Standard Time.[98] Not surprisingly, among this chaos, there were calls for Congress to make a change, but this time from the public at large.[99]

E. The Uniform Time Act

In response to the chaos caused by the fluctuating time zones across the country, Congress stepped in to pass the Uniform Time Act of 1966.[100] This Act reiterated the standard times set forth in the 1918 Bill[101] but allowed for states to opt out of DST so long as the entire state made the change.[102] Likewise, the Act standardized the DST period at six months, from the end of April to the end of October.[103] Many states adopted a different process for determining whether they would opt in to the new federal standard.[104] In 1967, Hawaii, Alaska, and Michigan were the only states to exempt themselves from DST.[105]

The period under the Uniform Time Act was short-lived, however, as war interrupted once again.[106] When Egyptian and Syrian forces launched a surprise attack on Israel on October 6, 1973, the United States quickly began supporting Israel with supplies.[107] In response to United States involvement, Saudi Arabia, Libya, and other Arab,

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96. *See* PRERAU, *supra* note 23, at 164.

97. *Id.* at 165; *see also Uniform Time Bill to Ease Confusion*, N.Y. TIMES, Apr. 3, 1966, at 68 ("In May, St. Paul was on daylight time, while its twin city, Minneapolis, stayed on standard time.").

98. *See* PRERAU, *supra* note 23, at 166-67.

99. Belair Jr., *supra* note 86 ("There are volumes of testimony on the public inconvenience and frustration that are produced by the present lack of uniformity.").

100. *See* Uniform Time Act of 1966, Pub. L. 89-387, §§ 2-7, 80 Stat. 107 (1966); *see also* H.R. REP. NO. 89-1315, at 1 (1966) ("[T]he bill is designed to eliminate at least the greater part of the confusion and unnecessary costs which ensue from the current conflicting time standards which exist in the United States.").

101. Act of Mar. 19, 1918, Pub. L. 65-106, ch. 24, § 1, 40 Stat. 450, 450-451 (repealed 1919) ("The standard time of the first zone shall be based on the mean astronomical time of the seventy-fifth degree of longitude west from Greenwich; that of the second zone on the ninetieth degree; that of the third zone on the one hundred and fifth degree; that of the fourth zone on the one hundred and twentieth degree; and that of the fifth zone, which shall include only Alaska, on the one hundred and fiftieth degree.").

102. Uniform Time Act of 1966, § 3, 80 Stat. at 107 ("[A]ny State may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if such law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable under such Act of March 19, 1918.").

103. *Id.*

104. *See* PRERAU, *supra* note 23, at 179. Some states accepted statewide DST by default, while others held referendums to decide. *Id.* Colorado, for example, voted for DST by a wide margin. *Id.*

105. *Clocks Set Ahead for Daylight Time*, N.Y. TIMES, Apr. 30, 1967, at 1.

106. *See* PRERAU, *supra* note 23, at 189.

107. *Id.*

oil-producing nations raised prices and declared an embargo on oil exports to the United States.[108] This triggered an energy crisis in the United States, and, once again, the legislature turned to its old reliable solution: DST.[109] Six weeks after the oil embargo had begun, the legislature passed the Emergency Daylight Saving Time Energy Conservation Act of 1973, which called for a nationwide, year-round DST for two years.[110]

As expected, the change elicited mixed feelings around the nation.[111] In the midst of winter, a new opposition to the measures rose to prominence: the danger to children commuting to school during dark winter mornings.[112] Across the country, there were reports of child fatalities on the way to school, and the population was largely pointing the finger at the clock shift.[113] At the same time, however, authorities recorded a decrease in traffic fatalities during the evening commute.[114] Likewise, the United States Department of Transportation ("USDOT") reports suggested that the measures were achieving the intended goal of reducing energy consumption.[115] The debate over benefits and detriments of the new measure became moot when the Emergency Daylight Saving Time Act expired on April 27, 1975, and conditions returned to those standardized under the Uniform Time Act.[116]

F. Where Are We Now?

Since 1975, the United States has experienced a fairly calm period in the saga of DST.[117] In 1986, President Ronald Reagan signed a bill amending a section of the Federal Fire Prevention and Control Act of 1974, which, among other things, extended DST for an additional three weeks in the spring.[118] DST was seldom discussed for nearly twenty

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108. *Id.*; *see also* Juan de Onis, *Kissinger Fails to Sway Saudis from Oil Embargo*, N.Y. TIMES, Nov. 10, 1973, at 1, 12 (discussing the importance and desire for mending United States relations with Saudi Arabia to improve the oil supply).

109. *See* PRERAU, *supra* note 23, at 190.

110. *Id.* at 191-92.

111. *Id.* at 192-93.

112. *See* B. Drummond Ayres Jr., *Benefits of Daylight Saving in Winter Widely Doubted*, N.Y. TIMES, Feb. 3, 1974, at 40. It is worth noting that these findings were regional in nature. *Id.* Maine, for example, found no problems related to the morning commute to school, while California reported a significant increase in accidents. *Id.*

113. *See* PRERAU, *supra* note 23, at 194-95.

114. *Id.* at 200 ("A [USDOT] study found a 0.7 percent decrease in fatal motor vehicle accidents for March and April under DST.").

115. *Id.* at 199 ("The [USDOT] concluded that the total electricity savings associated with DST amounted to about 1 percent in the spring and fall, corresponding to national savings of forty to fifty megawatt hours per day.").

116. *Id.* at 204.

117. *See id.* at 211.

118. *See* Act of July 8, 1986, Pub. L. No. 99-359, § 2(b), 100 Stat. 764, 764 (1986).

years thereafter; but, in 2005, as oil prices increased and energy consumption grew in the United States, two congressmen came forward with a new bill to extend DST for an additional two months.[119] This time around, the airline companies were the leading opposition.[120] The argument from the airline companies centered around the fact that this change would put the United States out of sync with foreign countries that observed DST on an alternate schedule.[121] Likewise, parent groups resurfaced, arguing about the dangers of children going to school in the dark.[122] In a change, however, there was little opposition from the farming community, as modern farm equipment and techniques made farmers less dependent on the sun.[123]

In light of the opposition, the extension was reduced to add only one additional month of DST, and President George W. Bush signed the Energy Policy Act of 2005 into law on August 8, 2005.[124] Despite the annual submission of new bills to extend DST,[125] the United States has seen no changes since the Energy Policy Act of 2005 became effective in 2007.[126]

Nonetheless, recently more and more states have introduced and passed legislation to enact statewide year-round DST.[127] Many of the old issues persist, while new arguments both for and against potential changes have risen to the surface.[128] Accordingly, the issue seems ripe to reenter the hearts and minds of modern America.[129]

III. WHO SHOULD DECIDE?

Proponents and detractors of DST have a variety of arguments in favor of their positions.[130] The problem is that many of these arguments are persuasive in one geographical context and less persuasive in another due to natural differences throughout the year at different latitudes.[131] In

119. *See* PRERAU, *supra* note 23, at 211 (proposing that DST would begin the first Sunday in March and end the last Sunday in November).

120. *Id.* at 212.

121. *Id.* (stating that the change would lead to seven or eight weeks each year in which the United States would have DST while Europe would not).

122. *Id.*

123. *Id.* at 212-13.

124. Energy Policy Act of 2005, Pub. L. No. 109-58, § 110(a), 119 Stat. 594, 615 (codified as an amended at 15 U.S.C. § 260a (1967)).

125. *See* PRERAU, *supra* note 23, at 216.

126. *See generally* § 110, 119 Stat. at 615 (failing to demonstrate that the Energy Policy Act has been changed since it became effective in 2007).

127. *See* Wilson, *supra* note 6.

128. *See* PRERAU, *supra* note 23, at 223.

129. *See infra* Part IV.

130. *See, e.g.*, Handwerk, *supra* note 11.

131. *See generally* Matt Rosenberg, *Solstices and Equinoxes*, THOUGHTCO. (July 11, 2019), https://www.thoughtco.com/the-four-seasons-p2-1435322 (describing the natural difference

the past few years, several states have proposed and passed legislation seeking to change the federally-mandated schedule,[132] and many prominent political figures have begun to weigh in on the issue.[133] However, because federal law prohibits states from remaining on DST year-round, even where significant benefits may be realized, these bills will not be effective without authorization through a federal amendment.[134] Thus, it is time to revisit an age-old legal question: who should decide?[135]

The current dilemma prompts several questions.[136] First, has the federal law successfully achieved the uniformity it sought to create,[137] and, if so, is that uniformity under threat?[138] Second, is our inherent geographical diversity too significant to successfully impose uniformity?[139] This Part will explore recent events that have brought this legal issue to the surface and will consider the inherent differences in states across the country to determine whether these differences are able to be addressed through one uniform policy.[140] Thus, Section A will briefly discuss the recent activity surrounding Daylight Saving legislation to shed light on the current climate surrounding the issue.[141] Section B will look at the variables that alter our daylight schedules throughout the year and consider their impacts in varying geographic regions of the country.[142] Finally, Section C will discuss whether uniformity has been achieved and will consider the potential disruption to whatever uniformity does exist.[143]

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between the Northern and Southern Hemispheres throughout the year).

132. *See* Wei-Hass, *supra* note 4.

133. Donald Trump (@realDonaldTrump), TWITTER (Mar. 11, 2019, 10:17 AM), https://twitter.com/realDonaldTrump/status/1105110383227035654 ("Making Daylight Saving time permanent is O.K. with me!"); Andrew Yang (@AndrewYang), TWITTER (Mar. 9, 2019, 6:16 PM), https://twitter.com/AndrewYang/status/1104521281926508548 ("The switch from Daylight Saving[] Time literally kills people in accidents every year because people are drowsy. I would advocate for a permanent adoption of Daylight Saving[] Time. No more hour-switching.").

134. 15 U.S.C. § 260a(a) (1967) (amended 2005)); *see, e.g.*, Maggie Astor, *Year-Round Daylight Saving Time? Florida Says Yes, but It's Not So Simple*, N.Y. TIMES (Mar. 8, 2018), https://www.nytimes.com/2018/03/08/us/daylight-saving-time-florida.html.

135. *See infra* Part III.A–C.

136. *See infra* Part III.B–C.

137. H.R. REP. NO. 89-1315, at 4-5 (1966) ("[T]here is virtually no disagreement that it is now desirable to achieve more uniform time standards.").

138. *See infra* Part III.B.

139. *See infra* Part III.C.

140. *See infra* Part III.A–C.

141. *See infra* Part III.A.

142. *See infra* Part III.B.

143. *See infra* Part III.C.

A. The Wave of Legislative Proposals

Over the past few years, a new trend has emerged across the United States, as more and more state legislatures have proposed legislation seeking to stay on DST year-round.[144] Presently, seven states have passed permanent Daylight Saving bills,[145] and several other states have been giving the idea serious legislative consideration.[146]

The trend began in Florida, where legislation was proposed in late 2017 to stay on DST throughout the entire year.[147] The Bill, named the "Sunshine Protection Act," was met with resounding support in the legislature, as the House of Representatives and the Senate voted 103-11 and 33-2, respectively, in favor of the Bill.[148] Shortly thereafter, the Sunshine Protection Act was signed into law and made effective on July 1, 2018.[149] Of course, nothing changed in Florida, as federal law still prohibited its enactment,[150] but the Bill's passage set off a wave of state legislative proposals seeking the same extension of DST.[151]

Following Florida's avant-garde passage of the new law, as of March 2019, forty-six Daylight Saving bills were proposed in twenty-six states.[152] Many of these proposals sought to extend DST for the entire year, [153] but several others sought to opt out of the practice altogether.[154]

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144. *See, e.g.*, Wilson, *supra* note 6 ("Minnesota is just one of about three dozen states considering an end to the switch between standard time and daylight saving time this year.").

145. Joshua Bote, *Daylight Saving Time: Tennessee Among Seven States That Want to Make DST Permanent*, TENNESSEAN (Oct. 30, 2019, 7:30 AM), https://www.tennessean.com/story/news/2019/10/30/make-daylight-saving-time-permanent-tennessee-among-states/4095218002 (naming Alabama, Arkansas, Florida, Nevada, Oregon, Tennessee, and Washington as states that have already passed legislation to make DST permanent).

146. *Id.* (naming Alaska, California, Iowa, Massachusetts, Texas, Utah, and Vermont as states that introduced legislation to change how they observe DST).

147. *See* NEWS SERV. FLA., *Lawmaker Seeks Year-Round Daylight Savings Time in Florida*, WJCT (Dec. 15, 2017), https://news.wjct.org/post/lawmaker-seeks-year-round-daylight-savings-time-florida.

148. *See* Astor, *supra* note 135.

149. FLA. STAT. ANN. § 1.025 (West 2018).

150. *See* Kimberly Miller, *Florida Passed a Law to Stay on Daylight-Saving Time… So Why Are We Changing Clocks?*, PALM BEACH POST (Nov. 2, 2018, 8:47 AM), https://www.palmbeachpost.com/news/20181102/florida-passed-law-to-stay-on-daylight-saving-time-so-why-are-we-changing-clocks.

151. *See generally* Elizabeth Chuck, *Ditch the Switch? Call to Go on Permanent Daylight Saving Time Grows*, NBC NEWS (Aug. 17, 2019, 4:41 AM), https://www.nbcnews.com/news/us-news/ditch-switch-call-go-permanent-daylight-saving-time-grows-n1043051.

152. *See* Jim Reed, *Is Twilight Approaching for Daylight Saving Time?*, NAT'L CONF. ST. LEGIS. (Mar. 6, 2019), http://www.ncsl.org/blog/2019/03/06/is-twilight-approaching-for-daylight-saving-time.aspx ("[T]he debate over the biannual clock-changing exercise is taking place in at least 26 state legislatures this year, the most since NCSL began tracking the topic five years ago."). Other sources have reported that at least thirty-six states have introduced legislation as of August 2019. Chuck, *supra* note 151.

153. *See* Reed, *supra* note 152 (naming Iowa, Maine, South Carolina, Tennessee, Utah, Vermont, Washington, and Wyoming as states seeking to adopt permanent DST if federally

In other states, legislation has been proposed in both directions,[155] suggesting the primary source of dissatisfaction lies in changing the clock itself rather than in daylight considerations.[156] Because of the federal limitation on adopting permanent DST, some New England states have taken an alternative approach.[157] Rather than extending DST, these states have proposed bills to switch to Atlantic Standard Time and then opt out of DST.[158] This approach has its own procedure, which requires a state governor or legislature to make a request to the USDOT for review.[159] Nonetheless, if successful, the change would have the equivalent effect of putting these states on permanent DST.[160] Additionally, some states that have not proposed any legislation to change DST have proposed a study of the issue, suggesting that future proposals may not be far away.[161]

Over the past several years, these proposals have not only become more frequent but have gone further through state legislatures.[162] With all of this activity, it seems only a matter of time before one state makes a meaningful change.[163]

1. Problems Associated with Changing the Clock

In light of recent scientific research, the desire to end the practice of changing the clock should not come as a shock.[164] A 2016 study by the American Academy of Neurology found that "the overall rate of

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authorized).

154. *See id.* (naming Alaska, Arkansas, Colorado, Idaho, Kansas, Montana, Oklahoma, Oregon, and Texas as states seeking to opt out of DST). It is worth noting that Oregon has since passed legislation to adopt permanent DST pending federal authorization. *We'll Keep Falling Back for the Time Being*, MAIL TRIB. (Oct. 21, 2019), https://mailtribune.com/news/top-stories/well-keep-falling-back-for-the-time-being.

155. *See* Reed, *supra* note 152 (naming Minnesota, Mississippi, and New Mexico as states where proposals were made for permanent DST and permanent Standard Time).

156. *See id.* ("It would seem that the main gripe of proponents on both sides is the act of time switching itself.").

157. *See* Wei-Hass, *supra* note 4 (naming New Hampshire, Maine, Rhode Island, Massachusetts, and Connecticut as states seeking to change to Atlantic Time).

158. *See id.*

159. *Procedure for Moving an Area from One Time Zone to Another*, U.S. DEP'T OF TRANSP., https://www.transportation.gov/regulations/procedure-moving-area-one-time-zone-another (last updated Apr. 30, 2013).

160. *See* Wei-Hass, *supra* note 4.

161. *See* Reed, *supra* note 152 (listing New York and Virginia as states that have proposed study of the issue).

162. *See* Wei-Hass, *supra* note 4 ("Each year brings more interest to the cause, and every bill, many of them bi-partisan, seems to get further through the legislature.").

163. *See id.* ("[T]he winds are shifting: More states than ever acknowledge the problems with the regular time changes and are joining forces to try to put a stop to the clock craziness.").

164. *See, e.g.*, Anne Buckle, *Your Health and Daylight Saving Time*, TIMEANDDATE.COM, https://www.timeanddate.com/time/dst/daylight-saving-health.html (last visited July 10, 2020) (discussing a 2019 study that exemplified that DST can cause lack of sleep and trigger depression, which, in effect, can result in other health issues).

ischemic stroke was 8 percent higher during the first two days after a daylight saving time transition" and that "[p]eople with cancer were 25 percent more likely to have a stroke after daylight saving time than during another period."[165] Likewise, a study out of Sweden found a significant increase in heart attacks for the first three weekdays after the transition to DST in the spring.[166]

Studies have also indicated that the change has a significant impact on mental health.[167] A 2016 Danish study showed that "the transition from summer time to standard time were [sic] associated with an 11% increase . . . in the incidence rate of unipolar depressive episodes."[168] Similarly, an Australian study found an increase in male suicides for the period following the change to DST.[169]

In addition to health issues, there have been many instances where Daylight Saving confusion has led to significant consequences.[170] Take, for instance, the story of fifteen-year-old Cody Webb, who called into school at 3:12 a.m. Eastern Daylight Time[171] to hear the recorded message regarding school delays.[172] The next day, when school officials found that the hotline had recorded a bomb threat to the school from a blocked number at 3:17 a.m., they concluded it had to be Cody.[173] Cody spent twelve days in a juvenile detention facility before the school realized that its recorder had not made the jump to DST, and the call had actually been made at 4:17 a.m. Eastern Daylight Time.[174]

These considerations support the notion that states that appreciate extended daylight hours in the evening, but acknowledge the issues

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165. *Does Daylight Saving Time Increase the Risk of Stroke?*, AM. ACAD. OF NEUROLOGY (Feb. 29, 2016), https://www.aan.com/PressRoom/Home/PressRelease/1440.

166. Imre Janszky & Rickard Ljung, *Shifts to and from Daylight Saving Time and Incidence of Myocardial Infarction*, 359 NEW ENG. J. MED. 1966, 1967 (2008), https://www.nejm.org/doi/full/10.1056/NEJMc0807104. This study found that incidents of heart attack were less pronounced during the time change in the fall, but still observed a significant increase in the first weekday following the shift. *Id.*

167. *See, e.g.*, Michael Berk et al., *Small Shifts in Diurnal Rhythms Are Associated with an Increase in Suicide: The Effect of Daylight Saving*, 6 SLEEP & BIOLOGICAL RHYTHMS 22, 23 (2008); Bertel T. Hansen et al., *Daylight Savings Time Transitions and the Incidence Rate of Unipolar Depressive Episodes*, 28 EPIDEMIOLOGY 346, 346 (2017).

168. Hansen et al., *supra* note 167, at 346.

169. Berk et al., *supra* note 167, at 23 ("These data provide the first evidence to support the notion that modest changes to diurnal rhythm have a measurable impact on a clinically critical outcome.").

170. *See, e.g.*, Chris V. Thangham, *Boy Jailed over Daylight Savings Time Clock Change Mix-Up*, DIGITAL J. (Apr. 7, 2007), http://www.digitaljournal.com/article/160785.

171. *See EDT – Eastern Daylight Time / Eastern Daylight Savings Time (Daylight Saving Time)*, TIMEANDDATE.COM, https://www.timeanddate.com/time/zones/edt (last visited July 10, 2020). Eastern Daylight Time is the name for Eastern Standard Time while DST is in effect. *Id.*

172. *See* Thangham, *supra* note 170.

173. *See id.*

174. *See id.*

associated with changing the clocks, are stuck between a rock and a hard place under the current federal law.[175]

2. Potential Benefits of Permanent DST

Because the states have the ability to opt out of DST to avoid these hardships, the true problem lies in the fact that there are potential benefits associated with a year-round DST that remain unrealized under the current federal law.[176] Proponents of DST for the full year have argued on the basis of a variety of benefits, such as reduced traffic accidents, energy consumption, and criminal activity.[177] Likewise, the USDOT has touted many of the same benefits in promoting states to opt in to DST as permitted by federal statute.[178] Opponents have pushed back on these alleged benefits with a variety of counterarguments of their own.[179]

Professors Steve P. Callandrillo and Dustin E. Buehler have made perhaps the most preeminent contribution to analyzing these benefits through an economic lens, and the research presented therein, in addition to new research, supports many of these proposed benefits.[180] For example, a 2004 study determined that "full year daylight saving time . . . would reduce pedestrian fatalities by about 171 per year, or by 13% of all pedestrian fatalities in [the 5:00-10.00 a.m. and in the 4:00-9:00 p.m. time periods]."[181] Similarly, a 2014 study estimated that DST reduced robbery rates by seven percent in the first weeks after the time change and by twenty-seven percent at sunset hours.[182] The authors further estimated this impact equates to "a national decrease of $246 million in social crime costs per year, a nationwide social savings of $12 million per hour of additional ambient light during high-crime hours."[183]

175. *See* Chuck, *supra* note 151.

176. *See* 15 U.S.C. § 260a (1967) (amended 2005).

177. *See, e.g.*, Steve. P. Calandrillo & Dustin E. Buehler, *Time Well Spent: An Economic Analysis of Daylight Saving Time Legislation*, 43 WAKE FOREST L. REV. 45, 75-84 (2008).

178. *See Daylight Saving Time*, U.S. DEP'T OF TRANSP., https://www.transportation.gov/regulations/daylight-saving-time (last updated Mar. 10, 2014).

179. *See, e.g.*, Calandrillo & Buehler, *supra* note 177, at 87-90 (discussing opposition on the grounds of dangers to school children, disadvantages to farmers, and challenges to radio programming).

180. *See id.* This Note largely agrees with the position of this article in that there are potentially unrealized benefits under the current federal policy; however, this Note diverges from the proposed solution, which suggests that the federal government mandate year-round DST. *Id.*

181. Douglas Coate & Sara Markowitz, *The Effects of Daylight and Daylight Saving Time on US Pedestrian Fatalities and Motor Vehicle Occupant Fatalities*, 36 ACCIDENT ANALYSIS & PREVENTION 351, 356 (2004).

182. *See* Jennifer L. Doleac & Nicholas J. Sanders, *Under the Cover of Darkness: How Ambient Light Influences Criminal Activity*, 97 REV. ECON. & STAT. 1093, 1094 (2015).

183. *Id.*

This research, and other similarly supportive research, establishes the potential for significant benefits to a year-round DST.[184] The problem with these analyses is that they often fail to consider the extent to which geography creates vastly diverse circumstances in different places across the country.[185] Thus, it is essential to consider how geographic diversity impacts the effect of any daylight policy before weighing these benefits versus the alleged detriments.[186]

B. Diversity: How Geographically Different Are We?

In understanding the relationship between geography and daylight, there are two primary considerations that must be accounted for: latitude and longitude.[187] Latitude correlates to the total number of hours of daylight experienced at any particular location throughout the year,[188] while longitude correlates to when the sun will rise within a particular time zone.[189] Due to differences in latitude, northern states in the United States will experience shorter winter days and longer summer days than their southern counterparts.[190] Likewise, due to differences in longitude, locations situated toward the eastern side of a time zone will experience earlier sunrise and sunset times than locations situated toward the

184. *See, e.g.*, Coate & Markowitz, *supra* note 181, at 356; Kate Painter, *The Influence of Street Lighting Improvements on Crime, Fear and Pedestrian Street Use, After Dark*, 35 LANDSCAPE & URB. PLAN. 193, 193 (1996) ("The results provide convincing evidence that sensitively deployed street lighting can lead to reductions in crime and fear of crime, and increase pedestrian street use after dark."); Susan A. Ferguson et al., *Daylight Saving Time and Motor Vehicle Crashes: The Reduction in Pedestrian and Vehicle Occupant Fatalities*, 85 AM. J. PUB. HEALTH 92, 92 (1995) ("During daylight saving time, which shifts an hour of daylight to the busier evening traffic hours, there were fewer fatal crashes."); HILARY GREEN, SOME EFFECTS ON ACCIDENTS OF CHANGES IN LIGHT CONDITIONS AT THE BEGINNING AND END OF BRITISH SUMMER TIME 4 (1980). *But see* Matthew J. Kotchen & Laura E. Grant, *Does Daylight Saving Time Save Energy? Evidence from a Natural Experiment in Indiana*, 93 REV. ECON. & STAT. 1172, 1183 (2011) ("Our main finding is that, contrary to the policy's intent, DST results in an overall increase in residential electricity demand.").

185. *See, e.g.*, Handwerk, *supra* note 11 (discussing pros and cons as a general proposition, without consideration for how they apply differently across the country).

186. *See infra* Part III.B.

187. *See* PRERAU, *supra* note 23, at 31-32. Latitude refers to the horizontal lines running parallel to the Earth's equator, and longitude refers to the vertical lines running from the North Pole to the South Pole. *Id.*

188. *See, e.g.*, Justin Grieser, *The Summer Solstice: Questions and Answers About the Year's Longest Day*, WASH. POST (June 21, 2015, 10:30 AM), https://www.washingtonpost.com/news/capital-weather-gang/wp/2015/06/20/summer-solstice-2015-five-questions-and-answers-about-the-longest-day-of-the-year (reporting, for example, fifteen hours and fifty-nine minutes of daylight in Seattle versus thirteen hours and forty-five minutes of daylight in Miami, at the summer solstice).

189. *See, e.g.*, Christopher Ingraham, *How Living on the Wrong Side of a Time Zone Can Be Hazardous to Your Health*, WASH. POST (Apr. 19, 2019, 6:00 AM), https://www.washingtonpost.com/business/2019/04/19/how-living-wrong-side-time-zone-can-be-hazardous-your-health.

190. *See, e.g.*, Grieser, *supra* note 188.

western side.[191] These factors play a significant role in the practical effect of DST.[192]

For example, the factor of latitude can be isolated by looking at two cities that share, relatively, the same longitude in order to compare how the hours of daylight are impacted based on latitude.[193] In comparing two cities, such as Bismarck, North Dakota, and San Antonio, Texas, which essentially share the same longitude, there exists a vast difference in daylight hours at the winter and summer solstices.[194] In Bismarck, the shortest day of the year offers only eight hours and thirty-two minutes of sunlight, while the longest day of the year offers fifteen hours and fifty-two minutes of sunlight.[195] On the other hand, the shortest day of the year in San Antonio offers ten hours and sixteen minutes of sunlight, while the longest day of the year offers fourteen hours and two minutes of sunlight.[196] This accounts for a difference of nearly two hours at the winter and summer solstices—an amount that is clearly significant in daylight policy considerations.[197]

Likewise, the impact of longitude may be isolated by looking at two cities in the same time zone that share, relatively, the same latitude to compare how sunrise and sunset times are impacted based on longitude.[198] In comparing two cities, such as Panama City, Florida, and Austin, Texas, which essentially share the same latitude, a significant difference in sunrise and sunset times throughout the year is apparent.[199] In Panama City, at the winter solstice, civil twilight at sunrise begins at 6:08 a.m. and at sunset 4:47 p.m.[200] On the other hand, in Austin, at the

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191. *See, e.g.*, Ingraham, *supra* note 189 (reporting, for example, the sunrise in Panama City, Florida, on the eastern border of the Central time zone, is over an hour earlier than the sunrise in Pecos, Texas, on the western border of the Central time zone).

192. *See, e.g.*, *Point Hope, Alaska, USA — Sunrise, Sunset, and Daylength, April 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/point-hope (last visited July 10, 2020) [hereinafter *Point Hope*] (exemplifying that, although DST moves the daylight back one hour later in the evening, due to the geographic location of Point Hope, Alaska, the city experiences twenty-four hours of daylight despite the time shift).

193. *Compare Bismarck, North Dakota, USA — Sunrise, Sunset, and Daylength, December 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/bismarck?month=12 (last visited July 10, 2020) [hereinafter *Bismarck*], *with San Antonio, Texas, USA — Sunrise, Sunset, and Daylength, December 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/san-antonio?month=12 (last visited July 10, 2020) [hereinafter *San Antonio*].

194. *See supra* note 193.

195. *See Bismarck*, *supra* note 193.

196. *See San Antonio*, *supra* note 193.

197. *See supra* note 193.

198. *Compare Panama City, Florida, USA — Sunrise, Sunset, and Daylength, December 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/panama-city?month=12 (last visited July 10, 2020) [hereinafter *Panama City*], *with Austin, Texas, USA — Sunrise, Sunset, and Daylength, December 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/austin?month=12 (last visited July 10, 2020) [hereinafter *Austin*].

199. *Compare Panama City*, *supra* note 198, *with Austin*, *supra* note 198.

200. *See Panama City*, *supra* note 198.

winter solstice, civil twilight at sunrise begins at 6:57 a.m. and at sunset 5:35 p.m.[201] The impact of nearly fifty minutes in the morning and evening can play a significant role in the debate over daylight policy.[202]

Thus, when discussing the benefits or detriments of DST, it is clear that geography will impact the strength of any particular argument.[203] For example, an oft-cited benefit of DST is the extra hour of evening daylight for outdoor leisure activities.[204] However, when considering geography, under the current implementation of DST, the additional hour is greatly beneficial to some and less significant to others.[205] For example, in July in Minneapolis, Minnesota, a worker could get out of the office at 5:00 p.m., head out to the golf course, play a full eighteen holes, and get home in time for an outdoor barbecue before it begins to get dark slightly after 9:00 p.m.[206] This means that a resident of Minneapolis has an extra hour of daylight added onto a sunset that would occur after 8:00 p.m. *without* DST.[207] On the other hand, in Auburn, Alabama, the added hour of daylight in July extends the onset of twilight from 6:53 p.m. to 7:53 p.m., effectively permitting the hypothetical golfer to finish out the back nine.[208] This means that even with the additional hour of daylight in the evening in Auburn, it would still be darker earlier than in Minneapolis without the additional hour.[209]

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201. *See Austin*, *supra* note 198.

202. *Compare Panama City*, *supra* note 198, *with Austin*, *supra* note 198.

203. *Compare Minneapolis, Minnesota, USA – Sunrise, Sunset, and Daylength, July 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/minneapolis?month=7 (last visited July 10, 2020) [hereinafter *Minneapolis*], *with Auburn, Alabama, USA – Sunrise, Sunset, and Daylength, July 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/auburn-al?month=7 (last visited July 10, 2020) [hereinafter *Auburn*] (demonstrating significant differences in daylight hours between the two locations).

204. *See* Handwerk, *supra* note 11; Graeme Carey, *The Pros and Cons of Daylight Saving Time*, MSN (Oct. 25, 2019), https://www.msn.com/en-us/lifestyle/smart-living/the-pros-and-cons-of-daylight-saving-time/ss-AAJkZph#image=4.

205. *Compare Minneapolis*, *supra* note 203, *with Auburn*, *supra* note 203; *see, e.g.*, *infra* note 207.

206. *See Minneapolis*, *supra* note 203 (reporting a civil twilight time of 9:03 p.m. during DST on July 1, 2020).

207. *See id.*

208. *See Auburn*, *supra* note 203 (reporting a civil twilight time 7:53 p.m. during DST on July 1, 2020). The golf analogy is quite relevant to the story of DST, as golfers and the golf industry alike have always been obvious benefactors of the daylight extension. *See, e.g.*, Tim Gavrich, *Daylight Saving Time Is a Cool Golf Thing*, GOLF ADVISOR (Mar. 7, 2019), https://www.golfadvisor.com/articles/cool-golf-thing-daylight-saving-time-twilight-rates ("I typically wind down my workday somewhere in the neighborhood of 5 to 6pm. And like many golfers, that means I spend half the year with little to no weekday time to hone my game unless I sneak off to the driving range around 4:15."). In fact, "[l]obbyists from the golf industry estimated in 1986 that an extra month of daylight saving would be worth $200 million to $400 million." Daniel Victor, *Daylight Saving Time: Why Does It Exist? (It's Not for Farming)*, N.Y. TIMES (Mar. 11, 2016), https://www.nytimes.com/2016/03/12/us/daylight-saving-time-farmers.html.

209. *Compare Minneapolis*, *supra* note 203, *with Auburn*, *supra* note 203.

As a result, it is logical that residents of Auburn and residents of Minneapolis would weigh this alleged benefit differently.[210]

Likewise, when proposals for permanent DST are met with pushback, the merits of these arguments are strongly dependent on where they are being made.[211] For example, one commonly cited rebuke to winter DST has come from parents worried about children traveling to school in the dark.[212] This is a very compelling argument in Lansing, Michigan, for example, where early risers will not experience full daylight until after 8:00 a.m. in December.[213] This means that pushing the clocks back an hour in winter would commit the state to relative darkness until after 9:00 a.m.[214] It is quite a different story in Fort Walton Beach, Florida, for example, where on that same December day, the sun will rise just after 6:30 a.m.[215] As a result, where Fort Walton Beach may be motivated to move its sunrise time back to 7:30 a.m. to enjoy extra sunlight in the evening, Michigan's decision to do so would have a more drastic impact on the morning.[216]

The vast differences in locations across the United States require the consideration of whether this degree of diversity can or should be overcome by the desire for uniformity.[217] In the 1950s and 1960s, the chaos had risen to a degree that compelled the federal government to take action.[218] However, we jumped from a system of municipal decision-making straight to a system of federally-centralized decision-making.[219] Thus, an alternative middle ground that grants states

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210. *See supra* note 209.

211. *Compare Fort Walton Beach, Florida, USA — Sunrise, Sunset, and Daylength, December 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/fort-walton-beach?month=12 (last visited July 10, 2020) [hereinafter *Fort Walton Beach*], *with Lansing, Michigan, USA — Sunrise, Sunset, and Daylength, December 2020*, TIMEANDDATE.COM, https://www.timeanddate.com/sun/usa/lansing?month=12 (last visited July 10, 2020) [hereinafter *Lansing*] (citing a drastically different sunrise time in the two locations on December 16th as reason for why Daylight Saving arguments merits and pushback differ depending on location); *see, e.g.*, *infra* note 212.

212. *See* Ethan May, *Trump Said He's OK with Permanent DST. Here's What That Would Mean for Indiana*, INDYSTAR (Mar. 12, 2019, 1:55 PM), https://www.indystar.com/story/news/2019/03/12/trump-tweet-ok-with-permanent-daylight-savings-time-what-would-mean-indiana/3138706002 ("Some say the late sunrises that come with year-round daylight time are dangerous for children waiting at bus stops."); Ayres Jr., *supra* note 112 ("Many parents say their children must start off to school in darkness, easy prey to drowsy motorists.").

213. *See Lansing*, *supra* note 211 (reporting a sunrise time of 8:02 a.m. on December 16, 2020).

214. *See id.*

215. *See Fort Walton Beach*, *supra* note 211 (reporting a sunrise time of 6:36 a.m. on December 16, 2020).

216. *Compare id.*, *with Lansing*, *supra* note 211.

217. *See infra* Part IV.

218. *See supra* Part II.D.

219. Uniform Time Act of 1966, Pub. L. 89-387, § 2, 80 Stat. 107 (1996) (enacting a centralized time system for the United States).

slightly more flexibility to honor their geographic diversity, but not at the complete expense of uniformity, could resolve the current tension between states' desires and federal restrictions.[220]

C. Uniformity: Do We Have It?

It was clear from the outset that the Uniform Time Act of 1966 was enacted to create uniformity among the states.[221] Starting in 1961, the Interstate Commerce Commission reported to Congress that "[t]he growing inconvenience, confusion, and sometimes danger, resulting from this time situation would seem too great a price to pay merely to preserve the right of local opinion in matters of standard time."[222] There is no question that the United States has come a long way in the quest for uniformity since the chaos endured in the post-World War II era.[223] Nonetheless, there still exists quite a bit of confusion in several parts of the country due to time zones and the ability to opt out of DST.[224] Currently, there are only two states[225] in the nation that elect to opt out of DST: Arizona[226] and Hawaii.[227] But even that is not so simple, as the Navajo Nation, whose territory occupies most of the northeast corner of Arizona, elects to observe DST through the summer months.[228] Even more confounding, the Hopi Nation, which sits enclosed inside of the Navajo Nation, has opted out of DST, creating what has become known as the "Daylight Saving Doughnut."[229] If this was not confusing enough, there are towns in Indiana that, despite state law demanding the whole state apply DST, refuse to do so, in contravention of state law.[230] Headache yet?

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220. *See infra* Part IV.

221. §§ 2-7, 80 Stat. at 107 (stating, in the Act's title, that its purpose was "[t]o promote the observance of a uniform system of time throughout the United States").

222. INTERSTATE COM. COMM'N, 75TH ANNUAL REPORT OF THE U.S. INTERSTATE COMMERCE COMMISSION, H. DOC. NO. 262, at 146 (1961).

223. *Compare supra* Part II.D, *with supra* Part II.F.

224. *See, e.g.*, Mike Sunnucks, *Time Isn't on Our Side in Arizona- Daylight Saving Time, That Is*, PHX. BUS. J. (Oct. 9, 2013), https://www.bizjournals.com/phoenix/news/2013/10/09/time-isnt-on-our-side-in-arizona.html ("What won't change is the confusion Arizona's time zone stubbornness causes for businesses and others.").

225. *See Daylight Saving Time*, *supra* note 178. It is worth noting that there are also several U.S. territories that do not observe DST, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. *Id.*

226. ARIZ. REV. STAT. § 1-242 (LexisNexis 1968) ("[T]he state of Arizona elects to reject [Daylight Saving Time] and elects to continue in force the terms of . . . standard time in Arizona.").

227. HAW. REV. STAT. § 1-31 (1967) ("Hawaiian standard time . . . shall be the time which the entire State, including all of its political subdivisions, shall observe annually, notwithstanding the daylight time conversion provisions of the Uniform Time Act of 1966.").

228. *See* Vanessa Swales, *Have an Extra Hour? Try Passing Through the 'Daylight Saving Doughnut'*, N.Y. TIMES (Nov. 2, 2019), http://nytimes.com/2019/11/02/us/daylight-saving-time-doughnut.html.

229. *See id.*

230. *See* Maggie Gram, *The Worst Time in America*, PAC. STANDARD (July 3, 2014),

Then, there are time zones.[231] The Standard Time Act of 1918, which enacted the first Daylight Saving experiment, also established standard time in time zones across the United States.[232] The code of federal regulations currently divides the continental United States into four time zones.[233] Part of the problem with these time zones is that they run straight through the boundaries of thirteen states.[234] Even when they do not run through a state, they still arbitrarily draw a line that can have a significant impact on the people living near the border.[235] Across the Internet, there are a slew of confounding stories of, for example, people leaving home for a ten-minute drive to work, only to arrive at their job an hour and ten minutes later.[236] Then there are places like College Corner, which straddles the border between Indiana and Ohio.[237] Before the entire school decided to adopt Eastern Standard Time, it was possible to launch a full-court shot in the school's gymnasium at 3:00 p.m., only to watch the ball fall through the rim at 4:00 p.m.[238]

There have been alternatives presented to the current time zone structure, [239] but these have not gotten serious consideration in federal or

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https://psmag.com/economics/the-worst-time-zone-in-america-indiana-clock-84910.

231. *See supra* Part II.B.

232. Standard Time Act of 1918, Pub. L. 65-106, ch. 24, § 1, 40 Stat. 450, 450-451 (1918) (repealed 1919).

233. 49 C.F.R. §§ 71.4, 71.6, 71.8, 71.10 (1970) (identifying the Eastern Zone, Central Zone, Mountain Zone, and Pacific Zone, respectively). There are additional zones outside of the continental United States, including the Atlantic Zone, Alaska Zone, Hawaii-Aleutian Zone, Samoa Zone, and Chamorro Zone. *Id.* §§ 71.3, 71.11-14.

234. Matt Rosenberg, *Which States Are Split Into Two Time Zones?*, THOUGHTCO. (Sept. 26, 2018), https://www.thoughtco.com/states-split-into-two-time-zones-4072169. Idaho and Oregon are split between Pacific and Mountain Time. *Id.* Kansas, Nebraska, North Dakota, South Dakota, and Texas are split between Mountain and Central Time. *Id.* Florida, Indiana, Kentucky, Michigan, and Tennessee are split between Central and Eastern Time. *Id.* Alaska is split between Alaska and Hawaii-Aleutian Time. *Id.*

235. *See, e.g.*, Relocation of Standard Time Zone Boundary in the State of North Dakota: Mercer County, 75 Fed. Reg. 60,004, 60,005 (Sept. 29, 2010) (to be codified at 49 C.F.R. pt. 71) (listing several sources of inconvenience that led to the USDOT's approval of a time zone change); Karee Magee, *Daylight Saving Time Adds to Time Zone Confusion*, BISMARCK TRIB. (Oct. 29, 2015), https://bismarcktribune.com/news/local/daylight-saving-time-adds-to-time-zone-confusion/article_09fa7ce2-fc45-505b-87e3-c8b5e36e1db9.html ("A lot of the concerns were working in one time zone and having your kids go to school in a different time zone.").

236. *See, e.g.*, @Not_so_super, REDDIT (Dec. 6, 2012, 6:37 PM), https://www.reddit.com/r/AskReddit/comments/14dk53/redditors_that_live_near_the_borders_of_time/c7c4kv8 ("Fort Pierre, South Dakota is in the Mountain time zone. Just over the river (maybe 10 yards) is Pierre, SD, in the central time zone. My cousin lives in Fort Pierre and leaves the house at 7[:]30, drives 10 minutes and is at her office in Pierre by 8:40. She says she has all but one clock in her house set to CST.").

237. *See Town in Two Time Zones*, CBS NEWS (Apr. 8, 2005, 5:24 PM), https://www.cbsnews.com/news/town-in-two-time-zones.

238. *Id.*

239. *See, e.g.*, James Gleick, *Time to Dump Time Zones*, N.Y. TIMES, Nov. 6, 2016, at 8 (suggesting that when it is noon in Greenwich, England, it is noon across the globe). This Note will not discuss the merits of this idea, as it will focus primarily on the tension between state legislative proposals and federal restrictions. *See infra* Part IV. Nonetheless, two Professors from Johns

state legislatures.[240] These bizarre stories do not necessarily suggest that there has been some type of legislative failure in creating the time zones; they merely elucidate the fact there still remains quite a bit of confusion.[241] Despite all of our efforts to achieve uniformity, the current legislative activity in many states suggests that whatever uniformity the country presently enjoys could be undermined if states exercise their right to opt out of DST.[242] Thus, the question is whether our relatively fluid adoption of the current system is by virtue of optimal policy or human adaptability.[243]

IV. THE SOLUTION: LET THE STATES DECIDE

Due to the disparate impact of any uniform, federal policy on daylight hours,[244] the solution is both simple and obvious: grant states the power to opt in to year-round DST.[245] Section A will propose an amendment to 15 U.S.C. § 260a,[246] which grants states slightly more flexibility in selecting a Daylight Saving schedule.[247] Section B will address the obvious counterargument to such an amendment: that the additional freedom could lead to a chaotic situation of varying times across the country.[248] Finally, Section C will discuss more broadly the relationship between state and federal decision-making, reevaluating the interaction between the desire for uniformity, and the inherent diversity across the nation.[249]

Hopkins University have made a very compelling argument for Universal Time, concluding that "[t]oday's cacophony of time zones, daylight saving[] times, and calendar fluctuations, year-after-year would be over." Steve H. Hanke & Richard Conn Henry, *Changing Times*, CATO INST. (Dec. 19, 2011), https://www.cato.org/publications/commentary/changing-times.

240. *See* Wei-Hass, *supra* note 4 (exemplifying that states are proposing to opt in year-round, opt out year-round, or change time zones, but no efforts are currently underway to eliminate time zones altogether).

241. *See, e.g.*, Stephanie Pappas, *Fall Back? Why Daylight Saving Time Is So Confusing*, LIVE SCI. (Oct. 31, 2015), https://www.livescience.com/52656-why-daylight-saving-time-is-confusing.html.

242. *See* Steve Frank, *Some States Making Moves to Opt Out of Daylight Saving Time*, CBS NEWS (Mar. 8, 2019, 9:05 PM), https://www.cbsnews.com/news/daylight-saving-time-clocks-forward-states-could-opt-out-permanently-standard. For example, if a state like Pennsylvania opted out of DST, it would spend summer on different time than neighboring New Jersey. *See id*.

243. *See infra* Part IV.

244. *See supra* Part III.

245. *See infra* Part IV.A-C.

246. 15 U.S.C. § 260a (1967) (amended 2005).

247. *See infra* Part IV.A.

248. *See infra* Part IV.B.

249. *See infra* Part IV.C.

A. Amend 15 U.S.C. § 260a

The relevant language of 15 U.S.C. § 260a currently reads as follows:

> (a) Duration of period; State exemption
> During the period commencing at 2 o'clock antemeridian on the second Sunday of March of each year and ending at 2 o'clock antemeridian on the first Sunday of November of each year, the standard time of each zone established by sections 261 to 264 of this title, as modified by section 265 of this title, shall be advanced one hour and such time as so advanced shall for the purposes of such sections 261 to 264, as so modified, be the standard time of such zone during such period; however, (1) any State that lies entirely within one time zone may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable during that period, and (2) any State with parts thereof in more than one time zone may by law exempt either the entire State as provided in (1) or may exempt the entire area of the State lying within any time zone.
> (b) State laws superseded
> It is hereby declared that 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 this section.[250]

This Note proposes that the legislature amend subsection (a) to allow states to both exempt themselves or permanently adopt the "provisions of this subsection providing for the advancement of time."[251] Thus, states that have already passed legislation to adopt permanent DST would be permitted to do so in accordance with federal law.[252]

1. What Will Remain the Same?

Leading up to the initial enactment of the Uniform Time Act of 1966,[253] there was no doubt that the lack of uniformity among the states and even within states had become a significant issue.[254] In looking at

250. 15 U.S.C. § 260a.
251. *Id.* § 260a(a).
252. *See, e.g.*, FLA. STAT. ANN. § 1.025 (West 2018).
253. Uniform Time Act of 1966, Pub. L. 89-387, 80 Stat. 107 (1996).
254. Belair Jr., *supra* note 86 (referring to the situation as a "time schizophrenia"). The author points to several examples of issues that were experienced prior to the adoption of the Uniform Time Act of 1966. *See id.* One such example describes how a thirty-five-mile bus ride from Steubenville, Ohio, to Moundsville, West Virginia, traversed seven different time zones. *Id.*

the text of the current law, there are essentially three distinct ways that the law addresses these previous problems.[255]

First, the law sets country-wide dates for the beginning and end of DST.[256] Prior to this provision, different regions had the freedom to begin and end DST at their discretion, contributing to further confusion in neighboring locations that would change their clocks at different times.[257] Second, the law shifts decision-making power from municipalities to states as a whole.[258] Prior to this provision, daylight decisions were made on the municipal level, and it was not uncommon for many different time observances to occur within a single state.[259] Third, the law sets 2:00 a.m. as the universal time at which the clocks will shift.[260] Prior to this provision, different places would make the shift at sporadic times, only contributing to further confusion.[261] Given the complicated climate of time-keeping during this era, it is fair to conclude that all of these provisions targeted tangible issues that were causing confusion and disruption across the United States.[262] Accordingly, it is important to highlight that this suggested amendment would leave all of these components intact.[263] As a result, this amendment will allow states that have expressed a desire to adopt permanent DST to do so, while maintaining the measures that streamlined the "time schizophrenia" felt prior to the passage of the law.[264]

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255. *See* 15 U.S.C. § 260a(a).

256. *Id.* (stating DST will "commenc[e] at 2 o'clock antemeridian on the second Sunday of March of each year and end[] at 2 o'clock antemeridian on the first Sunday of November of each year").

257. *See Daylight Saving Time Ends in Some Places*, N.Y. TIMES, Sept. 28, 1958, at 54 (noting that parts of Wisconsin and California will end DST, while cities such as Pittsburgh, Philadelphia, and Washington would continue DST for another month); *see, e.g.*, *Longer Daylight Time Backed*, N.Y. TIMES, Apr. 15, 1955, at 17 (highlighting Connecticut's decision to extend DST for a month to align with its neighbors).

258. 15 U.S.C. § 260a(a). The law does make an exception for states that are divided into two time zones, allowing the region in each time zone to opt in or out independently. *Id.*

259. *See, e.g.*, *Uniform Time Bill to Ease Confusion*, *supra* note 97 ("At one point last year, parts of [Minnesota] were observing central standard time, daylight saving time and extended daylight saving time, all at once."). It is worth noting, however, that many states had begun to mandate one state-wide policy by this time, and it is likely that this issue would have resolved itself via state action over time. *See, e.g.*, *Daylight Saving Time Voted*, N.Y. TIMES, Apr. 23, 1959, at 31 (discussing Illinois's passage of compulsory DST observance); *Daylight Saving Time Will Begin on Sunday*, N.Y. TIMES, Apr. 22, 1955, at 27 (reporting New York, New Jersey, and Connecticut as states that had implemented DST state-wide).

260. 15 U.S.C. § 260a(a).

261. *See, e.g.*, *Daylight Saving Time Ends in Some Places*, *supra* note 257 ("Wisconsin turned the clock back one hour at midnight, while California reverted to standard time at 2 A.M. today.").

262. *See Uniform Time Bill to Ease Confusion*, *supra* note 97 ("Some—but not all—of the confusion in the country's summer time system will end when uniform time legislation goes into effect this year, but at least it will be more orderly confusion.").

263. *See* 15 U.S.C. §§ 260a(a)-(b).

264. *See id.*; Belair Jr., *supra* note 86.

2. The Shortcomings of Alternative Amendments

All of the state legislative activity surrounding the DST issue has given rise to the concern that "once individual states start fiddling with time, the zoning could become exceedingly complicated."[265] Under these circumstances, it is likely that the federal legislature could once again explore alternatives to the current structure of the law in an effort to remedy new complications.[266] In fact, in March 2019, Senator Marco Rubio introduced a bill to the United States Senate to reformulate the standard time so that it aligns with year-round DST, effectively putting the whole country on DST.[267]

Under this measure, there are four essential issues: the law would (a) entirely ignore the significant, inherent geographical differences,[268] (b) exacerbate the legitimate concerns associated with late winter sunrises in locations where the sun rises later in the morning,[269] (c) preclude states that have been considering a return to standard time from doing so,[270] and (d) force upon the people a measure that has twice been enacted and subsequently rejected.[271]

However, an amendment granting states the freedom to elect to observe DST year-round provides the best of both worlds: (a) it allows states that will receive a net benefit to opt in to year-round DST; (b) it provides an alternative to states who are unhappy with the impacts of changing clocks, but do not want to revert to Standard Time; and (c) it does not force states with legitimate concerns to adopt a measure contrary to their best interests—which all sounds wonderful, but what about the elephant in the room: won't this make a mess?[272]

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265. Wei-Hass, *supra* note 4.

266. *Cf.* H.R. REP. NO. 89-1315, at 1; *see supra* text accompanying note 100.

267. Sunshine Protection Act of 2019, S. 670, 116th Cong. (2019) (as introduced by Senator Marco Rubio, May 6, 2019).

268. *See supra* Part II.C.

269. *See, e.g.*, Joel Achenbach, *Springing Forward to Daylight Saving Time Is Obsolete, Confusing and Unhealthy, Critics Say*, WASH. POST (Mar. 8, 2019, 4:39 PM), https://www.washingtonpost.com/science/2019/03/08/springing-forward-daylight-saving-time-is-obsolete-confusing-unhealthy-critics-say (quoting Heidi May Wilson, spokeswoman for the National Parent Teacher Association: "National PTA is opposed to daylight saving time during the winter months because of the safety factor").

270. *See* Wei-Hass, *supra* note 4 (naming Oklahoma, Texas, and Kansas as states considering opting out of DST).

271. *See* Trussell, *supra* note 83; *see also* Ayres Jr., *supra* note 112 (quoting Senator Dick Clark, Democrat of Iowa: "It's time to recognize that we may well have made a mistake").

272. *See generally* 15 U.S.C. § 260a (1967) (amended 2005) (considering the law with the proposed amendment in effect).

B. Would This Measure Destabilize All of the Efforts to Create Uniformity Across the United States?

Those opposed to this amendment will likely argue that the burden on national society will be too great if neighboring states that are accustomed to running on the same time schedules suddenly end up one-hour apart.[273] While this is certainly a reasonable concern, there are several reasons why it appears these fears are likely overstated.[274] First, this amendment does not allow for any larger discrepancy between states than is possible under the current law.[275] Second, the state legislation that has already been passed is largely cognizant of interstate interests, and it would be misguided to presume that the states would act without regard to the benefits of regional uniformity.[276] Lastly, the benefits of the provision simply may outweigh the detriments caused by modest complications that arise during the transition period and thereafter, in which states reconsider their daylight schedules.[277]

1. The Law Already Permits Inconsistency Between the States

The aspect of the law that grants states the right to opt out of DST, but prevents states from opting in permanently, already allows for a widespread lack of uniformity.[278] The provision was intended, at least in part, to allow states that did not observe DST to continue to do so.[279] In 2005, § 260a was amended to extend the DST period an additional four weeks, effectively making the period approximately eight months long.[280] Thus, this provision, which preserved some decision-making power for the states, effectively allows any two neighboring states within the same time zone to spend approximately eight months of the year with a one-hour difference between them.[281] Only due to the high number of states that have elected to observe DST do we experience

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273. *See, e.g.*, Belair Jr., *supra* note 86.

274. *See infra* Part IV.B.1–3.

275. *See infra* Part IV.B.1.

276. *See infra* Part IV.B.2.

277. *See infra* Part IV.B.3.

278. *See, e.g.*, Swales, *supra* note 228 ("But even now, there are those who would rather see Arizona follow daylight saving time. Many issues arise while traveling to, from or through the state.").

279. *See* H.R. REP. NO. 89-1315, at 1 ("The further purpose of the bill is to allow each State through enactment of State law to exempt inself [sic] on a statewide basis from the provisions of the bill which establish daylight saving time.").

280. Energy Policy Act of 2005, Pub. L. No. 109-058, § 110(a), 119 Stat. 615, 615 (codified as amended at 15 U.S.C. § 260a(a) (Supp. V 2007)).

281. *See generally* 15 U.S.C. § 260a (1967) (amended 2005). This would require one state electing to observe DST and its neighbor electing to exempt itself, which is permissible under the current law. *Id.* Additionally, in states divided into two zones, two portions of the same state will spend the entire year one hour apart. *Id.*

relative consistency across the country today.[282] Thus, an amendment to this provision alone that allows states to stay on DST permanently would pertain only to the approximately four-month period during which standard time is mandated and would entrust in the states only slightly more discretion than under the current law.[283]

2. The States Can Navigate This Rationally

It is easy to rush to the conclusion that if the states were granted the power to choose, they would act imprudently, leading to a checkerboard of time zones across the United States.[284] However, there are many reasons that they would act responsibly and with concern for interstate burdens.[285] First and foremost, it is important to acknowledge that, with Arizona as the lone exception,[286] the entire continental United States has managed to align itself since the passage of the Uniform Time Act.[287] Given how infrequent these changes are, it appears that state legislatures have been granting this factor substantial weight.[288]

As previously discussed, all of the new permanent Daylight Saving bills in the states are conditional upon an amendment to federal law, but some states have chosen to additionally condition the change on the decisions of their neighbors.[289] In New Hampshire, for example, where the House of Representatives passed a bill to switch the state to Atlantic Time, the Bill came with a clear caveat: they would only adopt the change if Maine and Massachusetts made the same change.[290] Similarly, in Maine, when the legislature passed a measure to adopt year-round DST, the Bill included a requirement that the change would not be effective until all states in the Eastern Time Zone implemented the same change.[291]

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282. *See* Ducharme, *supra* note 5 ("Two U.S. states and several territories don't do Daylight Saving.").

283. *See generally* 15 U.S.C. § 260a (referencing the law with the suggested amendment in place).

284. *Cf.* Wilson, *supra* note 6 ("Most state legislators say they want Congress to make the call rather than a patchwork of state and local laws that would add confusion.").

285. *See, e.g.*, *infra* text accompanying note 289.

286. ARIZ. REV. STAT. § 1-242 (LexisNexis 1968).

287. Uniform Time Act of 1966, Pub. L. 89-387, 80 Stat. 107 (1966); *see also* Ducharme, *supra* note 5 (stating that only two states, Arizona and Hawaii, and several territories do not follow DST).

288. *Cf.* Wilson, *supra* note 6.

289. *See infra* notes 290-95 and accompanying text.

290. *See* Ethan DeWitt, *Capital Beat: Is it Time for a Zone Change in New Hampshire?*, CONCORD MONITOR (Mar. 2, 2019, 7:59 PM), https://www.concordmonitor.com/Capital-Beat-Fixes-for-New-Hampshire-school-funding-disparities-run-the-gamut-23835727 ("[T]he New Hampshire House passed a bill to remove New Hampshire from Eastern Standard Time and convert to Atlantic Standard Time all year-round – eliminating Daylight Saving[]. The catch: Maine and Massachusetts must also take the plunge.").

291. H.P. 659, 129th Me. Leg., 1st Reg. Sess. (Me. 2019).

On the other side of the country, the states have been equally mindful of their neighbors.[292] For example, an Oregon bill to adopt year-round DST includes a provision that requires California and Washington to make the same change before becoming effective.[293] Washington has expressed a similar sentiment, where, upon the passage of a year-round Daylight Saving law, Governor Jay Inslee expressed that "[i]t's important to stick together as West Coast states."[294] This kind of teamwork extends even beyond United States borders, as British Columbia, Canada seeks to make the move alongside its southern American neighbors.[295] British Columbia Premier John Horgan has stated, "I think we can act in unison, the four jurisdictions, and make the argument we can stay in Daylight Saving Time or Pacific Standard Time and then do it together."[296] The language of these bills and discourse of public officials suggest that the states are unlikely to haphazardly make any changes that would negatively impact their relationships with neighboring states or the functioning of the United States at large.[297]

3. Even with New Discrepancies, the Benefits May Outweigh These Challenges

The reality is that this change may very well lead to some new time change lines on the map of the United States.[298] However, this alone does not negate the possibility that the inconvenience is worthwhile with respect to its potential benefits.[299] For example, in 2018, the United

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292. *See, e.g.*, *Oregon and Permanent Daylight Saving Time: What You Need to Know*, OREGONIAN (Apr. 10, 2019), https://www.oregonlive.com/news/2019/04/oregon-and-permanent-daylight-saving-time-what-you-need-to-know.html ("[T]he bill only takes effect if both California and Washington make the same decision.").

293. S. 320, 80th Or. Leg. Assemb., Reg. Sess. (Or. 2019) (amending OR. REV. STAT. ANN. § 187.110 (West 2020)) ("The amendments . . . become operative at 2 a.m. on the first Sunday of the first November in which the standard of time in the States of California and Washington is one hour in advance of the United States standard of time for California and Washington.").

294. *See* Tom Banse, *Washington Becomes 1st West Coast State Ready to Ditch Time Changes*, OPB (May 10, 2019, 9:02 AM), https://www.opb.org/news/article/daylight-saving-time-washington-jay-inslee.

295. *See* Christine Clarridge, *Inslee Signs Bill to Make Daylight Saving Time Permanent in Washington; Next Step Congress*, SEATTLE TIMES (May 8, 2019, 7:12 AM), https://www.seattletimes.com/seattle-news/politics/gov-inslee-expected-to-sign-bill-bringing-state-closer-to-permanent-daylight-saving-time.

296. *Id.*

297. *See, e.g.*, *supra* note 293 and accompanying text.

298. *See, e.g.*, FLA. STAT. ANN. § 1.025 (West 2018). Florida's law to adopt permanent Daylight Saving would become effective and then would create a new time discrepancy with its neighboring state, Georgia. *See id.*; *see also The World Clock – Time Zone Converter – Results*, TIMEANDDATE.COM, https://www.timeanddate.com/worldclock/converted.html?p1=25&p2=156 (last visited July 10, 2020) (showing that Miami, Florida, and Atlanta, Georgia, are on the same times as of June 12, 2020).

299. William H. Pryor Jr., *Federalism and Freedom: A Critical Review of Enhancing Government*, 83 TUL. L. REV. 585, 589 (2008) (setting forth a criticism of federal laws, generally, in that "[t]hey limit the flexibility of states to balance the benefits and costs of solutions to problems").

States exceeded its previous record high of energy consumption, experiencing the largest annual increase since 2010.[300] In 2001, the California Energy Commission completed a study that found that year-round DST would produce a 3.4 percent net decrease in energy consumption over the winter months.[301] If California determines that it is an important priority to reduce electricity consumption,[302] and finds that year-round DST could aid in achieving that reduction, the benefit may very well outweigh any potential detriment associated with being even further out of sync with neighboring Arizona.[303] Considering pedestrian deaths as another example, exactly how many lives would need to be saved in order to justify the inconvenience of differing time zones?[304]

Ultimately the states themselves are in the best position to evaluate the importance of their own unique interests and weigh these interests against the regional burdens that they may experience.[305] Nonetheless, if states are willing to work together, as it appears they will be, it is even more likely that this amendment will lead to the best of both worlds: benefits will be realized where they exist and burdens will be minimalized via interstate cooperation.[306] Although new lines may be drawn, and there may be a somewhat complicated transition period, this amendment should allow for a net positive change that honors our geographic diversity without debilitating our underlying uniformity.[307]

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300. U.S. Energy Info. Admin., *In 2018, the United States Consumed More Energy Than Ever Before*, EIA (Apr. 16, 2019), https://www.eia.gov/todayinenergy/detail.php?id=39092# ("Primary energy consumption in the United States reached a record high of 101.3 quadrillion British thermal units (Btu) in 2018, up 4% from 2017 and 0.3% above the previous record set in 2007.").

301. *See* Calandrillo & Buehler, *supra* note 177, at 79. *But see* CAL. ENERGY COMM'N, THE EFFECT OF EARLY DAYLIGHT SAVING TIME ON CALIFORNIA ELECTRICITY CONSUMPTION: A STATISTICAL ANALYSIS 10 (2007) ("The regressions did not and cannot rule out small savings, nor can they rule out an electricity use increase.").

302. *See* Casey Leins, *Californians Will Pay More for Electricity During Peak Hours*, U.S. NEWS & WORLD REP. (Feb. 19, 2019, 2:21 PM), https://www.usnews.com/news/best-states/articles/2019-02-19/californians-will-pay-more-for-electricity-duing-peak-hours (highlighting state officials' desire to reduce the state's high demand for electricity during weeknights).

303. *See generally* Luis Gomez, *Daylight Saving Time California Proposition Passed. Here's What Happens Next*, SAN DIEGO UNION TR. (Nov. 7, 2018, 1:30 AM), https://www.sandiegouniontribune.com/opinion/the-conversation/sd-what-exactly-is-daylight-saving-time-proposition-california-ballot-20181102-htmlstory.html (demonstrating that California voters approved legislation allowing California to change DST to be consistent with federal law although Arizona time is inconsistent with DST).

304. *See, e.g.*, Coate & Markowitz, *supra* note 181, at 356.

305. *See, e.g.*, Peter H. Schuck, *Taking Immigration Federalism Seriously*, 2007 U. CHI. LEGAL F. 57, 70 (2007) (discussing, in the context of immigration, that when "burdens . . . are disproportionately felt at the state and local level . . . states are in the best position to assess and manage the tradeoffs among conflicting public goals peculiar to their polities").

306. *See supra* Part IV.B.2.

307. *See infra* Part V.

C. Federalism

The Daylight Saving discussion is merely a lens through which a larger phenomenon is observed: the relationship between state and federal decision-making power.[308] As a preliminary consideration, it is worth acknowledging that a federal legislative schema will *always* offer a more uniform solution than one whereby the states legislate individually.[309] Yet, in spite of this, states retain decision-making power over various facets of life under the American system of federalism.[310]

The notion that there is intrinsic value in reserving power to the states is hardly a new one.[311] The Tenth Amendment to the Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."[312] In his famous dissent to the majority opinion in *Lochner v. New York*,[313] Justice Holmes stated that "[t]he preservation of the just powers of the states is quite as vital as the preservation of the powers of the General Government."[314] Over the last thirty years, several United States Supreme Court decisions have sought to protect state sovereignty from federal intrusion, construing federal power narrowly where it seeks to interfere with matters best left to the states.[315]

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308. *See, e.g.*, Tammy Murray, *State Innovation in Health Care: Congress' Broad Spending Power Under a National Health Care System Will Stifle State Laboratories of Democracy*, 3 IND. HEALTH L. REV. 263, 280 (2006).

309. *Compare, e.g.*, 23 U.S.C. § 158(a)(1)(A) (2012) ("[T]he purchase or public possession . . . of any alcoholic beverage by a person who is less than twenty-one years of age is [un]lawful."), *with Driving Age by State 2020*, WORLD POPULATION REV., http://worldpopulationreview.com/states/driving-age-by-state (last visited July 10, 2020) (reporting varying driving age laws across the country).

310. *See* Edward L. Rubin, *Puppy Federalism and the Blessings of America*, 574 ANNALS AM. ACAD. POL. & SOC. SCI. 37, 38 (2001) ("Federalism is a principle of political organization in which a single polity, or nation, has both a central government and separate, geographically defined governments that are subordinate to the central government in certain matters but independent of it in others.").

311. *See infra* notes 312-14 and accompanying text.

312. U.S. CONST. amend. X. This is not cited to suggest that there is a constitutional issue underlying the current federal legislation surrounding DST, but it is cited merely to highlight the importance of state decision-making power in the Constitution. *Id.*

313. 198 U.S. 45 (1905).

314. *Lochner*, 198 U.S. at 74 (1905) (Holmes, J., dissenting). Additionally, Justice Harlan stated:

> Let the state alone in the management of its purely domestic affairs, so long as it does not appear beyond all question that it has violated the Federal Constitution. This view necessarily results from the principle that the health and safety of the people of a state are primarily for the state to guard and protect.

Id. at 73 (Harlan, J., dissenting).

315. *See* United States v. Morrison, 529 U.S. 598, 613 (2000); Alden et al. v. Maine, 527 U.S. 706, 713 (1999); Printz v. United States, 521 U.S. 898, 935 (1997); United States v. Lopez, 514 U.S. 549, 552 (1995); New York v. United States, 505 U.S. 144, 149 (1992); Gregory v. Ashcroft, 501 U.S. 452, 457 (1991).

James Madison once stated, "As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed."[316] This sentiment certainly holds true with regard to federalism, as scholars have offered a variety of interpretations of federalism.[317] Professor Erwin Chemerinsky has taken a unique position, stressing that the relationship between state and federal governments ought to be empowering rather than antagonistic.[318] In Professor Chemerinsky's view, "[F]ederalism should be seen as empowering each level of government to deal with society's social problems."[319] A contrary view suggests that the relationship is and should be antagonistic as a system of checks and balances against excessive federal power.[320] Nonetheless, both sides acknowledge the utility of state experimentation within federalism.[321]

On the one hand, Professor Deborah J. Merritt sees state experimentation as a valuable tool for progress, stating:

> Authorizing multiple government units to address social problems increases the opportunities for experimental programs to emerge. Even the boldest national department of social policy research could not generate the hundreds of legislative proposals adopted by state, county, and city governments each year. Some of those initiatives may be silly and some may be awful, but some hold real promise for social progress. In all, this vast marketplace of political ideas—stocked by one national government, fifty state governments, and thousands of local authorities—offers an important resource for devising worthwhile social programs.[322]

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316. THE FEDERALIST NO. 10, at 78 (James Madison) (Clinton Rossiter ed., 1961).

317. *Compare, e.g.*, Erwin Chemerinsky, *The Values of Federalism*, 47 FLA. L. REV. 499, 503 (1995) ("Discussions of federalism traditionally have been about how much it limits the powers of the federal government. A quite different conception would be to view the multiple layers of government as providing alternative means for dealing with problems."), *with* Pryor Jr., *supra* note 299, at 586 ("Chemerinsky's perspective of federalism as empowerment is radical. It is wrong.").

318. *See* Erwin Chemerinsky, *Federalism Not as Limits, but as Empowerment*, 45 U. KAN. L. REV. 1219, 1220 (1997) ("[F]ederalism should be viewed as not being about limits on any level of government, but empowering each to act to solve difficult social issues."); *see also* Deborah J. Merritt, *Federalism as Empowerment*, 47 FLA. L. REV. 541, 542 (1995) ("Members of the Court, however, have not entirely ignored the possibility of empowering multiple government units as an object of federalism.").

319. Chemerinsky, *supra* note 317, at 1220.

320. *See* Pryor Jr., *supra* note 299, at 587 (echoing Madison's view that "the structural restraints of federalism and the separation of powers [act] as the double security of liberty"); THE FEDERALIST NO. 51, at 288 (James Madison) (Clinton Rossiter ed., 1961) ("In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against, by a division of the government into distinct and separate departments.").

321. *See* Merritt, *supra* note 318, at 551-52; Pryor Jr., *supra* note 299, at 592-93.

322. *See* Merritt, *supra* note 318, at 551-52; *accord* New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) ("There must be power in the States and the Nation to remould, through experimentation, our economic practices and institutions to meet changing social

On the other hand, William H. Pryor Jr., Judge for the United States Court of Appeals for the Eleventh Circuit, acknowledges the protections against regulatory failure, stating:

> Federalism also avoids the worse consequences of a national law gone bad. When the states are allowed to experiment, regulatory failures can be confined to smaller communities and contrasted with regulatory successes. A regulatory failure on a national scale, instead of a failure confined to a state, reveals the risk of tyranny that federalism prevents.[323]

In any event, there is probably no *a priori* answer to whether a uniform national law is preferable to varying local laws outside of particular disputes and contexts.[324] Instead, "[t]here is the constant issue of whether a particular matter justifies uniform federal action or whether it would be preferable to allow geographic diversity and the experimentation that allows."[325] Often, advocates for state-based solutions are simply recognizing the political reality that they are unable to amass a political coalition strong enough to prevail nationally.[326] However, within this context, where the conditions are so strongly entangled with geography, it seems unlikely that any national solution could achieve an ideal outcome.[327] As a result, it is important to acknowledge that the solution offered herein is procedural in nature, as a means of allowing states to find a functional solution to a complicated problem.[328] Contrarily, it is not seeking a procedural change merely for the purpose of achieving a particular substantive outcome (i.e., uniform year-round DST).[329]

Within the Daylight Saving issue, it is clear that both sides of the federalism dichotomy are prevalent: (1) the confusion predating the Uniform Time Act certainly justifies uniform federal action[330] and (2) permitting experimentation on a state level would generate the aforementioned potential benefits.[331] What makes the Daylight Saving issue especially difficult is that the arguments on both sides are not just

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and economic needs.").

323. *See* Pryor Jr., *supra* note 299, at 590.

324. *Compare, e.g.*, Chemerinsky, *supra* note 317, at 504, *with* Pryor Jr., *supra* note 299.

325. Chemerinsky, *supra* note 317, at 1236.

326. *See* Erwin Chemerinsky, *Rehabilitating Federalism*, 92 MICH. L. REV. 1333, 1345 (1994) ("Federalism has long been a rhetorical strategy used by those who oppose particular federal efforts to argue against the proposed federal actions without addressing their merits.").

327. *See supra* Part III.B.

328. *See supra* Part IV.A.

329. *See supra* Part IV.A. Chemerinsky refers to this phenomenon, noting that there are instances where federalism is being relied on not for its historical importance, but rather for "political usefulness." *See* Chemerinsky, *supra* note 326, at 1345.

330. *See supra* Part II.D.

331. *See supra* Part III.B–C.

present, they are compelling.[332] On the one hand, the issue is so blatantly entangled with our inherent geographic diversity[333] that stripping states' ability to choose entirely could trigger backlash from the states.[334] On the other hand, there is a compelling need to avoid the disorder that plagued the country prior to the Uniform Time Act.[335]

This Note proposes a means by which it is possible to honor both sides of this dichotomy.[336] By maintaining the primary components of § 260a that foster uniformity, and amending only the component that will allow for experimentation by the states, space is created for potential progress in a fashion that is wholly consistent with both the notion that empowerment is the essence of federalism and the notion that federalism acts as a check on excessive power.[337] Additionally, by permitting the experimentation to occur on the state level, issues associated with a "national law gone bad" are avoided.[338]

The allocation of authority between states and federal authorities is constantly changing and events can prompt these authoritative lines to be revisited.[339] Today, new scientific evidence and a growing desire for a change of the current Daylight Saving program should prompt Congress to revisit the allocation of authority between the federal and state level.[340] State experimentation with permanent DST could allow for social, economic, and other advances that are otherwise likely to be ignored in light of more pressing political issues of today.[341]

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332. *Compare supra* Part II.D, *with supra* Part III.B–C.

333. *Contra* Rubin, *supra* note 310, at 38 ("The main purpose of puppy federalism is to convince ourselves that . . . we are a geographically diverse nation, whose regions exhibit interesting differences, when, of course, we are a highly homogenized, commercial, media-driven culture smeared across the width of an entire continent."). This argument may well be true of cultural homogeneity, but the daylight issue is strictly tied to geography rather than culture. *See supra* Part III.B.

334. *See* Jessica Bulman-Pozen & Heather K. Gerken, *Uncooperative Federalism*, 118 YALE L.J. 1256, 1298 (2009) (quoting Printz v. United States, 521 U.S. 898, 905 (1997) ("Providing states with the ready ability to opt out may decrease, even eliminate, their incentive to reshape or challenge federal policy, while the very threat of 'being pressed into federal service'—of having to enforce federal law—may drive states to contest such law on the merits.").

335. *See Uniform Time Bill to Ease Confusion*, *supra* note 97 ("The anarchy that prevails at present is not only confusing but also expensive.").

336. *See supra* Part IV.A.

337. *See* Chemerinsky, *supra* note 318, at 1236 ("[V]iewing states as laboratories is completely consistent with seeing federalism as being about empowerment.").

338. *See* Pryor Jr., *supra* note 299, at 590.

339. *See* Judith Resnik, *Afterword: Federalism's Options*, 14 YALE L. & POL'Y REV. 465, 473 (1996).

340. *See supra* Part III.

341. *See supra* Part III.

V. CONCLUSION

DST, itself, is certainly not among today's most important issues.[342] Nonetheless, in a time where research suggests that our political views have become perhaps more divided than any time in recent history,[343] federalism continues to be a central and increasingly important issue for the foreseeable future in America.[344] At the very least, the wacky and wonderful DST saga offers a valuable and interesting lens into the interplay of federal, state, and local governments on the stage of American federalism.[345]

In light of the foregoing, it is time that the United States reconsider its position on DST and allow the states to choose for themselves.[346] While this issue is certainly less pressing than some of the problems plaguing our country and the world at large, there are few issues that have such a tangible impact on everyday life.[347]

From the epiphanies of Benjamin Franklin on a sunny Parisian morning and William Willett upon his horse, through the rollercoaster of adoptions and adaptations that followed, there is no doubt that the mere idea of Daylight Saving has proven a confusing and complex matter.[348] Although it would certainly be convenient to consider the issue settled and leave it alone, as the number of states bringing the issue to the surface continues to grow, it seems only a matter of time before the federal government is forced to revisit the issue with serious consideration.[349] Until then, I wish you good day or good evening,

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342. *See generally* Nick Routley, *The Top Global Risks in 2019*, VISUAL CAPITALIST (Jan. 18, 2019), https://www.visualcapitalist.com/top-global-risks-2019 (reporting the top global risks, under which Daylight Saving is not included).

343. *See* Colton Carpenter, *The Divided United States of America*, HARV. POL. REV. (Mar. 18, 2019), https://harvardpolitics.com/columns-old/divided-states ("It seems that Americans feel more politically divided today than at any other time in recent history."); *The Partisan Divide on Political Values Grows Even Wider*, PEW RES. CTR. (Oct. 5, 2017), https://www.people-press.org/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider ("[I]n recent years, the gaps on several sets of political values in particular – including measures of attitudes about the social safety net, race and immigration – have increased dramatically.").

344. *See* Tivas Gupta, *The Future of Federalism*, HARV. POL. REV. (Sept. 24, 2019), https://harvardpolitics.com/united-states/the-future-of-federalism ("Federal power has increased while the lines between national and state authority have become ever more contested in an increasingly polarized political climate.").

345. *See supra* Part II.

346. *See supra* Part IV.

347. *See* Routley, *supra* note 342 (highlighting risks such as weapons of mass destruction, natural disasters, and more as some of the most imminent threats to the country—none of which have a direct impact on everyday life as does Daylight Saving).

348. *See supra* Parts I–III.

349. *See supra* note 152 and accompanying text.

dependent, of course, upon the daylight schedule granted to you by those controlling your clock.[350]

*Zachary Gould**

350. *See* 15 U.S.C. § 260a (1967) (amended 2005).

* J.D. Candidate, 2021, Maurice A. Deane School of Law at Hofstra University; B.A, Philosophy, 2011, Lehigh University. I would, first and foremost, like to thank my two-year-old son Julian for his refusal/inability to fall asleep at bedtime for the weeks following the "spring forward" last March. Without your belligerent defiance, I would never have considered writing on such an unusual slice of reality. I would also like to thank my Faculty Advisor, Professor Daniel J.H. Greenwood, for his help and support throughout the writing process, and for sharing his wealth of knowledge of some of the more obscure corners of history and law. I know he certainly does not endorse my position in this Note, but his pushback made the process all the more enjoyable and educational. Finally, I would also like to express my sincerest gratitude to all of the *Hofstra Law Review* members for their invaluable help in making this Note possible; to my Notes Editor Rebecca Marks; and to the Managing Board of Volume 48, Amy ElSayed, Madelyn Nicolini, and Sabrina Salama.