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HISTORIC DISTRICT HORROR STORIES Homeowners can't even replace 108-year-old windows that don't lock

BY TOM GANTERT

In 2011, Louis Breskman put up a wooden fence on his Ann Arbor property that was within a historic district. Breskman said neighbors had similar fences and that since the fence was wooden, it blended in with the other historic features of the neighborhood.

Breskman failed to get a permit for a "certificate of appropriateness," however, and when he retroactively applied for it, the city's historic district commission denied his request.

Breskman said he was threatened with a \$5,000 fine and would have to hire an attorney to fight the case. So he took the fence down.

"I wasn't doing anything that was detrimental to the neighborhood," Breskman said this month, adding that wooden fences have been used for hundreds of years. "That's why I put it up. I didn't think it was going to be an issue. ... It doesn't seem like there are clear rules to what is considered historical."

Breskman isn't the only Ann Arbor resident who has contested rulings by the historic commission, or felt that it was overreaching. A Freedom of Information Act filed uncovered numerous concerns from the city's residents that led to official complaints.

Two bills in the Michigan Legislature would affect how historic districts operate.

See "Horror Stories," Page 10



You can find great video content online at YouTube.com/MackinacCenter. In the video below, Nancy Wilson is facing a similar horror story with her own home.



You can watch Nancy Wilson's video at <https://youtu.be/49tS5DcAaHY>.

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Grand Rapids: Michigan's Boomtown

Here's Where Teachers Get the Highest Pay in Michigan

BY TOM GANTERT

Teachers in Farmington Public Schools are paid more than \$83,000 per year on average, giving the metro Detroit district the state's highest paid educators, according to an annual report from the Michigan Department of Education.

The list comes with a footnote, however: In analyzing this state's compilation of school district pay in recent years, Michigan Capitol Confidential has found a number of errors.

For example, Flint Community School teachers reportedly saw their average salary increase from \$62,920 in 2013-14 to \$77,211 the following year. That would represent a one-year pay increase of 23 percent, and make Flint teachers the ninth-highest paid in the state.

The \$62,920 salary figure is consistent with the Flint district's union contract, which prescribes a salary scale that tops out at \$66,780. But in the 2014-15 school year, a separate database of teachers in the state-run school pension system indicates that just one of Flint's 630-plus teachers earned more than the supposed average of \$77,211.

Flint Community Schools Superintendent Bilal Tawwab said in an email that the district

was looking into how the salary information was reported to the MDE.

Every year, the Michigan Department of Education releases salary information on

See "Teachers Pay," Page 12

Top Average Salary of Teachers Per School District, 2014-15

1. Farmington Schools	\$83,903
2. Walled Lake Consolidated Schools	\$80,058
3. Warren Consolidated Schools	\$78,866
4. Livonia Schools	\$78,183
5. Wyandotte School District	\$78,044
6. Utica Community Schools	\$77,435
7. Centerline Schools	\$77,118
8. Allen Park Schools	\$76,531
9. Birmingham Schools	\$75,846
10. Grosse Pointe Schools	\$74,824

Source: Michigan Department of Education Bulletin 1014

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 (R) Sen. Jim
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To eliminate the \$50 million
law that authorized state job
for particular employers, pro
community colleges. Other
would make this program p
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different program from "dou
taking subsidies from both

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LETTER FROM THE EXECUTIVE VICE PRESIDENT

On Persuasion

BY MICHAEL J. REITZ

Perhaps you've complained, as I have, that the quality of public discourse seems to degrade during a presidential primary. Shouts, insults, arguing with opponents ... persuasion takes a back seat to scoring points.

Advocates for free-market policies are given many opportunities to communicate, whether in debates, radio programs, discussion panels, point/counterpoint articles or simple conversations. But communication, if measured only by the volume and intensity of words, is insufficient. True persuasion requires more.

- Credibility is key. You cannot persuade effectively when your credibility is in doubt. Facts matter. Tell the truth and know that people will quickly detect exaggerations. Mackinac Center policy recommendations are rooted in our research, and our Guarantee of Quality Scholarship invites rigorous scrutiny of our data, assumptions and methodology.
- The human mind is hard-wired for stories. If you cannot explain how a policy proposal would help (or hurt) individuals, your idea won't persuade many people. Facts matter, but imagination, emotion and moral judgments can be engaged through a fable or anecdote. "Once upon a time" remains one of the most powerful phrases we know.
- Seek earnestly to understand the other side of the argument. Be curious. Ask questions. Examine your own assumptions. Social psychologist Jonathan Haidt wrote in "The Righteous Mind" that most moral systems are rooted in six fundamental values: care, fairness, liberty, loyalty, authority and sanctity. Liberals, conservatives and libertarians tend to emphasize different sets of these values, says Haidt. Understanding the other side of the argument sharpens your own and can illuminate common ground.
- Simplify. Not to be confused with oversimplification, simplification eliminates

distractions. Don't talk above the heads of your audience. Eliminate jargon. MichiganVotes.org Senior Editor Jack McHugh does this when he describes legislation using concise, plain language. He calls it the "demystification" of bill descriptions. For example, the official bill description of House Bill 4418 says: "A bill to amend 1949 PA 300, entitled 'Michigan vehicle code,' by amending section 722 (MCL 257.722), as amended by 2012 PA 522." The MichiganVotes.org description: "To allow an exception to seasonal road weight limit restrictions for trucks hauling tree sap used to make maple sugar." Which one tells you more?

- Substance matters, but so does style. Debates over ideas are rarely a closed-circuit conversation; debates have observers and the observers generally apply a standard of decency to those in the arena. Communicate respect, even in disagreement. An attack on the character, motivation or intelligence of your opponent is a lazy and off-putting device. On a related note, even a rudimentary understanding of logic and common logical fallacies can elevate a civil debate.
- Learn from your mistakes. A persuasive communicator doesn't hammer the same point repeatedly. Knowing one's audience provides the ability to fine-tune or abandon a point that doesn't resonate.

There are no guarantees in the battle for ideas, but communication that conveys respect, substance and humor can dramatically elevate an argument. ■



Michael J. Reitz,
Executive Vice President

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LEGISLATION WOULD PREVENT STATE FROM ADVERTISING TO GET MORE PEOPLE ON MEDICAID

BY JACK SPENCER

Senate Bill 542 would prohibit a state agency from using Michigan tax dollars to advertise or otherwise encourage enrollment in the Healthy Michigan plan. The legislation was introduced by Sen. Tonya Schuitmaker, R-Lawton, on Oct. 6, and has not moved out of the Senate Health Policy Committee.

“Healthy Michigan,” is the title the administration of Gov. Rick Snyder gave to its adoption of the Obamacare Medicaid expansion. During the expansion debate in 2013, it was estimated that somewhat more than 400,000 people in Michigan would eventually enroll in the program. According to the most recent numbers, however, nearly 600,000 have enrolled so far.

Even though enrollment has far outstripped expectations, the state budget still authorizes spending \$2 million annually to continue promoting the program. Of that, \$1 million comes from Michigan taxpayers and the balance from federal matching funds.

“Why spend \$2 million annually to promote a program that has already met and far exceeded the number of people that were expected to enroll

in it?” Schuitmaker asked. “We’ve seen nothing to indicate there are metrics showing that continued advertising would accomplish anything. At this point, there’s no reason to believe it is needed. I think it’s obvious that that funding could be better used for something else.”

According to Schuitmaker, Senate Bill 542 has stalled because it might not be the most promising way of putting a stop to the advertising.

“The committee chair and I have been battling around the idea of putting it (the language prohibiting the advertising) in an appropriations bill” Schuitmaker said.

In addition to being chair of the Senate Health Policy Committee, Sen. Mike Shirkey, R-Clarklake, is also one of the bill’s co-sponsors.

“The intent of the legislation Sen. Schuitmaker introduced is very legitimate,” Shirkey said. “I, too, question the need to advertise Healthy Michigan for the purpose of increasing enrollment. I’ve talked with officials involved with the program and the sense is that we’ve pretty much topped out as far as enrollment is concerned; the levels have remained more or less constant for quite a while now.”

“That said, I also understand

that everyone does not have the same access to information regarding all aspects of Healthy Michigan,” Shirkey continued. “We have talked about attempting to put something into appropriations legislation that would allow advertising that pertains to Healthy Michigan for utilitarian purposes within the program, but specify that advertising should not be directed toward increasing enrollment.”

Among the possible advantages of having the language put into an appropriations bill is that it would insert the issue directly into the appropriations process. That would mean that the state budget would reflect the Legislature’s intent for the advertising. In addition, it is often more difficult politically to vote against an entire appropriations bill than it is to vote against a single-topic bill, such as Senate Bill 542.

Snyder’s Deputy Press Secretary Laura Biehl was asked about the prohibition.

“As with all legislation, the governor will review the bill if it reaches his desk,” Biehl said. ■

The original version of this story was posted online on Feb. 16, 2016 and is available at MichCapCon.com/22170.

In 20 Years, Only Two Corporate Welfare Recipients Created 1,000+ Jobs

BY TOM GANTERT

Doug Rothwell, president of Business Leaders for Michigan, was quoted recently in Crain’s Business Detroit as saying more government economic development projects and programs are needed in the state.

“We haven’t, until recently, had the governor, MEDC, local agencies, etc., with a cohesive plan,” Rothwell said in the article. “We struggle to attract big projects, and we’ve not attracted a single project that has created more than 1,000 jobs in 10 years.”

Rothwell is the former director of the Michigan Economic Development Corporation, the state’s main business incentives-granting agency, and is the current chair of its executive committee.

In 20-plus years since it was created in 1995, the MEDC has approved benefits for just two projects that actually created 1,000 new jobs. And neither company sustained those jobs over time.

Both projects came under the MEDC’s former flagship program, the Michigan Economic Growth Authority. It was repealed in 2011, but was in the news recently when some \$9 billion in liabilities were disclosed, the product of “refundable tax credits” (mostly cash subsidies) granted to companies under the MEGA rubric.

One of the 1,000-job projects was launched in 2004 when Auto Alliance International, Inc., in Flat Rock, claimed tax credits for creating 1,389 jobs. But in 2010, credits for just 75 jobs were claimed.

The other big winner for MEGA was Flagstar Bank in

Troy, which received credits for claiming 442 jobs in 2001. Flagstar eventually claimed credits for creating 1,388 jobs in 2013, but that number fell back to 699 in 2014.

There are about 4.5 million jobs in Michigan. Every three months across the state, around 200,000 new jobs are created and around 200,000 existing jobs disappear, with no involvement by state economic development officials. (In good times more are usually created than disappear, and in bad times vice-versa.)

The state’s economic development arm has a long history of making job projections that don’t come close to the reality years later. A state auditor general report in 2013 found that its review of select business reports found that only 22 percent of the projected jobs had materialized. In one instance, a company projected 600 jobs but created just seven.

Many of the MEDC’s announcements were made with great fanfare. In 2006, Google announced it was making Ann Arbor the headquarters for its AdWords online advertising program. The MEDC authorized \$38 million worth of tax credits payable over 20 years. It announced that Google would create 1,000 Washtenaw County jobs within five years, plus another 1,200 jobs indirectly. As part of the hype, then-Gov. Jennifer Granholm attended the subsidiary’s grand opening.

That was the projection, but according to the MEDC’s most recent annual report, Google

See “20 Years,” Page 8

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Senate Acts, House Dallies on Pension Spiking and Union Release Time Bills

BY JACK SPENCER

Two Senate-passed bills now pending in the Michigan House have been dubbed “the Steve Cook legislation,” a reference to a pension spiking scheme involving the head of the state’s largest teachers union. One of the bills would ban the practice, and the other would shut down a different scheme that has union officials doing union work at taxpayer expense in public sector workplaces.

Both bills might seem to be a light lift for a legislative body with a 61-47 Republican majority. But more than two months after they were passed by the Michigan Senate, the House has yet to schedule a hearing.

Pension spiking of the type that allowed Michigan Education Association President Steve Cook to use a \$201,613 union salary to pad his taxpayer-funded pension would be prohibited under Senate Bill 279. So-called release time arrangements in which union officials

are carried on the payrolls of public schools and local governments but freed up to conduct union business on either a full-time or part-time basis would be prohibited under Senate Bill 280.

Following passage of the legislation by the Senate on Nov. 10, the bills were split up and assigned to separate House committees. Both bills are now before the House Commerce and Trade Committee. But the chairman of that committee, Rep. Joseph Graves, R-Linden, said that they are not on the committee’s agenda.

“At this point these bills haven’t been placed on the committee schedule,” Graves said. “We’ve only scheduled as far ahead as the week of February 9. Looking farther ahead, this legislation is very much a part of the conversation concerning what the committee is going to take up.”

On Feb. 26, 2015, Michigan Capitol Confidential broke the story about Cook’s special deal with the Lansing School District and the Michigan

Education Association that permitted him to be considered a school employee for purposes of accruing a higher payout from a state-run school pension system while working full time for the MEA. The pension system currently has \$26 billion in unfunded liabilities on its books.

Release time has been an issue for a number of years. In 2011, when Sen. Marty Knollenberg, R-Troy (the sponsor of both Senate Bills 279 and 280) was a member of the House, he sponsored legislation to prohibit the practice. That legislation died in the Senate at the end of 2012. This time around, it’s the Senate that has taken the initiative regarding these issues.

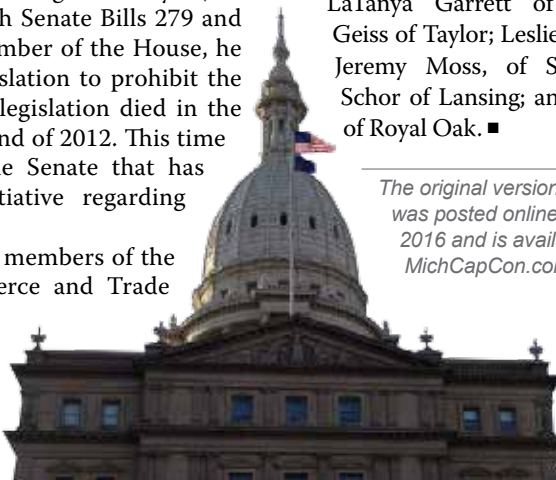
There are 19 members of the House Commerce and Trade Committee.

Twelve of the members are Republicans; Tom

Barrett of Pottsville; Mike Callton of Nashville; Daniela Garcia of Holland; Gary Glenn of Midland; Holly Hughes of Montague; Nancy Jenkins of Clayton; Joel Johnson of Clare; Eric Leutheuser of Hillsdale; Bruce Rendon of Lake City; Pat Somerville of New Boston; and Jason Shepard of Lambertville.

There are seven Democrats on the committee: Wendell Byrd of Detroit; LaTanya Garrett of Detroit; Erika Geiss of Taylor; Leslie Love of Detroit; Jeremy Moss, of Southfield; Andy Schor of Lansing; and Jim Townsend of Royal Oak. ■

The original version of this story was posted online on Jan. 27, 2016 and is available at MichCapCon.com/22106.



Bill Would Fine ‘Aggressive’ Panhandlers

Michigan legislator: ‘It intimidates some people’

BY JACK SPENCER

State lawmakers are considering legislation that would penalize panhandlers who apply too much pressure when asking for a handout. Under House Bill 5103, panhandlers who use overbearing or intimidating tactics when soliciting for money could face a \$100 civil fine.

Rep. Mike McCready, R-Birmingham, the sponsor of House Bill 5103, was asked how so many panhandlers manage to operate in parking lots and near storefronts where “no soliciting” signs are clearly posted?

“That’s a good question; and actually, it sort of points toward the need for increasing public information concerning this issue,” McCready said. “Raising awareness of this problem was one of the primary purposes for introducing this legislation. In Birmingham, we’re having an almost epidemic problem with panhandlers. A lot of these people are addicted to drugs like heroin or cocaine. They do need help, but giving them money to feed their habit isn’t helping them. It would help them more to give them some food, like maybe a granola bar.”



“To stand in a public place and panhandle is one thing,” McCready continued. “Michigan had a law against panhandling; then a couple of years ago, the courts struck it down. But when the panhandlers do things like go right to the car of a person who is either attempting to get in or get out; follow persons back to their cars; bang on their car windows; or take other aggressive action, it intimidates some people. When people feel harassed or intimidated by a

panhandler, they should call the police immediately. But most people don’t. They probably think about it later when they get home, but by that time, it’s too late.”

On Aug. 14, 2013, a federal appeals court ruled that Michigan’s 84-year-old law against asking for money in a public place violated the First Amendment right of free speech. Now, House Bill 5103 seeks to make a distinction between just panhandling and aggressive panhandling.

The legislation would create the Aggressive Solicitation Prohibition Act. It specifies what a panhandler would be prohibited from doing when soliciting money from another person in a public place. Those who violate the law could be subject to the \$100 fine. The list of prohibited activities consists of the following (as listed in the bill or described by the House Fiscal Agency):

- Approaching or following a person in a manner intended or likely to cause a reasonable person to fear imminent apprehension of bodily harm.
- Approaching or following a person in a manner likely to intimidate a person

into responding affirmatively to the solicitation.

- Continuing to solicit a person after that person has communicated that he or she does not want to be solicited.
- Intentionally, knowingly, or recklessly obstructing the safe or free passage of a person being solicited or requiring that person to take evasive action to avoid physical contact with the person making the solicitation.
- Intentionally, knowingly, or recklessly making physical contact with or touching another person without that person’s consent.
- Intentionally, knowingly, or recklessly using obscene or abusive language or gestures intended or likely to cause a reasonable person to fear imminent apprehension of bodily harm.

In addition, under the bill, panhandlers would be prohibited from soliciting for money within 15 feet of any entrance or exit to a bank (if the person soliciting does not have the bank’s permission to be on bank property) or within 15 feet of an ATM (if the person soliciting does not have permission of the ATM’s owner to be there).

Whistleblowers Allege Police Pension Spiking Scheme

BY TOM GANTERT

According to two retired city of Ann Arbor employees, some police officers nearing retirement engaged in a pension spiking scheme that involves writing more traffic tickets than usual. The scheme could add hundreds of thousands of dollars in lifetime pension benefits for these individuals, and millions in additional taxpayer burdens.

Writing more traffic tickets generates extra overtime pay because officers are required to spend time in court when tickets are challenged by drivers. Pay boosted by extra overtime in an officer's final three years increases, or spikes, the annual pension payouts by artificially boosting the final compensation figure used in pension formulas.

According to the former employees, as patrol officers near retirement they try to get on the midnight shift, if they were not already working that late shift. They then write more tickets than they customarily would, knowing that many drivers will fight the charges by taking them to court.

Historically, court appearances by officers are a big trigger of overtime.



One officer collected an average of \$22,688 in overtime his last three years with the department. Another who retired in 2015 averaged \$22,097 during his last three years on the job. Both worked the midnight shift.

For an officer who had been employed for 25 years, \$22,000 in annual overtime in the final years would add \$15,125 a year to the individual's annual pension benefit payments. Many employees of the Ann Arbor police department have retired in their late 40s or early 50s, meaning inflated pensions could be paid for decades.

To place these figures in context, the average annual overtime of all 72 employees who retired from the Ann Arbor police department from 2009 to 2015 was

\$7,743, according to the city's response to a Freedom of Information Act request. These 72 employees included detectives, a former police chief and others who were not patrol officers.

The process highlights a problem with government pension systems that use "final average compensation" as a factor in calculating pension payouts, instead of the final base pay of an employee. Years of service and the highest average salary in the final years on the job are the primary factors that determine an individual's monthly pension payouts.

"Pension rules are supposed to provide stable and plannable incomes to workers that retire," said James Hohman, the assistant director of fiscal policy at the Mackinac Center for Public Policy. "Unfortunately, rules about final compensation have been gamed in order to spike the value of a pension. It's no surprise that people want to get more income in retirement, but pension rules should not encourage bad behavior."

Determining whether any particular officers were writing tickets to spike their future pensions is very difficult. Overtime

is a routine part of compensation for police officers. In Ann Arbor, they can make thousands in overtime working football Saturdays.

Ann Arbor Mayor Chris Taylor didn't specifically address the pension spiking allegation, but did comment in an email on overtime in the police department.

"Overtime procedures are outlined in the collective bargaining agreements," Taylor said. "These procedures determine how overtime is equalized and offered. If voluntary overtime is available, it is open to all eligible employees, regardless of service time. In a city the size of Ann Arbor, there is often additional police coverage required for special events, such as UM football games, special events (Art Fair, festivals, etc.) and other events requiring higher levels of security."

Michigan Capitol Confidential received the overtime paid to officers that retired since 2009 in a Freedom of Information Act request. ■

The original version of this story was posted online on Jan. 26, 2016 and is available at MichCapCon.com/22098.

Bill Would End Monopoly on New Auto Sales

BY JACK SPENCER

People who wish to purchase a new car can do so only through an auto dealer, and not directly from the manufacturer. A new company could break that practice, but it will need help from the Legislature first.

Under what some have called the anti-Tesla law, direct-to-consumer sales of motor vehicles are currently prohibited in Michigan. House Bill 5312 would end that prohibition, meaning that Tesla and other companies could sell their vehicles directly to consumers, provided the sale takes place at least 10 miles away from existing auto dealerships.

"Gov. Snyder said he wanted the Legislature to have an open discussion about whether we should keep doing business the way we have been doing it," said Rep Aaron Miller, R-Sturgis, the sponsor of House Bill 5312. "I'm responding to that. I want us to have that discussion."

The trade group Auto Dealers of Michigan, which has what's considered a very formidable lobbying presence in Lansing, has been a strong supporter of the current anti-Tesla law.

"Sure, I think this legislation will likely be opposed by the auto dealers," Miller said when asked about his proposal. "But this isn't anti-auto dealer legislation. It's about freedom of choice and allowing businesses to choose how they want to sell their products. In other states where Tesla has a history of being able to sell the way they want to sell, auto dealers haven't been going out of business. So this definitely is not anti-auto dealer legislation. In my opinion, this is about standing up for free-market principles."

Currently, Tesla is allowed to sell its vehicles directly to customers in more than 20 states. House Bill 5312 was introduced only weeks after the group Freedom 2 Buy was launched; a development that signaled that the anti-Tesla law would become a legislative issue this year.

During autumn 2014, interest in changing the law was piqued when language was inserted into another piece of legislation, House Bill 5606, that said manufacturers could not "sell any new motor vehicle directly to a retail

customer other than through franchised dealers, unless the customer is a nonprofit organization or a federal, state, or local government or agency." Before that, the bill dealt with the unrelated issue of the fees auto dealerships charge for preparing documents.

Tesla and other entities — including some elements of the news media — called on Gov. Rick Snyder to veto the bill. The governor said Michigan law already prohibited direct-to-consumer sales of motor vehicles and his signing of House Bill 5606 would not change that. But he also attached a letter in which he said he welcomed a "healthy, open discussion" on whether the state should change the prohibition.

A few months later, in early 2015, Sen. Darwin Booher, R-Evart, asked the Federal Trade Commission for input on a related issue involving motorcycle manufacturers. FTC staff responded, in part, by asking Michigan lawmakers to consider repealing the anti-Tesla law.

"In our view, current provisions operate as a special protection for dealers — a protection that is likely

harming both competition and consumers," the FTC staff wrote. They noted that "consumers are the ones best situated to choose for themselves both the vehicles they want to buy and how they want to buy them."

Miller was asked if his legislation had much support in the House.

"There is some support in the caucus; actually, even some bipartisan support," he said. Rep. Jeff Irwin, D-Ann Arbor, is one of the co-sponsors of the bill.

While Tesla pursues a legislative solution, it is also seeking other remedies. In November 2015, the company applied to the Secretary of State for an auto dealership license. It is believed the company made this move as a prelude to possibly taking the issue to the courts.

Kurt Berryman, the director of legislative affairs for the auto dealers, did not respond to a phone call offering him the opportunity to comment. ■

The original version of this story was posted online on Feb. 13, 2016 and is available at MichCapCon.com/22161.

Setting the Record Straight on Teacher Pay Won't 'Destroy Public Education'

BY TOM GANTERT

In a recent story about political polarization, The Washington Post quoted a Michigan teacher who claimed the Mackinac Center for Public Policy is out to destroy public education because it has published the salaries of particular teachers.

Erin Mastin, a teacher with Boyne City Public Schools, was portrayed in the article as someone concerned about divisiveness, and who believes the political system is rigged in favor of the rich and powerful.

From the article:

She could feel the influence of money in politics in her classroom, she said. In recent months, the Mackinac Center for Public Policy, a conservative Michigan-based think tank funded in part by billionaires Charles and David Koch, had begun posting teachers' salaries online. Their goal was to highlight the need for teacher pay based on performance rather than seniority or degrees.

Mastin saw a darker purpose.

"I believe their agenda is to destroy public education," she said.

Michigan Capitol Confidential has reported teacher pay ranges at various school districts, and in some cases the pay of particular school employees when doing provides some context needed for a story.

Sometimes this has happened when the common practice of media publications to not report the salary of a teacher featured in a story led to an inaccurate narrative.

In one instance in 2015, the Oakland Press allowed a Rochester Community Schools teacher working at the newspaper as a summer intern to publish an article quoting her school colleagues as saying that teachers need a second job to make ends meet. The story never mentioned that the teachers quoted in the story were paid between \$80,472 and \$87,349 annually.

Sometimes teachers take their complaints about compensation public. A publication that picks up these complaints

but fails to report how much the individual was paid may be leaving out a critical context, and thus, misinform readers.

In an example from 2011, the Grand Rapids Press quoted a teacher who said she qualified for food stamps and could make more as a substitute teacher. The newspaper did not report the district's salary range for full-time teachers or how much substitute teachers are paid.

So Michigan Capitol Confidential filled in the blanks by reporting that the teacher who claimed to be eligible for food stamps would have been earning between \$41,443 to \$46,532, depending on her academic credentials. To be eligible for food stamps at that pay level, she would have to be the sole provider for a household of seven. Also, substitute teachers in the district earned \$86 a day with none of the health insurance benefits given to full-time teachers.

In a similar vein, last August, a Plymouth-Canton Public Schools teacher wrote a column titled, "Why I can no longer teach in public education." The teacher explained that while it wasn't

about the money, she didn't "go into teaching to barely scrape by, either."

The item was picked up by MLive, The Washington Post and Huffington Post, none of which reported that this individual earned an annual salary of \$63,171, plus health insurance and pension benefits. Michigan Capitol Confidential clarified the record by providing her compensation.

News organizations often fail to challenge salary claims made by teachers, even though the information is readily available. Union contracts prescribing teacher pay scales are available online on every school district's website; the average teacher salary for every school district in the state is available online from the Michigan Department of Education.

Correcting misleading statements on teacher compensation is not destroying public education. It is holding those participating in the debate to a higher standard. ■

The original version of this story was posted online on Feb. 15, 2016 and is available at MichCapCon.com/22164.

Governor's Budget Pays for Medicaid Expansion with a Gas Tax

BY JAMES M. HOHMAN

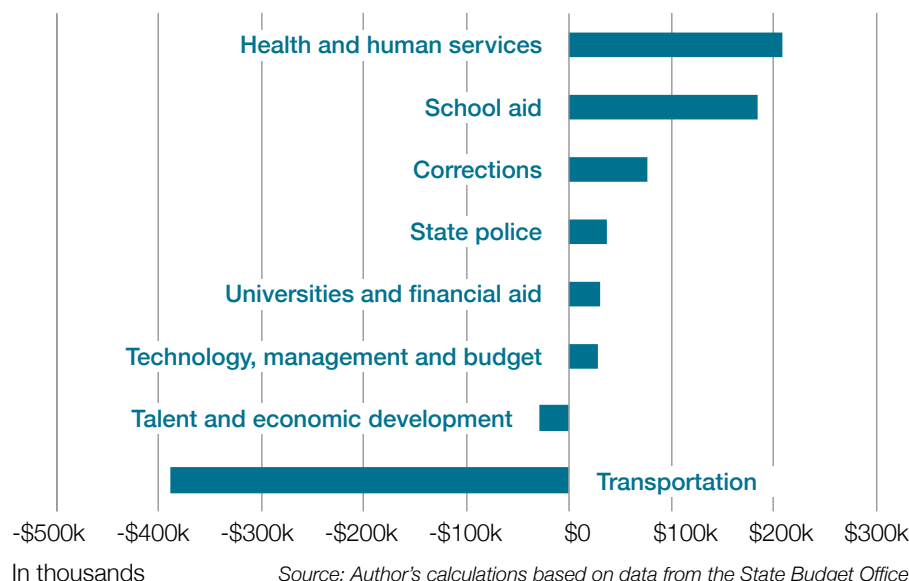
The largest proposed change in Gov. Rick Snyder's executive budget is to use money freed up by a tax hike for roads to pay for the state's Medicaid expansion.

Normally, roads are paid by vehicle registration and fuel taxes. While waiting to agree on a long-term funding plan for the roads, policymakers devoted more of the state's general tax revenues to road repair. They found \$400 million for the current year's spending.

Then they passed some tax hikes specifically to fund roads. Higher registration fees and fuel taxes will collect an estimated \$533.3 million for the upcoming fiscal year and even more afterwards. This increase frees the \$400 million general fund money to be spent elsewhere, or it could be returned to taxpayers.

Some argued that the \$400 million was only "one-time" money. Yet this is a questionable statement, considering the state's revenue trends. A growing tax base generates more tax revenue for the upcoming fiscal year. Calling it "one-time" does not make it so, especially when the revenue is replenished.

Executive Budget Recommended Changes In General Fund Spending



Though it was once dedicated to roads, the \$400 million in cash now has a new home in the executive budget: the state's Medicaid program.

The state is required to pick up some

of the costs of its decision to let more people sign up for Medicaid, part of a deal made under Obamacare. The state needs to cover 5 percent of the new costs in the upcoming fiscal year

— a \$108.7 million expense. Because of this increase and the expansion of other services, the state's Department of Health and Human Services will require another \$207.1 million in taxpayer dollars, the largest increase in spending from the general fund in the executive budget.

Other departments are set to get more general taxpayer dollars under the governor's plan too — K-12 schools and state prisons, police and universities. Growth in the state's revenues mean that one department's gain is not another's loss.

Assuming that policymakers have any degree of discretion on how they divide up the money they spend — that is, state money is at least partially fungible — the result of last year's tax hikes for roads is not just increased spending on roads. Rather, these revenues will simply free up funds for increased spending elsewhere, such as paying for the costs of implementing Obamacare. ■

The original version of this story was posted online on Feb. 11, 2016 and is available at MichCapCon.com/22157.

NEW BILLS WOULD PUT TEETH INTO IGNORED TEACHER STRIKE LAW

BY JACK SPENCER

Recent sickouts that have kept at least 34,000 students in Detroit Public Schools from attending classes may mean that future sickouts could cost school districts some of their state aid. That's because a three-bill package to put more enforcement powers behind Michigan's nearly 70-year-old law against teacher strikes has started moving in the Legislature. But as they sit in the Michigan Senate, they may have to wait until efforts to rescue the Detroit school system are played out.

Senate Bills 713, 714 and 715, were introduced in reaction to organized teacher sickout strikes that have recently been shutting down schools in the Detroit district. As many as 64 schools have been forced to close their doors due to the strikes.

Under the three bills, the state could more quickly penalize teachers and unions for participating in strikes. In addition, school districts that failed to enforce sanctions against striking teachers would forfeit 5 percent of their school aid.

On Feb. 2, the Senate Education Committee passed the three bills and sent them to the floor of the Senate. All four Republican members of the committee voted for the bills. The lone Democrat on the committee, Sen. David



Knezek, D-Dearborn Heights, voted against them.

Though the legislative package zipped through the committee, its momentum could be slowed on the Senate floor. Senate Majority Leader Arlan Meekhof, R-West Olive, has informed reporters that he is prioritizing other legislation ahead of the bills to strengthen the anti-strike law. That other legislation is Senate bills 710 and 711, which represent Gov. Rick Snyder's reforms to address the \$515 million debt that has DPS facing possible bankruptcy.

Sen. Phil Pavlov, R-St. Clair, the sponsor of Senate Bill 713 and chair of the Senate Education Committee, said it's difficult to predict how soon the full Senate would take up the teacher strike bills. But he added that he hoped the delay wouldn't be long.

When asked why Michigan should strengthen anti-teacher strike law, he replied, "Because kids are being forced

out of their classrooms." He added, "The sooner we deal with the strikes at DPS the better. It's important for those kids, because right now, the district is in free fall."

DPS tried to get a temporary restraining order to force the teachers to return to their jobs. On Jan. 25, Detroit Court of Claims Judge Cynthia Stephens refused to issue the order, but did schedule a preliminary hearing for Feb. 16 to look more deeply into the matter.

Senate Bill 713, sponsored by Pavlov, and Senate Bill 714, sponsored by Sen. David Robertson, R-Grand Blanc, would speed up the process under which teachers would face penalties for participating in a strike and possibly increase the likelihood that they would be penalized.

Senate Bill 715, sponsored by Sen. Joe Hune, R-Hamburg, says that if a district failed to deduct a fine from the salary of a teacher who had violated the law against teacher strikes, after it had been ordered by the state to do so, it would forfeit an amount equal to 5 percent of the total state school aid it was due.

Knezek did not return a phone call offering the opportunity to comment. However, Sen. Bert Johnson, D-Highland Park, said he opposes the teacher strike legislation.

"When you really look at it closely this legislation sort of goes against the

principle behind whistleblower laws," Johnson said. "These teachers have tried again and again to blow the whistle on the conditions in these schools. Now, out of sheer frustration, they are trying a different way of calling attention to what's really happening."

"I also think it's arrogant for legislators up here in Lansing to think they have any kind of understanding of what's really going on in the city of Detroit," Johnson continued. "Here are the Republicans coming forward with politically motivated legislation when what is really needed is to focus on the best ways to deliver services to the schoolchildren of Detroit. I don't know if we can stop this legislation, but we're going to do our best to try to stop it."

Even before the current sickouts in Detroit Public Schools, school employees have skipped work in defiance of the law, with actual punishment almost unheard of. In 2013, Walled Lake Schools had to close because of a bus driver sickout. In 2012, at least four districts closed due to protests over a right-to-work proposal under consideration in the Michigan Legislature. In 2011, West Bloomfield teachers skipped class over a contract dispute. ■

The original version of this story was posted online on Feb. 8, 2016 and is available at MichCapCon.com/22147.

20 YEARS

from Page Four

claimed tax credits for only 134 jobs in 2007 and 224 jobs 2008. No credits have been claimed since, most likely because the numbers had fallen below a threshold built into Google's deal with the state.

"The state rarely delivers on the jobs announced when the deals are inked," said James Hohman, the assistant

director of fiscal policy for the Mackinac Center for Public Policy. "Lawmakers should discuss eliminating the remaining programs instead of following Rothwell's call to expand them."

Chris Douglas, the chair of the Department of Economics at the University of Michigan-Flint, said a new business with a great idea should be able to raise funds in the private capital market without recourse to government favors.

"The fact that the business can't and has to get funding from MEGA suggests that the business isn't sustainable," Douglas said.

Douglas brought up the ABC-TV reality show Shark Tank, which features entrepreneurs who pitch their business ideas to potential investors, or "sharks."

"Suppose an investor pitches an idea to the sharks and after hearing the pitch, all the sharks pass. Afterward, the

government steps in and provides the funding. Would it really be a surprise if the business turned out to not to be sustainable after all and later failed?" Douglas said.

The MEDC didn't respond to emails seeking comment. ■

The original version of this story was posted online on Feb. 29, 2016 and is available at MichCapCon.com/22213.

PANHANDLERS

from Page Five

Rep. Vanessa Guerra, D-Saginaw, the ranking Democrat on the House Criminal Justice Committee, said there are several reasons for opposing House Bill 5103.

"I think there are a lot of problems with this legislation," Guerra said. "First, I think

there are existing laws on the books that could be applied to some these situations. Also, we already know the courts struck down the law against panhandling and there have been other federal court rulings against similar attempts to outlaw aggressive panhandling."

"I also have to question why we're pushing a bill like this one forward,"

Guerra continued. "Not only is it unlikely to be upheld by the courts; but even if it were, what we'd be doing is fining people who don't have money in the first place. When they couldn't pay their fine, we'd be putting them in the county jail at a cost to the taxpayers. There are a lot of more pressing things the Legislature ought to be doing right

now, like dealing with the (Detroit schools) crisis."

The House Criminal Justice Committee has held a hearing on the bill. No vote was taken. ■

The original version of this story was posted online on Feb. 16, 2016 and is available at MichCapCon.com/22165.

Marquette County Takes on EPA

BY JACK SPENCER

In the midst of an Upper Peninsula winter, the thoughts and hopes of many local officials and residents of the Marquette area are centered on Grand Rapids. That's where Judge Robert Holmes Bell of the United States District Court for the Western District of Michigan is presiding over the case known as Marquette County Road Commission v. United States Environmental Protection Agency.

On July 10, 2015, the road commission filed a lawsuit challenging the EPA's decision to block construction of a 21-mile-long county road (CR 595) that would shorten the route between the Eagle Mine and its ore processing facility at the Humboldt Mill.

According to Sen. Tom Casperson, R-Escanaba, the court proceedings have brought to light information obtained through the Freedom of Information Act revealing that the EPA never intended to give the project a fair hearing.

"What we've found out from the EPA FOIAs is consistent with what we know they told Sen. Barbara Boxer," Casperson said. (Boxer, a Democrat from California, was the chair of Environment and Public Works Committee of the U.S. Senate at the time in question.)

"They had clearly made up their minds ahead of time to block the road from

being built. The EPA knew they were going to reject the road project from the very beginning."

"What's worse, the EPA let everyone who supported putting the road through continue to diligently work out every minute detail, step by step, trying carefully to do everything they could to make sure the project was being done right," Casperson continued. "Just as they have done with their power and energy plans, the EPA had no respect for the process. It intended to dictate the result all along in pursuit of its politically motivated agenda."

Supporters of the project point out that County Road 595 would shorten the round trip between the mine and the mill by 78 miles. As a result, they say, it would divert nearly 100 commercial vehicles per day from local roads, including those near schools, reducing fuel consumption by more than 464,000 gallons each year.

Tony Retaski, a member of the International Brotherhood of Electrical Workers Union, said that he's with a group of local residents who are very supportive of going forward with the road.

"There are a lot of people who are in favor of constructing the road," Retaski said. "It's about the economy. There are about 200 jobs at stake. Without the road the only direct way to get there is by snowmobile or ATV."

Retaski was asked if he's concerned that the road would hurt the environment.

"Without the road a lot more fuel would get burned and that means more emissions going into the air," Retaski said. "You could build a house and someone could always say it has some negative impact on the environment. It's the same with a road."

The Michigan Legislature has given its bipartisan support to the Marquette County Road Commission in the dispute. Senate Resolution 9, sponsored by Casperson, and House Resolution 13, sponsored by Rep. John Kivela, D-Marquette, backed the road commission. Each resolution was passed by its respective chamber. Several federal officials from Michigan have also expressed their support for the road commission, including Rep. Dan Benishek, a Republican whose district includes the Upper Peninsula; Sen. Debbie Stabenow, a Democrat; and retired Sen. Carl Levin, a Democrat.

Casperson's mention of a communication from the EPA to Boxer draws on a Nov. 28, 2012 letter from Marquette area environmental activist Laura Farwell to Lynn Abramson, then a senior legislative assistant for Boxer, and Thomas Fox, the senior counsel of the Senate Environment and Public Works Committee, asking them to weigh in on the issue. Farwell's letter mentions a meeting on Aug. 30, 2011, at

which Denise Keehner of EPA's Office of Wetlands, Oceans and Watersheds definitively reiterated EPA's position and stated that the haul road [CR 595] would not happen. ■

The original version of this story was posted online on Feb. 10, 2016 and is available at MichCapCon.com/22153.



SPEED TRAP EMPIRE STRIKES BACK AT REFORM EFFORT

BY ANNE SCHIEBER

A package of bills designed in part to eliminate speed traps was reported out of the House Transportation Committee lacking a provision that would have restricted local governments from imposing unreasonably low speed limits.

One of the bills would have required limits to be set no lower than the speed at which 75 percent of drivers proceed in free-flowing traffic under normal conditions. The deletion of that requirement will let municipalities like Grand Rapids continue to enforce limits that studies show are exceeded by 97 percent of drivers.

Speeding tickets are a multimillion-dollar revenue stream for governments and a windfall for auto insurers, which

charge higher premiums for license points. Drivers who get more than six points on a license within three years – equal to three speeding tickets — can find themselves in a more expensive insurance risk pool.

The accepted traffic-engineering standard for speed limits is the 85th percentile, the speed not exceeded by 85 percent of the drivers. The original bill, HB 4425, mandated that all speed

limits be set at that level, but no lower than the 75th percentile. Studies have shown that when limits are set to reflect actual driving speeds, they can make the road safer by eliminating "speed variation," which can lead to traffic conflicts and more crashes.

James Walker of the National Motorists Association says the original bill had

The most significant change would be to allow higher speed limits. They could go to 80 mph on rural limited access freeways, 70 mph in urban areas and 65 mph on trunk line highways.

it right. He told a House committee, "I believe that unrealistically low limits like those which define the overwhelming majority of safe drivers as violators bear no relationship whatsoever to responsible traffic safety engineering." He continued, "I believe these, irresponsible practices will continue until the Legislature requires realistic posted speed limits by law."

Walker, who has been studying speed limits for over 50 years, pointed to Grand

Rapids, where he conducted seven studies of 1,193 vehicles. Only 38 of the drivers of those vehicles, or 3 percent, were driving the posted limit.

A spokesman for the city said that raising speed limits can create problems. "Higher speeds do exponentially increase force in vehicle crashes," said Steve Guitar, communications director for the city of Grand Rapids. "They can also negatively impact the quality of life in neighborhoods causing safety risks to children and families living in school zones, near parks, in business districts and throughout the city's urban neighborhoods. Grand Rapids has dense housing structured among narrow tree-lined streets. Raising speeds in those areas, in our and our residents' opinion, does impact the quality of life (sound, bicycle and pedestrian safety) of a neighborhood."



HORROR STORIES

from Page One

House Bill 5232 and Senate Bill 720 would make it so two-thirds of property owners would have to approve a move to create a historic district; the majority of voters in that community would have to approve the restrictions imposed by the district. The bills would also limit historic districts to 10 years before having to be renewed by another vote.

“Our bill to modernize a law written 45 years ago strikes the right balance between protecting private property owners’ rights and historic preservation,” said Rep. Chris Afendoulis, R-Grand Rapids Township, in a press release. “This will help many communities maintain their historic identity while ensuring private property owners have a greater voice.”

Historic districts generally receive positive coverage in local media.

Take, for example, the first few paragraphs in a recent article in the Ann Arbor News about historic districts. It reported:

With roughly 1,800 properties included in 14 historic districts, it’s no secret Ann Arbor takes historic preservation seriously.

Those designations over the years have protected the integrity and charm of some of the city’s oldest neighborhoods from the Old West Side to the Old Fourth Ward, where blocks of original homes from the 1800s and early 1900s remain intact.

They’ve also helped maintain some of the original character of many parts of the downtown, including the Main Street area.

The Detroit Free Press also chimed in on the legislation to reform historic districts.

Staff writer John Gallagher wrote: “It’s true that over the years we’ve heard some low-level complaints about how tough local historic boards can be in protecting the integrity of their districts. But this proposed legislation goes way too far in trying to correct a so-called problem that is hardly a problem at all.”

But there is another side to historic districts that involves a potential infringement on property owner rights.

In 2008, the city of Ann Arbor’s historic district denied a homeowner’s request to replace three windows. The homeowner said the windows were severely deteriorated and wanted to replace them with wood windows that

replicated the existing ones.

In the letter explaining the denial, Jill Thacher, the city planner and historic preservation coordinator, described what needed to be done: “Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.”

Homeowner Heather O’Neal wrote in a 2008 letter to the state’s historic preservation review board: “Decisions like this diminish the desire of people to live in the neighborhood and discourage them from buying and/or maintaining property in historic districts.”

In 2008, a homeowner reported having 108-year-old windows “beyond reasonable repair.” The windows didn’t line up and wouldn’t lock, according to the homeowner.

In a letter to the state, the homeowner said one of the city’s historic district commissioners came to the house to look at the window and stated that they “weren’t that bad.”

The commission denied the request to replace the window.

Prudence Spink, the homeowner, told the state in her appeal that many other buildings in the neighborhood had replacement windows similar to what she wanted to install.

The homeowner feared she could be in Catch 22 situation: “unable to comply with the housing code with respect to windows by complying with the mandate of the historical commission to keep the old, deteriorated windows.”

In 2007, the city’s historic district commission demanded that a homeowner remove vinyl replacement windows he had already installed. The windows he removed were not the original windows, according to the homeowner, and were a safety risk to the people who occupied the house because they were too small to provide an escape.

Ann Arbor Mayor Chris Taylor didn’t respond to an email seeking comment for this story. ■

The original version of this story was posted online on Feb. 15, 2016 and is available at MichCapCon.com/22159.

GOV. SNYDER RELEASES 21,730 FLINT DOCUMENTS, NO CHARGE; CITY WANTS \$172,000

BY TOM GANTERT

After receiving a great deal of media attention, Gov. Rick Snyder’s office has released 21,730 pages of documents related to the Flint water issue, many of them emails, at no charge. But media outlets that want to examine documents from the city of Flint or its water department should be prepared to pay up.

The Flint water crisis has sparked a national debate on municipal water treatment and triggered deep concerns among residents about their own health and their children’s. With all that in play, the clear demand and need for transparency has trumped the usual devices that government officials use to frustrate requests for documents under open records laws.

Demanding sky-high fees for certain records searches is one technique; officials know that placing price tag high enough is equivalent to making information unattainable.

The city of Flint provides an example. The Mackinac Center for Public Policy submitted a request under Michigan’s Freedom of Information Act for emails from about 120 water and utility department employees in which the word “lead” appeared, covering the period from January 2014 to January 2015.

Flint’s responded by saying there was a \$172,203 price tag for the public records, based on an assertion that the computer search would take 4,917 hours to complete.

“The city is not in a financial position to waive the cost of staff time required to assemble responses to FOIAs,” said David B. Roth, assistant city attorney, in a letter explaining the charge.

Roth acknowledged the high cost to complete the FOIA request, which he attributed to the broad nature of the Mackinac Center’s request.

“We would be happy to work with you to narrow your request and find the documentation and information which will be responsive to your request,” Roth wrote.

The Mackinac Center’s request was broad, but the public interest is served by knowing what city employees knew about the water system contamination. The contamination is likely the largest public health crisis in this state since chemicals called PBBs contaminated Michigan dairy products in the 1970s.

“Everyone recognizes this story is important — and Flint is going to have to do this for free in response to lawsuits anyway,” said Patrick Wright, the senior legal counsel for the Mackinac Center for Public Policy. “Why would they seek to charge \$170,000 for it?” ■

The original version of this story was posted online on Mar. 8, 2016 and is available at MichCapCon.com/22227.



Detroit Classrooms Are Not Overcrowded

Average class is 22 students

BY TOM GANTERT

The Detroit Public Schools teacher sickouts have received national media attention for the poor conditions in which teachers say they must work. However, the claims of overcrowding in the classrooms appear to be baseless, according to class size information received from the school district under a Freedom of Information Act request.

Media reports have parents, teachers and union officials claiming classes of more than 40 students are common.

But the average, or mean, classroom size in Detroit Public Schools is 22.45 students, with the median class size at 24. The records cover 11,588 individual classes at the start of the 2015-16 school year. Of these, 562 classes



— including gym classes — have 40 or more students. That's just 4.8 percent of all classes.

By comparison, Saginaw Public School District has an average class size of 21.28 students and a median of 23. Saginaw's data was also provided in response to a Freedom of Information Act request.

"This is another myth that has been shattered," said Gary Naeyaert, the executive director of the Great Lakes Education

Project. "The class sizes are within the range of normal and what we would expect from any school system."

The largest class in DPS was 92 students. That was a math class at Carstens Elementary-Middle School. Classes that large often are assigned multiple teachers.

Detroit Federation of Teachers administrator Ann Mitchell told ABC News teachers were upset about "bulging" classrooms.

In January, students at DPS' Cass Tech High School walked out in support of teachers who skipped school, according to CBS Detroit. The students claimed there that were too many students in classrooms. A news report quoted a parent as saying the classes had too many students.

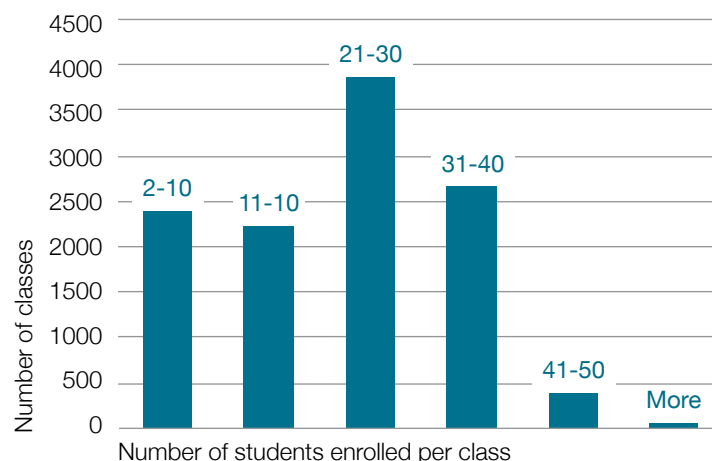
Cass Tech has an average class size of 28.83 students and a median size of 33 students. The only classes at Cass Tech with 50 students or more are in gym, marching band or classes for team sports.

Officials with the Detroit Federation of Teachers didn't

return emails seeking comment. The Detroit Public Schools also didn't comment. ■

The original version of this story was posted online on Feb. 9, 2016 and is available at MichCapCon.com/22150.

Classroom Size in Detroit Public Schools



Source: Detroit Public Schools

Right-to-Work States Enjoying Faster Job Growth

JASON HART

Establishing a right-to-work law, by which employees in unionized workplaces can opt out of paying union fees without being fired, has become a familiar topic in state legislatures in recent years. With West Virginia legislators passing nine right-to-work laws in February and similar laws under serious discussion in Kentucky, Missouri, and elsewhere, a question arises: What is the effect of right-to-work on the creation of new jobs?

From January 1995 through October 2015, the seven states with the highest private sector job growth were all right-to-work.

- Nevada: 66.4%
- North Dakota: 65.0%
- Utah: 59.8%
- Arizona: 54.6%
- Texas: 54.1%
- Idaho: 49.9%
- Florida: 42.2%

During the same period, four of the seven states with the lowest private sector job growth were forced unionization states.

- Michigan: 2.9%
- Mississippi: 3.2%
- Ohio: 5.6%
- Illinois: 7.2%
- Connecticut: 8.9%
- Alabama: 9.0%
- West Virginia: 9.2%

Ohio, Illinois, Connecticut, and West Virginia are all forced-unionization states, as was Michigan until March 2013.

Since Michigan's right-to-work law took effect, its job growth ranks 16th of the 50 states.

Before the recent spate of right-to-work laws — Indiana became a right-to-work state in 2012 and Wisconsin adopted right-to-work in 2015 — the last state to implement right-to-work was Oklahoma in September 2001.

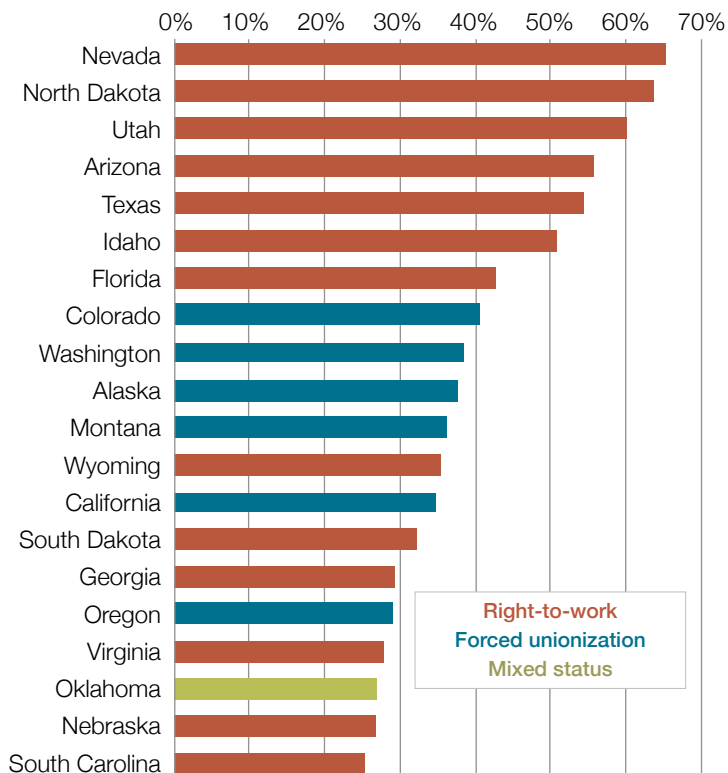
Oklahoma's private sector job growth from September 2001 to October 2015 ranked 23rd of the 50 states, and Indiana's job growth ranks 21st since Indiana's right-to-work law took effect in March 2012.

Based on the most recent numbers from the U.S. Bureau of Labor Statistics, the four states with the fastest private sector job growth during the first 10 months of 2015 were Idaho, Nevada, Utah, and Florida, all with a right-to-work law.

Although letting workers choose whether to pay unions is just one policy in a long list of variables affecting job creation, right-to-work states continue to top the charts for private sector job growth. ■

The original version of this story was posted online on Feb. 4, 2016 and is available at MichCapCon.com/22138.

Top 20 States in Private-Sector Job Growth Jan. 1995 - Nov. 2015



The full chart featuring all 50 states can be found at MichCapCon.com/22138.

Source: Bureau of Labor Statistics

TEACHERS PAY

from Page One

what school districts pay their teachers, in a report called “Bulletin 1014.” The data is fairly reliable, but errors do creep in.

The Michigan Department of Education reiterated an earlier statement that each year it asks school districts to verify that the information in the database is accurate before it is published. Still, sometimes the numbers don’t add up.

According to the MDE annual report, DeTour Area Schools has the state’s highest average teacher salary at \$89,373, which is not accurate. Superintendent Angela Reed explained that the rural Upper Peninsula district has an arrangement with a charter school called the DeTour Arts and Technology Academy. The charter school teachers are considered employees of the DeTour school district, while the school district’s teacher positions are divided between the two separate entities. The MDE

report shows the average salary at the DeTour charter school is \$0 per year.

If the DeTour figures were correct, that would make Farmington’s average teacher salary of \$83,903 the state’s second-highest in 2014-15, and DeTour the highest. The top-of-the-scale salary in the Farmington district’s union contract is \$107,000 a year. ■

The original version of this story was posted online on March 2, 2016 and is available at MichCapCon.com/22217.

STRIKES BACK

from Page Nine

Asked if the city considered all drivers who exceed the city’s posted limits to be unsafe drivers, Guitar said, “As stated in our release, we set limits based on Michigan Vehicle Code, MCL 257.627.” He continued, “Our speeds are determined following that text so that ‘a person operating a vehicle on a highway shall operate that vehicle at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other condition then existing.’”

The sponsor of two of the five reform bills, Rep. Bradford Jacobsen (R-Oxford), said lawmakers eliminated the 75th-percentile minimum because the Michigan Department of Transportation and the Michigan State Police wanted more flexibility in setting limits.

“We get criticism for some of the things we do at the schools because we’re not

school experts, telling teachers what to do; same thing here,” said Jacobsen.

Jacobsen said he is aware of speed enforcement practices like those in Grand Rapids but doesn’t think they are problems on the east side of the state. He also said it was important to recognize local authority.

“We, in the Legislature, try to listen and cooperate with our township associations and the Michigan Municipal League as much as possible, and many of us have local government background and experience,” said Jacobsen.

There were other changes in the bills. An earlier version said that the normal speed limit could not be reduced by more than 10 mph in a construction zone. The substitute bill allows for 45 mph limits where workers are present.

Lawmakers did retain other provisions, however. The most significant change would be to allow higher speed limits. They could go to 80 mph on rural limited access freeways, 70 mph in urban areas and 65 mph on trunk line highways.

The bills also retain a provision clarifying limits on a 25 mph speed limit allowed for residential subdivisions. This may eliminate the practice by some municipalities to designate any street as being in that category. The bills also allow Oakland and Macomb counties to set lower limits on gravel roads, a source of controversy there since a 2006 law established a uniformly higher statewide limit.

The insurance companies were able to get some leverage on HB 4427, which clarifies insurance eligibility points, which can lead to higher insurance bills for drivers. The original bill called for zero points for exceeding the speed limit by less than six miles per hour. The substitute bill allows auto insurers to add one point.

Jacobsen hopes the package of bills to go to the full House soon. He said there has been fear-mongering on social media against raising speed limits. ■

The original version of this story was posted online on Feb. 11, 2016 and is available at MichCapCon.com/22154.

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Michigan Worker's Compensation Reforms Have Succeeded

BY GERALD M.
MARCINKOSKI

Gov. Rick Snyder signed a workers' compensation reform bill over four years ago and the real world results of that legislation are now in, and they are very positive. As the Detroit Free Press recently reported, premiums for workers' compensation fell by 28 percent since 2011, while the national average rose by 11 percent. This is good news for a state competing with others for investment and jobs.

Michigan's 2011 workers' compensation reform was both substantive and procedural. Most of the substantive changes were codifications of Michigan Supreme Court case law over the

preceding decade. The procedural changes were largely efforts to streamline and modernize the 104-year-old workers' compensation statute.

There was a real need for substantive changes in the statute, because the meanings of fundamental concepts of the law were in constant flux, being based on ever-changing case law interpretations. For example, "disability" once meant the inability to do any one suitable job, based on an employee's qualifications and training. Later, the term was limited and changed to mean the inability to do all suitable jobs. Similarly, for many years, a "personal injury" included an aggravation

The Legislature's modernization and streamlining of the system has greatly improved its overall functionality.

of just the symptoms of a pre-existing condition, whereas later, "personal injury" required aggravation of the underlying pre-existing condition itself.

While all areas of law can be tweaked via case law, Michigan workers' compensation law experienced 180-degree turnarounds in central concepts. This careening from one interpretation to another created

instability, and parties and attorneys found it increasingly difficult to assess claims and predict their outcomes. Fortunately, the Michigan Legislature in 2011 ended the back-and-forth interpretations of key terms by placing directly into the statute certain interpretations borrowed from particular court cases. This brought much-needed stability and consistency to Michigan's workers' compensation system, and ended decades of debates over the meaning of terms such as "disability," "partial disability," "personal injury," and "wage loss."

On the procedural side of the reforms, some of the previous statute's provisions were out of step with modernity, not

surprising given the law was originally enacted in 1912. The Legislature of a century ago could not have envisioned medical developments such as artificial knee and hip replacements. Consequently, there was a need to modernize the statute to reflect how medical progress has empowered some people to continue earning a living, whereas decades ago they would have been physically unable to work. Another change that had to be made to the law involves the interest rate used to make payments to people whose benefits were paid retroactively. When the Legislature changed the law in the 1980s, a 10

See "Compensation," Page 14

FORtheRECORD

State Will Collect \$725 Million More Next Year

The formal revenue estimate crafted by the state's official number crunchers suggests that Michigan's state government will be raking in more tax dollars next year.

Two of the state's largest funds into which tax revenues flow are projected to increase by a combined \$725 million next year.

The increases to the state's General Fund and School Aid Fund are due entirely to economic growth over the past year, not higher rates for the taxes directed their way. (Importantly, those funds do not get money from fuel and vehicle registration taxes, which were increased last year.)

The General Fund's revenue is expected to increase from \$9.8 billion this year to \$10.2 billion in fiscal year beginning Oct. 1, 2016. The School Aid Fund is projected to increase from \$12.1 billion to \$12.5 billion.

The estimates are the product of a revenue estimating conference held in January and form the basis of Gov. Snyder's Executive Budget. They represent the consensus of experts from the House and Senate fiscal agencies and the Michigan Treasury Department.

Karl Marx the Most Assigned Text at Michigan Colleges

According to the Open Syllabus Project, a database of over 1 million college course outlines from the past decade, Karl Marx's "The Communist Manifesto" is the most frequently assigned book on Michigan college campuses.

The book appears in the syllabi of 90 Michigan college courses, nine more than "Frankenstein," by Mary Shelley. One book is about a grotesque experiment thrust upon the world with tragic consequences, and the other is the classic novel "Frankenstein."

The Open Syllabus Project is not fully comprehensive. It notes, "Our matching algorithms also have some difficulty with short titles based on commonly-used words, and more so when these lack an author. This affects a very small number of works, but some significant ones like 'The Bible' and 'The Constitution'."

The book (Marx not Shelley) calls for the "abolition of individuality and freedom" and an end to the capitalist system, and can be purchased on the website www.MarxistBooks.com.

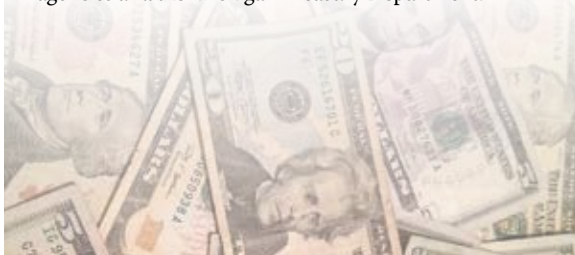
There is No Teacher Shortage

In a recent New Yorker feature titled "Stop Humiliating Teachers," author David Denby wrote: "We have been in such a panic for more than a decade, during which time the attacks on public-school teachers have been particularly virulent. They are lazy, mediocre, tenaciously clinging to tenure in order to receive their lavish pay of thirty-six thousand dollars a year (that's the national-average starting salary, according to the National Education Association)."

This paints a false picture of teacher compensation.

The New Yorker story attempts to make its point by posting a figure for starting pay only, which creates an inaccurate impression. While the author sneers at paying inexperienced new hires \$36,000 ("lavish pay"), he fails to disclose that the average salary for a New York public schoolteacher is more than twice that amount: \$76,409 as of the 2013-14 school year.

In Michigan, the average teacher was paid \$61,979 a year in 2014-15 according to the Michigan Department of Education.



Grand Rapids: Michigan's Boomtown

BY JAMES M. HOHMAN

Michigan's economy performed poorly during the 2000s, only to be hit hard by the recession near the end of the decade. While growth in the current decade has been tepid in Southeast Michigan, the Grand Rapids area is a boomtown. The region fully recovered from the recession and has grown beyond its peak in 2000.

There are more people employed in the area — composed of Kent, Barry, Montcalm and Ottawa counties — and those workers are both producing and earning more. There are 542,600 jobs in the area, 19.8 percent more than its 2009 recessionary trough and 4 percent more than its 2000 peak. Per capita personal incomes increased 13.5 percent in the recovery and are 5.3 percent above 2000 levels, adjusted for inflation. The value of goods and services produced the area rose 21.5 percent from the recessionary trough and 16.2 percent from 2001 (metropolitan GDP information doesn't go back to 2000).

Regional employment growth in this recovery was roughly double the national average, and per capita personal income growth was more than double the national average.

The Grand Rapids area unemployment rate is currently 2.8 percent, even as the

size of labor force increased. There are roughly 67,000 more people either with a job or looking for a job compared to in 2009, a 13.6 percent gain in labor force participation.

The area's economic improvement goes across sectors and does not appear to be the result of just one industry taking off. The rest of the state is going through the same trends, but just not as strong.

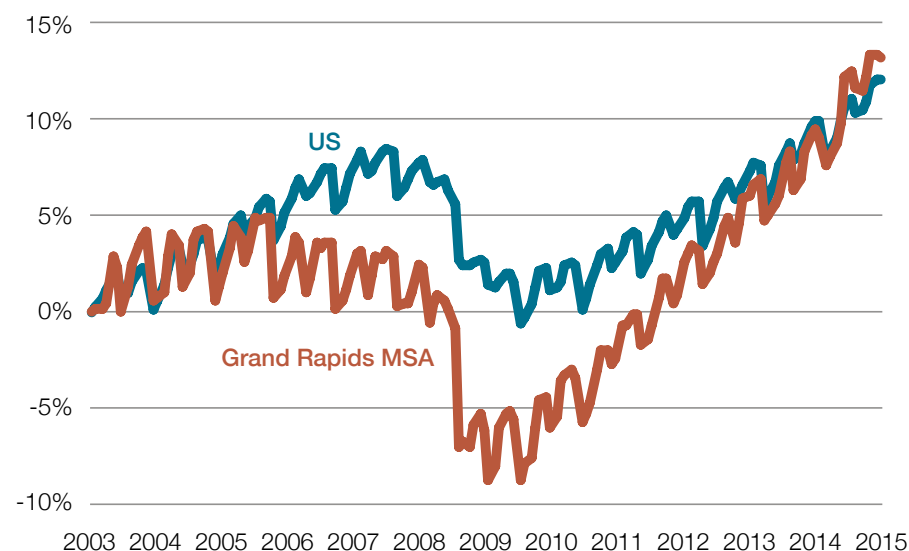
Health industries kept growing and have been immune to recessionary pressures. There are now 60.8 percent more jobs in this sector in the Grand Rapids area than in 2000. The rest of the state added 26.5 percent health industry jobs.

The professional and business sectors in Grand Rapids are up 22 percent over their 2000 peaks, but just 1 percent higher in the rest of the state.

Manufacturing jobs recovered but there are still fewer factory jobs than there were in 2000. The area's iconic furniture manufacturing industry reports some growth, but employment in this area remains below its 2009 levels. Auto and auto parts manufacturing are also recovering but not back to 2000 levels.

Michigan improved its business climate over the past five years with business tax

US and Grand Rapids Area Nonfarm Payroll Growth



Source: Bureau of Labor Statistics

and labor reforms and there are economic gains across the state. But by themselves, improvements to state policy do not explain why one region is growing faster than others.

Jody Vanderwel of the Grand Angels — an investor group in the area — suggests that a culture of entrepreneurship coupled with a collaborative community of investors has been a driver. Unfortunately,

that is a difficult thing to measure and test to validate as an explanation.

Regardless of the exact causes, it is encouraging to see one region booming, and a hopeful sign that others in Michigan may follow. ■

The original version of this story was posted online on Feb. 24, 2016 and is available at MichCapCon.com/22205.



COMPENSATION

from Page Thirteen

percent annual rate made sense, but that hardly reflects the interest rate market of the last decade. The most recent reforms adjusted the rate to do that.

There were several other changes to the law that improved how Michigan's workers' compensation program works. Attorneys can now sign subpoenas and parties may waive settlement hearings, which expedites the legal process and frees up legal resources for more substantive matters. And finally, certain forms and documents may now be filed and distributed electronically, improving the system's overall efficiency.

The 2011 workers' compensation reform bill has proved to be the necessary fix. It has stopped vacillations on perennially controversial points of law. Arguments stretching over decades about what fundamental concepts mean have finally been settled. And the Legislature's modernization and streamlining of the system has greatly improved its overall functionality. Michigan now has a solid, well-defined modern scheme for workers' compensation, which better serves both the interests of employers and of their employees. ■

The original version of this story was posted online on Feb. 8, 2016 and is available at MichCapCon.com/22169.



CON Law Restricts Patient Access to Critical Health Care Services

BY KAHRYN RILEY

New research from the Virginia-based Mercatus Center indicates that schemes to ration health care services through certificate-of-need requirements — such as those imposed in Michigan — increase the difficulty of getting access to health care services while doing nothing to reduce their costs.

A CON law restricts the ability of health care providers to expand or open new facilities, or to acquire powerful diagnostic tools. Providers must first get permission from a government commission. Some members of that commission may represent the incumbent facilities against which the new entrant would like to compete.

CON laws supposedly help keep medical costs low by avoiding overinvestment in facilities and expensive technologies. A second rationale offered in their defense is that they help the poor by requiring providers to provide charity care as a condition of obtaining the required approval.



Among other restrictions, Michigan's law requires existing or would-be providers to get permission for new or even replacement imaging equipment used to take CT, MRI, or PET images. The multistep CON process requires applicants file a letter of intent, an application, plus additional requested information and then wait 45 to 150 days, depending on the type of review. They must also pay fees that range from \$3,000 to \$15,000, based on the cost of the project.

The Mercatus research found that CON laws negatively affect independent providers of imaging services. These businesses may be kept out of the imaging market by having their application denied, or because they assume this will happen and don't bother to apply in the first place.

Hospitals, meanwhile, have several advantages over their would-be competitors in obtaining the required certificates. Not surprisingly, when CON laws exist, hospitals dominate the market for imaging services. They

are more politically popular than independent providers and can absorb application costs more easily, making it possible for them to acquire enough equipment to perform as many scans as hospitals in states without CON laws. Hospital associations also have the financial resources to mount lengthy legal challenges to keep anti-competitive regulation in place.

CON laws play no positive role in public health or health care provider quality. They also don't help the poor, because while providers who get the required permissions are supposed to increase charity care, the logic of cross-subsidization is ineffective at making them do so. The law is effective at one thing, though, and that is shrinking the pool of services available to all Michigan residents.

Congress repealed federal CON laws in 1987, after which many states rolled back their own versions. The Federal Trade Commission has since issued

official statements calling for the repeal of all state CON laws. The commission says that they prevent efficiently functioning health care markets and can harm consumers by posing barriers to expanding the supply of providers. As a result, they put limits on consumer choice and inhibit innovation.

Michigan's Legislature should repeal the CON scheme altogether. If the Mercatus report does not lead to its abolition, at the least it shows that the scheme does not live up to its own logic.

In a state that would like to see its health care services sector become a magnet for consumers in other states and nations, it makes much more sense to allow the forces of supply and demand to optimize the availability of health care tools, services and innovations for all of us. ■

The original version of this story was posted online on Jan. 15, 2016 and is available at MichCapCon.com/22081.

School District Used Second-Graders to Urge Tax Vote

BY TOM GANTERT

In 2014, the West Bloomfield School District was pressing to have two operating millages renewed. As part of the campaign, the district gave a writing assignment to 700 children in grades two through five: Write letters encouraging residents to vote, which the district would use in a pre-election mailing.

According to the school district, the fifth-graders were told to write longer letters encouraging a vote, and warned to avoid the terms "vote for" or "vote against" in their text. Doing so would be considered "express advocacy," which at the time was the only legal restriction on taxpayer-funded electioneering by public schools and local governments.

The district even provided the fifth-graders with an employee,

a media specialist, who drafted suggested language, and who was present while the children wrote their letters. The process took 30 minutes for each fifth-grade class and generated 175 letters. The letters were sent about a week before the Feb. 25 vote, attached to a form styled as an invitation to an upcoming school event — and a reminder from the district to vote.

Not all the kids got that legal point about avoiding express advocacy in their texts. At least one letter went out that included the forbidden "vote for" language. It read, "Please remember to vote on February 25th for the school millage renewal."

This caused one resident to file a complaint with the Secretary of State. What followed illustrates why critics believe the previous law was ineffective at limiting taxpayer-funded electioneering.

A new law passed late last year now prohibits schools and local governments from referencing an upcoming bond or millage election in any taxpayer-funded communication within 60 days of the vote. It is the subject of intense legislative lobbying by government entities and officials who want the new law repealed.

An investigation by the Secretary of State, begun before the new law was enacted, found there was reason to believe the West Bloomfield School District had committed a violation, a finding which required the district to respond. In one response, West Bloomfield Superintendent Gerald Hill laid out the details described above.

Bill Mull, the district's assistant superintendent for business, also responded. He reported that no two letters written by the children were the same, and the

district's sample letter did not include the "vote for" language. However, a copy of that sample letter was not included in the district's response to the state. The district also reported that it did not keep copies of the children's letters.

Other details in the school officials' responses were unclear or contradictory. Mull said only fifth-graders wrote the long-form letters used in the mailing. His response included a letter written by an "underclassmen" (a second-, third- or fourth-grader) that was 10 words long, with a few of the handwritten words indecipherable. However, the student who wrote the longer letter that triggered the complaint identified himself as a fourth-grader.

The school district admitted no wrongdoing in the incident and no violation of state election law.

It claimed the letter containing the illegal express-advocacy words was merely an oversight.

Fred Woodhams, a spokesman for the Secretary of State, said that by law, the state must first seek an informal resolution to such complaints. If this is not possible, the agency may then refer the matter for criminal prosecution or conduct an administrative hearing to seek a civil fine.

Although the district admitted no wrongdoing, it promised to not use public resources in the future to advance a political campaign.

The case was then considered resolved. The renewal millages passed. ■

The original version of this story was posted online on Feb. 3, 2016 and is available at MichCapCon.com/22127.

IT'S JUST A BILL

Michigan✓**votes.org**

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

House Bill 5105

Extend Medicaid health insurance claims tax

Introduced by Rep. Al Pscholka (R)

To extend until 2020 the 2017 sunset on a 0.75 percent tax on health insurance claims, which is designed to game the federal Medicaid program in ways that result in higher federal payments to Michigan's medical welfare establishment.

House Bill 5219

Permit local tax hike electioneering if "reasonable"

Introduced by Rep. Lisa Lyons (R)

To repeal the prohibition established by a 2015 law on governments and school district communications referencing their own property tax hike or other ballot measures in a taxpayer-funded communication during the 60 days before the election. The bill instead would permit mailings and other communications with "factual and neutral information concerning the purpose or direct impact" of a proposal as long as a judge or state elections bureau official has not decreed that the language can be "reasonably be interpreted as an attempt to influence the outcome."

Senate Bill 56

Raise and index judges' pay

Introduced by Sen. Rick Jones (R)

To increase judges' salaries by to increases in the salaries paid to executive level state civil service employees going forward. After the change, salaries would range from around \$150,000 to \$163,000, depending on the level of court.

House Bill 4651

Increase penalty for operating a motorcycle without license

Introduced by Rep. Julie Plawecki (D)

To increase the fine for operating a motorcycle without a motorcycle endorsement on the operator's driver's license from a \$100 to a \$500 fine. The bill would retain the current misdemeanor penalty of up to 90 days in jail for a first offense, and add a new penalty of up to a year for subsequent offenses.

Senate Bill 136

Rebate Flint water bills

Introduced by Sen. Dave Hildenbrand (R)

To appropriate \$30 million from state revenue (not federal) to provide water bill refunds to Flint households that were paying for contaminated water.

Senate Bill 302

Impose ban on nude entertainment in bars

Introduced by Sen. Rick Jones (R)

To ban fully nude performers at topless bars, or bars showing videos that depict this. This relates to a 2007 federal appeals court ruling that struck down Michigan's previous law banning fully nude performers in bars, holding it was a violation of the First Amendment. The bill would specifically ban a performance that "exposes to public view the pubic region, anus, or genitals."

House Bill 5070

"Push back" against Obama NLRB franchise unionization rule

Introduced by Rep. Eric Leutheuser (R)

To establish that under state occupational safety and health regulations, the actual owner of a business franchise rather than the franchisor is considered the sole employer of the local company's workers. This is part of a package of bills responding to a 2015 action by National Labor Relations Board appointees to make it easier to unionize fast-food franchises by declaring the franchisor is the employer.