



CAPCON MICHIGAN CAPITOL CONFIDENTIAL

MACKINAC CENTER FOR PUBLIC POLICY

CapCon is a product of the Mackinac Center for Public Policy

A news service for the people of Michigan — Vol. 8 No. 4 December 2014

Daily Online Coverage at MichCapCon.com

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Michigan Paid ‘Stupidity of the American Voter’ Obamacare Architect \$481,050

BY TOM GANTERT

A consultant considered an architect to the federal health care law who said a “lack of transparency” and “stupidity of the American voter” were critical to getting it passed reportedly received \$481,050 from the state of Michigan, and a recently elected state representative said he wants an investigation.

Jonathan Gruber, a Massachusetts Institute of Technology professor who created an econometric model intended to project health care spending and costs under different assumptions, along with his team, was granted a \$481,050 contract by

the state of Michigan, according to The Washington Post. He was paid that to help set up a state health-insurance exchange under the federal Affordable Care Act, also known as Obamacare. The Washington Post reported that Gruber received similar payments from three other states, but Michigan paid the consultant \$81,050 more than any other state.

Gruber was paid the \$481,050 even though the Michigan Legislature did not authorize creating a state-level exchange. In 2012, the Senate approved legislation authorizing one but the House declined, with the

result that Michigan currently has an exchange run by the federal government.

In some cases Gruber worked with other consultants, so the fees may have been shared.

The U.S. Supreme Court recently announced that it will consider a case challenging the authority of a federally run exchange to distribute the health care law’s subsidies, without which its “employer mandate” may not be imposed in a state.

Gruber has been widely criticized for comments on a recently discovered

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In Great Lakes States, Union Retribution Fizzles

BY TOM GANTERT

In December of 2012, in the aftermath of Michigan’s Republican Legislature passing a right-to-work law, thousands of union members from around the state participated in a teleconference where their leaders promised “retribution” against the GOP.

One union member wondered if Democrats took control of the Legislature, “Could we shove it right down their throats?”

Al Garrett, president of Michigan AFSCME Council 25, shot back: “If we were to change

the composition of both houses, where we were the majority and had the governor, no question we would be able to get rid of it right away. ... In November of 2014, we vote to change the composition of those bodies. ... We will not forget the folks who did this to us.”

Garrett said the union would “make sure we identify the folks who did us in and get them out of office.”

In Michigan, after the November 2014 elections, those threats rung hollow.

See “Retribution Fizzles,” Page 8

Wisconsin Wind Turbines Declared Health Hazard

BY JACK SPENCER

In what appears to be the first of its kind ruling in the United States, the Board of Health in Brown County, Wisconsin, where Green Bay is located, has declared a local industrial wind plant to be a human health hazard. The specific facility consists of eight 500-foot high, 2.5 megawatt industrial wind turbines.

The board made its finding with a 4-0 vote (three members were not present) at an

Oct. 14 meeting after it had wrestled with health complaints about the wind plant for more than four years. Ultimately, the board’s ruling was based on a year-long survey which documented health complaints and demonstrated that infrasound and low-frequency noise emanating from the turbines was detectable inside homes within a 6.2-mile radius of the industrial wind plant.

Jay Tibbetts, a physician and a member of the Brown County Board of Health, said

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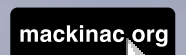
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Crime, Crime, Everywhere a Crime

BY MICHAEL REITZ

Three fish nearly cost John Yates 20 years in prison.

Yates makes his living as a commercial fisherman. In 2007 he was fishing in the Gulf of Mexico. A state wildlife official boarded Yates' vessel and determined that 72 red groupers (of a 3,000-fish catch) were undersized, issued a civil citation and ordered the fish to be confiscated. When Yates returned to port, armed agents inspected his catch and found only 69 undersized fish.

Nearly three years later, federal agents arrested Yates at his home and charged him with violating the Sarbanes-Oxley Act's anti-shredding rules (yes, the post-Enron Sarbanes-Oxley Act) — a crime that carries a maximum sentence of 20 years in prison. His crime? Throwing three undersized fish overboard. Yates was prosecuted and convicted of having destroyed evidence. Yates fights on; his case reached the U.S. Supreme Court in November 2014.

Yates' case represents much more than the proper interpretation of federal financial regulations. Civil liberties groups, libertarians and conservatives are joining forces to confront the problem of "overcriminalization," taking on both the sheer volume of laws and the troubling trend of imposing severe criminal sanctions on behavior that simply isn't wrong.

Consider the well-publicized plight of Lisa Snyder, from Middleville, Mich. In 2009, she agreed to watch several neighbor children in the morning before the school bus arrived. The Department of Human Services accused Snyder of running an illegal daycare — a misdemeanor punishable with jail time. That situation was resolved without incarcerating the



neighborly Mrs. Snyder, but it required an act of the Michigan Legislature.

Like many states, Michigan's criminal code is overpopulated. A study we recently co-published with the Manhattan Institute identified more than 3,100 crimes, with the Legislature creating an average of 45 new crimes annually. Many of these laws do not require a prosecutor to prove criminal intent on the part of the accused.

Some of Michigan's laws are obscure or downright silly. You are a criminal if you transport a Christmas tree without a bill of sale, curse or blaspheme, cause a pet ferret discomfort, sell artificially-dyed ducklings or rabbits, mock a person for refusing to duel, or dance to "The Star Spangled Banner." Other laws may be justified but carry heavy penalties; Sparta businessman Alan Taylor was charged with a wetlands violation and was ordered to pay \$8,500 in fines for expanding his company's parking lot.

It's time for Michigan to tackle the problem of overcriminalization. There's progress on that front; Rep. Joe Haveman, R-Holland, is leading an important effort to reform sentencing and probation guidelines, Rep. Mike Shirkey, R-Clarklake, recently introduced a bill that addresses criminal intent and Rep. Jeff Irwin, D-Ann Arbor, is fighting civil asset forfeiture.

Hopefully these efforts are just the start in cleaning up Michigan's criminal code. ■

Michael Reitz,
Executive Vice President

MEET THE STAFF



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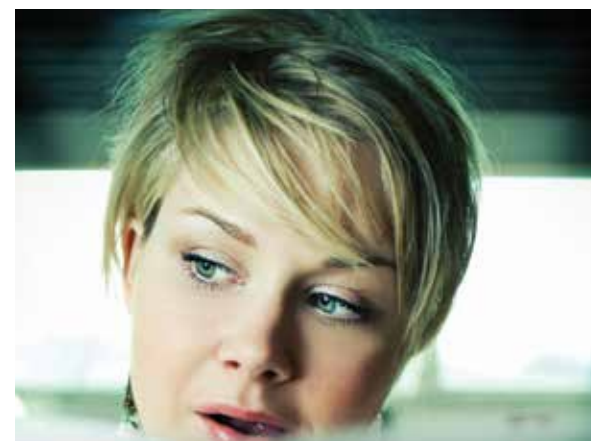


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Is This School One of the Best in Michigan or One of the Worst?

New report card shows the differences in how schools are measured

BY JARRETT SKORUP

If you ask the Michigan Department of Education, Covert High School is not a good school. On the state report card from a few years ago, the school ranked in the bottom 26th percentile.

But on a new report card, the school 40 miles west of Kalamazoo is the No. 1 ranked conventional public high school in Michigan.

The reason why requires understanding the state's report card and those done by other groups.

In Michigan, schools are ranked based on the state's Top-to-Bottom list, which grade administrators and schools based 50 percent on overall test scores, 25 percent on the achievement gap (the spread between high and low performing students) and only 25 percent on academic improvement. Besides emphasizing overall scores more than student growth, these rankings are also viewed by many as flawed because they do not account for student socioeconomic status – a key indicator of student achievement according to experts. To correct for these problems, the Mackinac Center for Public Policy has developed a "Context and Performance" (CAP) report card that takes high school MME and ACT scores and adjusts for student poverty level. When that happens, Covert moves from near the bottom to the very top.

According to the latest CAP report, released in November, the study "uses regression analysis to predict how well each school would perform given the socioeconomic makeup of their students. Schools are then ranked by how well they actually did relative to their predicted performance."

The schools are then given a letter grade.

Audrey Spalding is the director of education policy at the Center and wrote the report. She said not adjusting for the socioeconomic status of students means the state is unfairly judging teachers and schools.

"It's important to recognize that schools that open in needy areas take on additional challenges that other schools in more affluent areas don't face," Spalding said. "By taking into account student background, we can get a better sense of whether a school is posting better or worse outcomes than expected, given its student population."

Covert Superintendent Bobbi Morehead said much of the success at Covert can be attributed to using Northwest Evaluation Association (NWEA) testing several times throughout the year so the school can have a better knowledge of what individual students are learning and need to work on.

"We pay constant attention to student data," Morehead said. "Based on that ongoing data, we can make adjustments on the spot to help our students – not just for students who are struggling, but for everyone in order to push them to a higher level."

The elementary school, middle school and high school all score well on the Mackinac Center report card. Covert Elementary – which is ranked in the 61st percentile by the state – received an A. Covert Middle – which the state puts in the 24th percentile – got a B. On the CAP report card from two years ago, the high school also received an A.

The district as a whole serves students in which 96 percent



are eligible for free and reduced lunch, and 91 percent are racial minorities – 42 percent black, 41 percent Hispanic and 8 percent other non-white.

Morehead believes all students can succeed regardless of socioeconomic status.

"We definitely don't use demographics as an excuse," she said. "It plays a role in student achievement, but when you don't use it as an excuse but believe your students are bright and capable and can achieve, then you can see powerful results."

Morehead believes the state tests should be changed.

"I think we should focus more on measuring progress," she said. "Take a look at where students are and hold people accountable for the progress they make."

She said she understands the purpose of testing, but also believes measuring the "soft skills" is important. Problem-solving, persistence and resilience – while harder to measure – are also important. ■

The original version of this story was posted online on Nov. 20, 2014. It is available with hyperlinks and more info at MichCapCon.com/20760.

Detroit Shows that Poverty is Not Stopping Parents from Opting for School Choice

BY TOM GANTERT

The far left Eclectablog repeats what is becoming a recurring drum beat in public education in Michigan – poor people can't afford school choice.

If Detroit serves as an example, statewide statistics show that not only can poor families afford school choice, they often prefer it.

There are 51,083 students from Detroit attending charter public schools, which exceeds the 49,172 Detroit students who attend Detroit Public Schools. And about 89 percent of Detroit charter school students are eligible for free-or-reduced lunch status compared to 82 percent of DPS students, according to an analysis of data from the Center for Educational Performance and Information (CEPI) and Michigan's Educational Entity Master database.

There are more Detroit children in charter schools than the conventional schools and a higher percentage of those students are in poverty. And according to the Center for Research on Education Outcomes (CREDO) at Stanford University, on average the Detroit charter students have higher learning gains than their conventional school counterparts.

That refutes the message being sent by conventional public school advocates.

Eclectablog wrote: "The proponents of for-profit charters will tell you that this is all about parental choice. It's a myth, of course. Or, perhaps more accurately, a lie. Students in the poorest families don't have the choice to simply send their children to a different school. That requires resources many of them simply do not have. So, instead of being able to move to a higher quality school, they are trapped in a school with diminishing resources and which is slowly circling the drain as they are told they must 'compete' on

an insanely uneven playing field."

The far left blog is simply following the lead of anti-school choice advocates in spreading that talking point.

In December of 2012, 71 conventional public school superintendents from west Michigan signed a letter that ran in MLive stating: "Instead, the choices we have created through market-based reform have produced cookie-cutter public school academies serving middle class students while creating a permanent underclass in our inner cities. Why? We believe that families struggling to maintain a roof over their head and food on their table simply do not have the resources to shop around for educational opportunity."

And State Board of Education President John Austin stated in a June 2014 email to Michigan Capitol Confidential: "Many parents and their students can't execute a choice if they wanted to ... they don't have time energy, transportation money to pick or get to a different school."

Michigan Association of Public School Academies President Dan Quisenberry said charter schools are most popular in places where poverty is the highest.

"That's true in Michigan and it's true around the country," Quisenberry said. "That's because parents aren't seeing their child's educational needs met by the traditional public schools in those areas, so they're seeking out better options. About 90 percent of the charter schools students in Detroit are eligible for free and reduced meals. You can't get out of poverty unless you get a great education, and you can't get a great education unless you're able to choose the right school. That blogger is actually making the argument for more charter schools in those areas." ■

The original version of this story was posted online on Nov. 22, 2014. It is available with hyperlinks and more info at MichCapCon.com/20762.

Did 'Republican Budget Cuts' Lead to a \$51.7 Million Deficit and No Toilet Paper in Schools?

BY TOM GANTERT

At the height of the Pontiac School District's overspending crisis, its deficit reached \$51.7 million in 2013.

House Democratic Leader Tim Greimel put out a press release in January 2013 with a headline: "Republican Budget Cuts Lead To Lack of Toilet Paper in Pontiac Schools."



Pontiac Education Association Union President Aimee McKeever said the district was poor and not receiving as much money as surrounding districts.

But neither claim was accurate.

The Pontiac School District is in the news late November after it stated its deficit has been reduced for the first time in the seven consecutive years it has been in red ink, according to a story in the Detroit Free Press. Pontiac has 10 years to solve its overspending crisis under an agreement it reached in 2014 with State Superintendent of Education Michael Flanagan.

A look back at what led to Gov. Rick Snyder declaring the district was in a financial emergency in 2013 shows the crisis evolved from a dramatic drop in enrollment that the district didn't respond to quickly enough coupled with a cut in federal funding.

Pontiac schools received \$11,390 per pupil (including local, state and federal general fund money) in 2012-13. The district received \$11,591 per pupil in 2008-09, its first year in deficit. Although the overall general fund was relatively flat during those four years, there was a large drop in federal funding.

The district received \$2,654 per pupil in federal money

in 2008-09, but federal aid dropped to \$1,326 per pupil in 2012-13. The district had lost half of its federal aid within the four years – \$1,326 per pupil – but still managed to have just a \$201 per-pupil loss because local and state funds picked up much of what was lost in federal money, according to the Michigan Department of Education.

The district's loss of federal aid was made worse by a huge exodus of students. Pontiac's enrollment dropped 50 percent from 2006-07 to 2013-14. Pontiac schools had 9,059 students in K-12 in 2006-07. By 2013-14, that number of students had dropped to 4,531.

The district also hadn't reduced staffing to match the rate at which it was losing students. For example, the district had a headcount of 1,456 employees in 2008-09, its first year in deficit. By 2012-13, the district's headcount was 1,209 employees, a 17 percent reduction from four years earlier. But it had lost 30 percent of its student enrollment during that four-year period.

Yet the district was paying its teachers like it was flourishing.

In 2008-09, the average salary for a Pontiac School District teacher was \$64,651. That was the district's first year in deficit when it was \$8.5 million in red ink. By

See "Budget Cuts," Page 8

Democratic Lawmakers Target Charter Public Schools, School Choice

BY TOM GANTERT

In the last five months, Democrats in the Michigan Legislature have introduced 10 bills and two budget amendments that impose more oversight, reporting requirements, regulations, restrictions or an outright ban on charter public schools and the entities that authorize ("charter") them. The bills are part of an escalating battle over the extent which Michigan parents who can't afford or don't prefer private schools can still choose where to send their children to school.

The bills come at a time when the number of charter schools in the state has expanded from 240 in 2009 to 303 in the current

school year. The expansion was made possible by a law passed at the end of 2011 that phased out a cap on the number of schools authorized by the most common chartering entity, state universities. This year an additional 17 charter schools opened, while 11 were closed, for a net gain of six.

The 10 anti-charter bills involved eight different sponsoring legislators with nine coming from the House and one from the Senate.

By comparison, while Democrats made "fixing the roads" a big part of their 2014 general election campaign theme, this year they have introduced just four bills that

had some ties to increased road funding.

"This is not to say Democrats don't care about roads," said Jack McHugh, senior legislative analyst for the Mackinac Center for Public Policy. "What it does show is how much they do care about protecting unionized conventional schools from the growing competition from charters."

Union dues from conventional public school employees fund a substantial proportion of organized labor's political activity in this state, and most of that activity is on behalf of Democratic politicians.

"It's probably no coincidence that the current 'war on

charters' seen in these bills, in newspaper reports, in state education bureaucracies and elsewhere is occurring in the months leading up to the Jan. 1 elimination of the previous cap on the number of charters," McHugh said.

The 10 bills ranged from mandating that charter schools file more reports with the state, to prohibiting additional charter schools from being created, and in one amendment, repealing the law that authorizes creating any charter schools at all.

"While the vast majority of Michigan's voters would like the Legislature to address our crumbling roads, the House Democrats continue to mount

a misguided crusade against parental choice and charter public schools," said Gary Naeyaert, executive director of the Great Lakes Education Project. "Their priorities are inconsistent with what their own constituents are telling them."

Robert McCann, spokesman for the Democratic Senate Caucus, and Michigan House Minority Leader Tim Greimel, D-Auburn Hills, didn't return emails seeking comment. ■

The original version of this story was posted online on Nov. 18, 2014. It is available with hyperlinks and more info at MichCapCon.com/20744.



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Almost Every Teacher and Administrator at Poor Performing Districts Rated ‘Effective’

BY TOM GANTERT

In recent staff performance evaluations by the Flint Community School District, 94 percent of its teachers and 99 percent of administrators were rated as “effective” – the second highest rating a school employee can receive.

However, those ratings do not correlate with the academic progress of students in Flint schools, whose average performance during the same two year period reflect the district’s troubled history of poor outcomes. During the 2011-12 and 2012-13 school years, 62 percent of Flint schools placed in the lowest 10 percent on the state’s “Top-to-Bottom” academic rankings.

Even when student progress is adjusted for socioeconomic status, the district’s performance is little better.

According to ratings which do adjust for student



backgrounds compiled by the Mackinac Center for Public Policy, seven Flint schools earned “F” grades, 12 got “C” grades and only one merited an “A” based on data from 2009 to 2012.

The Mackinac Center’s high school and elementary/middle school report cards provide more detail.

Three years after a law was passed to reform how school districts evaluate teachers, there is evidence of a large disconnect between the academic performance of many Michigan

public schools and assessments of their teachers’ effectiveness.

“It’s a travesty – the teacher evaluation system,” said Gary Naeyaert, executive director of the Great Lakes Education Project. “You can’t have one-third of the kids not able to read and only 2 percent of the teachers as ineffective. It defies logic.”

Naeyaert said House Bill 5223 (for teachers) and House Bill 5224 (for administrators) would create a new system that would base up to 50 percent of the evaluation on academic growth of students. Part of the evaluations would also include classroom observations of teaching techniques. Both bills are in the Senate Education Committee.

Naeyaert said tying performance evaluations to student achievement will make it harder for districts to give teachers and administrators positive evaluations when the

academic progress of students in the district’s schools paints a different picture.

School districts were required to report their ratings of teachers’ effectiveness in 2011-12 based on a state law that established four categories of effectiveness: highly effective, effective, minimally effective and ineffective.

Flint is far from being the only Michigan school district whose teacher evaluations don’t mesh with the overall academic performance of its students. Just nine miles down the road from Flint in Genesee County, evaluations of its teachers by the Beecher Community Schools give little indication that schools there are in the bottom tier of student academic progress.

Of 184 teacher evaluations covering two school years, there were 32 “highly effective” assessments and just five “ineffective” ones. The district issued 142 “effective” evaluations and five “minimally

effective” ratings, according to the most recent data available to the public.

Yet none of the district’s four schools were rated above the bottom 16th percentile of public schools in the Michigan Department of Education’s rankings. The Mackinac Center gave the four Beecher schools 3 “F” grades and a “D” based on its socioeconomic-adjusted ratings.

Beecher administrators also were rated highly in the district’s evaluations. Six were assessed to be “highly effective,” seven “effective” and just two “minimally effective.”

The superintendents of the two districts did not respond to a request for comment. ■

The original version of this story was posted online on Nov. 3, 2014. It is available with hyperlinks and more info at MichCapCon.com/20679.

Legislators Block Low-Cost Eye Exams in Michigan

BY ANNE SCHIEBER

Starting this month, consumers nationwide will be able to take a \$30 online eyeglass exam and get a prescription from the convenience of their home – but Michigan residents will be left in the dark. That’s because last spring the Michigan Legislature passed – and Gov. Rick Snyder signed into law – Senate Bill 853, which bans automated eye exam and eyeglass kiosks.

Although the company offering the online eye exams doesn’t think the law applies to them, the founder said he doesn’t want to take any chances by operating in Michigan.

“We’re afraid that even if our lawyers give us the green light (to operate in Michigan), the entrenched industry would

use this law against us to litigate us out of the state,” says Aaron Dallek, founder of Chicago-based start-up Opternative.

Dallek believes there is no other law like it in the country.

The bill passed unanimously in the state senate, and received only two “no” votes in the House, including one from Rep. Doug Geiss, D-Taylor. Rep. Tom McMillin, R-Rochester Hills, said he voted against it because he thought it was anti-free market.

“A person can make the choice. They can understand the difference between this and a full-fledged eye health exam,” he said.

The Michigan Optometric Association declined to say how actively it lobbied against SB 853. According to state filings, it has spent between \$19,179 and

\$25,998 in each of the past five years on lobbying.

Opternative has developed a system of algorithms to perform a series of online eye tests that can measure nearsightedness, farsightedness and astigmatism. A group of licensed professionals review the data and provide a signed prescription by a licensed, board-certified eye care professional in the state where the user resides. The company says it will be in full FDA compliance by the time it goes live.

Currently, the primary way consumers get a pair of prescription glasses is to go to an optometrist’s office where they would undergo several eye health exams, including a refractive eye exam to measure vision. The process can last 30 minutes



or more and cost at least \$50. Patients are often directed to in-office optician practices, where they could spend hundreds of dollars on designer frames and specialty lenses.

Opternative markets itself as a timesaving, affordable alternative. Patients can now shop for frames and lenses using a variety of websites,

some offering virtual try-on or free delivery of sample frames to try on at home. Dallek believes on-line eye exams are the obvious next step.

“It is the way medicine is going,” he said. “We are using technology to advance and improve the overall patient experience and laws like the one passed in Michigan prevent innovations that allow consumers to make their own choices.”

Dallek said the service does not replace a comprehensive eye health exam and recommends users see a licensed eye professional every two years. Sen. Rick Jones, R-Grand Ledge, said he introduced the bill because an office eye exam

No, the GOP Did Not Win Because of Gerrymandering

BY JARRETT SKORUP

In his recent Dome Magazine article, Rich Robinson of the Michigan Campaign Finance Network writes that Republicans won the state House and Senate because of “the power of the gerrymander”:

As old Joe Stalin observed, it’s less important who votes than who counts the votes. Or, in our contemporary situation, how the votes are grouped to be counted.

...Through the magic of drawing advantageous district lines, a pure toss-up state has been turned into a locked-down Red State government. I guess you have to take your hat off to the mechanics in the back room that pulled that off. But this rigged election outcome bears no resemblance to democracy. The principle of one person, one vote has been used for toilet paper.

But that does not actually appear to be the case in this most recent election. Gerrymandering certainly had some effect, but a careful look at

election results shows that was not the reason the Republicans control the House and Senate.

Zach Gorchow at Gongwer lays this out:

[H]ere’s the problem with the argument that redistricting gerrymandered Democrats into an impossible task to win the majority. Most of the key House and Senate battles did not take place in these seats. In fact, many of them took place in seats whose boundaries have been largely stable or, in some cases, were made friendlier to Democrats than they were in the 2001 reapportionment plan.

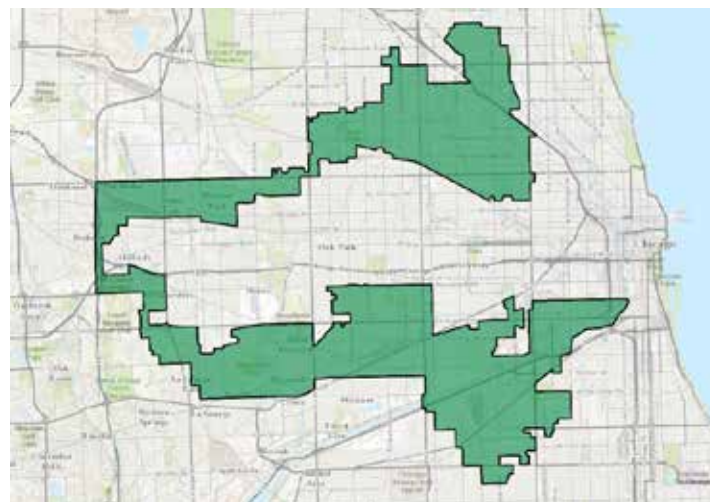
Gorchow points out that Republican “gerrymandering” actually made the toss-up Senate seats more favorable to Democrats – but they still lost them. And regarding the State House, he writes:

[I]n looking at the House, of the four seats Democrats now hold that they lost on Election Day, none – I repeat, none – were designed in a way to tilt the playing

field to the GOP. The 62nd District, with Battle Creek and environs, is a seat with a majority Democratic base. Republicans actually made the 71st, lost by Rep. Theresa Abed (D-Grand Ledge), a bit more Democratic when they redrew it, as was the case with the 91st, lost by Rep. Collene Lamonte (D-Montague). The 84th (Huron and Tuscola counties) has had the same boundaries since at least 1992.

So why did the GOP win so big at the legislative level while winning the gubernatorial race by only a few points and losing most “down ticket” statewide elections? Mostly because of where people choose to live.

Voters who tend to prefer Democrats are packed more closely together, often in urban areas. Republicans are spread out, more likely to live in suburban and rural areas. No matter how the lines are drawn in Michigan, Democrats will have the vast majority of the districts where 70 percent or more of voters choose them. There are many



The Illinois 4th congressional district is one of the most gerrymandered in the country.

more districts that have a 50-60 percent Republican base than districts with strong Democratic support. Therefore, Republicans have better chances to win more districts than Democrats just based on where people choose to live.

That’s the simple math of our current electoral system. ■

Editor’s Note: I reached out to Rich Robinson with some of these points and this is what he said. “I believe the big sort

is important, but not enough for 50 percent of votes to win 72 percent of Senate seats and 47 percent of votes to win 64 percent of U.S. House seats. The lowest winning vote percentage for a D[emocrat] for U.S. House was 60 percent. It took a lot of reaching around to achieve that.”

The original version of this story was posted online on Nov. 14, 2014. It is available with hyperlinks and more info at MichCapCon.com/20747.

Bill Would Ban Red Light Cameras

BY JACK SPENCER

Legislation was recently introduced that would prohibit communities from using automated traffic enforcement devices as the basis for issuing traffic tickets.

House Bill 5921 was introduced Nov. 6 by Rep. Mike Shirkey, R-Clarklake, in response to Senate Bill 1063, which – if enacted – would permit traffic tickets to be issued on the basis of photographs taken by unmanned cameras.

“This (House Bill 5921) was a bill we had been looking at doing, similar to the newer driver protections they are passing in states like South Dakota and New Jersey,” Rep. Shirkey said. “They’re going 180 degrees out there, from embracing them to now rejecting them.

“House Bill 5921 still needs some language changes to fully address the full range of entities we want to prohibit, but after the new speed camera bill was introduced in the Senate, we felt this bill would be a good countermeasure,” Rep. Shirkey added. “Cameras for automated enforcement create a slippery slope for government mischief we need to avoid.”

Neither measure is expected to move in the lame duck session of the Legislature. Similar legislation, however, could be introduced in 2015. If that were to happen, both sides of the “photo cop” debate could land in the same committee. Rep. Shirkey was elected to the Senate on Nov. 4. He will join Sen. Virgil Smith, D-Detroit, who was re-elected to a second term and is the sponsor of SB 1063.

The key language in HB 5921 states:

A law enforcement agency shall not use an unmanned traffic monitoring device to detect or enforce any of the following:

- (A) - Moving violations involving traffic signs, signals, or markings.
- (B) - Speed limitations.
- (C) - Proof of financial responsibility requirements.

The measure would also prohibit the Michigan Secretary of State from assessing points against Michigan drivers for violations that occur in other states that were based on unmanned camera systems. HB 5921 has been assigned to the House Transportation and Infrastructure Committee.

“People who support the use of photo radar devices and the camera companies that make the equipment are very persistent at trying to find ways for government to put the systems in place,” said John Bowman, spokesman for the National Motorists Association. “The easiest way to combat them is to simply ban photo-enforcement, as some other states have done.

“About 15 states have banned the use of photo radar devices for law enforcement, either through legislation or through the courts,” Bowman added.

Sen. Smith’s office did not respond to a phone call seeking comment. ■

The original version of this story was posted online on Nov. 19, 2014. It is available with hyperlinks and more info at MichCapCon.com/20751.

OBAMACARE ARCHITECT

from Page One

video where he said, “If you have a law that makes explicit that healthy people pay in and sick people get money, it wouldn’t have passed. Lack of transparency is a huge political advantage and, basically, call it the stupidity of the American voter or

whatever. But basically that was really critical to getting the thing to pass.”

Rep.-elect Gary Glenn, R-Midland, said he will formally request that the state House of Representatives Research Services Division investigate why Michigan’s payment was more than what Wisconsin (\$400,000), Vermont (\$400,000) and Minnesota (\$329,000) paid.

Glenn will request that State Rep. Tom McMillin, R-Rochester Hills, chairman of the House Government Oversight Committee, and State Rep. Matt Lori, R-Constantine, chairman of the House Appropriations subcommittee, investigate the state’s deal with Gruber.

Rep. McMillin said he’d ask the Department of Community Health how Gruber was selected and what services he

provided for the money.

“Mr. Gruber appears to be a very devious man – perhaps with a proclivity for fraud,” Rep. McMillin said in an email. “Based on the info I receive, I’ll decide if a hearing is warranted.” ■

The original version of this story was posted online on Nov. 17, 2014. It is available with hyperlinks and more info at MichCapCon.com/20748.

RETRIBUTION FIZZLES

from Page One

Incumbent GOP Gov. Rick Snyder defeated his pro-labor Democratic challenger Mark Schauer and the Michigan Republican Party maintained its control of both houses. The state’s new right-to-work law was barely mentioned by the candidates during the campaign.

Similar scenarios played out in Wisconsin and Ohio, where GOP governors won elections after making major labor reforms that upset unions in those states.

F. Vincent Vernuccio, director of labor policy at the Mackinac Center for Public Policy, said the AFL-CIO had identified five states as “must-win” for their survival – Michigan, Ohio, Florida, Wisconsin and Pennsylvania. After Tuesday, a Democratic governor serves only in Pennsylvania.

“It really again brings into question big labor’s business model of compulsion, intimidation and politics. It is simply not working,” Vernuccio said. “Brave elected officials who protect freedom and take on big labor’s privileges are withstanding the union political juggernaut.”

In Wisconsin, Act 10 championed by Republican Gov. Scott Walker was passed in 2011. It required government employees to contribute more for their health insurance benefits, and limited collective bargaining for public sector unions to wages only.



Wisconsin protest via Justin Ormont at Wikicommons.

Walker won a recall election in 2012 and won re-election on Nov. 4. Act 10 was not a focus for his Democratic challenger.

In Ohio, led by GOP Gov. John Kasich, the Legislature passed Senate Bill 5, which also limited public sector union collective bargaining privileges. Unions scored a victory in 2012 when the law was overturned in a referendum.

But on election day, Walker, Kasich and Snyder all won re-election after challenging the power of their states’ union establishments.

Legislators in Indiana also defied the unions by passing a right-to-work law in 2012 (a challenge to the law is currently being considered by the state’s Supreme Court.) That right-to-work bill was signed by GOP Gov. Mitch Daniels, who was prohibited by term limits from running for re-election that

year, and was replaced by Mike Pence, another Republican.

“We are seeing the rejection of the blue model – strong public sector unions and collective bargaining that was supposed to improve conditions for the middle class,” said Patrick Wright, senior legal analyst at The Mackinac Center for Public Policy. “In race after race after race, the people who citizens trusted more was the Republicans and not the public sector unions.”

The Walker victory in Wisconsin was pegged as “The Most Important Race In America” by the left-leaning political site Slate.

“Walker is revered among national conservatives for taking on Wisconsin’s powerful public sector unions at enormous political risk,” Slate’s Betsy Woodruff reported two days before Tuesday’s election. Walker was reelected with

52 percent of the vote, over 47 percent for Democrat challenger Mary Burke.

“Big Labor is loathe to admit it but Wisconsin taxpayers embrace Act 10 and the almost \$3 billion dollars in savings we have realized just by asking government employees to pay a modest amount towards their health insurance and pension,” said Brett Healy, president of the MacIver Institute in Wisconsin. “Walker’s victories over unions should give lawmakers across the country the confidence that they can make common sense, taxpayer-friendly changes to collective bargaining and be rewarded by voters. In the past, that was not always the case.”

“Scott Walker’s victory in Wisconsin is the strongest indicator of labor’s political decline,” said John Samples, vice president of the Cato Institute who directs the Center for Representative Government.

In that 2012 Michigan teleconference, union leaders hinted that through recall campaigns and a ballot initiative the right-to-work law wouldn’t be around by 2014. Lawrence Roehrig, secretary treasurer of AFSCME Michigan Council 25, described the strategy:

“Do not panic,” Roehrig said. “Be union. Be registered. Get ready to vote.” ■

The original version of this story was posted online on Nov. 5, 2014. It is available with hyperlinks and more info at MichCapCon.com/20687.

BUDGET CUTS

from Page Five

2012-13, when the overspending peaked at \$51.7 million, the average teacher salary increased to \$71,284, according to the Michigan Department of Education. In 2013, the district had a high school teacher with a \$101,510 salary and an elementary school teacher with a \$100,141 salary.

But while the union and politicians were putting out press releases blaming political parties and a lack of funding, school district administrators were

telling a different story to the Michigan Department of Education. In their 2012 deficit elimination plan, the administration’s response mentioned the loss of students and the need for more money. But the administration also highlighted two other problems. The administration’s explanation to the MDE acknowledged, “planned decreases in expenditures that were not implemented” and, “No substantial reduction in staffing.”

The union president was pinning the blame on a lack of money.

In September of 2013, McKeever told the MEA, “When is the state going to step

up and do what it needs to do to help these poor school districts? These children deserve a good education in buildings that are safe and healthy – just like in the school districts surrounding us.”

Yet, according to the Michigan Department of Education, Pontiac schools received more money per pupil than all but one of the seven districts it borders.

Pontiac received \$11,390 per pupil in general fund revenues in 2012-13 (including local, state and federal funds). By comparison, the only bordering school district to receive more was Bloomfield

Hills (\$14,607). Rochester (\$10,213), West Bloomfield (\$10,065), Lake Orion (\$9,950), Waterford (\$9,745), Avondale (\$9,663) and Clarkston (\$9,160) all received less per pupil than Pontiac.

With 5,195 students in 2012-13 at the time of McKeever’s plea for more money, it would have cost taxpayers an extra \$9,932 per pupil just to pay off Pontiac’s accumulated \$51.7 million deficit. ■

The original version of this story was posted online on Nov. 24, 2014. It is available with hyperlinks and more info at MichCapCon.com/20761.

Google Doesn't Hit Ann Arbor Job Projections, But Still a Media Favorite

BY TOM GANTERT

In 2007, newspapers around the state trumpeted Google's announcement that it was opening its AdWords office in Ann Arbor. Then-Gov. Jennifer Granholm came down to Ann Arbor for the press conference and former University of Michigan President Mary Sue Coleman and several high-ranking state officials all commented on Google's arrival.

In November, MLive reported that the owner of the buildings Google currently inhabits will be leasing out that space in 2016, raising questions about Google's future in Ann Arbor. Google was projected to bring in 1,000 jobs within five years of moving into its Ann Arbor offices. A company spokesperson told MLive they currently have 400 employees in Ann Arbor. As part of its

tax-subsidized agreement, the company's last filing in 2008 showed it had 224 jobs in Ann Arbor.

Google's impact on the state economy has been minimal, considering that the state has added 5.8 million jobs and lost another 5.8 million jobs since the second quarter of 2007, according to the U.S. Bureau of Labor Statistics.

Yet, the company's involvement in Ann Arbor has generated dozens of news stories since 2007.

"The media makes way too big of a deal with regard to these announcements," said Chris Douglas, an associate professor of economics at University of Michigan-Flint. Douglas is also on the Mackinac Center for Public Policy's Board of Scholars.

Douglas said the media coverage often fails to address

the costs of big taxpayer-financed deals with high-interest topics such as film subsidies involving celebrities, tax breaks for sports arenas and popular sports teams and mega companies like Google.

"I think the media being seduced by the cult of celebrity is a real problem," Douglas said.

Ed Shaffran, who owns Shaffran Companies in downtown Ann Arbor, said 400 employees isn't much in a city of 117,000.

"It's a drop in the bucket," Shaffran said.

Shaffran said there are numerous start-up companies in downtown doing well without help from the government.

"There are companies with eight and 10 or 12 employees; they didn't get any tax subsidies," Shaffran said. "They

didn't get any free parking. But they are down there."

Gary Wolfram, an economics professor at Hillsdale College and an adjunct scholar with the Mackinac Center, said the Google hype was a good example of people not looking at the big economic picture.

"You see Jennifer Granholm standing there saying, 'Oh my God. This is great. Google is going to come in.' We don't observe things like how big this is in terms of total jobs in the state of Michigan," Wolfram said. "All these government attempts to direct where the economy is going, it doesn't work out. The market will win out in the end."

Google was offered a \$38.25 million refundable tax credit in July 2006 to create 1,000 jobs. The Washtenaw Development Council also paid

the company's \$5,000 application fee for the credit. Google also had a deal with the city for free parking for the first few years. The state's briefing memo mentioned that it would be requesting a local property tax abatement.

Since then, the company only appears to have claimed portions of that credit in 2007 — when the company created 134 jobs at the project — and in 2008, when the company claimed credits on creating 224 jobs at the project.

"The economy is much broader and moves much faster than any government could hope to subsidize," said James Hohman, assistant director of fiscal policy for the Mackinac Center. ■

The original version of this story was posted online on Nov. 7, 2014. It is available with hyperlinks and more info at MichCapCon.com/20691.

Black Job Growth in Michigan Far Out-Pacing Other Groups Post Recession

BY JACK SPENCER

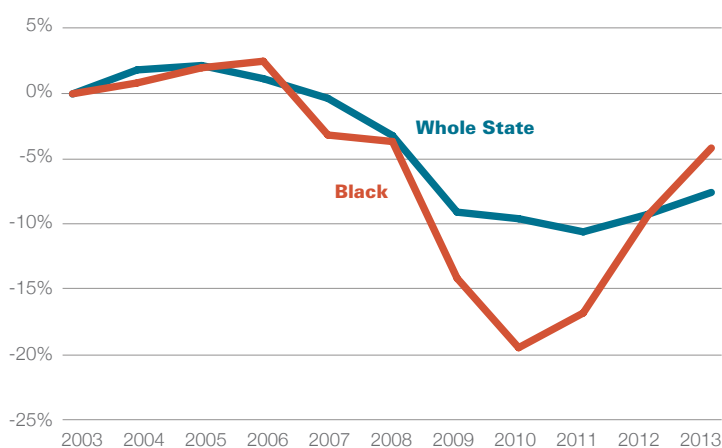
Employment among blacks in Michigan has almost fully recovered from the December 2007 to June 2009 recession and its growth has out-paced that of all other demographic groups in the state combined.

While unemployment among blacks in Michigan remains much higher (16.5 percent) compared to Michigan's overall rate, the state's job gain numbers provide a positive contrast within an otherwise bleak statistical pattern.

Michael Hicks, economics professor at Ball State University and a Mackinac Center Board of Scholars member, told Capitol Confidential that he sees a logical explanation for the increase in unemployment for blacks in Michigan.

"What probably happened in Michigan is that auto plants which had previously closed down have reopened and

Employment Loss and Growth in Michigan Since 2003



Source: Bureau of Labor Statistics

called back workers and done some hiring," Hicks said. "That would affect urban areas, and particularly areas in and around Detroit where more blacks would be impacted. Meanwhile in rural areas and other parts of the state, where there are fewer

blacks, you wouldn't see the same impact.

"You also have to remember that even going into the (2007-2009) recession, Michigan was experiencing high unemployment in general and among blacks in particular; more so than was the

case in most other states," Hicks continued. "So, part of what we're seeing here could finally be an adjustment to the situation dating back into 2007, before the recession. Regardless, this is good news because, in terms of employment, blacks in Michigan have really been struggling for a long time."

The recession hit black workers in Michigan hard, as witnessed in 2010 when black unemployment rose to 23.9 percent. Overall, Michigan suffered an employment decrease of a net 290,000 jobs between 2008 and 2010; of that, more than 28 percent (82,000) were jobs that had been held by blacks.

Since 2010, however, according to the U.S. Bureau of Labor Statistics, employment among blacks in Michigan has increased by 79,000 jobs. This represents an 18.9 percent increase compared to the

state's overall increase of 2.1 percent.

"The unemployment figures show that black workers in Michigan still face greater challenges to employment, so it's a good sign to see this improve so much," said James Hohman, assistant director of fiscal policy with the Mackinac Center for Public Policy.

Capitol Confidential asked Hohman if those employment gains could be attributed to the policies of Gov. Rick Snyder.

"It's arguable how much Gov. Snyder's policies influenced the recovery of employment among blacks," Hohman said. "But it is undeniable that this group has experienced an impressive recovery."

As the accompanying graph demonstrates, the employment increase among Michigan's black population appears to

Bringing Democracy Back to the Workplace

BY F. VINCENT VERNUCCIO

On Nov. 4, the residents of Michigan exercised their right to vote, choosing who will represent them in Lansing and in Washington, D.C.

And every 16 years, Michigan voters are also able to either re-affirm their consent to the current state constitution or call for a new one — a profound choice over what type of government we live under.

Unfortunately, these rights we embrace on Election Day are denied to unionized workers in their workplace. While union members can vote for union officers and on contracts, the vast majority never get a say on which union will represent them.

Most individuals become members of a union by simply taking a job where one is already in place; they are just handed a card when they arrive.

James Sherk, senior policy analyst in labor economics at the Heritage Foundation, estimates that in the private sector nationally just 7 percent of unionized workers have ever had the opportunity to vote on which union will represent them.

For government employees in Michigan, that figure may be even lower. For example, Sherk estimates that in the 10 largest school districts in the state, just 1 percent of teachers have ever had the opportunity to select a union.

Indeed, given that the average age of a Michigan public school teacher is 41 — and seven of those 10 largest districts were organized by a union in 1965 — barely one-third of the teachers were even born when the union for their workplace was selected.

Even when union members have the ability to vote on officers, by the time they actually get a say their “choice” may be no choice at all. Take,

for example, the “election” of UAW President Dennis Williams.

Williams, like every UAW president since 1970, was supported by the union’s powerful Reuther Caucus. As TIME wrote of Williams’ predecessor, former UAW President Bob King, he was “Picked — Not Elected — To Lead UAW.”

While Michigan is now a right-to-work state where unions can’t get a worker fired for not paying them, employees in a unionized workplace must still accept a union’s representation whether they want it or not. They still must work under the contract the union negotiates, and must go through it to deal with any problems with their employer.

Allowing workers to regularly recertify their union would give employees a say on whether to keep or drop the current union. Recertification could also help unions expand. It would enable new unions that are more flexible and responsive to more easily move into areas where an existing union is not serving the workers it represents. Workers may also be more receptive to unionization knowing they are no longer essentially making a lifelong commitment.

This enhanced choice could also trigger competition that helps workers get the best workplace representation, and reward those unions that put their members first.

Unfortunately for autoworkers and Michigan’s other private sector union members, they must wait for Congress to enact the Employee Rights Act to have a direct say in which union represents them at work.

While passage of the ERA is unlikely anytime soon in Washington’s current political climate, nothing prohibits Michigan’s Legislature from



acting much sooner to give government employees a more democratic process in selecting which union represents their interests.

Just as voters have the right to choose who represents them, employees in a unionized workplace should also have the right to choose which union represents their interests on the job. ■

The original version of this story was posted online on Dec. 8, 2014. It is available with hyperlinks and more info at MichCapCon.com/20781.

RTW ‘Freeloader’ Claim Still a Farce

BY JARRETT SKORUP

In the debate over whether or not people should be forced to pay money to unions as a condition of employment, opponents of right-to-work laws often claim that workers who exercise their rights under the law are “freeloaders.” That is, that they are taking advantage of benefits from union bargaining while not paying their “fair share.”

The Michigan Education Association, like most unions, supports collectively representing workers whether they are in the association or not because of the leverage it gives them at the bargaining table. Still, no private organization should have to provide benefits to people who aren’t paying for them.

But a look at the MEA’s just-released financial reports shows it is the union that is freeloading off of dues-paying members. According to the

organization’s LM-2 form, just 11 percent of total spending goes toward “representational activities.” The majority of spending is for the salaries and benefits of the union’s central staff. The retiree pension and health care costs for the organization also have liabilities totaling about \$190 million — and those costs have been skyrocketing.

In other words, the vast majority of what school employees in the state of Michigan pay as union dues go for things other than directly representing them at the bargaining table. The good news is that as contracts expire, those people now have a choice of whether they want to keep spending their money that way. ■

The original version of this story was posted online on Dec. 3, 2014. It is available with hyperlinks and more info at MichCapCon.com/20787.

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Man Who Speaks Out About Police Seizing His Property Without Charges is Arrested Hours Later

BY ANNE SCHIEBER

A man featured in a Dec. 3 Michigan Capitol Confidential story for being a medical marijuana user and having his property seized and money taken by police without being charged with a crime was arrested at 2 a.m. the next day by the Michigan State Police.

Wally Kowalski says he was woken Wednesday to find the police at his door with a felony warrant. He was handcuffed and brought to the Van Buren County Jail where he spent the night in a cold cell without a pillow or blanket. He was arraigned in the morning and released after posting \$1,000 on a \$10,000 bond.

The police charged Kowalski with delivery and manufacture of five to 45 kilograms of marijuana, between 20 and 200 plants, a seven-year felony and/or

carrying up to a \$500,000 fine. He was also charged with distribution without remuneration, a misdemeanor.

Kowalski carries a medical marijuana card for himself and says he is the caregiver for four other valid cardholders. When police searched his house on Sept. 2, they could not find two caregiver cards. Kowalski says he lost the cards but did get replacements days later and turned them over to the police.

Under Michigan's medical marijuana law, he is legally allowed to grow 12 plants per person. According to the seizure order, police found 55 plants.

When Kowalski asked if his arrest had anything to do with the report, he said police told him they had never heard of the publication.

"Originally, the detective on the case told me he would call me if they issued an arrest



You can watch Wally Kowalski's story at www.goo.gl/tjsvde.

warrant so I could submit voluntarily. I can't see the necessity of arresting me in the middle of the night," Kowalski said.

His attorney, Daniel Grow, thought the overnight arrest was unusual, as well.

"On these kinds of charges, I get most of my clients in during the day when the

courts are opened and they can avoid a night's stay in jail," Grow said.

The commander of the Southwest Enforcement Team, Lt. Wayne Eddington, did not return a call for comment.

Michigan Capitol Confidential began inquiring about civil asset forfeitures on Nov. 7. Eddington did return a phone

call and spoke about forfeitures in general terms but was not asked about specific cases. On Nov. 21, Michigan Capitol Confidential called the Van Buren County Clerk for a copy of Kowalski's petition for seizure order. On Nov. 24-26, Michigan Capitol Confidential left messages for Special Prosecutor Cory Johnson, Eddington and the media representative at the Michigan State Police about discussing specific cases. None of the calls were returned. On Nov. 24, police got the arrest warrant on Kowalski. Three days later, they released the hold on his bank accounts. He was arrested Dec. 4. Kowalski is scheduled to appear in court Dec. 15 and Dec. 17. ■

The original version of this story was posted online on Dec. 6, 2014. It is available with hyperlinks and more info at MichCapCon.com/20798.

Union President Concedes Right-to-Work Lawsuit; Strikes Back Against Workers Who Left

Union president says she will name everyone who opted out of the union

BY TOM GANTERT

After a teachers union president lost a legal battle involving forcing a non-union member to pay part of her salary for union-related activities, she responded by publishing the names of all former members who opted out of the union in a newsletter.

Under Michigan's right-to-work law, employees can no longer be required to belong to or support a union as a condition of employment.

According to Adam Neuman, the former Brighton Education Association member who sued to avoid having to pay part of BEA Union President

Ellen Lafferty's salary, the BEA president also put bright red "I Opted IN" buttons in the school mail boxes of employees who were still part of the union.

Some observers say publishing the names of those who opted out is akin to workplace bullying and think Lafferty is creating a hostile workplace environment.

Lafferty didn't respond to an email seeking comment.

"Before Michigan's Freedom-to-Work law, the union would simply have gotten Adam Neuman fired," said Joe Lehman, president of the Mackinac Center for Public Policy. "Now all they can do is bully and

intimidate those who don't want to join, which still keeps millions of dues dollars rolling in."

Neuman, a social studies teacher and Afghanistan war veteran, resigned in August from the BEA and the Michigan Education Association, the BEA's parent union. The state's right-to-work law says that once union members opt out, they no longer have to financially support the union as a condition of employment.

Neuman said paying part of the union president's salary amounted to "supporting the union." The provision was part of a union contract the Brighton board of education signed last

June, which required charging all members of the bargaining unit for the amount the union agreed to pay the district in return for Lafferty's "release time." Release time allows union officials who are school employees to get paid by the school for conducting union business during school hours.

But under current law, employees who opt out of union membership are still considered part of the "bargaining unit." Neuman said that's why the union felt he should still have to pay part of Lafferty's salary. Eventually, the union and the district agreed to charge only dues-paying BEA members for

the union's share or Lafferty's release time. Neuman told The Heartland Institute that once the lawsuit was settled, "all union members received a shiny new red button in their staff mailbox with 'I Opted IN' on it. Yet another example of their priorities when it comes to spending dues money, I guess."

Gary Naeyaert, executive director of the Great Lakes Education Project, said that Michigan's teachers have earned the freedom to choose whether or not they want to join a union.

"This freedom should come without bullying or efforts to publicly intimidate them," Naeyaert said. ■

The original version of this story was posted online on Dec. 5, 2014. It is available with hyperlinks and more info at MichCapCon.com/20790.

HEALTH HAZARD

from Page One

the board based its position that the turbines constitute a health hazard on the weight of evidence.

“I can tell you that we are absolutely not an anti-wind energy board,” Tibbetts said. “We worked on this for four and a half years before making this decision. Three families have moved out. I knew all of them. We also know that this isn’t only happening here. In Ontario 40 families have abandoned their homes to get away from the effects of wind turbines.”

According to Tibbetts, micro barometers were placed in homes located in the area surrounding the industrial wind plant. The purpose of this was to detect acoustic emissions, including infrasound and low frequency noise emanating from the turbines.

“They found that there were tones of infrasound and low frequency noise as far away as 6.2 miles from the nearest wind turbine,” Tibbetts said. “There were no complaints associated with the home that was 6.2 miles away, but there were complaints associated with one 4.2 miles away.

“We have 80 people on record who have made health complaints, including a nurse who is going deaf,” Tibbetts continued. “We can’t just ignore this.”

Brown County’s health code defines a human health hazard as “a substance, activity or condition that is known to have

the potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated.”

The Board of Health’s Oct. 14 decision could potentially put Duke Energy — which operates and owns the wind plant — in a position where it has to prove the turbines are not the cause of the health complaints. Duke Energy, a sustainable electric and gas company with approximately 7.2 million U.S. customers in the Southeast and Midwest, did not build the plant, it purchased it.

Those who defend the safety of wind turbines argue that infrasound and low-frequency noise can also be detected miles away from other sources, such as traffic and large bodies of water. They claim the ill-effects residents complain about could be psychological (based on an anticipation of being adversely impacted) and there is no scientific proof that turbines make people sick.

Tammie McGee, spokesperson for Duke Energy, said the wind plant is the only one owned by the company that has received health complaints. She also said that Duke Energy has a good track record for responding to complaints and has, so far, received no notification or other form of communication from the Brown County Board of Health.

“Duke Energy has more than 1,000 wind turbines,” McGee said. “The wind development in Brown County, which is in complete compliance with (local) ordinances, has only

eight turbines and it is the only one we have where there are complaints from neighbors.

“We have heard nothing from the Brown County Board of Health,” McGee added. “Over the three weeks since Oct. 14, we have not been able to get anything from them — including being able to find the minutes of the meeting on their (the County’s) website.”

Tibbetts said the Oct. 14 meeting was public and it wasn’t the board’s responsibility to see to it that a representative of Duke Energy was present. However, there are indications that (possibly for legal reasons) board members, other than Tibbetts, have not been making themselves available to the press for comment.

Rick James, of Lansing-based E-Coustic Solutions, is an acoustic engineer. He conducted the Brown County survey.

“The County has a responsibility to protect the health of the public from entities that are emitting things that are toxic; and that includes substances or noise,” James said. “The wind plant has been studied and studied. The micro barometers confirmed that the wind turbine tones propagated out about four miles and that there were complaints that could be linked to that data.

“As I understand it, the board could have declared the wind plant to be a hazard of a higher level,” James said. “They didn’t do that. However, I believe what they did puts the burden of proof on Duke Energy.”

Tibbetts said the board’s decision has received much news media coverage.

“It’s worldwide,” Tibbetts said. “It’s been covered as far away as Australia.”

What about the regular news media in the United States?

“Not much,” Tibbetts said. “I don’t think the average person in the United States hears anything about this issue. For some reason the news media doesn’t seem to want to cover it. But I did get a call from someone at NBC. I think that was in the context of what’s been going on in Massachusetts. It was picked up by some affiliates. But for the most part, I don’t think a lot of the people in this county have heard very much about any of this. It took our local Green Bay Gazette almost two weeks to do the story.”

Brown County is across Lake Michigan from Mason County, where health complaints allegedly caused by the Lake Winds industrial wind plant, near Ludington, resulted in both a civil lawsuit and Mason County declaring that the wind plant was not in compliance with the County noise ordinance.

“What’s happening in Wisconsin is consistent with results we are seeing on the ground in the Garden Peninsula and Huron, Tuscola, Missaukee, Mason and even Gratiot counties,” said Kevon Martis, director of the Interstate Informed Citizens Coalition, a nonprofit organization that is concerned about the construction of wind turbines in the region.

“What is pathetic is that wind developers could offer to relocate people outside the footprint of most developments for \$3 million to \$5 million,” Martis continued. “When the total capital costs of a wind development are \$200 to \$300 million, such a cost to protect our rural citizens is barely a blip on the balance sheet. And in most cases the wind developer is playing with public funds in the first place.”

James was asked if there were many other situations involving health issues allegedly resulting from wind turbine-produced infrasound and low frequency noise.

“I mostly limit my travel to the Midwest,” James said. “However, I have gone to West Virginia, North Carolina, Nova Scotia, Ontario, Washington state, Vancouver, Australia and New Zealand. This stuff is happening all over.”

Tibbetts publicly opposed the wind plant before it was constructed and the Brown County Board of Health had previously asked the state of Wisconsin to intervene in the situation. In January of 2013, the Wisconsin Towns Association called for a moratorium on construction of new wind turbines. ■

The original version of this story was posted online on Nov. 8, 2014. It is available with hyperlinks and more info at MichCapCon.com/20690.

EYE EXAMS

from Page Six

revealed a debilitating eye disease in his wife.

“Thank God, because it could have caused blindness,” he said. “She had no pain or symptoms.”

Dallek said Opternative is designed to shut down if it senses any eye health red flags, such as previous eye surgery or chronic

diseases such as diabetes and hypertension.

Tele-medicine has been on the radar of investors. Opternative has secured \$1 million in venture capital funding and SB853 was introduced not long after.

“We believe the bill was directly correlated, that it was intended to stop us specifically by entrenched interests,” Dallek said.

The Institute for Justice, a nonprofit public interest law firm that specializes in cases of economic freedom, says Michigan’s law sounds like a case of protectionist legislation.

“Too often, we see government regulation that is designed to protect an established business’s profit margins instead of the public safety,” said IJ attorney Robert McNamara. “Whether

it’s established dentists trying to wall out independent teeth whiteners or established funeral directors trying to shut down independent casket sales, public power is frequently used simply to achieve private gain. That’s unconstitutional.

“The government can’t pass laws just to protect favored businesses from economic competition,” McNamara continued. “Regulations

should protect the public from genuinely dangerous things; it shouldn’t protect businesses from other businesses who want to give consumers a better deal or a better product.” ■

The original version of this story was posted online on Nov. 10, 2014. It is available with hyperlinks and more info at MichCapCon.com/20694.

FORtheRECORD**Why Politicians Love Film Subsidies**

How do you get politicians to approve of spending \$500 million on a film subsidy that pledged to create jobs but ends up with fewer jobs than it did before taxpayers coughed up half a billion?

**ForTheRecord says:**

Easy. You put them in a movie with Ben Affleck.

Your Dues; His 44 Percent Raise

Earlier this year, Michigan Education Association Secretary-Treasurer Rick Trainor did a video criticizing the Mackinac Center for Public Policy. While trying to explain how MEA dues are used, Trainor said about the Mackinac Center, "They do not care about our paychecks. They don't. No matter what they say."

**ForTheRecord says:**

At a time when some of the union members targeted by the video were taking pay freezes or getting a smaller raise than anticipated, Trainor took a 44 percent pay increase in 2014. His salary went from \$109,911 in 2013 to \$158,296 in 2014. Trainor got the nearly \$50,000 raise even though the MEA's net worth went into the red by another \$20 million plus in 2014 and is negative \$134.8 million according to the MEA's LM-2 report.

Bankruptcy Judge Calls for Better Pension Funding

BY JAMES HOHMAN

Detroit bankruptcy Judge Steven Rhodes called on the state to address the underfunding of local government pension benefits in his oral opinion. He stated that the state has a "constitutional, legal and moral obligation to assure that the municipalities in this state adequately fund their pension obligation."

A government's own employees should not be its largest creditors, nor should retirement benefits they have earned be placed at risk, as happened in Detroit.

There are a number of current bills that would help local governments avoid underfunding, and the Legislature should consider passing them.

When an employee earns pension benefits, the government creates a long-term liability. If the employer puts aside enough money to cover that liability, pension benefits will not be a problem. But if governments underestimate the costs, then there is a problem. This effect is more pronounced if the community has become less prosperous since the employee earned his or her pension.

Unfortunately, most Michigan cities find themselves in this situation. There

are \$3.1 billion in underfunded pension benefits in Michigan's largest cities. The worst offenders have less than 50 cents saved for every dollar of pension benefits earned.

The easiest way for governments to ensure they can pay employees what was promised is to get out of the defined benefit pension business by closing the systems to newly hired employees. They can instead provide defined-contribution plans that offer generous retirement savings without generating long-term liabilities on taxpayers.

This can also help governments to catch up on the underfunding of promises made to employees in the closed system, while offering benefits to new employees that will be there when they retire.

Local governments, however, have been hindered in offering these plans because retirement benefits are a mandatory subject of collective bargaining when employees are unionized. Unions have been ideologically inclined toward defined-benefit pension systems. For example, Detroit unions fought to keep a defined benefit system around for new employees even as benefits were being cut for current retirees.

Judge Rhodes also made an appeal to unions to be pension system hawks, ensuring that these plans do not get underfunded. This would certainly help, but too often unions have argued for pension sweeteners and early retirement incentives that blow further holes in pension finances.

Legislation currently pending in the House Local Government committee would allow local governments to close their pension systems without having to negotiate this benefit with their unions. Under House Bill 4804, locals could simply choose to close these pension systems on their own.

Detroit's bankruptcy judge does not want to see other governments go through what that city faced. He implored stakeholders to ensure that governments set aside the necessary money to pay for pension benefits. As legislators consider laws in this lame duck and beyond, they should be responsive to Judge Rhodes' plea. ■

The original version of this story was posted online on Nov. 10, 2014. It is available with hyperlinks and more info at MichCapCon.com/20722.

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JOB GROWTH

from Page Nine

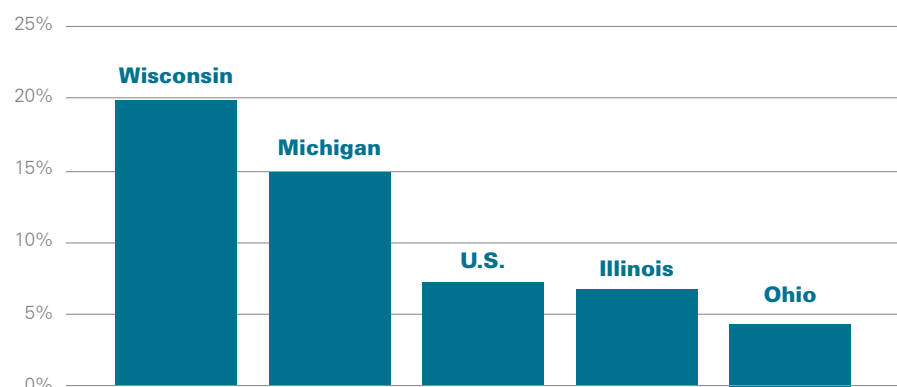
parallel a jump in the percentage of black workers entering the labor market; a trend that started in 2011. That upward movement continued through 2012 and into 2013, when the most recent available statistics were calculated.

Other states in the region have witnessed less sustained increases in black employment than has been the case in Michigan. In Ohio, those numbers started increasing in 2010, but then began a steep fall-off in 2012. Illinois saw an increase in 2011, but

that changed to a downward trend in 2012. Statistics for Indiana show a significant increase in the percentage of black workers in 2010 that led to a participation level briefly eclipsing that of whites in 2012, but has been on the decline since. Similar improvements in the Wisconsin job market appeared in 2012, roughly a year after Michigan's began, and that trend in the Badger state is continuing. ■

The original version of this story was posted online on Oct. 27, 2014. It is available with hyperlinks and more info at MichCapCon.com/20642.

Growth in Black Employment, 2011 - 2013



Black job gains, Michigan vs. surrounding states. Source: Bureau of Labor Statistics.

Rough Road for Pension Reform in New Senate?

BY JACK SPENCER

Seven of the 20 state senators who voted to reform the Michigan Public School Employees' Retirement System two and a half years ago will leave the Legislature at the end of this year. That puts a continuation of the Senate's current on-the-record position in favor of reforming MPERS in doubt.

On May 17, 2012, by the narrowest of margins, the Senate voted 20-18 to close the defined-benefit school pension system to new hires and – in its place – put those employees in 401(k)-style plans. Closing the system to new hires would gradually end the perpetual underfunding of the pension system, in which required annual contributions had increased from \$989 million in 2009 to \$1.9 billion in 2013.

When the Senate voted to close the system in 2012, the move came as a

surprise to many. Rumors at the time suggested Gov. Rick Snyder did not want the change and ultimately he and the House rejected the Senate-passed reform. The system was not closed and the annual contribution is now scheduled to increase to \$2.3 billion in 2016. Nonetheless, the vote taken by the Senate in the spring of 2012 showed that at least the upper chamber of the Legislature was ready to take the bold step. But beginning in 2015 that may no longer be the case.

In 2012, Sen. Phil Pavlov, R-St. Clair, and Sen. Mark Jansen, R-Gaines Twp., spearheaded the move to close the system. Sen. Jansen is leaving at end of the year due to term limits. But Sen. Pavlov, who chairs the Senate Education Committee, was just re-elected to a second Senate term.

Sen. Pavlov said he regards the job of convincing the full Legislature and

the Snyder administration to reform the school employee retirement system as unfinished business.

“The Legislature in the last four years has done a lot to tackle Michigan's biggest problems,” he said. “One area where there's clearly still work to be done is the massive debt from outdated public pensions, and MPERS is the biggest of those liabilities.”

One of the early obstacles Sen. Pavlov could face will likely be shoring up support for closing the pension in the new Senate Republican caucus. In addition to Sen. Jansen, the senators who voted to close the system and who will no longer be in the Senate after Jan. 1 are: Sen. Bruce Caswell, R-Hillsdale; Sen. Roger Kahn, R-Saginaw; Sen. John Moolenaar, R-Midland; Sen. John Pappageorge, R-Troy; Sen. Randy Richardville, R-Monroe; and Sen. Howard Walker, R- Traverse City.

Sens. Caswell and Walker are retiring from the Legislature. Sen. Moolenaar was elected to Congress. The other senators are being termed out of office.

All 12 Democratic senators voted against closing the pension system in 2012. In 2015, the number of Democrats in the chamber will drop to 11. The six Republican senators who voted against closing the pension system in 2012 were: Sen. Tom Casperson, R-Escanaba; Sen. Mike Green, R-Mayville; Sen. Goeff Hansen, R-Hart; Sen. Rick Jones, R-Grand Ledge; Sen. Mike Nofs, R-Battle Creek; and Sen. Tory Rocca, R-Sterling Heights. All of these senators are returning for a second term.

Presuming the Democrats and these six Republican senators remain opposed to closing the pension system, seven of

the eight new incoming GOP senators would have to favor closing the system for the Senate to remain in support of the reform.

Of the eight newly elected Republicans coming into the Senate in 2015, six are currently House members. They are: Rep. Peter MacGregor, R-Rockford; Rep. Margaret O'Brien, R-Portage; Rep. Wayne Schmidt, R-Traverse City; Rep. Mike Shirkey, R-Clarklake; Rep. Jim Stamas, R-Midland; and Rep. Dale Zorn, R-Ida.

The other two newly elected GOP senators are former House members Ken Horn of Frankenmuth and Marty Knollenberg of Troy.

Voting patterns in both the House and Senate would probably be altered if the Snyder administration decided to support closing the pension system. Without backing from the administration, however, persuading a majority of Senate Republicans to again challenge that position – as occurred in 2012 – could prove an uphill struggle.

In 1996, a Republican Legislature barely approved former Gov. John Engler's proposal to close the defined-benefit system for state employees, a move that has saved taxpayers an estimated \$2.3 billion to \$4.3 billion in unfunded liabilities according to a 2011 analysis. Gov. Engler's original proposal also included closing the public school pension system, but in the face of intense lobbying from school employees and the teachers union he was unable to persuade enough GOP legislators to go along. ■

The original version of this story was posted online on Nov. 21, 2014. It is available with hyperlinks and more info at MichCapCon.com/20752.

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The Harm of Occupational Licensing Laws

Michigan's 'guild-ridden labor market' hurts economy; does not protect consumer health and safety

BY JARRETT SKORUP

LANSING — Several decades ago, Dr. Morris Kleiner was assigned by his boss at the Department of Labor to look into occupational licensing.

“What had I done to him to deserve taking on this topic?” Kleiner asked at the Dec. 4 event hosted by the Mackinac Center for Public Policy in Lansing.

But the issue became much of his academic work and is an increasingly important one. Kleiner, now a professor at the University of Minnesota and a visiting scholar at the Federal Reserve Bank of Minneapolis, discussed why at an Issues & Ideas lecture entitled, “Our Guild-Ridden Labor Market: The Curious Case of Occupational Licensing.”

Licensure is a mandate by the state to meet a series of requirements – often fees, testing, and educational classes – in order to receive permission to work. The history of the practice goes back a long way.

Kleiner said the rise of licensing in recent decades – from about 5 percent of occupations in 1950 to about 30 percent today – is a recent phenomenon harkening back to a very old system.

“In the Middle Ages, guilds arose to protect the members of the guild, using their power and the state to exclude others and get business for themselves,” Kleiner explained.

The late Nobel Prize-winning economist Milton Friedman showed that economic growth was stagnant in the Middle Ages because of this system



Dr. Morris Kleiner speaking at the Dec. 4 event hosted by the Mackinac Center for Public Policy in Lansing.

and the overthrowing of the guilds led to expansive growth in England. The guild system never took hold in America, helping the country become an economic powerhouse.

“But in recent decades, there has been a regression,” Kleiner said.

As the economy in the United States has changed, licensing has become more prominent.

“There has been a movement away from manufacturing (where unions dominate) to the service economy (where licensing dominates),” he said.

When most people think of “licensing,” they think of lawyers, doctors, and areas where health and safety is potentially an issue. But recent laws deal with a wide variety of things – like auctioneers, interior designers, hair braiders, and even frog farmers.

The evolution of employment often follows a pattern: Occupational groups begin, then start growing, then

voluntary associations are formed by several members. Often dues begin being collected and spent lobbying for registration, then certification, then licensing which allows the group to lock out competition.

Kleiner said there are four key questions to consider when thinking about licensure.

1. Why should people care about this issue?

He explained that this is one of the fastest growing and largest things involving labor markets. There are about 800 occupations across the states that are now required to be licensed. This affects almost every part of the economy.

2. What effect does licensing have?

In most areas, it has driven up wages. Kleiner explained that this “sounds great,” but is simply a shift in where money is going.

“Much like the medieval guilds, licensing is taking

wages from consumers, not profits, and reallocating those prices to wages,” he said. This misallocation of funds harms consumers to the benefit of an interest group.

3. Who is licensed?

Many areas are licensed, whether dealing with health and safety or not.

In Des Moines, the state troopers shut down shampoo salons. There is a case currently pending before the Supreme Court about shutting down teeth whiteners because dentistry boards argue they need a dentist license. Hair braiders, florists and even professional wrestlers are required to take tests and pay fees.

“Aren’t you glad to know that Hulk Hogan has a license?” Kleiner asked, remarking sarcastically, “I’m sure the quality is much better because of this requirement.”

4. What should be done about this?

Kleiner said much of the discussion comes down to this question: “Who should decide who provides the services: The consumers or the legislature?”

The bulk of the evidence shows that licensing standards do not lead to better health and safety for citizens – which is arguably the only reason government should be involved.

Kleiner pointed out that there are no differences in health outcomes based on who can write prescriptions, no difference in the quality of loans whether mortgage

brokers are licensed or not, and no difference in the number of building fires regardless of whether electricians are licensed. The Federal Trade Commission has not been able to see a difference in health and safety based on licensures across a broad spectrum of occupations. And insurance companies, whose business it is to access risk, do not charge a difference in premiums between the states despite licensing differences in occupations.

The professor also pointed out that licensing favors the wealthy at the expense of the poor. Those with higher incomes and better health care can afford to pay the arbitrary higher prices – the poor cannot afford it and often have no other (legal) options.

Kleiner does see some hope, and perhaps sees the country at a tipping point.

He pointed out that in recent years, governors have been vetoing bills that require more licensing – including from the majority of legislators in their own party. In Michigan, Gov. Rick Snyder established a committee that issued a report that was used to roll back several licensing regulations.

He warned citizens and legislators to beware of the people who want to use the police powers to restrict their competition and establish a monopoly of control. ■

The original version of this story was posted online on Dec. 5, 2014. It is available with hyperlinks and more info at MichCapCon.com/20794.

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A sampling of proposed
state laws, as described on
MichiganVotes.org

House Bill 4998

**Appoint 'entrepreneurs-in-residence'
at Michigan Strategic Fund**

by Rep. Wayne Schmidt (R)

To require the state agency responsible for granting and overseeing selective tax breaks and subsidies granted to particular corporations or developers to appoint up to 10 "entrepreneurs-in-residence" to recommend ways to expand and improve these programs.

Senate Bill 1135

Impose new child car seat mandates

by Sen. John Proos, IV (R)

To require a child who weighs less than 30 pounds to be transported in a rear-facing child seat; and a child who weighs from 30 to 50 pounds to be transported in a forward-facing child seat. Age would not be a factor in the above mandates. A child under age 10 who is less than 57 inches tall would have to be transported in a booster seat.

House Bill 5958

Enact a 'religious freedom restoration act'

by Rep. James "Jase" Bolger (R)

To establish that the state or a local government "shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability," unless this is done "in furtherance of a compelling governmental interest" and uses "the least restrictive means" to further that interest.

House Bill 5477

**Replace per-gallon fuel tax with
higher wholesale tax**

Introduced by Rep. Rob VerHeulen (R)

To replace the current 19-cent per gallon gas tax and 15-cent diesel tax with a 7.5 percent wholesale fuel tax, gradually increasing to 13.5 percent over six years. When fully phased-in this would represent a tax hike of around \$1.0 billion at current wholesale fuel prices. However, House Bill 4539 would phase out the state sales tax on fuel sales over the same period if enacted, resulting in no net tax increase.

House Bill 4539

Phase out sales tax on fuel sales

Introduced by Rep. Wayne Schmidt (R)

To phase out charging the 6 percent sales tax on motor fuel sales over six years. House Bill 5477 would gradually increase the motor fuel tax by an equivalent amount. The bill requires the legislature to continue funding schools and local government revenue sharing at least as much as the previous year (this is where most sales tax revenue goes). If it did not, then the 6 percent sales tax would automatically be re-imposed on fuel sales. The bills would shift about \$1 billion more from current state spending to roads each year when fully phased in.

Senate Bill 1103

Extend film producer subsidies

Introduced by Sen. Randy Richardville (R)

To extend the law authorizing state subsidy payments to some film productions until 2022 (under current law it ends in 2017), and make some changes to the subsidy allocation formula. This year \$50 million was appropriated for these subsidies.

Senate Bill 1150

Reduce maximum truck weights

Introduced by Sen. Steve Bieda (D)

To reduce the maximum weight of trucks allowed on Michigan roads from 164,000 to 80,000 pounds. This would not necessarily reduce the maximum weight per axle, which could mean more trucks to carry the same weight.

Senate Bill 953

Authorize emergency manager for school district that fail to address deficits

Introduced by Sen. Howard Walker (R)

To authorize appointment of an emergency manager for a public school district that fails to comply with actions required to correct a deficit or address "rapidly declining financial circumstances."