



# CAPCON MICHIGAN CAPITOL CONFIDENTIAL

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## DETROIT TEACHERS UNDER PAY FREEZE, BUT UNION PRESIDENT GETS BIG PAY HIKE

BY TOM GANTERT

While teachers at Michigan's largest school district were living under a wage freeze, and more recently hearing rumors of possible payless paydays, one school employee who is also president of the local teachers union got a huge raise.

That district is the insolvent and academically challenged Detroit Public Schools, and the union president is Ivy Bailey of the Detroit Federation of Teachers. Bailey was listed as a teacher in 2013-14 and earned \$70,176. Her salary shot up 31 percent to \$91,877 in 2014-15.

Bailey's compensation is listed in a state salary database of employees enrolled in the school employee pension system. It's unclear why she

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A symbol of liberty and goodwill, "The Spirit of Detroit" is located in downtown Detroit.

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Coming to a screen near you.

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**Taxpayers Should Not Be on the Hook for Stadiums**

## 'Got Your Back' or Stab It: Union Sics Bill Collectors on Right-to-Work Exercisers

*MEA spends \$152K going after members trying to leave*

BY TOM GANTERT

A leaked memo revealed how the state's largest teachers union planned to get around Michigan's new right-to-work law soon after it was enacted. The law repeals the power previously enjoyed by the union to get a school employee fired for not paying it dues or fees.

In the memo from December 2012, Michigan Education Association President Steve Cook laid out the union's strategy:

"We will use any legal means at our disposal to collect the dues owed under signed membership forms from any members who withhold dues prior to terminating their membership in August for the following fiscal year. Same goes for any current fee payers who choose not to pay their service fee."

Informational filings the union is required to submit to the federal government show how the MEA is now doubling down on these efforts. Among other things, it has gone so far as to send collection agencies after school employees who choose to exercise the rights protected by the new law, with potentially damaging effects on their credit ratings.

In 2014, the MEA reported paying bill collectors \$12,843 to go after former union members. The union dialed up the campaign in 2015 when it paid collection agencies \$152,554.

The MEA didn't respond to an email seeking comment. It did say in 2014 that 8,000 members had stopped paying dues.

There are several reasons why the MEA could be spending more to harass school employees.

For years, the MEA only allowed members to stop being considered a member during the month of August. Before right-to-work became law, employees who left the union only got a slight discount, because they still had to pay "agency fees."

Under right-to-work, by contrast, school employees and most other workers cannot be forced to pay anything to the union. The "August window" was one of the union's methods to stymie the intent of the law. But last year the Michigan Employment Relations Commission ruled the restriction illegal.

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LETTER FROM THE PRESIDENT

# *I Don't Know My Country Anymore*

BY JOSEPH G. LEHMAN

A sort of bewildered malaise has settled over some parts of the free-market movement. It's the kind of thing that certain types of optimists would like to ignore, but realists treat it much differently. They lean in to learn what is happening, why, and what to do about it.

Its proximate cause is the Republican presidential nomination of Donald Trump, but it may have emerged after the 2012 national election. President Obama's re-election disappointed many Mackinac Center supporters because it meant collectivist policies would continue to enjoy Oval Office support. But some of our friends articulated unease beyond displeasure with policy.

To combine and compress comments from several of them, they reacted to popular support of Mr. Obama's failed policies and divisive rhetoric by saying, "I'm not sure I understand my country anymore."

That's a worrisome sentiment, to which they might now add, "I'm not sure I understand the GOP anymore," now that it appears to have nominated Mr. Trump. Libertarians in our movement may not have considered themselves GOP faithful but few of them wanted the most viable presidential choices boiled down to Hillary Clinton and Mr. Trump, two candidates who cannot be counted on to reliably support freedom and free markets, to say the least.

We don't yet know why we have arrived at this point. Many commentators, including very learned and respected ones, claim to know, but they agree on little. I do believe the answer to "why" will eventually be found in a combination of factors, none by themselves determinative. They include the mechanics of the nomination process, the power of ideas to shape the Overton Window of political possibility, the secondary and tertiary effects of both failed and successful policies, social movement dynamics, and, perhaps least appreciated, the psychology of a dissatisfied electorate.

I won't make any public predictions about Mr. Trump. None of my private ones have been correct, anyway. He's a policy cipher, which may be generous because it implies there is some coherent, guiding, policy logic in there somewhere, if only we can find it.

But I will offer something you can count on. This is a great moment for the Mackinac Center's mission. By design we are not tied to any political personality or party. We stay true to principle in good political times and bad. Free-market ideas are never out of season, even if they fall out of fashion for a time.

Furthermore, our greatest point of leverage is at the state level, which is just about the only place free-market policies are advancing. We've chosen to work where your support translates directly into real impact that helps people in their daily lives, not to beat our heads against a federal castle wall or wait for a White Knight to win the highest office in the land.

I'm reminded of another unconventional politician who was also something of a policy cipher. He won out in a crowded primary field with only 36 percent of the vote, prompting unease among movement faithful. But we found a way to put good ideas in front of eventual Gov. Rick Snyder, who enacted a series of successful tax, regulatory and labor reforms that culminated in what many had deemed impossible – making Michigan a right-to-work state.

Let's lean in, learn what we can, do what we must and never give up. ■

*Joseph G. Lehman*  
Joseph G. Lehman,  
President



## MEET THE STAFF



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# STATE EXPECTS TO TAKE \$2.4 BILLION MORE; MEDIA CRIES 'DEFICIT!'

BY TOM GANTERT

Based on recent media headlines, readers and viewers could be excused for believing the state of Michigan's budget is in crisis mode.

It's not. Over the next two fiscal years, Michigan's state government expects to collect almost \$2.4 billion more from sales, income, business and property tax payments than it gets now. While the increases are slightly less than earlier estimates suggested they might be, even in Lansing a nearly \$2.4 billion cumulative raise over two years is considered real money.

Yet "budget crisis" is exactly how most media outlets characterized the recent changes in revenue estimates produced by the state Department of Treasury and the House and Senate fiscal agencies. Here's what people should know:

## Is the state losing money?

No. According to a revenue consensus produced this week by the Michigan Treasury and the Legislature's fiscal agencies, the state is projected to collect \$740 million more in the next fiscal year (which starts Oct. 1, 2016) than it will get this year. Even larger revenue increases are projected for the following year.

## How can there be a "deficit" if they're getting more money?

There is no deficit. Twice a year (and sometimes more frequently) the budget

agencies crunch their numbers into a consensus revenue estimate for the current and coming years. The last estimate came out in January and projected the state's two largest accounts, the General Fund and the School Aid Fund, would receive \$22.7 billion from taxpayers in the 2017 fiscal year (which begins Oct. 1). This week's May consensus lowered that amount to \$22.5 billion, which is still nearly \$740 million more than this year's revenue.

For FY 2018, the consensus estimate produced in January was \$23.43 billion. That was changed in May to \$23.37 billion, an amount that still represents a \$1.6 billion "raise" from this year. The cumulative increases over both years come to nearly \$2.4 billion more for Lansing to spend or return in tax cuts.

The bottom line is that officials now expect a reduction in the rate of increase, not a "cut."

It should also be noted that estimates only look at the state's two largest accounts, the General and School Aid funds. Gas and vehicle registration (license plate) taxes — both of which were recently increased — are earmarked to different accounts. The projections also exclude money from other sources such as hundreds of millions each year from a 1998 tobacco lawsuit settlement, and billions more from the federal government.

## Why was the earlier January revenue projection higher?

According to David Zin, an economist for the Senate Fiscal Agency, there was a big reduction in how much the state expects to collect from a 6 percent corporate income tax this year. In January, it looked like this tax would bring in 3.6 percent more, but by May the numbers had changed and indicated a 17.8 percent decline in FY 2016. Total revenue from the business tax is far less than from state income, sales and property taxes, and Zin said the revenue it generates has historically been volatile.

The projected decline is for this year, not the next two years, but that also affects how amounts for future years are calculated, which is why the FY 2017 and FY 2018 projections changed.

## Will the state keep getting more money in the future?

Eventually, the nation will experience an economic slowdown, and state revenues will stagnate or even decline. This is why the state has a Rainy Day Fund that held \$500 million as of last fall. Current plans call for adding \$270 million this year and \$112 million next year.

But the latest estimates still show that state revenues will continue to increase. ■

*The original version of this story was posted online on May 20, 2016 and is available at [MichCapCon.com/22444](http://MichCapCon.com/22444).*

# Three Reforms to Bring Down Michigan Health Care Costs

BY JARRETT SKORUP

The federal government's involvement in health care policy has grown dramatically over recent decades. But when it comes to how and where health care services are delivered, and who may or may not provide care, state governments still play a major role — one Michigan is performing badly.

That's the message from a panel of experts from Michigan and elsewhere recently assembled in Lansing, who offered some specific reforms that would make care more accessible and affordable in this state.

The panel of four experts assembled for a Mackinac Center event called "Free Market Solutions to Problems in Health Care." These scholars and practitioners urged Michigan legislators to loosen scope of practice restrictions on nurse practitioners, facilitate more direct primary care doctor practices, and repeal the state's certificate of need law.

## Unshackle Nurse Practitioners

Constance Creech (seen below) and Thomas Hemphill, both professors at the University of Michigan-Flint, spoke about nurse practitioners.

Nurse practitioners are nurses with advanced degrees and training. Creech, the director of graduate nursing programs,

said they need less regulation and more freedom to compete in Michigan. She noted that 40 years of research has shown that the medical care provided by nurse practitioners is just as safe and effective as care provided by physicians. Creech is herself a nurse practitioner.

Michigan imposes the most restrictive form of regulation on nurse practitioners. While 21 states allow "full practice" (where nurse practitioners can independently manage patients and almost fully prescribe medicine), and 17 states have "reduced practice" (where they can prescribe some medications and oversee patients with some limitations), Michigan is one of just 12 states that impose a "restricted" practice regime on these highly trained medical professionals. In these states, nurse practitioners are barred from independent practice, having instead to operate under the supervision of a licensed physician.

"Michigan is one of the regulatory dirty dozen," said Hemphill, a professor in the university's school of management.

He noted that in Michigan, nurse practitioners cannot prescribe pharmaceuticals or fully practice, even though the evidence shows they can do so safely. In studies comparing

See "Three Reforms," Page 8



You can watch a panel on ideas to achieve more free market health care at [www.goo.gl/doVLYu](http://www.goo.gl/doVLYu)

# Federal Red Tape Costing Michigan Families and Businesses Billions

BY JARRETT SKORUP

Federal regulations are costing Americans about \$4 trillion in lost economic output every year, and Michigan is one of the states hardest hit by the mandates and impositions.

That's the conclusion of a new study from the Mercatus Center, a think tank based at George Mason University, which looked at the cumulative growth of federal regulations from 1977 to 2012. The researchers estimated that if regulations had been held in check since 1980, the nation's Gross Domestic Product (GDP) would be 25 percent larger today: \$20 trillion instead of \$16 trillion.

That \$4 trillion in lost output amounts to \$13,000 for every American.

Patrick McLaughlin is a senior research fellow at the Mercatus Center. He authored the report with Bentley Coffey and Pietro Peretto, who are professors at Duke University.

"What we wanted to examine is how the accumulation of regulations affects firms' choices," McLaughlin said. "For example, does it change R&D expenditure, or expansion plans? Those sorts of business investments lead to innovation and higher productivity, which, in the long run, drive economic growth."

The study looks at regulations passed by federal bodies that have an impact on 22 industries (from manufacturing industries to real estate to health care). It uses a model that analyzes

how those regulations have affected investments and the projected results of those investments. The report finds that real GDP growth would have been 0.8 percent higher each year, on average, for the past few decades.

A separate regulatory database from Mercatus looks at which states are most affected by federal rules. RegData determines how the mix of regulations affect state economies by analyzing the number of rules relevant to each industry in each state. Michigan is the state 17th most affected by federal rules, with the main industries suffering from regulation being auto production and parts manufacturing, real estate, scientific and technical services, retail trade, and wholesale trade.

The Environmental Protection Agency by far has the most regulations affecting Michigan, with more than 20,000 restrictions on automobile production alone. Other entities preventing business production are the Internal Revenue Service, the Food and Drug Administration, the Drug Enforcement Administration, and others relating to alcohol, air and highway travel, housing, and more.

Assuming the regulations are affecting investment in Michigan equally to other states, federal regulations are costing the state well over \$100 billion in lost productivity each year. ■

*The original version of this story was posted online on May 17, 2016 and is available at [MichCapCon.com/22434](http://MichCapCon.com/22434).*

## Duggan Approved Ban on Selling Closed Detroit Schools to Charters

*Measure protects status quo system*

BY TOM GANTERT

In 2014 the Detroit City Council passed and Mayor Michael Duggan approved a resolution that banned the city from selling any one of 53 closed Detroit school district school buildings to a public charter school for a period of five years. The action raises questions about the mayor's impartiality in a plan recently approved by the state Senate. The plan would give Duggan a key role in whether school choice in the form of charters keeps expanding in Detroit or becomes a dwindling remnant.

The resolution was part of a deal the city made with Detroit Public Schools to forgive \$11.1 million in unpaid bills owed by DPS. In return, the city took ownership of 53 schools and other property. The city agreed through the resolution not to sell any of a total 77 properties to a charter school that is within one mile of a DPS school.

John Roach, a spokesman for Mayor Duggan, didn't respond to emails seeking comment.

Duggan's approval of this resolution gives additional weight to questions about his role in the future of charter schools in the city. The mayor's office

has played a key role in crafting elements of various reform plans currently under discussion for Detroit Public Schools.

In the plan passed by the Republican-controlled Michigan Senate, the mayor would appoint members to a newly created Detroit Education Commission that would have the power to determine whether, how many and where new charter schools would be allowed to open within the city limits.

More recently Duggan has said this commission would operate as an "impartial judge."

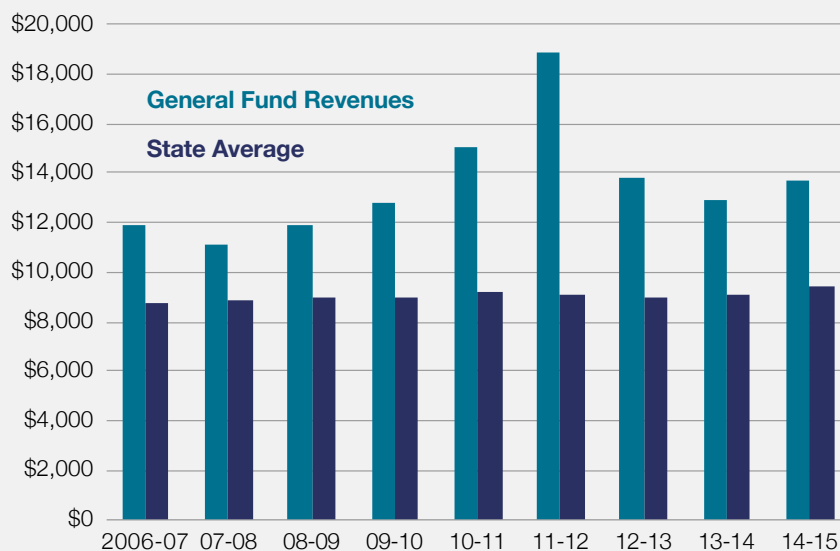
"It's frustrating to hear Mayor Duggan complain that charter schools aren't located in enough Detroit neighborhoods when the city refuses to sell empty DPS buildings to charter schools," said Gary Naeyaert, the executive director of Great Lakes Education Project. "So the mayor helps to create the academic 'deserts' he complains about, and then uses this to push his 'command and control' DEC plan to monopolize K-12 education and limit charter school enrollment in Detroit. That's a pretty good trick." ■

*The original version of this story was posted online on April 18, 2016 and is available at [MichCapCon.com/22359](http://MichCapCon.com/22359).*

### FORtheRECORD

This chart includes local, state and federal dollars Detroit Public Schools received in its general fund since 2006-07, the last year DPS didn't spend more than it took in. Note that the funding spike between 2010 and 2012 was due to a one-time funding boost from the American Recovery and Reinvestment Act of 2009, President Obama's "stimulus" bill.) ■

#### Detroit Public Schools General Fund Revenues Per Pupil and State Average



Source: Michigan Department of Education Bulletin 1014

## Detroit Charter Schools Spend Way Less Money and Get Way Better Results

BY JARRETT SKORUP

The best research on school choice in Detroit shows that it leads to better results at a much lower cost to taxpayers. As Mackinac Center's Director of Education Policy Ben DeGrow writes in *The Detroit News*:

The best study on charter schools in Michigan is from the Center for Research on Education Outcomes at Stanford University. This study paired individual students in charter schools with their "virtual twins" in district-run schools, based on their gender,

race, grade level, family income, and academic ability as measured by standardized tests. It then compared the gains that these students in charter schools made compared to their "control group," students just like them enrolled in district-run schools.

The study found that charters did better than conventional public schools in 52 of the 56 different outcomes tested and that Detroit charters gave students an extra two to three months of learning each year. The study called Detroit charters a "model" for other cities.

Meanwhile, on every test since 2009, Detroit's traditional public school students scored the worst in the nation among big cities on the nation's report card.

According to the state, in total funding (local, state and federal), Detroit Public Schools spend an average of \$18,602 per student while Detroit charter schools spend an average of \$10,668 per student.

Much of the Detroit establishment — politicians, interest groups, and unions — want to give the mayor the

ability to name members to a Detroit Education Commission that would restrict school choice in the city. The State Senate has given in, and included a \$700 million bailout. But the State House has resisted and stood up for taxpayers and Detroit parents, who are saving money and receiving better education opportunities. ■

*The original version of this story was posted online on May 26, 2016 and is available at [MichCapCon.com/22463](http://MichCapCon.com/22463).*

## Four Months and Counting for Records from Agency at Center of Flint Water Crisis

BY TOM GANTERT

The state agency that has been criticized the most for mistakes and alleged deception in the Flint water crisis says it will take four months before it releases public records requested under Michigan's Freedom of Information Act.

Generally, government agencies have no more than 15 days to respond to a FOIA request and release the relevant information. They may also require a reasonable fee to cover the cost of retrieving data and processing the request.

Michigan's Department of Environmental Quality received a FOIA request from Michigan Capitol Confidential on March 30, took the maximum extension, requested a deposit, and cashed the check paying the document retrieval charge on May 4. The request was for emails from DEQ employees involved in the Flint water crisis.

But the DEQ says it will be another 60 days — that is, until July 29 — before it will release the requested information, even though it has received payment.



Robin Luce-Herrmann, the general counsel for the Michigan Press Association, said the FOIA law does not specify how many days a state agency has to actually release documents to requesting parties.

"I think you could consider it a loophole," she said.

Luce-Herrmann said the FOIA law was changed last year to include a nonbinding

"good faith" requirement by the government agency to release the documents.

The law states:

"The response shall also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requester. The time frame estimate is nonbinding upon the public body, but

the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy under section 1 and the nature of the request in the particular instance. ..."

Ari Adler, Gov. Rick Snyder's spokesman, said the state has been hit by a lot of information requests regarding Flint.

"Due to the vast number of inquiries coming into the state for FOIA requests, legal proceedings, etc., the time to process documents has been significantly longer as of late," Adler said in an email. "While the state tries to respond in a timely manner — and always provides some response within the 15 days required by state law — actual production and delivery of documents requested may take much longer than usual right now. The state is trying to accommodate many requesters by providing documents voluntarily online, as well." ■

*The original version of this story was posted online on June 1, 2016 and is available at [MichCapCon.com/22468](http://MichCapCon.com/22468).*

## CONTAMINATED WATER DOMINATES FLINT HEADLINES, BUT PENSION EARTHQUAKE LOOMS

BY TOM GANTERT

Contaminated drinking water has dominated daily headlines in Flint, but a looming crisis of a different kind casts a pall over the city's financial future: A \$285 million unfunded pension liability is consuming ever more of the city's budget.

In 2015, Flint paid \$20.4 million to cover retirement system costs. To put the burden of pension obligations into

perspective, that amount is 42 percent of the city's general fund budget.

The financial stress has been growing: In 2010 Flint paid just \$13.4 million into this system. The general fund represents just one part of the city's budget (the water and sewer system are separate), but through it flows most of the money the city uses to cover a good part of its day-to-day operations.

"This shows the risks to traditional pensions, even for a government body like Flint," said Andrew Biggs, a resident scholar at the American Enterprise Institute. "The government has promised benefits years and decades in the future when it has no clear idea of its capacity to pay the benefits. If the stock market doesn't do well or if tax revenues flatten, the city is in a mess of trouble. Flint is

like cities and states around the country that face a day of reckoning on public employee pensions plans."

The city of Flint offers its employees four different pension systems. By far the most popular is the Municipal Employees' Retirement System (MERS), to which the city made that \$20.4 million payment.

See "Pension Earthquake," Page 8

## Why Some Teachers Prefer a 401(k) Over a Pension

BY JARRETT SKORUP

In 2012, the Michigan Legislature passed a bill that kept open the teacher pension system but began allowing school employees to choose a 401(k)-type defined contribution retirement account.

Since then, around 18,000 school employees have chosen the 401(k) instead of the old pension system, according to a FOIA request. Their reasons for making the switch range from concerns about future pension cuts and underfunding to wanting more control over retirement funds.

“I chose the defined contribution option for a number of reasons. One of which ... [is] the pension program is underfunded and may or may not be existent when it comes my time to collect,” said Adam Hastings, a math teacher at Athens High School. “I also was told that the 401(k)-type option was more portable under the circumstance that I should decide to move to another state.”

School employees do not “vest” in the pension system until they have worked for 10 years, which was also noted by Amy

Graham, who works for the Barry County Intermediate School District.

“I work for a grant-funded program and am concerned with how long it takes people to be eligible for benefits,” Graham said.

Having more control over finances and not trusting the state to fully fund the system were two other reasons school employees have mentioned.

“It put me in more control of my own money,” said a science teacher in a rural school in the Upper Peninsula, who did not want to be named. “It seemed like a higher risk/higher rewards type of investment and I figured that I’d like to play the long-term trend in the stock market and hopefully come out ahead. It made me feel more independent and less dependent on the state, which I don’t necessarily trust to follow through on all its promises.”

Bridget Weise-Knyal, a paraprofessional with Ann Arbor Public Schools, said she believes Republicans have cut pensions, “making them less reliable.” Michigan’s teacher pension system has not been fully-funded for around 30 years.

“I’m uncertain how long I’ll be working in the district and I have always had 401(k) plans or 403(b) plans at other employers and am comfortable with the flexibility and control that affords,” Weise-Knyal added. “I feel it’s less vulnerable in the long run. Pensions seem to get targeted for cuts more and more. I do not feel as secure with pensions.”

Around 35 percent of the cost of every school employee currently goes to retiree benefits. The vast majority of that goes to make up for past pension underfunding.

Connie Hamlin, an elementary school teacher at East Leroy Elementary in Athens, has been with the district for 36 years. Three years ago, she opted out of the pension system so that she could have something to leave to her family.

“I’m not married and I found out that if something happens to me, [my pensions] would go back into the system,” Hamlin said. “I just decided I wanted to have something to leave to my beneficiaries. It won’t be tons, but it will be something.”

The state’s school employee pension system, known as the Michigan State

Employees’ Retirement System (MPSERS), is underfunded by \$25.8 billion. (That’s the difference between how much has been promised to pension system members and how much should have been saved to cover the promises.) Michigan state employees and many local governments have shifted new employees out of a pension system and to a 401(k)-type plan.

The city of Detroit cut pensions for retirees in 2013 after filing for bankruptcy — largely due to an overwhelming debt of pension obligations. Unlike pensions, defined contribution 401(k) accounts go to employees immediately and cannot be underfunded.

The Legislature is currently considering shifting future school employees to a 401(k) to prevent future liabilities and protect current employees and retirees. House Bill 5218 and Senate Bill 102 are in the appropriations committees of their respective chambers. ■

*The original version of this story was posted online on April 21, 2016 and is available at [MichCapCon.com/22371](http://MichCapCon.com/22371).*

## Fears About State Pension Underfunding Drive School Employees to Other Options

BY JARRETT SKORUP

For every dollar Michigan school districts budget to pay their employees, 36 cents goes into the state-run school retirement system. Most of this money (87 percent) goes toward catching up on decades of systematic underfunding that has left the pension system with a massive unfunded liability.

The system is called the Michigan Public School Employees Retirement System (MPSERS), and it is currently underfunded by \$26 billion. The potential for instability contributes to thousands of school employees choosing to skip the traditional defined benefit pension and instead take advantage of employer contributions into an optional 401(k)-style account they then own.

Michigan Capitol Confidential reached out to employees who made this choice to get their reasoning for doing so. This is the second story in this series; part one is here.

Chris Nuckels, who works in technology for Traverse Bay Area Intermediate School District, said he and his wife, a teacher,

chose the 401(k) “because we wanted something more stable and movable.”

“I can’t trust Lansing to maintain funding for the pension or not cut parts of it out,” Nuckels said. “The 401(k) allows me to maintain my own retirement. If I ever leave the school system to work in private industry, I also have something that can move with me.”

James Kiurski, an English teacher at Brimley Middle School in the Upper Peninsula, is worried that the state pension system won’t be there for young teachers like himself. He called the 401(k) “an easy choice for me.”

“One of the main reasons I chose the 401(k) option is because, simply put, I was very skeptical that all the money I would have paid into the pension fund would be there for me to draw on when I retired,” Kiurski said. “I don’t see how, continuing on the current path, any money will be left for current teachers (especially those just starting their careers) by the time they get ready to retire. In addition to this, I feel like the investment options available to me are greater and I think I can do a better

job managing my money than the state can do for me. There is more risk involved, but being so young, I am in a position to absorb that risk whereas many more experienced teachers may not be.”

Other teachers also felt that accounts in the defined contribution plan, which are controlled by employees, were the better deal.

“I consulted my financial adviser about what I should do,” said Jacob Kidder, a math teacher in Bloomingdale Public Schools. “He said that as long as I thought I was staying in the teaching profession for my career that I should put my money into the 401(k).”

Many school employees are drawn to the flexibility that comes with 401(k)-type plans. In Michigan, employees do not receive the gains from pension plans unless they stay in the system for at least a decade.

Rick Mason is an assistant principal at Belding Middle School but began his career in Florida.

“I am not sure that I will stay in Michigan for the remainder of my career, as I could

very likely return to Florida or move to another state,” Mason said. “I was told that unless I plan on being in the system for the entire 30 years, that the 401(k) option would be better for me.”

George Nastas III is a finance and economics advisor who manages investment portfolios. Nastas said 401(k) accounts have several advantages over pensions.

“A big plus of defined contribution plans (401(k)s, IRAs) is that ... the employer’s contribution belongs to the employee,” Nastas said. “Add the employee contribution and a long period of time with regular employer and employee contribution over time and a nice balance can build up (given a good investment plan). Plus beneficiaries can receive/inherit the [money].”

Bills currently pending in the House and Senate Appropriations committees would shift all new school employees to a 401(k) with a state match, capping the state’s liabilities. They are House Bill 5218, sponsored by Rep. Tim Kelly, R-Saginaw Township, and Senate Bill 102, sponsored by Sen. Phil Pavlov, R-St. Claire. ■

*The original version of this story was posted online on May 14, 2016 and is available at [MichCapCon.com/22408](http://MichCapCon.com/22408).*

## THREE REFORMS

from Page Four

“full practice” states and “restricted” states, the evidence shows no health and safety differences for patients and no evidence that insurers see a difference in care provided by a doctor or nurse. And though parts of rural Michigan face a shortage of physicians, special interests are working to prevent changes to protectionist laws that freeze out the nurse practitioners who could fill the gap.

House Bill 5400, sponsored by Rep. Ken Yonker, R-Caledonia, is sitting in the House Health Policy Committee. It would make Michigan a “full practice” state. Medical groups have worked against the bill, and it hasn’t moved.

“Nurse practitioners are a highly competent, cost-effective yet underutilized health care professional,” Hemphill said. “Full practice legislation would go a long way toward solving [many] health problems.”

### Expand Direct Primary Care

Dr. Richard Armstrong, a general surgeon who practices in the Upper Peninsula, spoke about another innovation, called direct primary care.

This is an agreement between a patient and a doctor, who for a flat monthly fee delivers a menu of medical services, including easy access to by phone or email. One doctor who operates a direct primary care practice in Brighton was in the audience for the panel, and Armstrong cited the amounts he charges to illustrate the benefits. The charges are extremely reasonable because no insurance company middleman is

involved. The “direct” also means the customer pays his or her own bills for routine services.

His or her very low bills, that is: This doctor charges \$50 per month for an individual and \$135 for a family of four. The fee covers annual exams, up to 25 office visits, and almost anything that can be done in a doctor’s office. Prices for exams and procedures are often as little as 10 percent of the cost through traditional insurance.

Direct primary care sidesteps government policies that have created a nearly impenetrable and extraordinarily expensive system of middlemen and third-party payers, which has also generated perverse incentives for providers and patients alike, further crippling the nation’s health care delivery system.

“There has been an incredible increase in overhead related to bureaucracy for doctors,” Armstrong said. “The average time with a primary care doctor in the United States is down to eight minutes.” But, he added, direct primary care doctors can answer many questions by email and phone and spend much more time in the office with the patients who need it.

On this one, Michigan is actually ahead of the game rather than playing catch-up, thanks in part to a 2014 law that explicitly excludes direct primary care from the comprehensive regulatory regime the state imposes on health insurance.

The sponsor of that law, Sen. Patrick Colbeck, R-Canton, is working to open the door wider with a new bill that would permit a direct primary care option to be included in the state’s medical

welfare system (Medicaid). And federal legislation is being considered that would allow it for Medicare services.

### Get Rid of CON

Finally, the panel addressed certificate of need laws. Thomas Stratmann, a professor of economics at George Mason University and a scholar at the Mercatus Center, has extensively studied the effect of these laws. His conclusion is that they fully live up to their acronym — CON.

Stratmann said CON regulations limit people’s ability to obtain the care and treatments they need, have no public health or safety justification, make the public less safe, result in unnecessary deaths, and limit medical innovation and the provision of cost-effective medical care. Michigan’s CON law rations facilities and technologies such as MRI and CT scanners, surgery centers, hospital beds, and much more.

The law requires would-be providers who want to open or expand a facility or add new diagnostic tools to apply for permission from a board whose members often include competitors. Applicants must also pay a nonrefundable fee of up to \$45,000. There is then a public hearing, where incumbent providers who would prefer not to have any new competition have an opportunity to protest. Then there is a fact-finding report by a state agency.

“This would be like if McDonald’s had a say in Burger King openings in the state,” Stratmann said.

The main argument in support of state CON laws, which were enacted in the 1960s because of a since-repealed federal law, was that too many medical facilities means excess capacity and

waste. But by the 1980s, the feds had changed their minds, finding that such laws were unnecessary and harmful. But only 14 states have eliminated their laws.

Studies show that CON laws reduce medical inputs like beds and MRI machines and the number of hospitals by around 35 percent, which leads to a reduction in the use of medical services.

The laws are designed to limit competition for current medical providers, Stratmann said. “To be very clear, there is no public health or safety reason for CON laws,” he added.

There is also no economic reason for the laws: The Mercatus study Stratmann co-authored found that people in CON states frequently go to non-CON states to get scans and other services, which suggests that Michigan may be missing out on economic activity that could be conducted here. The study also found that the number of MRI, CT and PET scans paid for by federal Medicare coverage is much lower in Michigan than in states without CON laws.

That could mean people are either traveling elsewhere for these potentially lifesaving diagnostic procedures or doing without them.

The panelists all acknowledged that the federal government has increasingly regulated health care. But there are critical medical services that Michigan is overregulating in ways that are harmful, not helpful. Straightforward reforms in these areas could lower costs, increase access, provide better services and even turn Michigan into a medical services destination. ■

*The original version of this story was posted online on May 18, 2016 and is available at [MichCapCon.com/22437](http://MichCapCon.com/22437).*

## PENSION EARTHQUAKE

from Page Six

The city has 481 full-time positions, and 349 employees are enrolled in MERS.

As of December 2014, Flint has funded 48 cents of every dollar in pension benefits it has promised to its employees in the MERS defined-benefit plan. As of last June, its unfunded pension liabilities totaled \$285 million.

Many Michigan municipalities have dug even deeper holes. For example, the city of Benton Harbor has funded just 43 cents for every dollar in pension benefits it has promised its employees in the MERS plan.

“Cities need to get serious about properly funding pension systems or

they need to stop offering pension benefits,” said James Hohman, the assistant director of fiscal policy for the Mackinac Center for Public Policy. “The massive underfunding in Flint is unfair to employees and residents alike.”

Kristin Moore, the public relations director for the city of Flint, didn’t return an email seeking comment. City Administrator Sylvester Jones referred comment to Jody Lundquist, the city’s chief financial officer. Lundquist didn’t immediately return an email seeking comment. ■

*The original version of this story was posted online on May 13, 2016 and is available at [MichCapCon.com/22426](http://MichCapCon.com/22426).*

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# State Fails to Make Required Teacher Pension Fund Contribution

BY TOM GANTERT

For the sixth year in a row, Michigan officials failed to pay the full amount the state's own experts say is required to adequately fund the school employee pension system. In addition to the risks associated with adding to the billions in unfunded liabilities the system has already accumulated, this is also imposing more stress on local school budgets.

According to rules of a defined benefit pension system, the state is supposed to contribute an amount called the "annual requirement contribution," or ARC, into the Michigan Public School Employees Retirement System (MPERS) every year. For 2015, actuarial accountants say that comes to \$2.18 billion.

But the state of Michigan paid just \$1.97 billion, a \$210 million shortfall. The last year the state fully paid the recommended amount was 2009, and since then, the cumulative underfunding has totaled \$2.03 billion.

"Underfunding pensions kicks the costs for current service into the future and is unfair to teachers, administrators and taxpayers alike," said James Hohman, the assistant director of fiscal policy for the Mackinac Center for Public Policy.

Dexter Community Schools Superintendent Chris Timmis said if a school district had demonstrated the same pattern of underpayment, "We'd be taken over (by the state)."

Dexter has seen its required pension contributions increase from \$3.6 million in 2009 to \$5.37 million in 2015, in part to make up for past underfunding of the system as a whole. The total unfunded liability accumulated by the state-run school pension system is currently \$26.5 billion.

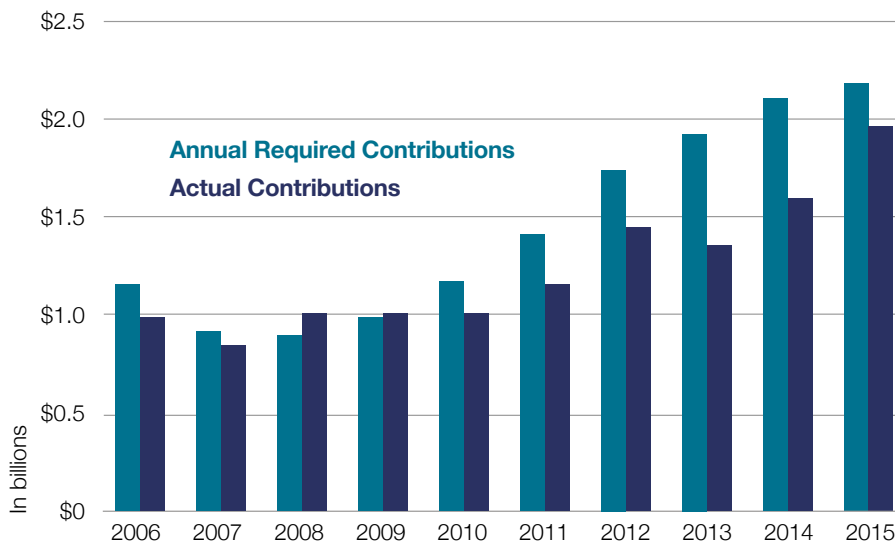
Every year, school districts are having to dedicate larger sums to cover the escalating costs of the defined-benefit pension system.

"MPERS is wiping out our budgets already," Timmis said. "It's huge. You can't keep up with it."

Bills have been submitted in the state House and Senate that would shift new school employees to a 401(k)-type plan, which would cap the state's retiree liabilities. All new state employees hired since 1997 are in this type of defined contribution system, while new school employees are still being enrolled in the defined benefit pension system. ■

*The original version of this story was posted online on May 9, 2016 and is available at [MichCapCon.com/22411](http://MichCapCon.com/22411).*

## MPSERS Underfunding



Source: State of Michigan

# PENSION COSTS ARE CROWDING OUT PUBLIC SAFETY

BY JAMES HOHMAN

A report from the state House Fiscal Agency shows that there has been a steady decline in the number of police officers in Michigan, falling 15.4 percent from 1990 to 2015. The report does not go into why this is, but here's one theory: Pension underfunding is crowding out government spending, including hiring decisions.

Consider that the state police retirement system now costs between 57 percent and 63 percent of the Michigan State Police's total payroll. It is not because the benefits are lavish. It is because the state is trying to pay for promises that it made in the past but didn't set money aside for — the state saved only 63 percent of what pensions are expected to cost. And while the state may be able to rescind benefits for retiree health care, it has saved only 12 percent of what its current health insurance policies have cost.

Essentially, the state could increase its trooper workforce by 33 percent if employees had been offered retirement benefits at private sector averages.

Local government pension systems are underfunded as well. Our work in 2014 found counties had average funding levels of only 74 percent. And police



unions have resisted the municipal trend toward defined contribution retirement, making them more susceptible to crowd-out. In other words, Michigan is trading pension costs for fewer police officers on the street.

This is a well-documented problem facing governments across the country.

It is a problem which benefits neither the employees that face these payroll constraints, nor those who want more police services, nor the taxpayers that have to pay for them. Policymakers need to seriously consider offering new employees defined contribution retirement benefits that will be paid as they are earned. It might change some of the trends in government employment highlighted by the House report. ■

*The original version of this story was posted online on May 9, 2016 and is available at [MichCapCon.com/22412](http://MichCapCon.com/22412).*

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## PAY HIKE

from Page One

was given such a big raise. Michigan Capitol Confidential puts in Freedom of Information Act requests for salary data at the beginning of each fall school year. Some union contracts call for pay increases after the school year has ended.

In 2014-15, Bailey earned \$37,742 for teaching and received another \$36,381 for, according to the pension database, “other professional business” and \$17,754 for “employee professional services leave.” It’s not clear what “other professional business” refers to but like Bailey’s union pay, it does count in the calculations of her public school employee pension.

Part of the increase may be due to Bailey’s promotion to interim union president in August 2015. Bailey took the promotion once former President Steve Conn was ousted by the union’s executive board for misconduct.

The average salary of Detroit Public School teachers was \$63,716 in 2014-15, according to the Michigan Department of Education. That’s the most recent data available.

DPS has allowed individuals on the district’s payroll to do union work while clocked in as a district employee in a setup known as “union release time.” In many cases, the individual gets a union salary that can be used to boost an eventual payout from the underfunded school pension system run by the state. As of this school year, DPS had seven employees who were being paid for union work that counted toward their school pension calculations.

The Michigan Senate has voted to eliminate taxpayer-funded union release time, which is costing taxpayers millions annually. But Senate Bill 279, sponsored by Sen. Marty Knollenberg, R-Troy, is sitting in the Michigan House in the Commerce and Trade Committee, where it has not been taken up.

Bailey and DPS Spokeswoman Michelle Zdrodowski didn’t return emails seeking an explanation of the breakdown of the salary. ■

*The original version of this story was posted online on May 27, 2016 and is available at [MichCapCon.com/22462](http://MichCapCon.com/22462).*

## Some Michigan Universities Spend Huge Money Subsidizing Sports

BY JARRETT SKORUP

Even though Michigan is the only state with two public universities in the top 10 of USA Today’s rankings of subsidies to athletic programs, university leaders here are rejecting calls to review conference affiliations, eliminate expensive sports and pursue other options to reduce the high costs of college sports to students and taxpayers.

Eastern Michigan University is at the center of the debate after data collected by USA Today was publicized in a segment on HBO’s “Real Sports With Bryant Gumbel.” EMU gives its athletics department the sixth-largest subsidy in the country at \$27.3 million, while its general fund budget for the current fiscal year is \$311.7 million. Western Michigan University is only two places behind EMU in the list of 231 universities, subsidizing its athletic department to the tune of \$25.8 million.

Subsidies from the universities’ general funds are necessary when revenue from sources such as ticket sales, sponsorships and directed donations fail

to cover the costs of running the athletic department. These expenses include not only direct costs such as staff salaries, facilities maintenance, and travel but also tuition, fees, and room and board for scholarship athletes.

School leaders, however, don’t appear to see a problem. An open letter, signed by EMU interim President Donald Loppnow, President-elect James Smith and all eight members of the EMU Board of Regents, said the university’s leadership has “absolutely no plans to eliminate football or move into any other division or conference.”

Both of those proposals were contained in a report by EMU accounting professor Howard J. Bunsis that estimated that the university could save as much as \$20 million per year by moving its teams to a lower-tier league and eliminating its football program.

These proposed changes would put EMU roughly on par with Oakland University, which competes in the Horizon League and does not have a

See “Subsidizing Sports,” Page 12

## GET UNINSURED CARS OFF THE ROAD THROUGH REFORMING NO-FAULT

BY MICHAEL VAN BEEK

Owning and operating a car in Michigan is expensive and it’s going to get more expensive soon. Fuel taxes and vehicle registration fees will increase next January. Another cost to driving is being insured, which is increasingly pricey. Having raised the cost of driving by hiking taxes and fees, policymakers owe it to taxpayers to make an effort to bring down the cost of auto insurance in Michigan.

The case for reforming Michigan’s auto insurance laws is straightforward: Michigan has the highest average rate in the entire country at \$2,738 per year, according to Insure.com. That’s more than twice the national average of \$1,325 and 19 percent higher than the second-highest state. Since there’s nothing exceptional about Michiganders’ driving habits (despite the anecdotal evidence you may see on the highway), that high average can be attributed to Michigan’s unique auto insurance laws.

Without a doubt, the most important feature governing auto insurance here is the requirement that every driver purchase “unlimited personal injury protection,” coverage that provides lifetime medical benefits for someone injured in an accident. No other state forces everyone to buy this type of insurance. New York has the second-highest requirements for PIP insurance, and it only requires \$50,000 worth of coverage.

Uncapped PIP benefits mean that there is no limit to what medical facilities can charge insurance companies for servicing individuals injured in automobile accidents. And only a tiny portion of people injured in car accidents even need this type of coverage: A 2007 analysis of approximately 70,000 PIP claims found that 94 percent of them were under \$50,000 and averaged just \$3,966 per claim.

**Policymakers should ditch the one-size-fits-all mandates of unlimited PIP and no-fault insurance and allow consumers to choose the level of coverage they want.**

Michigan also uses a no-fault insurance system, which is rare among the states — only 12 have a similar approach. Michigan’s no-fault experiment started in 1973, and it requires that, after an accident, each involved party’s insurance company pay for all the medical expenses, wage losses and property damage no matter who is at fault. In other states, drivers who cause accidents are liable for more of the costs incurred by the accident and those not at fault can sue for

See “Off the Road,” Page 12



## In Michigan, Uber Operates in a Legal Gray Area — These Bills Would Change That

BY TOM GANTERT

Ridesharing companies have been operating in Michigan for a couple of years now, but they do so in a legal gray area. Because drivers don't fall under the legal definition of taxi or chauffeur, in some cities they have been ticketed and fined.

The Legislature is considering a few different approaches to regulating ridesharing. A package of bills that passed the House last summer would provide a light statewide regulatory structure for transportation network (or ridesharing) companies, setting standards for insurance, background checks and disclosure of information for consumers.

Competing bills in the Senate do many of the same things, but add further, more onerous restrictions on drivers and companies. They would require chauffeur's licenses for all drivers and allow individual cities and airports to create their own restrictions and regulations, and even ban such companies completely.

The Mackinac Center recently hosted an Issues and Ideas Forum in Lansing to discuss the difficulties in regulating transportation and discuss how to get it right for ridesharing. Michael Farren, who studies regulatory policy at the Mercatus Center, began the discussion with an explanation of how transportation regulations have developed over time.

Each new form of transportation initially faces opposition from the

entrenched services, Farren said, citing a 19th century bill once considered in Pennsylvania that would have required all automobile drivers to turn off, dismantle and hide their motorized vehicle in the presence of livestock. When streetcars faced competition from a precursor to taxis, cities used regulation to protect the streetcar market. Today, the taxi industry has made similar efforts to drive away competition from ridesharing companies.

Farren said many states are allowing cities to essentially ban companies like Uber and Lyft and facing a backlash from consumers. Others are going in the other direction.

"There are some cities that have actually fully-deregulated the transportation industries," Farren said.

He called for low barriers to entry and a structure that sets safety standards, but does not try to micromanage or ban new services.

"If you have high barriers to entry, you have this level of protection that ... grants this monopoly privilege, or protectionism, to established companies," Farren said. "You get lower service and higher prices as a result."

The second panelist was Tim VanDongen, a ridesharing driver who has driven for both Uber and Lyft, and has used the platforms they created to launch his own company, which advertises in ridesharing vehicles. He shared his personal experiences as a driver active in many different

communities around Michigan, and how ridesharing has created opportunities for full- and part-time employment for drivers while creating safe, affordable and easy transportation for everyone from college students to retirees. Passengers use Uber and Lyft to get to the airport, to medical appointments, even to work.

"Uber just makes you feel like an entrepreneur out there," VanDongen said. "You can log off and go do something, or stay logged on and [work] as much as you want. You don't really have a boss."

VanDongen identified some of the advantages to a statewide ridesharing framework: It would allow drivers to get started quickly and work in any city supported by their app. It would also allow ridesharing companies to easily expand into smaller population centers that have a demand for those services. Uber currently operates in six Michigan cities; Lyft operates in two.

When asked about the competing bills up for consideration, VanDongen said he believes the House package is better for drivers and consumers.

"I think the House bills [are better]," VanDongen said. "It provides a blanket regulatory structure for transportation

networks. ... Currently there is nothing, so drivers are getting pulled over. I think the [Senate bills] regulate too much and treats [us] like a taxi." He added that he sees problems with different cities setting different rules, or even banning companies, since Uber and Lyft drivers travel across different towns.

The panelists noted other benefits to ridesharing, like the fact that it takes cars off the roads, helps low-income people afford transportation, and ensure inebriated people get home safely. Some studies have demonstrated a correlation between access to ridesharing and a decrease in drunken driving.

House Bills 4637-4641, which establish a light regulatory structure, have passed the full House and are sitting in the Senate Regulatory Reform Committee. The Senate Bills, 184 and 188, which establish higher regulations and allow local governments to restrict Uber and Lyft, have passed the committee but have not been taken up in the full Senate. ■

*The original version of this story was posted online on May 7, 2016 and is available at [MichCapCon.com/22409](http://MichCapCon.com/22409).*

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## TAXPAYERS SHOULD NOT BE ON THE HOOK FOR STADIUMS

BY JARRETT SKORUP

Sports writer and commentator Bill Simmons is transitioning from ESPN to a new show on HBO. In his promotional, "I Believe," the never-gun-shy Simmons lays out some of his positions.

His last statement is the most notable: "I believe billionaires should pay for their own [expletive] stadiums."

Michigan has a bad track record in this area. State and local taxpayers have coughed up huge for stadiums for the Lions in Pontiac (and then back to Detroit), for the Tigers at Comerica, and most recently for the Red Wings' new arena. (Well-deserved praise is due for Bill Davidson, who owned the Pistons in 1988 and financed the Palace of Auburn Hills with no tax dollars).

Stadiums are almost universally panned as bad economic development tools. Andrew Zimbalist, a professor of economics at Smith College and one of the leading experts on stadium financing, writes, "All of the independent, scholarly research on the issue of whether sports teams and facilities have a positive economic impact has come to the same conclusion: One should not anticipate that a team or a facility by itself will either increase employment or raise per capita income in a metropolitan area."

It's too late for these past projects, but Michigan should learn its lesson for the future. ■

*The original version of this story was posted online on May 19, 2016 and is available at [MichCapCon.com/22443](http://MichCapCon.com/22443).*



## BILL COLLECTORS

from Page One

In its monthly newsletter, the union announced it will allow employees to stop paying during any month, but was appealing the commission's ruling.

Then in August in 2015 the MEA tried another gambit: It mailed a letter to employees announcing that resignation requests sent to the union headquarters in East Lansing would not, in fact, be honored. Only requests sent to a particular post office box

number would be honored.

"MEA has rigged the game so that teachers have to jump through hoops to leave the union. And the hoops in Michigan are quite arcane. MEA is obviously desperate to keep its gravy train in motion and will do so by

hook — or crook," said Larry Sand, the president of the nonprofit California Teachers Empowerment Network. ■

*The original version of this story was posted online on May 19, 2016 and is available at [MichCapCon.com/22441](http://MichCapCon.com/22441).*

## OFF THE ROAD

from Page Ten

additional damages. No-fault insurance does reduce litigation and administrative costs, but given Michigan's sky-high rates, it needs to be reconsidered.

Due to the nature of the auto insurance market, it is important to keep rates as low as possible, especially for low-income individuals. The more uninsured drivers there are, the higher the costs of providing insurance for everyone. But the higher the costs of providing insurance, the higher the premiums companies must charge, and the more

likely it is for people not to be able to afford insurance. In other words, there's a snowball effect that occurs when insurance rates increase. No surprise, then, that Michigan, with its absurdly high rates, has the fifth-most uninsured drivers in the country. According to the Insurance Information Institute, every fifth car you see on a road in Michigan is uninsured.

While the snowball effect can work to drive insurance premiums up, it can work in the other direction, too. If insurance rates drop, more people will buy insurance, which will put downward pressure on insurance costs since there will be fewer uninsured. In a virtuous

circle, then, premiums will become more affordable for more people, and so on.

To improve the current situation, policymakers should ditch the one-size-fits-all mandates of unlimited PIP and no-fault insurance and allow consumers to choose the level of coverage they want. Some drivers may still want to pay extra for unlimited PIP and no-fault, and that's perfectly fine. Others would trade less generous coverage for lower premiums. These lower-cost options are especially important for drivers who are currently priced out of the market. They may not end up with ultra-generous unlimited PIP and no-fault benefits, but some insurance

coverage is definitely better than none at all.

The high cost of insuring vehicles in Michigan is not a new problem. Michigan's had the highest rates nationally for three years running, and Gov. Snyder and leaders in the Legislature have made proposals to reduce these costs. Yet nothing significant has gotten done. Pricey insurance rates increase the costs of doing business in Michigan and force some people to choose between driving illegally and holding a job. The time has come for reform. ■

*The original version of this story was posted online on May 9, 2016 and is available at [MichCapCon.com/22417](http://MichCapCon.com/22417).*

## SUBSIDIZING SPORTS

from Page Ten

football program. Oakland ranked 94th in the USA Today report, giving its athletic department an \$11.4 million subsidy.

Two days after EMU's leadership rejected the calls for cutting athletic subsidies, the Michigan House of Representatives passed an education budget to provide EMU \$74.5 million in general state appropriations and \$4.9 million in subsidies for its bond debt. WMU's 2016 share of the state education budget is \$107.9 million in general appropriations and \$15 million in bond subsidies.

By comparison, the state's general appropriations for Lake Superior State University, the University of Michigan-Dearborn and the University of Michigan-Flint are each smaller than the athletic subsidies at EMU and WMU.

This student and taxpayer-supported spending hasn't shown up in on-field



performance. Since Eastern Michigan University joined the NCAA's Division I and the Mid-American Conference in 1972, its football team has performed consistently poorly. In 43 seasons, its teams have won just one MAC championship, have never finished the season ranked in the top 25 teams in the country and have appeared in just one postseason bowl game.

During this time, WMU did slightly better, winning the conference once and

appearing in six bowl games. Central Michigan University, which ranked 39th with a \$19.4 million subsidy, has won seven MAC championships and appeared in nine bowl games.

It's unlikely that any EMU alumni still paying off student loan debt ever got to watch a winning football team funded with their borrowed money.

Before more graduates begin paying interest on their non-voluntary

investment in historically bad athletics, leaders at EMU and in the Michigan Legislature should take a clear look at the costs and benefits of literally playing games with tax and tuition dollars. The state subsidizes these universities because, in theory, they serve a public purpose. Surely, there are more pressing public uses for tax dollars in Michigan than ensuring EMU continues to field a football team that went 1-11 in 2015 and hasn't had a winning season since 1995.

USA Today's methodology ranked Michigan State University 217th with a \$702,284 subsidy and the University of Michigan 219th at \$263,345. Both schools transfer profits from their athletic department's operations to their general funds, and those dollars are not accounted for in the news outlet's calculation. ■

*The original version of this story was posted online on April 30, 2016 and is available at [MichCapCon.com/22389](http://MichCapCon.com/22389).*

# Let Consumers Use Plastic Bags

BY JARRETT SKORUP

A new bill in the Michigan Legislature would prevent local governments from banning or overregulating the use of plastic bags commonly used by consumers. Senate Bill 853, sponsored by Sen. Jim Stamas, R-Midland, would “pre-empt local governments from imposing regulations and restrictions on plastic grocery bags or other ‘auxiliary containers,’ defined as a disposable or reusable bag, cup, bottle, or other packaging.” The bill passed the full Senate recently and heads to the House.

Two Michigan counties, Washtenaw and Muskegon, are considering regulations on plastic bags, such as extra fees or a ban. A main argument is that they would help prevent littering. But the state already has laws against littering; if that’s the problem, then that’s what should be focused on.

And the research on the harm of plastic bags is mixed. As Michigan Capitol Confidential noted:

A study commissioned by the city of Austin, Texas two years after they banned plastic bags found a reduction in the use

of plastic bags but also that people were throwing away reusable bags at a much higher rate than anticipated, mitigating the positive environmental effects. Other research has found that reusable bags often contain coliform bacteria and even a spike in visits to the hospital for E. coli potentially linked to bag bans.

Whether or not to use plastic bags should be decided by consumers. If individuals want, they can bring cloth or paper bags to the stores with them. And if there is enough popular

demand, grocery stores are free to stop using plastic bags or charge extra for them.

My family chooses to use cloth bags when we grocery shop (especially since we are big fans of Aldi, which doesn’t provide bags). We’re grateful

that we have the choice. Other consumers who prefer plastic bags shouldn’t have this choice taken away from them. ■

*The original version of this story was posted online on May 12, 2016 and is available at [MichCapCon.com/22425](http://MichCapCon.com/22425).*



## FORtheRECORD

### The Right Way to Analyze Teacher Salaries in Michigan

An interesting story on the statewide news site MLive took a deeper look at changes in teacher salaries, and how broad averages can be misleading. The headline reported that the average teacher salary at all Michigan school districts had fallen from \$63,024 in the 2009-10 school year to \$61,978 last year.

The story explained how the figure could be skewed by the retirement of large numbers of employees in the top salary tier, who were replaced by younger teachers who are in lower salary tiers.

#### ForTheRecord says:

Analysis of teacher salaries can be tricky. The “headline” figures on statewide averages may create a false impression that individual teachers have been getting pay cuts ever since 2009. In the coming days Michigan Capitol Confidential will look more closely at teacher salaries over the past five years, examining district-level salary information acquired through Freedom of Information Act requests.

### You’re Wrong, Senator: Many Detroit Teachers Do Earn More Than You

Among Democratic lawmakers’ criticisms during debate of a Detroit Public School’s \$617 million bailout that doesn’t restrict new charter schools in the city, Sen. Curtis Hertel of Meridian Township compared the salaries of Detroit teachers to those of legislators.

“Teachers are not the problem. They work in deplorable conditions for much less than we make in this body,” Hertel said in a story published in MLive.

#### ForTheRecord says:

Politicians’ references to teacher pay almost always warrant a closer look, because so much of the information reported in the media about teacher salaries is inaccurate or misleading.

State legislators earn \$71,685 a year, an amount that was cut from \$79,000 in 2011 and has been frozen since.

There were 353 DPS teachers who made more than \$71,685 in 2014-15, according to a salary database maintained by the state of Michigan. The highest paid DPS teacher earned \$95,341. The state database includes all forms of salary for teachers and not just the base salary. DPS teachers on average received salaries of \$63,716 in 2014-15, the most recent year for which data is available.

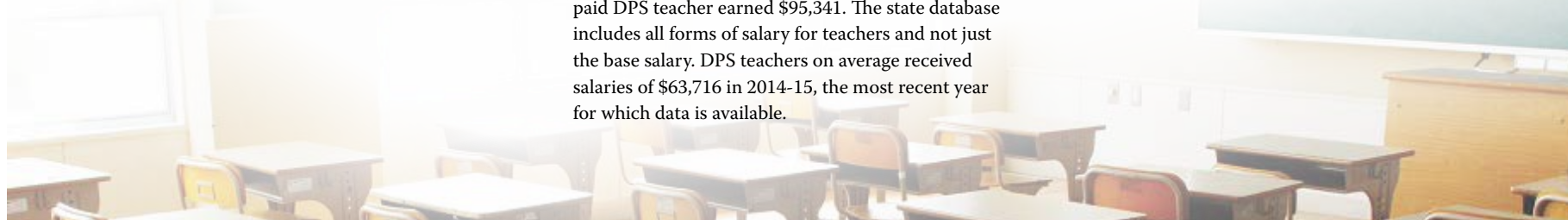
### DPS Sickout Teacher Lowballs Salary in Newspaper Story

An illegal sickout by members of the union that represents teachers in Detroit Public Schools shut down 94 of the district’s 97 schools Monday. Last weekend, the official appointed to be the district’s transition manager said it only has enough money to operate until the end of the current school year in June.

Teacher LaShawn Pope told the Detroit News that she has a master’s degree and signed up for 26 paychecks this year, not 22. “Before taxes, I bring home \$1,400 every two weeks, so \$1,400 times four checks is what I stand to lose before taxes,” Pope is quoted as saying.

#### ForTheRecord says:

The arithmetic on Pope’s remarks works out to an annual salary of \$36,400. According to a state of Michigan database, however, Pope was paid \$45,014 during the 2014-15 fiscal year. The average Detroit Public Schools teacher earned \$63,716 that year.



# Panic Over: Number of School Districts in Deficit Plummets

BY TOM GANTERT

The state Department of Education reports that the number of Michigan school districts expected to finish the current school year with a budget deficit may be the lowest in nine years.

The state could have as few as 23 school districts in deficit when the books close on the current school year in June, according to the department's most recent list. A deficit means that the district spent more for operations than the amount of direct and indirect tax revenue it received to cover those costs.

The signs of financial stability come at a time when Republicans and Democrats are embroiled in a debate about how much money is needed to educate students, assuming no major changes are made to how school systems operate. One estimate of this amount will come from a controversial (and tardy) school adequacy study authorized at the end of 2014 in a bid to get the votes of Democratic legislators for a major tax increase.

The growing stability has also been underplayed by media sources, which in recent years have played up stories of official panic over speculation that many more school budgets may fall out of balance. In June 2013, Michigan public schools superintendent Mike Flanagan warned legislators more than 100 school districts would be in deficit "before long." Some pundits joined the chorus, saying the number of districts with deficits was certain to increase.

But in a March report, the Department of Education projects that the number of school districts with a deficit will drop from 41 to 24 by June, the fewest since 2006-07 when 23 school districts were in deficit. It should be noted that the state had 552 traditional school districts in 2006-07 and 540 in 2015-16 and 299 and 302 charter schools, respectively. Charter schools are considered school districts for official purposes, including the March report on deficit spending. Three of them are on the list of districts with a projected deficit.

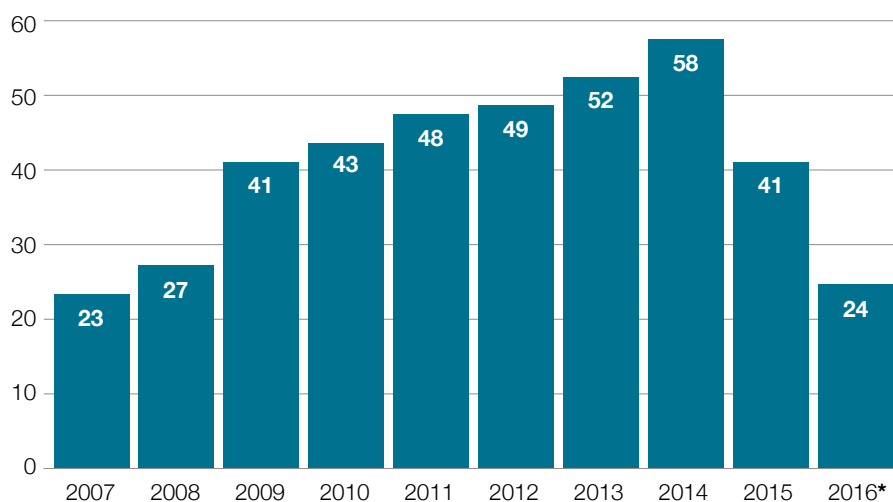
"A healthy trend toward greater fiscal responsibility would be encouraging

to see," said Ben DeGrow, the director of education policy for the Mackinac Center for Public Policy. "The further we get from the recession, the fewer districts can justify patterns of overspending that hurt students and

communities in the long run. Let's hope the projection turns out to be correct, and that the trend continues." ■

*The original version of this story was posted online on April 27, 2016 and is available at [MichCapCon.com/22380](http://MichCapCon.com/22380).*

## Number of Michigan Public Schools in Deficit



(\*) MDE projections

Source: Michigan Department of Education

MACKINAC CENTER  
FOR PUBLIC POLICY

## CLOSING PENSIONS FOR STATE EMPLOYEES IN 1990S SAVED MICHIGAN MILLIONS TODAY

BY JAMES M. HOHMAN

Michigan lawmakers voted 20 years ago to close the state employee pension system to new members. A new study by Anthony Randazzo and Truong Bui of the Reason Foundation looked at Michigan's experience to see whether this reform helped the state. They found that the state saved itself from racking up hundreds of millions more in additional unfunded liabilities. But their study also has other major lessons for Michigan as it considers further pension reforms.

The state employee system currently owes its members \$6.2 billion more in pension benefits than it has saved. Filling the gap would cost each household in Michigan roughly \$1,600. Some have asserted that this gap developed because the state closed the pension system.

But the Reason authors created a hypothetical model of what would have

happened if the system had not been closed — and found just the opposite. Their model shows, as does the one from our 2011 report, that the move saved the state from further developing unfunded liabilities.

The authors found a couple of factors that caused these unfunded liabilities to grow from nothing to \$6.2 billion. The state set aside less than the actuarially recommended amounts — putting in only 88 percent of the needed contributions. The pension fund's investments also produced fewer returns than the state assumed they would. (Managers assumed these funds would return 8 percent per year, but they only achieved 7.1 percent.) An early retirement incentive passed in 2010 also punched an additional \$200 million hole in the pension system.

While Michigan lawmakers closed the state employee pension system in 1997, it left its larger school employee system

open to new members. There are bills that change this moving forward, but legislators have been concerned that this may trigger prohibitive "transition costs" in paying down unfunded liabilities.

Reason's study refutes those concerns by looking at Michigan's own experience with the state employee system. Michigan started adding unfunded liabilities shortly after 1997. Its methods of paying those unfunded liabilities were the same as those for its school pension system. It was not until 2005 that the state chose to switch to a more expedited amortization policy, showing that these alleged transition costs are avoidable.

For more on pension reforms, go to [www.mackinac.org/pension](http://www.mackinac.org/pension). ■

*The original version of this story was posted online on April 14, 2016 and is available at [MichCapCon.com/22341](http://MichCapCon.com/22341).*

## Additional Center Pension Research

### Estimated Savings From Michigan's 1997 State Employees Pension Plan Reform

In this Policy Brief, the author analyzes state pension data to determine whether state taxpayers have saved money as a result of the switch.

[Mackinac.org/15284](http://Mackinac.org/15284)

### Five Options for Addressing 'Transition Costs' When Closing the MPSERS Pension Plan

Other pension systems around the state are also underfunded.

Michigan's state employee system carries a \$6.2 billion unfunded liability.

[Mackinac.org/16589](http://Mackinac.org/16589)

# IRS-Style Viewpoint Discrimination in Grand Rapids City Government?

BY TOM GANTERT

The city attorney's office in Grand Rapids appears to have targeted a nonprofit think tank for ideology-based viewpoint discrimination in what should have been a routine property tax matter. That conclusion was reinforced this week by recently obtained emails sent by the former head of the office.

At the center of the controversy was former Grand Rapids City Attorney Catherine Mish, who resigned from her job about a month before a state tax tribunal ruled in favor of the Acton Institute. The institute was in a dispute with the city over its status as a tax-exempt charitable organization.

Court filings and official emails show a pattern of hostility by the city attorney's office that appears to be reserved for entities openly professing limited-government or conservative viewpoints. Michigan Capitol Confidential received the documents from the city in response to a Freedom of Information Act request.

The saga began when the city of Grand Rapids rejected the Acton Institute's request for a tax exemption, in 2014, on property it had purchased in 2012 and then rehabbed for its new downtown headquarters. When the city rejected Acton's appeal, the organization took its case to the Michigan Tax Tribunal, where it was vindicated in March 2016.

The apparent animosity by Mish's office toward Acton's philosophical orientation was evident throughout the two years during which the dispute dragged on. Acton describes itself as "dedicated to the study of free-market economics informed by religious faith and moral absolutes."

In a March 6, 2014, email, Mish sent a 280-word explanation to a reporter at the statewide news site MLive in which she went into details of the legal aspects of the dispute. She described existing case law and speculated how the legal process might play out.

Two days later, the Rev. Robert Sirico, co-founder of the Acton Institute, sent an email to a Grand Rapids city commissioner asking for help in setting up a meeting with the city to get answers to questions the nonprofit had about its tax status — questions that were not being answered by the city.

"While representatives of the city (the city assessor and the city attorney) had time and felt free to speak to the press about this matter, neither had addressed anything to us, at our request," Sirico wrote in his

March 8, 2014, email. "This hardly seems fair or transparent."

Mish was far less cooperative in dealing with Michigan Capitol Confidential than with the MLive reporter. An April 2014 email sent to this news site stated that "the city will not be responding to your questions, but only to your FOIA records requests, and only in the manner required by the FOIA statute. ... The city does not serve as the legal counsel for the Mackinac Center. The Freedom of Information Act does not require the city to perform legal research for you, and we will not do so. If you want to understand 'the written definition of what constitutes a property-tax-exempt charity,' as you stated in your FOIA ... I suggest that you consult an attorney to provide you with that legal advice."

This favoring of one media outlet over another by the city attorney drew the interest of the Michigan Press Association, which used its monthly bulletin to highlight a Michigan Capitol Confidential article about Mish's conduct.

Mish later sent an email from her work account to a private citizen that slurred the developmentally disabled daughter of an Acton staff member, calling the minor who had been the victim of an alleged rape a "crack and heroin whore." At the time, the girl's family was involved in an unrelated legal dispute with the city.

Mish wrote about the girl, "She wandered the streets of downtown Grand Rapids, acting as a prostitute in exchange for heroin, cocaine, alcohol and so forth. ... The police finally found her after many days of her escapades in trading sex for drugs." Later in the email, Mish questioned the girl's upbringing.

The newly acquired emails add to existing evidence that officials in the Grand Rapids city attorney's office may have been using tax law to carry out an ideology-based attack on an organization that did not share its views. A 12-page summary disposition dated Jan. 21, 2016 for a Michigan Tax Tribunal hearing, signed by assistant city attorneys Jessica Wood and Elliot Gruszka, contained the following inflammatory allegations:

"Petitioner is a public policy think-tank attempting to masquerade before this Tax Tribunal as a charitable and educational organization."

"Acton Institute is a politically driven think tank that publishes right-wing libertarian, philosophical, and political propaganda tempered with extreme-right religious viewpoints."

"A search of the Acton website and related blogs plainly reveals its anti-charity mission."

"Ironically, and hypocritically, although the foundation of Acton's entire underlying philosophy appears to be anti-charity, it now asks the city to exempt it from the payment of property taxes as a charitable organization."

"Acton's primary purpose appears to be to impart its political anti-charity wisdom to other groups in order to discourage them from providing traditional forms of charity.

Its mission is couched in terms of libertarianism and economics—not in terms of providing charity."

"Acton does not feed the hungry, help the homeless, fight for economic or social injustice, provide food or health care to those in need, or provide job training or skills. (Exs. 4 2, 3, 4, 5, 6, 7, and 8.) Nor does it educate people in a way that lessens the burden of government or fits into the scheme of general education pursuant

to MCL 211.7n. In fact, Acton bluntly discourages traditional forms of charity without any direct interaction with those in need of charity. Acton imparts its politics to other organizations, but never directly interacts with those actually in need. Acton Institute is a libertarian publishing company set up as a nonprofit in order to create platforms on which to spread its political and philosophical message."

"Contrary to its stated mission of personal economic accountability and morality, Petitioner is seeking to shift its tax burden to every other citizen and entity in the city of Grand Rapids by pretending to be something it is not: a charity and educational institute."

Acton noted the hostile tone in a press release that read in part: "Particularly disappointing to Acton were briefs submitted by the city during this process that made factually inaccurate assertions and used incendiary, highly politicized language more suitable to a partisan political blog than a court of law." It continued, "Perhaps the most disturbing misrepresentation made by Grand Rapids

in its court filings was that Acton was 'ironically and hypocritically ... anti-charity.' In fact, Acton has always been a strong advocate of private charity, as any cursory examination of its publications or website would show."

The apparent viewpoint discrimination committed by the office of the Grand Rapids city attorney may not be an isolated incident, according to the Center for Competitive Politics, a Virginia-based advocacy organization that works on First Amendment issues. In an email, CCP research fellow Scott Blackburn wrote: "This is just another example of an ongoing trend we are seeing across the country. From California to New York to the IRS in Washington, government agencies are purposefully misusing tax laws to target citizen groups for their political beliefs. Such actions are intended to intimidate donors, tie organizations up in expensive legal battles, and ultimately silence opposing viewpoints."

CCP scholars are not the only ones to compare Mish's conduct to the unresolved scandal involving the IRS official Lois Lerner, who resigned and invoked the Fifth Amendment protection against self-incrimination when it was revealed that the bureau she ran had targeted conservative nonprofits for inaction on tax-exemption requests.

"It's hard not to notice the similarities between this apparent example of ideological viewpoint discrimination by government officials and the Internal Revenue Service effectively silencing hundreds of local tea party groups through inaction on tax exemption filings," said Jack McHugh, the legislative analyst for the Mackinac Center for Public Policy. "One can easily picture former IRS official Lois Lerner concurring with many of Mish's opinions. Both incidents raise serious questions about the role of a supposedly neutral administrative state in a democratic society. 'Neutrality' is an increasingly untenable fiction."

The city of Grand Rapids has declined to comment on this story. Mish didn't return emails seeking comment.

Sirico, the Acton Institute's president, is on the 49-member board of scholars of the Mackinac Center for Public Policy, the parent organization of Michigan Capitol Confidential. ■

*The original version of this story was posted online on April 29, 2016 and is available at [MichCapCon.com/22384](http://MichCapCon.com/22384).*



# I'M JUST A BILL

## CORRECTION

A previous edition of “I’m Just a Bill” mistakenly reported that Senate Bill 256 gave judges a raise, which it did not. The bill authorized a new system that going forward would index judges’ pay hikes to increases in the pay of executive level state civil service employees.

## MichiganVotes.org

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

### *House Bill 4344*

#### **Mandate auto repair shops use vehicle maker’s own parts**

Introduced by Rep. Peter Pettalia (R)

To codify into law a comprehensive regulatory regime that is currently imposed on vehicle repair facilities through administrative regulations, including a state registration mandate. Among other things, the bill would prohibit a repair shop from replacing a major part on a newer vehicle with one not made by the vehicle’s maker, which has been criticized as protectionism benefiting the Big Three and other car makers.

### *Senate Bill 818*

#### **Exempt yoga instruction schools from licensure mandate**

Introduced by Sen. Tonya Schuitmaker (R)

To exempt yoga teacher training schools from a state licensure mandate imposed on private trade-schools, with annual fees, government inspections, regulations and more. A Senate Fiscal Agency analysis notes that many take the classes just for the experience, and “the regulations reportedly have created a business environment that deters ... offering or expanding instruction programs.”

### *Senate Bill 853*

#### **Preempt local grocery bag bans**

Introduced by Sen. Jim Stamas (R)

To preempt local governments from imposing regulations and restrictions on plastic grocery bags or other “auxiliary containers,” defined as a disposable or reusable bag, cup, bottle or other packaging. At least two counties are reportedly considering bag bans.

### *Senate Bill 738*

#### **Require more state pensions disclose amount of underfunding**

Introduced by Sen. Darwin Booher (R)

To require that state pension systems include an executive summary of the system’s unfunded liabilities in annual reports they are already required to produce. This would apply to the separate systems for judges, State Police, state employees and school employees.

### *House Bill 637*

#### **Expand grass seed seller regulations**

Introduced by Sen. Joe Hune (R)

To revise details of a law that imposes a testing and labeling mandate on grass seed sellers. The bill would require cool season lawn and turf seed and mixtures to include a sell by date, and ban selling them if a state-mandated germination test was more than 15 months earlier. The bill would also require a larger font size be used on a required warning label.

### *Senate Bill 776*

#### **Limit time period for collecting ballot initiative signatures**

Introduced by Sen. David Robertson (R)

To establish that signatures on a petition to amend the constitution must be collected within the 180 days before the measure is submitted, and repeal the ability to challenge whether older signatures may be valid. The House concurred with the Senate on giving the bill immediate effect, which would mean marijuana legalization and anti-tracking petition drives underway in the spring of 2016 would be impacted.

### *Senate Bill 739*

#### **Authorize 2-mill DARTA property tax and limit**

Introduced by Sen. Wayne Schmidt (R)

To specify that the property tax that the Detroit Regional Transit Authority may collect under a 2012 law may be for up to 2 mills but not more, which at that rate would reportedly extract an additional \$300 million annually from Macomb, Oakland, Washtenaw, and Wayne County property owners. Also, to exempt this tax from being skimmed by a “tax capture” authority’s tax increment finance scheme (for example a downtown development authority).