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Debate Heated On Ending Police Keeping Seized Property With No Conviction

In Michigan, more than 500 people lost property in 2016 with no criminal charges

BY EVAN CARTER

State legislators are getting strong reactions on both sides over a bill to require prosecutors and police to get a conviction before they can keep money and property seized in connection with an

alleged crime. Under current law, people can lose their property even if they are never prosecuted.

The House Judiciary Committee recently held a hearing to consider House Bill 4158, which may be the first bill in a broader

package aimed at reforming Michigan's civil asset forfeiture law.

Civil asset forfeiture means transferring ownership of assets seized by police — typically, cash and vehicles — from citizens to the government, including the

law enforcement agencies that execute the seizures.

In Michigan, a person does not have to be convicted, prosecuted, or even charged for civil asset forfeiture to take place. It is

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Detroit Tax Officials Eye Blake Griffin's \$171M Salary

Of Michigan's 100 Best Public Elementary And Middle Schools, 30 Are Charters

BY TOM GANTERT

Some of the top-ranked public schools in the state would be shut down if one of the candidates running to be Michigan's next governor gets his way.

Shri Thanedar is one of four individuals seeking to be the Democratic Party candidate for governor. Thanedar made news recently

when he stated on Twitter and at a town hall in Ann Arbor that he would shut down for-profit charter schools, according to Bridge Magazine.

"Shri believes in all public schools — including traditional and nonprofit charters," said Rachel Felice, spokesman for Thanedar. "However, he will use every tool at his disposal to remove the

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Michigan Jails' 'Pay-To-Stay' Jail Fees Stir Controversy

BY TOM GANTERT

"Pay-to-stay" is little known practice of county jails throughout Michigan. Jails can charge inmates from \$20 to \$60 per day (the maximum under state law), which can leave an individual with thousands of dollars of debt upon release.

For example, in Jackson County, the average inmate spends 120 days in jail, according to

county data. An inmate is charged \$32 per day, which means the average inmate racks up a bill of \$3,840.

John Cooper, policy director for the Citizens Alliance on Prisons and Public Spending, said that fees can make it difficult for inmates to make a successful return to society. Cooper

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LETTER FROM THE EXECUTIVE VICE PRESIDENT

The Next Governor's Vision

MICHAEL J. REITZ

Editor's note: This article was first published in the March/April issue of IMPACT Magazine.

Michigan voters will select a new governor this year. The campaigns are well underway, though most people will not tune in until autumn.

Many factors can define a governor's race: the candidates' stories, the mood of voters, a repudiation of the outgoing administration.

So far, the candidates are easing into the political rhythm. Each will pursue routine political activities: Each will attend fundraising events, seek endorsements and test campaign slogans.

Each candidate will pledge support of predictable issues: jobs, a good education system, strong families and relief from the opioid crisis.

We can anticipate some themes. National politics will intrude in the race and every candidate will explain how he or she aligns (or not) with President Trump. Ghosts of governors past will be summoned. Republican candidates will attack Gov. Jennifer Granholm's record while the Democrats will recount their every grievance against Gov. Rick Snyder. These comparisons are inevitable, and incomplete. This race should be more than party affiliation or labels or slogans.

I think voters are ready for a different conversation. Voters do not want to be pandered to, but spoken to as intelligent individuals who built businesses, raised families and brought the economy back through hard work.

I hope Michigan's 2018 gubernatorial election will focus on ideas. Ideas will best distinguish each person running and will give voters a sense of what the state's political leaders think is possible. The candidate who articulates a big vision will capture the imagination of voters.

Our candidates could candidly assess the challenges facing the state in the coming years. We were in a survival mode for some years and when you're in that spot, all you

can think about is ending the crisis. Michigan is now on a promising path of recovery and the decisions of the next governor will influence that trajectory. With the state's economy starting to hum, we have something to build on.

A visionary candidate could explain the crossroads we face. Where do we want to go? How will we do it? Who will we imitate? Here's one example. Digital technology is disrupting every sector of life, from transportation to entertainment to retail. How might technology disrupt education? Will we continue investing in an educational model designed for the Industrial Age or is it time to reimagine how we educate both children and adults? What will education look like a generation from now, and are we preparing for that future?

I hope candidates will explain what they will do as governor, and what they will not do. Such an argument would illuminate their beliefs about the roles and limitations of government.

All policy changes move through a political process, and politics is incremental, which is why political leaders usually offer incremental ideas. Here's an idea for the debates: Each candidate must explain his or her best idea for promoting opportunity and prosperity for all people, with this proviso: The idea must be admittedly outside the window of political possibility.

The ideas that will save the state, and the country, are anything but incremental. ■



Michael J. Reitz,
Executive Vice President

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Michigan's Long 'Bad Driver Tax' Nightmare Will Finally End

A revenue-grab from the state's lost decade left a trail of social costs and broken lives

BY JACK MCHUGH

In 2003, as Michigan was accelerating into what would later be dubbed an economic “lost decade” and tax collections were in decline, legislators were desperate to avoid hard decisions on necessary spending cuts. It was a time of accounting gimmicks and fund shifts, but as one pundit put it, “They’ve turned over all the couch cushions and there’s no more change left to find.”

One of the most unfortunate consequences of the revenue scramble was a new law that imposed “driver responsibility fees” of up to \$2,000 for individuals responsible for certain serious or multiple traffic violations. Supporters gave lip service to the notion that this was about traffic safety, but everyone knew it was really a revenue grab.

At the time many predicted the “bad driver tax” burdens would fall most heavily on those at the lower end of the income spectrum, and that the state would never collect the \$65 million in annual revenue the measure was projected to extract. Both predictions came true as a House committee heard last fall in testimony on a bill to terminate the fees and cancel the debt of individuals who fell behind paying them. Some examples:

- A district court judge described a homeless father of five who came before him and who owed \$7,000 in delinquent fees and fines.
- The judge also reported that 45 percent of those before his court for driving without a license lost their license because they could not afford to pay driver responsibility fees.

- A city of Detroit official reported that some 76,000 city residents owed more than \$124 million with an average liability of \$1,629. He said most of it will never be collected.
- As of August 2017 the total liability for unpaid bad driver taxes was \$637 million, of which probably half was uncollectable due to individuals inability to pay.
- Michigan’s current secretary of state was a member of the House when the law authorizing the fees was passed. She told the committee, “I thought they were unfair then and I think they are unfair now. Get rid of them.”

“Get rid of them” is just what happened this week as the House and Senate both approved and sent to Gov. Rick Snyder for approval a package of bills that repeals the fees and forgives all liability for unpaid amount.

This agreement also resolves tensions that erupted at the same committee hearing last fall when a state treasury official said the administration opposed the original versions of the repeal bills, in part because they didn’t want to lose the revenue.

This came after a number of speakers had described the social damage and wrecked lives left behind by the law, which caused the committee chairman and others to bristle at the seemingly misplaced priorities. The official quickly backed up and expressed the administration’s willingness to work on a solution. With the governor’s expected signature the repeal and debt forgiveness will go into effect next Sept. 30. ■

The original version of this story was posted online on Feb. 15, 2018 and is available at MichCapCon.com/24364.

CHARTER SCHOOLS

from Page One

profit motivation for companies who would take advantage of our public school system out of Michigan’s education equation.”

The Mackinac Center for Public Policy released its new report card for elementary and middle schools on Feb. 22. To improve the validity of school-to-school comparisons, its report card adjusts for the socioeconomic background of a school’s student body when evaluating its academic performance.

Of the top 100 public elementary/middle schools statewide with the overall highest academic performance on the report card,

30 were charter schools. Many of those charters contract with for-profit education management companies.

The charter school Hamtramck Academy was the top-rated elementary/middle school in Michigan, according to the Mackinac Center report card. Hamtramck Academy is operated by the for-profit company National Heritage Academies.

Many other charter schools across the state received an A on the Mackinac Center report card and were operated by for-profit education management companies.

“Parents are looking for access to schools that give their children a better chance to succeed,” said Ben DeGrow, the education

policy director for the Mackinac Center. “Certain politicians don’t like the fact that many parents have chosen quality schools that happen to contract with for-profit companies to provide instruction. State leaders should be focused on giving families access to educational options that work best for them, not putting on ideological blinders to go after schools that have made legal contract arrangements that they don’t like.” ■

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Shri Thanedar

Image via Shri Thanedar for Governor website

PAY-TO-STAY

from Page One

said many inmates can lose their job, housing and transportation while incarcerated.

“The jail housing fees imposed by many counties in Michigan are a significant additional barrier to success after incarceration,” Cooper said in an email. “The people impacted by these fees are disproportionately poor to begin with, and the fees from even a short jail stay — on top of other collateral consequences — can become a long-term barrier to success in the community.”

Cooper said the costs of maintaining county jails should be borne by the taxpayers.

“At a minimum, counties should offer alternative ways to pay — such as through work while incarcerated, or community service afterward — so that individuals that lack the financial resources to pay have an alternative means to do so,” Cooper said.

In 2016, the Michigan Supreme Court issued new rules prohibiting a court from sending a person to jail for not paying fines or fees without considering the individual’s ability to pay. Judges have the discretion to waive the costs or permit an installment plan.

State Sen. Rick Jones, R-Grand Ledge, said charging the inmates is sound policy. Jones was the Eaton County jail administrator for four years before running for legislative office. He said 13 years ago, he was told it

cost the Eaton County jail \$42.50 a day to house an inmate, a cost that includes salaries and overhead expense.

“I don’t see any reason why you would not want to charge somebody if they have the money,” Jones said. “We don’t go around arresting people who don’t pay it. There is no debtor’s prison. If they don’t pay it, it just goes on their credit record.”

The Leelanau County jail charges its inmates \$15 a day and the average stay in jail is 15 days.

Lt. Todd Roush of Leelanau County Sheriff’s Office said inmates are only charged for their stay if they are convicted of the crime.

“Counties are using tax payer dollars to run and finance a jail operation, and I

believe the practice of recouping some of the costs of a jail stay from those who committed and were convicted of those crimes has merit,” Roush said in an email. “As for our facility, most inmates are not serving long sentences, therefore they are not racking up thousands upon thousands of dollars in jail debt. For those that have a substantial amount due, if they take the responsibility to make good faith payments, or call and set up a plan, we will not send their debt to a collection agency, which will keep it off their credit report.” ■

The original version of this story was posted online on Jan. 8, 2018 and is available at MichCapCon.com/24249.

DTE Produces Enough Wind Power To Run 24,000 Homes — But Part Of The Day Only

BY TOM GANTERT

DTE Electric Company, Michigan's largest electric utility, uses a simple rhetorical device to explain the impact of solar and wind energy. But one expert says it misleads people by making renewable energy appear more useful than it is in reducing the need for electricity from conventional fuel sources.

DTE Energy, for example, says its Pinnebog wind park in Huron County provides enough energy to power 24,000 homes.

But Jason Hayes, the Mackinac Center for Public Policy's director of environmental policy, says this formula is misleading.

The problem, he says, is that renewable energy sources only produce power intermittently, which means consumers and businesses cannot depend on them to provide reliable power at any given time.

According to Hayes, when DTE Energy says a wind farm can power 24,000 homes, people mistakenly envision 24,000 homes getting all their electricity just from wind. Given the nature of wind power, though, it can't happen.

The Michigan Public Service Commission says that wind power has a 36 percent "annual

capacity factor." This means that if a home relied solely on wind turbines, it would only have power 36 percent of the time, or 8 hours and 36 minutes per day.

Solar panels are even less productive, with a capacity factor in Michigan of just 13 percent. This would give a homeowner power for 3 hours and six minutes a day. The rest of the day, including from sunset to sunrise, DTE must provide electricity generated by coal, gas, nuclear or hydroelectric facilities.

Consequently, Michigan's other electric utilities must maintain just as much capacity in conventional sources — coal, gas, nuclear and hydropower — as they would need if no wind turbines or photovoltaic solar cells existed here. For without that full inventory of conventional power plants, the state could expect brownouts and blackouts the first hot summer evening when the air is still. It would face the same fate on long winter nights when all is calm.

The use of renewable energy is largely driven by a 2008 law — then expanded in 2016 — requiring utilities to have a "renewable energy portfolio." Wind accounts for 91 percent the

power companies' renewables, with solar adding another 6 percent.

DTE lobbied hard for the 2016 law, which also requires it to tear down existing coal generation plants. Given the intermittent nature of renewables, coal plants will be replaced by installing new gas-fired generators, and the law allows DTE to charge consumers rates high enough to guarantee a profit for itself on both activities.

Michigan households and businesses, then, pay not only for new windmills and solar cells, but also new natural gas plants. The result is likely to be a modest reduction in the use of natural gas, which is not facing a shortage. Thanks to new drilling techniques, the U.S. is the world's largest producer of natural gas and a net exporter of the fuel.

Speaking of the comparison of renewable electricity production to households, Hayes said, "Utility executives and renewable energy developers constantly tell the media and the public that their latest wind or solar facility will provide enough electricity 'to power X,000 homes.' "But the problem with that statement," he continued, "is that it is a

lie by omission. When the average person sees that from an energy expert, they rightly think that means that if you put up a wind turbine or a solar array, they can expect a steady, reliable, 24/7 source of electricity. But, the reality is that wind and solar only produce electricity when the wind is blowing, or the sun is shining."

In response to a query, DTE spokeswoman Cynthia Hecht said, "DTE Energy provides electricity to 2.2 million customers in southeastern Michigan with an 11,084 megawatt system capacity using coal, nuclear, natural gas, hydroelectric, wind and solar. A balanced energy portfolio enables DTE to provide customers with energy that is reliable, safe, affordable and cleaner. As we execute our plan to reduce the company's carbon emissions by more than 80 percent by 2050, that mix will shift with DTE producing over three-quarters of its power from renewable energy and highly efficient natural gas-fired power plants." ■

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Property Owner: Mackinaw City's Ban On Airbnb Rentals Violates Our Rights

BY EVAN CARTER

Every summer, the population of Mackinaw City is estimated to jump more than 10 times from its offseason level to around 10,000. The lakeside village is just a short ferry ride from Michigan's most popular tourist destination, Mackinac Island.

Many people come for a leisurely holiday and others for a weekend getaway, and they often stay in a rental cottage or a vacation home. And until late last year, visitors could find and arrange a stay using websites like Airbnb. According to statistics a local property owner drew from the home rental website VRBO.com, renters spent 136 nights last year in Mackinaw City after using a home-sharing website.

But in late September of last year, the Mackinaw City Village Council banned rentals of less than 30 days in part of the residential section of the village.

The same ordinance also requires owners whose property is not in the affected area to annually register any dwelling used for rentals.

Officials in Mackinaw City are not the only ones in Michigan looking to restrict short-term rentals. Officials in Holland, Suttons Bay, Spring Lake Township and St. Clair Shores

have all either banned or restricted them in their jurisdictions.

Property owners who say that their property rights are being violated have gained the attention of legislators. Two bills introduced in the state Legislature (sponsored by Republicans Sen. Joe Hune and Rep. Jason Sheppard) would pre-empt local governments from banning short-term rentals. The legislation would accomplish this by designating the short-term rental of a dwelling as a residential rather than a commercial activity.

Donald Fullenwider owns vacation property in Mackinaw City and is one of those owners who objects to the new ban. Under the new ordinance, Fullenwider can no longer rent out his house in the resort community for short periods.

"It's clearly a property rights issue," he said.

A Michigan native who later moved out of state, Fullenwider purchased land in Mackinaw City in 2012, when he was looking for a place to build a cabin near the site of the vacation home his family owned when he was a child.

He said he didn't purchase the property to rent it, but quickly figured that doing so would be a good idea because he only visited

the property a few weeks a year. Over five years, Fullenwider said he rented out his property to 50 to 75 couples. He also invested what he considers to be quite a lot of money renovating the property.

"I'm just baffled by their willingness to use government to limit people's opportunities," he said.

Fullenwider reports that in fall 2016, he, as well as some other owners of short-term rental properties, received a letter from the village saying he was either violating or potentially violating the local zoning code. He had been renting out his property through VRBO.com for four years by then.

Around that time, the village had a lawyer craft a new ordinance specifically banning short-term rentals.

Fullenwider said that he could never get a detailed answer from village council members when he questioned their claims that the practice had detrimental effects on village neighborhoods.

Michigan Capitol Confidential made several phone calls and sent several emails to the Mackinaw City zoning administrator, but received no response.

The ordinance now bans rentals for a period of less than 30 days, and Fullenwider has

never rented out his property for more than 10 consecutive day.

"Mackinaw City is the most-often referenced vacation area for visitors in the summer time to Michigan," Fullenwider said. "If Mackinaw City really bans short-term rentals, it's really a sad opportunity missed."

Sheppard, a Lambertville Republican, has sponsored a bill in the state House that would pre-empt local officials from banning short-term rentals. He is a commercial real estate agent and says the Airbnb-type rentals are no different from longer-term rentals, which are currently considered to be a "residential" activity. Sheppard worked as a realtor before being elected to the House in 2014.

"There were some communities that decided that they didn't want this practice," Sheppard said, "I feel like that's a huge infringement on personal property rights."

Sheppard also said that while his legislation faces obstacles this year, he believes that prohibiting a ban on short-term rentals by local governments is a bipartisan issue. ■

The original version of this story was posted online on Jan. 9, 2018 and is available at MichCapCon.com/24252.

State Corporate Welfare Agency Picks Winners That Turn Out To Be Losers

BY MICHAEL D. LAFAIVE

The Michigan Strategic Fund board recently hosted its monthly meeting to discuss new and old corporate handouts and very likely approve deals to subsidize more corporations with taxpayer dollars. Its use of the Michigan Business Development Program is a case in point. Mackinac Center research shows this subsidy program to be ineffective, and it should be closed.

The MBDP — which is run by the Michigan Strategic Fund with help from the Michigan Economic Development Corporation — gives cash subsidies, loans and other help to businesses it thinks are real winners. From early 2012 through September 2016, the state approved — by my count — 319 deals with an incentive value of more than \$300 million, though only a little more than half has been disbursed.

One of those payouts was worth \$2.5 million and went to Cherry Growers, Inc. of Grawn, near Traverse City. In 2012, the MEDC recommended that Cherry

Growers receive the grant for adding 72 new jobs or more. The grant was to be repaid through "profit-participation." The MEDC projected at the time that these new jobs and related investments would yield a 3-to-1 return on the state's investment.

Michael Finney, then president and CEO of the MEDC, used a press release to announce a deal with Cherry Growers as well as another company. It read, "The expansion of these companies further exemplifies Michigan's improving economy and its strategy to help companies flourish and grow." But the "winner" picked by the MEDC has since closed and is in liquidation proceedings. (As an aside, the other MBDP grant winner, in the words of one official, later "withdrew the request for the grant.")

Cherry Growers filed for bankruptcy protection in late 2017, and has since closed and begun a liquidation process. According to the Traverse City Record Eagle, some 80 employees were let go. The sale of company assets will help compensate creditors, but

how much of anything will the state claw back?

Remarkably, the MBDP subsidies were not the only taxpayer dollars at risk. As part of its deal with the state, Cherry Growers was also approved for a tax abatement by Green Lake Township. In addition, Cherry Growers has participated in a different (loan) program with the state — also in 2012 — that may further expose taxpayers to losses.

The Mackinac Center has analyzed the MBDP's performance — not just one company — from 2012 through 2016 and finds it to be a big failure as measured by job creation.

By our count, one-third of the program's project approvals have been or are in some stage of default or have been dismissed from the program. Some failures may be temporary and due to trivialities, such as an inability to locate the right building for the project. Others are not, however, and it appears the state is willing to amend many original agreements and lower performance thresholds.

The study also includes a statistical analysis of the program with data from the state and United States Census Bureau. We find that for every \$500,000 in disbursements from the state, there is a loss of some 600 jobs in the average county hosting MBDP projects.

But the official economic development bureaucracies tell the Legislature and the state otherwise. With each deal, the MEDC or MSF prepare a forecast of how valuable their subsidy or loan will be to the state. They do so using a software package known as "REMI." The user inputs expected performance data and the software attempts to predict detailed economic and fiscal impacts. The problem is the output may, at best, be only as good as the inputs.

In the case of Cherry Growers, the model was fed assumptions through 2022. That raises a question: Why do state officials think they can predict the economic performance of one company 10 years out when they can't do so successfully just one month, one year or five years out?

By August 2012, a large cherry crop failure was national news. The apple crop was bad too. Yet this is just one month after MEDC jobs czars declared Cherry Growers a big winner with its grant. It was bankrupt by 2017 due in part to that bad crop.

So, we are left with the following irony. The state's REMI software model can't project the future because the people using it can't do so either. This is not the first time state officials predicted great things from a subsidized company — and with the help of REMI — that went belly up not long afterward.

It must be hard to see the future when you have egg (or in this case, fruit) on your face. The state should stop trying. The market has been creating jobs and wealth long before Lansing politicians ever thought it a good idea to take everyone's money and give it to their favored few. ■

The original version of this story was posted online on Feb. 27, 2018 and is available at MichCapCon.com/24401.

Last Year, Flint Schools Got Double The State Average In Funding

Yet local teachers union said \$20k per student isn't enough

BY TOM GANTERT

In 2016, media outlets reported that the teachers union in Flint Community Schools had sponsored a rally calling attention to what it called inequalities in public education.

Michelle Gusen, a union administrator for United Teachers of Flint, was quoted as saying that all students should be eligible for a quality education. The story talked about full funding for school districts such as Flint.

But new figures from the Michigan Department of Education suggest that if money were the sole determinant of academic quality, then Flint schoolchildren should have received the finest education in the state that year. The district



received \$20,166 per pupil in operations funding in 2016-17, more than double the state average.

The amount was also more than double the per-pupil funding level received by the vast majority of

Genesee County school districts that year. For example, Goodrich Area Schools received \$8,895 per pupil when the state average was \$9,910. The figures refer to money that flows into school districts'

general fund accounts, which cover daily operations, including payroll.

A state database lists local, state and federal revenues that add up to \$15,966 for each student flowing into the Flint district's general fund in 2016-17. But the total amount shown in the database for Flint that year is \$20,166 per pupil. The Michigan Department of Education believes the difference of \$4,200 per student represents grants, from various government sources, intended to deal with the Flint water crisis. In 2014, it was revealed that the city's drinking water contained higher-than-allowed levels of lead due to insufficient water treatment.

Because Flint schools have a high number of students who come from low-income households, it

normally gets much more federal money than most districts in the county and state. In the 2016-17 year, 90 percent of students attending Flint schools were eligible for a free or reduced-price lunch because they are considered economically disadvantaged.

To compare Flint to a nearby district, the general fund of Grand Blanc Community Schools received \$563 in federal money for each pupil while the comparable number for Flint was \$3,394.

Flint Superintendent Bilal Tawwab didn't return an email seeking comment. ■

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Former State Trooper: Cops, Prosecutors Misuse Problematic Asset Forfeiture Law

‘Civil asset forfeiture erodes the public trust in law enforcement’

BY EVAN CARTER

Editor’s Note: This article was updated to note that when civil asset forfeiture first began to be used in Michigan, narcotics enforcement would obtain the proceeds of criminal activity.

The Michigan State Police detective who helped train the state police in how to conduct civil asset forfeiture says the police are misusing it.

Former Michigan State Police Detective Sergeant Ted Nelson, who developed a curriculum on civil asset forfeiture for the department and taught it for more than a decade, made those comments to the state House Judiciary Committee on Feb. 6.

The committee hearing was the first of many which are scheduled to be heard on House Bill 4158 over the next couple weeks. After that, the committee may vote on whether to send the bill to the full state House of Representatives.

The bill would require police officers and other law enforcement officials to convict someone in a criminal court before they could take ownership of cash and other assets they seize, for property valued at \$50,000 or less.

“Law enforcement is an extremely important vocation in our society and it is as important today as yesterday,” Nelson told the committee. “I believe that the policy and procedures of civil asset forfeiture erodes the public trust in law enforcement.”

Nelson told Michigan Capitol Confidential that during his

26 years with the department, he saw law enforcement officials receive by forfeit items, such as furniture, that they believed could be used in department offices or sold for a profit. Nelson, who supports HB 4158, said this type of behavior wasn’t the reason civil asset forfeiture was introduced.

Nelson said he first received training on civil asset forfeiture in the late 1980s when the practice was considered part of the war on drugs. At the time, civil forfeiture was used mainly for major drug crimes, in which narcotics enforcement would obtain the proceeds of criminal activity.

Nelson developed a curriculum to teach the state police’s drug teams. He was the expert state police troopers called when they seized money and they weren’t sure it could be tied to a drug crime.

“We’re the foot soldiers of the Constitution and sometimes we forget that,” Nelson said.

Nelson said he doesn’t believe enacting HB 4158 would change how police officers do their job, but he believes it would change how prosecutors do their job.

Shelby Township Republican Rep. Peter Lucido is the primary sponsor of the legislation. At the hearing, he said law enforcement officials can use mechanisms other than civil asset forfeiture to ensure that those believed to have participated in criminal activity cannot make a profit from ill-gotten gains or get rid of illicit substances.



“We lost the war on drugs, and civil asset forfeiture has penalized the poor,” Lucido said to the committee. “Officers were sworn to protect, and not take.”

Attorney Michael Komorn, who is president of the Michigan Medical Marijuana Association, attorney John Shea and national civil asset forfeiture expert Lee McGrath also testified in support of the bill.

Not everyone who appeared before the committee supported the bill, however.

Waterford Police Chief Scott Underwood said that while he wouldn’t directly offer an opinion on the legislation being discussed, he believes civil asset forfeiture is a useful tool for law enforcement.

“I would say that for the most part, that civil asset forfeiture comes from good police work,” Underwood said to the committee. “The numbers with asset forfeiture don’t lead, they follow.”

Lucido said in an interview that while he doesn’t want to imply

police officers are corrupt, he believes that civil asset forfeiture is too easily abused.

“If even one cop abuses it, it’s too much,” Lucido said to Michigan Capitol Confidential. “I had cops who took kid’s piggy banks and dart boards and I’m done with it.”

Currently, law enforcement officials do not need to convict, prosecute, or even charge a person of a crime before they can get ownership of seized property through civil asset forfeiture procedures.

In 2016, one out of every 10 Michigan residents whose property was taken by law enforcement using civil asset forfeiture was never charged with a crime. According to a Michigan State Police report, more than 700 people were either not charged with a crime, or charged with a crime but not convicted. Since 2000, the state has taken possession of forfeited property worth \$20-\$25 million annually.

The legislation may be part of a larger package aimed at reforming the state’s civil asset forfeiture law. If the measure passes and is signed into law by Gov. Rick Snyder, Michigan will join the 14 states that already require a conviction for law enforcement to take possession of seized property. ■

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Governor Granholm Called to Underfund Pensions 6 Years Before Company Bankruptcy

BY JAMES M. HOHMAN

There is a lot of pressure to underfund pensions, and the promises that guarantee them, whether moral or constitutional, are only as strong as the money that is set aside to pay for them.

In researching the history of some state business subsidies, I came across some talking points

from a 2003 speech by former Gov. Jennifer Granholm at a Delphi plant (now Nexteer) in Saginaw. She made this point:

Because many of our manufacturers provide their employees with defined benefit pension plans, they are required to set aside unrealistically high reserves to meet future obligations. This siphons off

company reserves that could better be used to invest in new technologies, new plants, and advanced training for workers.

Within six years, the company would be in bankruptcy, the employee pension plan was terminated and taken over by the Pension Benefit Guaranty Corporation. That government agency, for its part, also has an

underfunding problem. And because not enough money was set aside for Delphi retirees, pensioners took major cuts to their benefits.

The governor’s comments — to those who understood their context — criticized federal rules governing pensions and called for weakening their funding requirements. But they did not

change federal policy. Perhaps she made them at the request of company executives, and maybe union leadership even acquiesced on the policy. Yet the plight of Delphi retirees indicates that there are few people that mean to keep pensions properly funded. ■

The original version of this story was posted online on Jan. 10, 2018 and is available at MichCapCon.com/24254.

DEBATE HEATED

from Page One

a legal process that happens after police seize property, either as part of an investigation or on suspicions that it may be the ill-gotten gains of an alleged crime.

For example, in May 2016 the Michigan State Police seized \$2,035 from someone during a traffic stop, based on a suspicion that the man had just completed a drug transaction. The police searched his SUV and found no drugs or drug-related materials, but still seized the cash.

During 2016, one out of every 10 Michigan residents whose property was taken by law enforcement using civil asset forfeiture was never charged with a crime. Statewide, more than \$15.3 million in cash and other property was forfeited in 2016, according to a Michigan State Police report. Since 2000, the state has retained forfeited property worth \$20-\$25 million every year.

The bill under consideration this week is sponsored by Shelby Township Republican Peter Lucido, who said that he believes civil asset forfeiture is terrible

“optically” and “morally” for law enforcement.

“If you don’t get this passed, if you don’t get the core passed, you don’t have substance to pass the other bills on,” Lucido said. “It’s going to bring a playing field that’s more just and fair for our constituents.”

The bill has some Democratic supporters.

Rep. Adam Zemke, D-Ann Arbor, believes requiring government to obtain a conviction before it keeps the property it has seized protects residents with lower incomes.

“Unfortunately with some this becomes a revenue issue. And I

fundamentally believe that the reason you seize property is not to make money, but I don’t want to generalize,” Zemke said. “It disproportionately hits those with low income because they can’t fight these seizures.”

In many cases, the legal expenses of challenging a forfeiture are greater than the value of the seized property.

State law enforcement interests have come out strongly against the legislation. As with past reform proposals, the Michigan State Police has officially come out against the legislation. But

according to spokesperson Shanon Banner, the department is willing to work with Lucido. Other law enforcement agencies from across the state are also opposing the bill.

If the measure advances all the way and is signed by Gov. Rick Snyder, Michigan will join 14 states in requiring a conviction before the government can keep the property of a person who may never have done anything wrong. ■

The original version of this story was posted online on Feb. 6, 2018 and is available at MichCapCon.com/24326.

Industrial Wind Farms Bring Political Conflict, Recalls and Lawsuit to Township

BY EVAN CARTER

A legal battle over a proposed wind farm of 63 turbines is brewing in a small community in the Thumb area of Michigan.

Members of the Juniata Township planning commission voted to approve a special land use request by wind turbine supplier NextEra Energy Resources. Subsequently, a group of residents asked the township board to adopt a moratorium on wind farm developments so the community could revise a wind zoning ordinance adopted in 2010.

When the board refused, residents gathered enough signatures to recall three of its five members. A fourth board member was targeted for a recall, but the Tuscola County election board rejected the petition language.

Garrett Tetil, one of the leaders of the recall effort, told Michigan Capitol Confidential he will likely sue the township over the special land use permit.

Some communities welcome wind farm developments, but in others, proposals for wind farms have led to legal and political strife.

According to state law, local zoning ordinances must protect the “health, safety, and welfare” of residents, but communities can’t create “exclusionary zoning” ordinances that effectively ban an otherwise legal activity.

Some wind farm developers have sued communities, contending

that their zoning ordinance is too restrictive. Their lawsuits are not always successful, and in 2017 a U.S. District Court judge ruled that a moratorium on further wind development can be permissible in some situations.

If NextEra is successful in getting the wind farm approved, Juniata Township would see 31 wind towers erected, 486 feet tall from base to blade tip. Neighboring Fairgrove Township, which gave its approval last fall, would see 32, according to a report from MLive. The project, spread over the two townships, would be the third wind farm developed by NextEra in the county.

DTE Energy, which already purchases electricity from two NextEra wind farms in the county, plans to add 4,000 megawatts in renewable capacity over the next few decades. While DTE says it plans to get that capacity from a number of different sources, a conservative estimate is that it will need hundreds of additional wind turbines to hit that goal. Wind turbines from General Electric produce between 1.7 to 4.8 megawatts.

“The 4000MW of renewable energy we will add to our portfolio will be a combination of wind and solar. It is premature to speculate on how much of each we will build and what capacity may be for future wind turbines or solar arrays,” said Cindy Hecht, a spokesperson at DTE Energy.



In 2008, then-Gov. Jennifer Granholm signed legislation creating a mandate called the “renewable energy portfolio standard” that requires the state to get 10 percent of its electricity from renewable sources by 2015. In 2016, Gov. Rick Snyder signed legislation mandating the state get 15 percent of its energy from renewables by 2021.

Wind turbines accounted for about 53 percent of renewable energy generated in Michigan in 2016, according to the Energy Information Administration.

“We do have landowners who have signed onto the project and sufficient land to be able to build this project,” Bryan Garner, manager of communications for Florida-based NextEra, told MLive. “We would hope to bring the project online by the end of 2018.”

The dispute in Juniata Township began in Nov. 2017 when officials received a special land use permit request from NextEra Energy. The township sent out a notice to residents notifying them of the

request, as well as an upcoming meeting covering the permit.

Tetil was shocked when he received the notice of the request because, he said, he believed that the township was too close to the Tuscola Area Airport for any wind turbines to be constructed.

When the township board failed to approve a wind turbine moratorium, Tetil hired an attorney. He said he believes the township’s wind ordinance does not require adequate property-line setbacks or noise limits for wind turbines. The current zoning requires a setback of 1 to 1.5 times the height of the tower and sound levels to not exceed 65 decibels. Nearby Huron County limits noise levels from turbines to an average of 50 decibels from 7 a.m. to 10 p.m. and 45 decibels the rest of the day.

According to the Michigan Public Service Commission, a majority of the state’s wind developments are in the Thumb region. Huron County has the most wind developments in the state and Tuscola County has the second most.

NextEra Energy did not respond to an email and phone call requesting comment. Juniata Township Clerk Heidi Stark declined a request for comment. ■

The original version of this story was posted online on Feb. 17, 2018 and is available at MichCapCon.com/24366.

Detroit Tax Officials Eye Blake Griffin's \$171M Salary

City one of several around the country that impose narrow 'jock taxes'

BY TOM GANTERT

As part of basketball star Blake Griffin's unexpected trade to the Detroit Pistons, the team will assume the five-year \$171 million contract he had signed in summer 2017.

This will mean a financial windfall for the city of Detroit, which imposes a tax on nonresidents who work within its borders, including professional athletes.

If Griffin does not become a resident of Detroit, he would pay the city an estimated \$191,000 over a full season. That's at a rate of 1.2 percent annually, which is levied against how much of his pay is earned within the city limits.

If Griffin chooses to become a Detroit resident, he will — if he lives in the city the entire season — pay the resident income tax rate

of 2.4 percent, boosting his annual payments to \$382,000.

Those calculations are based on Griffin's base salary of \$31.9 million in 2018-19. Similar taxes are levied in other cities. They have been dubbed "jock taxes" because cities make specific rules to apply the income tax to highly paid professional sports athletes.

The projections of Griffin's Detroit tax liability come from James Hohman at the Mackinac Center for Public Policy. They are based on guidelines and examples provided to the Mackinac Center by the city of Detroit's attorney on income tax matters, in documents containing the city's policy as of March 1, 2017. The methodology for applying the income tax to visiting athletes is outlined in a six-page document, with the tax based upon how many work days

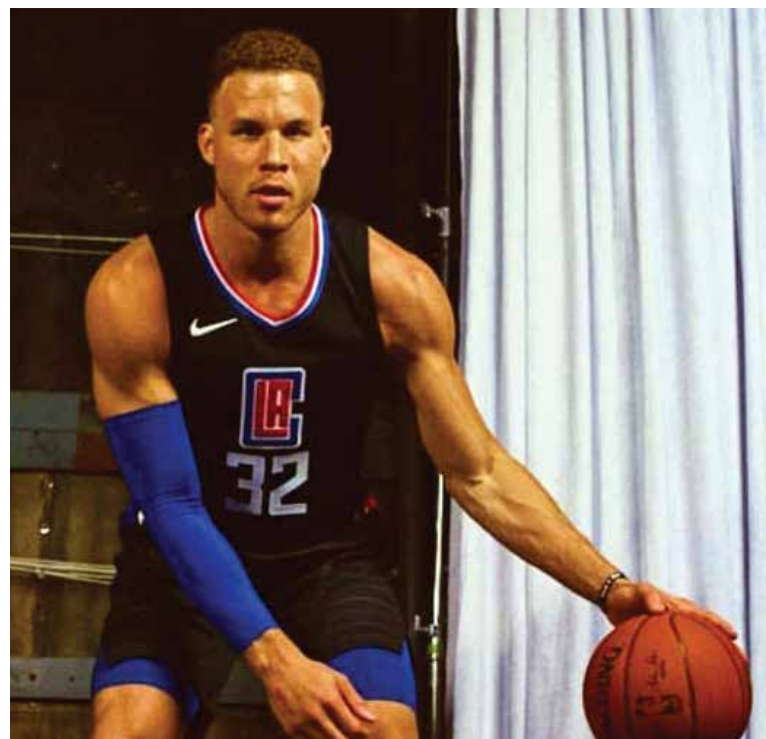
the athlete spends within the city limits.

"Even that calculation could be altered by injury, sickness, bereavement leave, required versus voluntary attendance policies, etc.," said Robert Forrest, who is a tax expert hired by Detroit to work on income tax issues.

Griffin was introduced to Detroit fans on Wednesday.

Griffin will enjoy some financial advantages in leaving California for Michigan. The state income tax in Michigan is 4.25 percent. He'll pay additional 2.4 percent city income tax if he lives in Detroit, or a 1.2 percent "commuter tax" if he lives in the suburbs. By comparison, California has no local income tax, but it does levy a 13.3 percent state income tax on all income over \$1 million. ■

The original version of this story was posted online on Feb. 1, 2018 and is available at MichCapCon.com/24318.



Charter Teachers Get No Pensions, Amendment Would Make Schools Pay Anyway

BY TOM GANTERT

State Rep. Martin Howrylak sought this week to require that charter schools pay into the underfunded public school pension system, something Democratic politicians and well as teachers union officials have been seeking for years. The proposal failed in a voice vote taken in the House.

The vast majority of charter school employees are not enrolled in the Michigan Public School Employees Retirement System, or MPSERS. Out of 294 charter schools in the state, just 35 have one or more employees enrolled in the state-run pension

system, according to the Michigan Association of Public School Academies.

Howrylak, a Republican from Troy, offered an amendment to Senate Bill 574 on Jan. 18. The amendment would require charter schools to pay into the pension system as a condition of receiving money, known as enhancement millages, collected by intermediate school districts. It was defeated in a voice vote.

In October, Sen. Hoon-Yung Hopgood, D-Taylor, offered the same amendment when the bill was in the state Senate. The amendment was defeated 12-25.

Senate Bill 574 would allow charters, for the first time, to get a share of the revenue from this type of property tax if they are within the territory served by an Intermediate School District that levies one. Under current law, money from these taxes is distributed only to conventional school districts. The change would apply to future enhancement millages only, not to ones that have already been approved by voters.

But few charter school employees are eligible to receive a pension from the state pension system, making the amendment, in essence, a tax on charter schools.

They would be contributing to a pension system from which most of their staff would get no benefit.

School districts currently contribute an annual amount equal to 37 percent of their payroll expense, meaning that for every dollar paid to employees, they must send 37 cents to the state.

"We need to continue to reform MPSERS, and this would be a step in the wrong direction," said Dan Quisenberry, president of the Michigan Association of Public School Academies. "We need to help schools be able to attract and retain quality teachers, which is the most important ingredient

in student success. Most new teachers entering the workforce will never benefit from MPSERS. This amendment would do nothing but hurt student achievement."

There were a total of 436,520 current and retired public school employees enrolled in the state-run pension system as of 2016. Of these, 207,645 are active employees, and the districts they work for are making contributions on their behalf. Another 211,007 are retired and collecting benefits. ■

The original version of this story was posted online on Jan. 20, 2018 and is available at MichCapCon.com/24275.

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City's Politicians Strive To Beat The Clock Spending Federal Money

BY TOM GANTERT

City council members are scrambling at the last minute to think up a project so they can beat a deadline for spending \$260,000 in federal money may not be the best example of good stewardship of tax dollars.

But that's what happened in one Michigan city when elected officials considered spending that \$260,000 to build a new home on vacant property, even though a house just two blocks away was sold for about \$11,000 last year.

After the council rejected the proposal by a 4-3 vote, it scheduled a special meeting and approved spending most of the federal money instead on a lighting project for a park in a historically high crime area.

Jackson Mayor Derek Dobies told the news site MLive that when council members rejected spending \$260,000 to build the home, they had no alternative plan for how to spend it. The mood of some participants was reflected by City Manager Patrick Burtch, who was quoted as saying, "We are trying very desperately to save this money." Dobies didn't respond to an email seeking comment.

Burtch told the council on Jan. 30 that the city would likely lose the federal money if they didn't approve building the home, according to MLive. The council rejected the plan anyway.

The money is part of the Community Development Block Grant program, which



The city of Jackson considered spending \$260,000 in federal dollars to build a home on this vacant lot.

is administered by the U.S. Department of Housing and Urban Development. The grants are allocated to cities to provide affordable housing for low- and moderate-income people. MLive reported this grant money had to be spent by April 1 or returned to the federal government.

Tad DeHaven, a research analyst for the free-market nonprofit Mercatus Center at George Mason University, said the situation

in Jackson highlights the problems that can happen when local officials are invited to spend federal dollars.

He said the rush by officials to spend on any project that fits the bill illustrates a lack of accountability in such situations. Instead, DeHaven recommends, local projects should be funded by local tax dollars to provide a transparent, direct link between officials collecting and spending the

money, rather than through a convoluted federal process.

"There is absolutely no reason someone paying taxes in Pennsylvania or California should be involved with the building of a house in Jackson, Michigan," DeHaven said.

City Council Member Colleen Sullivan voted in favor of spending the \$260,000 on building the home.

Sullivan was asked if the City Council would have considered spending that much to build a single home if the money came from local taxes instead of the federal government.

Sullivan said in an email, "There are far too many moving pieces in this particular scenario for me to give you a simple answer."

Sullivan said there are very strict guidelines and deadlines governing how the federal grant money can be spent. The city was in a bind, she said, because the federal money for the original project was delayed.

"This vote didn't take place in a vacuum, it was directly linked to a myriad of factors including the desire to not jeopardize future funding," Sullivan said. "Ensuring fiscal responsibility both long term and short term while being responsive to the intent behind dollars raised/granted and community needs are paramount." ■

The original version of this story was posted online on Feb. 5, 2018 and is available at MichCapCon.com/24325.

Detroit Ignores State Law, Turns Down Money to Avoid Selling Abandoned School

BY JARRETT SKORUP

The conventional school district in Detroit is, by most measures, the worst performing district in the United States. Students have been fleeing for years, leaving for schools in other districts or charter schools in the city. To prevent that, the district is doing everything it can to stop parents from making this choice.

For years, the Michigan Legislature has tried to prevent conventional school districts from discriminating against other public schools by refusing to sell them older buildings. Twice, lawmakers have passed bills making these types of deed restrictions illegal.

But officials of the Detroit Public Schools Community District apparently don't care. The district has dozens of abandoned buildings, but doesn't want to

give city students the opportunity to go somewhere else.

An abandoned elementary school, formerly owned by the district, has been up for sale since 2009. But the district refuses to allow the current owner to sell it to Detroit Prep Charter Academy, a highly rated school. Detroit Prep has been operating in the area, with support from the community, and it would like to expand and rehabilitate the building.

"I can just envision our kids here," said Kyle Smitley, the executive director of the academy. "I can envision how bright and joyful it's going to be. ... We think that with some TLC it can be a perfect, joyful place for our students. We love the neighborhood."

So what's the problem? A recent Wall Street Journal editorial explains:

The property includes "deed restrictions," and one is that the buyer must pay a percentage fee to the school district. Detroit Prep has offered to pay the surcharge and more. The school district stands to reap \$150,000 from the sale of a property it doesn't even own. That's on top of the \$750,000 the school is paying for the building, "which is already 20 percent more than the developer's purchase price," as Ben DeGrow of the Mackinac Center for Public Policy has noted.

One more wrinkle. The deed stipulates that the Detroit school district must waive use of a property that isn't residential, but Superintendent Nikolai Vitti has refused. This is a blatant violation of the law.

Questioned directly by lawmakers at a recent special hearing, Vitti said, "We, as

a school district, find the act problematic, that it usurps the right of elected school boards to determine the future of their own assets."

Detroit Prep is offering \$750,000 for the building and another \$150,000 to the conventional school district. But the recently bankrupt district would rather turn down the money and prevent better educational opportunities for children than make proceeds from a sale.

The district and the charter school are in a legal battle. Lawmakers, unsurprisingly, aren't happy and passed Senate Bill 702, to further strengthen the law and provide penalties for districts breaking it. ■

The original version of this story was posted online on Jan. 8, 2018 and is available at MichCapCon.com/24251.

Foreign Trade More Important To Michigan Than Any Other State

'Imports plus exports added up to 38.9 percent of Michigan GDP'

BY TOM GANTERT

Two University of Michigan economics professors independently reported that foreign trade plays a larger role in Michigan's economy than in any other state in the nation.

Specifically, they said that imports and exports make up a larger percentage of Michigan's gross domestic product than any other state in the country. Gross domestic product, or GDP, is defined as the total value of goods produced and services provided in a state or country in a year.

"Both imports and exports are hugely important for the Michigan economy; exports because their production creates income and employs workers, and imports because they provide inputs to



Photo via the EPA

production that make that production more competitive," said Alan Deardorff, an economics professor at the University of Michigan. "Imports plus exports added up to 38.9 percent of Michigan GDP, more than any other state."

Mark Perry, a finance and economics professor at the University of Michigan-Flint, said that despite rust-belt perceptions, Michigan has become the most globalized state over time, which reflects the globalization of the automobile industry.

"As a state economy highly dependent on both exports and imports, Michigan is a state that would be at great risk from Trump's protectionist trade policies including the recent tariffs on steel and aluminum," Perry said.

Mackinac Center fiscal analyst James Hohman provided figures from the U.S. Department of Commerce's recent report that support the professors' statements.

• Michigan's exports reached \$59.8 billion in 2017, the highest recorded going back to 2000.

• Canada was the largest customer for Michigan's goods and services at \$24.8 billion.

• Mexico was the second-largest customer at \$12.5 billion, and China was third at \$3.7 billion.

• Michigan exported products to more than 200 countries last year.

• Records show that Michigan even sold products and services worth \$3,290 to buyers on Christmas Island, an Australian territory in the Indian Ocean with about 1,400 residents. ■

The original version of this story was posted online on March 16, 2018 and is available at MichCapCon.com/25444.

What the Tax Reform Bill Means for Michigan

BY JARRETT SKORUP

Congress passed a major federal tax reform bill recently. There are lots of details but the bottom line is that practically every household in Michigan has a tax cut in their near future.

A typical Michigan household has two adults and one dependent earning \$50,803 annually. According to a tax calculator, this family would save more than \$1,000 a year in taxes under the bill. The Tax Foundation estimates that the bill will lead to more than 10,000 extra jobs in Michigan and a \$628 wage increase because of changes to business taxes.

According to the federal Joint Committee on Taxation and the liberal Urban Institute-Brookings Institution Tax Policy Center, every single income group will receive a net tax cut. Those who now pay more and

people who have more children will benefit the most.

The tax code will also become slightly more progressive as the share of taxes paid by higher-income individuals will rise. Economist Brian Riedl of the Manhattan Institute notes, "The bottom 80 percent of families currently pay 33 percent of all combined federal taxes, yet will get 35 percent of the tax cuts. By contrast, the top one percent currently pays 27 percent of all federal taxes, but will get just 21 percent of the tax cuts."

Contrary to claims from analysts from across the spectrum, polls show that most Americans believe their taxes will go up next year. To see how the bill affects you, see www.taxplancalculator.com. ■

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Union Official Says Teachers In Second-Highest Paying District Need Second Jobs

Five of six English teachers in one district school get more than \$82k

BY TOM GANTERT

The teachers union president at the Michigan school district with the state's second-highest paid teachers says many of those teachers must work second jobs to "make ends meet."

Utica Education Association President Liza Parkinson made those comments in a story posted on the Michigan Radio website Feb. 27 with the title, "Utica teachers taking big cuts in new contract."

The average teacher salary at Utica Community Schools was \$80,840 in 2016-17, the second highest in the state. Walled Lake Consolidated Schools topped the list at \$81,593, according to the Michigan Department of Education.

Utica had 1,458 full-time teaching positions in 2016-17.

In the Michigan Radio article, Parkinson said the contract would make it hard to recruit new teachers.

"Fifteen percent of my members self-reported that they have second jobs to make ends meet," Parkinson said. "That's not how we attract people."

Michigan teacher compensation is prescribed in union contracts and can be complex. Almost all teachers in Michigan's conventional public schools (as opposed to charter schools) are governed by a union pay

scale that bases pay level on seniority and the number of academic credentials an instructor has accumulated. Teachers can also earn extra money for accepting duties such as coaching sports teams, being a department chair, working with the student council, teaching summer school classes and more.

In the Utica contract, a teacher who is required to attend a civic function collects an extra \$23 an hour.

Michigan Capitol Confidential analyzed the six teachers listed in the English department at one of the schools covered by the Utica union contract.

One teacher, according to her LinkedIn account, began working in the district in 2010, and had work experience that included another administrative job outside the district.

That teacher made \$51,910 in 2013-14. Three years later, her pay was \$67,407, up 29.9 percent.

Another teacher in that same department saw a pay raise of just \$653 between 2013-14 and 2016-17. That teacher's pay increased from \$90,252 to \$90,905, an increase of less than 1 percent. Stagnant compensation like this is the norm for long-serving teachers who have reached the top of the union pay scale. Depending on number of academic credentials a teacher has accumulated, Utica salaries top out at \$75,971 to \$101,956.

The pay of another high-seniority Utica teacher declined from \$93,357 in 2013-14 to \$4 less than that in 2016-17. The change was likely due to differences in the extra duties.

Another teacher's salary increased from \$95,743 to \$101,175 over that same three-year period, a 5.7 percent increase.

A fifth teacher's salary increased from \$90,620 in 2013-14 to \$92,400 in 2016-17, a 2 percent increase.

For teachers who weren't at or near the top of the pay scale, salary increases were more substantial. The salary the sixth teacher examined for this article increased from \$72,994 in 2013-14 to \$82,670 in 2016-17, a 13.3 percent increase.

As the 2018 state election cycle heats up, discussions of teacher salaries will likely do the same, because "instructional expenditures" account for about 60 percent of a typical public school's operating expenses.

The salaries in this story were obtained in response to Freedom of Information Act requests submitted to the state's Office of Retirement Services. Salaries were also reviewed at OpenTheBooks.com, a nonprofit that has posted several years' worth of salary data for nearly every government worker in Michigan and other states.

Examining a random selection of other Utica teacher salaries reinforces the impression given by the pay rates of one school's English department described above.

Teachers at the top of the pay scale saw salaries plateau at about \$90,000-plus a year, while those still moving up the pay scale saw very large pay hikes.

One teacher saw her salary go from \$74,577 in 2013-14 to \$96,577 in 2016-17, a 29.5 percent increase. That compensation probably included extra pay for accepting additional duties.

Another teacher's salary rose from \$74,269 in 2013-14 to \$82,358 in 2016-17, a 10.9 percent increase.

One Utica teacher heads a particular program, contributing to a substantial pay hike from \$34,031 in 2013-14 (her first year teaching at Utica) to \$65,858 in 2016-17, an increase of 93.5 percent. Her salary jumped more than \$31,000 due to a combination of having more seniority, adding a master's degree and heading up a student activities program.

Parkinson didn't respond to an email seeking comment. ■

The original version of this story was posted online on March 11, 2018 and is available at MichCapCon.com/25428.

Firm Gets \$220,000 State Subsidy Deal, Files For Bankruptcy

BY EVAN CARTER

In April 2016, a Michigan Business Development Program that gives state subsidies to select businesses approved a \$220,000 grant for a Van Buren county produce wholesaler to expand a production facility in Paw Paw. The firm produces and packages blueberries, asparagus and grapes for sale to large grocery store brands like Meijer and Kroger, and the grant was contingent on it meeting certain employment milestones by specified dates.

State records indicate that \$100,000 was disbursed in 2016, but whether there will be any more is uncertain because Spiech Farms filed for Chapter 11 bankruptcy in 2017, reportedly due to crop losses experienced with Georgia blueberries and Michigan grapes. This constitutes a default on its subsidy deal, and the state officials

who manage MBDP have broad discretion over what happens next.

Spiech Farms isn't the only private company to default on conditions attached to grants from the Michigan Business Development Program, or MBDP. According to a new study by Mackinac Center fiscal analyst Michael LaFaive and Ball State economics professor Michael Hicks, more than 33 percent of MBDP subsidy agreements signed between March 2012 and September 2016 were in some degree of default, and some had been revoked. Some of these deals were later reworked under new terms.

According to LaFaive, the Spiech Farms default is one of many in this program that suggest government economic development officials are unable to effectively distinguish whether potential taxpayer subsidy recipients will be winners or losers.

"If officials could truly decide who the next real commercial success will be they would be hedge fund managers on Wall Street not state bureaucrats," LaFaive said.

Michigan Economic Development Corporation spokesperson Otie McKinley said the agency is still confident in the program.

"I have seen the report, but we remain confident that the MBDP is an important economic development staple in the arsenal of tools that aims directly at growing the economy through private investment and job creation around the state," McKinley said.

In 2011 Gov. Rick Snyder signed the law authorizing MBDP grants. When running for office in 2010 Snyder had promised to end a business tax break and subsidy-granting program called the Michigan Economic Growth Authority. That program was suspended in 2011.

The MBDP distributes money in the form of low-interest loans, cash subsidies and "other incentives." Between March 2012 and September 2016, 319 MBDP deals were approved, representing subsidies worth \$300 million. At the time the Mackinac Center study was released, only \$157 million had been awarded to companies.

The largest single MBDP deal was a \$10 million loan to what is now called the QLine in Detroit. The average subsidy awarded by the MBDP during the period studied was \$950,000. Through September 2016, 55 percent of all MBDP subsidies were for projects in Kent, Oakland, Washtenaw and Wayne counties. ■

The original version of this story was posted online on March 1, 2018 and is available at MichCapCon.com/24405.

FORtheRECORD

Public Schools' Advocate Reports Added Spending Didn't Help, Considers More

Amber Arellano, executive director of Education Trust-Midwest, recently wrote an op-ed in The Detroit News about a report her group put out on how the state's public schools have performed on standardized tests.

Arellano wrote: "Michigan's third-graders show the greatest decline in third-grade reading compared to peers in other states, but these learning declines are about triple that of the next closest state for this measure, despite the fact that state leaders have invested nearly \$80 million in recent years to raise third-grade reading levels."

Two paragraphs later Arellano mentions increased funding as a possible solution to the problem.

FORtheRECORD says: If spending \$80 million didn't make a difference, maybe more money isn't the answer. ■

The original version of this story was posted online on March 9, 2018 and is available at MichCapCon.com/24421.



Utica School Board Member Errs, Blames Usual Suspect For Mythical Funding Cuts

The Utica Community Schools teachers union and school board have resolved a bargaining impasse going back to last June by signing a new two-year contract that includes a pay freeze.

That outcome prompted one school board member to blame the state's school funding system for the district's financial plight.

"It is now time for the state of Michigan to address the second side of the equation — revenues," Utica Community Schools Board of Education President Gene Klida said in a written statement, according to Michigan Radio. "Our state lawmakers must realize that the current school funding system is broken and needs to be replaced."

FORtheRECORD says: According to the state of Michigan and Utica Community Schools' own audits, state funding levels do

not appear to be the source of the district's financial challenges.

Looking only at state support for the district — not the local or federal tax dollars that flow to it — Utica schools received \$7,850 per pupil in 2016-17. The district received \$6,687 per pupil in state-only dollars in 2010-11, which would be the equivalent of \$7,257 in 2017 dollars. So even when adjusted for inflation the district is receiving \$593 more per student from the state than it did six years earlier.

There has been a funding falloff though. It's not from the state, however. The Utica district's audited financial statement shows it got \$8.5 million less from the federal government over the 2011-2017 period.

Klida didn't respond to an email seeking comment. ■

The original version of this story was posted online on March 5, 2018 and is available at MichCapCon.com/24410.



'Truth Squad' Omits Key Michigan Charter School Facts In DeVos Hit Piece

A reporting project by the center-left Bridge Magazine under the label "Michigan Truth Squad" has offered its interpretation of a claim by Democratic gubernatorial candidate Shri Thanedar about U.S. Secretary of Education Betsy DeVos. Thanedar has said that DeVos was personally profiting from Michigan charter schools.

"As for the implication that Betsy DeVos profits from Michigan for-profit charters, that's a little more complicated," the Truth Squad stated.

The authors continued, quoting Thanedar spokesman TJ Bucholz explaining how the DeVos family was profiting from charter schools:

"Bucholz said the DeVos family 'owns and operates' the West Michigan Aviation Academy, offering that as an indicator Betsy DeVos has personally made money off charter schools."

"You can assume a for-profit school makes a profit, otherwise they wouldn't be there," Bucholz said. "We don't know the financial details since the records of this school are ... private."

"CS Partners is not publicly traded, so it's not required to identify investors," the Truth Squad wrote. "Therefore, it's hard to determine whether the DeVoses actually profit from West Michigan Aviation Academy."

The Truth Squad group nevertheless deemed Thanedar's claim to be "mostly accurate."

FORtheRECORD says: The self-described Truth Squad neglected to mention two obstacles for any such attempt by DeVos or her family: state law and a contract. The law makes it illegal for the DeVos family to benefit financially from its involvement with the West Michigan Aviation Academy. This makes irrelevant the fact that the school's management company is not required to file financial statements with the federal Securities and Exchange Commission because it is not a publicly traded firm.

The management contract between West Michigan Aviation Academy and the for-profit management company CS Partners is posted on the internet. It states, in part: "No Related Parties or Common Control. The parties hereby agree that none of the voting power of the governing body of the Academy will be vested in MEP Services or



its directors, members, managers, officers, shareholders, or employees. Further, the Academy and MEP are not, and shall not become members of the same controlled group (per IRS definition) or related persons (per IRS definition.)"

Also the Michigan Department of Education explained how state law prevents conflict of interest in charter school boards.

45. Can the board and/or staff of a school be family members, or otherwise closely related to members of the board?

No. The December 2011 amendment to the Revised School Code requires the academy board to prohibit specified family relationships among board members, individuals who have an ownership interest in or who are officers or employees of an ESP involved in the operation of the academy and employees of the academy. The potential for or existence of conflicts of interest among board members are items that are carefully monitored by Michigan authorizers. As mentioned, MCCA oversight and accountability standards recommend the use of a disclosure form be completed by charter school board members on an annual basis. These procedures are designed to ensure board member quality and autonomy and prevent inappropriate charter school board member/service provider relationships. [See MCL 380.503(6)(k)]

The DeVos family would be breaking the law and the contract with its for-profit service provider if it benefited financially from West Michigan Aviation Academy. That's an important point the Bridge Magazine feature failed to mention. Bridge Magazine Editor David Zeman didn't respond to an email seeking comment. ■

The original version of this story was posted online on Feb. 26, 2018 and is available at MichCapCon.com/24400.

DTE Earns Big Gas Pipeline Profits, Lobbied For More Gas-Fired Electricity

BY STAFF

DTE Energy is Michigan's largest electric utility. With some exceptions, DTE has a monopoly on selling electric power to homes and businesses in southeast Michigan. Like other regulated monopolies in Michigan, its rates are set by the state Public Service Commission at levels designed to let the company earn a reasonable return for its investors.

But generating and distributing electricity is not DTE's only line of business. Last year nearly half of its operating revenue and more than 40 percent its profits came from other divisions, according to the firm's financial filings. The largest earnings from its other divisions come from a gas pipeline and storage business that benefits from increased reliance on natural gas by electric utilities and their customers.

In December 2016, the Michigan Legislature rewrote large parts of the state's law regulating electric utilities. The changes included elements of an Obama administration rule that has since been rescinded that would have ended the use of coal to produce electricity in the U.S. The new state law also increased a mandate that utilities get some of their electricity from renewable sources, sending it from 10 percent to 15 percent.

These changes mean, among other things, that Michigan electric utilities will remain big consumers of natural gas for decades to come. That's because when coal-fired generation plants are shuttered, most of the lost capacity is replaced with plants



Trenton Channel Power Plant.
Photo via DTE Energy

burning natural gas. And in Michigan, adding renewable energy mostly means using wind turbines, which must be backed up with natural gas during the 64 percent of the time the wind is not blowing enough to generate power.

The non-utility segments of DTE Energy — including its gas pipeline and storage units — are separate operations and are not regulated by the Michigan Public Service Commission. The finances of the company's utility and nonutility businesses are separate, and the profits and losses incurred by the nonutility holdings have no bearing on PSC regulation and rate-setting decisions. The rates charged to DTE's Michigan utility ratepayers are not affected by what happens in those other DTE divisions.

Those other holdings — gas storage and pipelines, power and industrial projects, and

energy trading — contributed a combined \$485 million to DTE's profits in 2017. The gas storage and pipelines segment, which made \$275 million of DTE's net profits, was the company's second-most profitable segment last year. It was second to DTE's (regulated) electric utility segment, which had earnings of \$606 million. Across all segments — regulated and unregulated — DTE earned \$1.1 billion in net profits in 2017.

The gas storage and pipelines segment includes holdings in three natural gas pipelines, with another one being built. It also includes four systems that help transport natural gas from where it is produced to a pipeline, plus two natural gas storage facilities.

These holdings are spread throughout the eastern half of the United States and are subject to federal environmental

and financial regulations. DTE expects the segment to make between \$2.8 to \$3.4 billion in capital investments between 2018 and 2022.

Among other services, the company's power and industrial projects segment provides energy generation capacities to customers in nine states, including Michigan. The segment plans to make between \$800 million and \$1.2 billion in capital investments between 2018 and 2022.

In addition to the assets and energy production contracts it has throughout the United States, DTE's nonutility segments do business in Michigan, which at times affects the firm's electricity and gas utilities.

Any transaction between DTE's regulated electricity and gas businesses and its nonregulated holdings, such as its gas storage and pipelines segment, is reviewed by the public service commission.

"DTE Electric makes money by investing in the resources necessary to generate and deliver energy to its customers and does not have a financial incentive, outside of meeting legislative mandates, to invest in one type of generation or another," DTE spokesman Pete Ternes said in an email.

In 2016, 36 percent of Michigan's electricity was produced with coal, 26 percent with natural gas, 28 percent with nuclear, 8 percent from renewable sources and 2 percent from other sources, according to the U.S. Energy Information Administration. ■

The original version of this story was posted online on March 7, 2018 and is available at MichCapCon.com/24418

Sponsor Of Medicaid Work Requirements: They're The 'Right Thing To Do'

BY EVAN CARTER

Republicans in the Michigan House and Senate have introduced bills requiring state health and welfare officials to ask permission from the federal government to impose certain training or work requirements as a condition of getting Medicaid health benefits.

These bills — House Bill 5317, House Bill 5590, and Senate Bill 897 — would amend the law authorizing Michigan's acceptance of the Medicaid expansion under the Affordable Care Act, or Obamacare. The Michigan Department of Community Health and Human Services would need the federal waivers to make the work and education requirements a condition of getting Medicaid health coverage from the state.

If the federal government grants the waivers, able-bodied individuals would have to meet specified requirements to get Medicaid. The requirements differ slightly in each bill, but they include spending at least 30 hours a week working, getting job training in an industry with "proven demand," be pursuing an education, or performing a specified amount of community service.

The original bill authorizing the Obamacare Medicaid expansion also required the state to seek waivers allowing it to offer incentives to beneficiaries for adopting certain healthy behaviors.

According to the sponsor of one of the new bills, Sen. Mike Shirkey, R-Clarklake, when the Michigan Medicaid expansion bill was considered, some legislators tried to work with federal government to include

requirements from beneficiaries. At that time, Shirkey chaired the House committee that reported the expansion bill to the full House.

In addition to imposing education and work requirements, Shirkey's legislation would require all able-bodied Medicaid recipients to report changes in family income every three months. Medicaid is a means-tested program with income caps on eligibility.

Shirkey said that, for him, adding a training or work requirement to the state's Medicaid policy is not ultimately about controlling the costs of one of the state's largest expenses.

"The reason to do it is that because it's the right thing to do," Shirkey said. "I don't know of a single business that isn't looking for people to come to work. ... The best way to make more money is to have a job in the first place."

Shirkey says he is confident that his Republican colleagues in the Legislature will support the bill and that he had "received a high-level of interest, not a commitment," from Gov. Rick Snyder.

Shirkey also told Michigan Capitol Confidential that at some point he would like to introduce legislation to limit Medicaid benefits to 48 months for individuals whose incomes exceed the federal poverty line.

According to the House Fiscal Agency, current state Medicaid spending totals \$17 billion, about a quarter of which comes from state taxpayers with the rest federal money. ■

The original version of this story was posted online on March 15, 2018 and is available at MichCapCon.com/25442

Noteworthy In 2017: School Pensions Reformed, No Annual Contribution Shortfall

BY TOM GANTERT

For the first time in eight years, the state of Michigan put more money into its public schools employees' pension fund than accounting rules require. Contributing less than that in most years is how a pension funding shortfall has grown large.

The state contributed \$2.4 billion to the Michigan Public Schools Employees Retirement System in 2017. That contribution to MPERS was \$64.7 million more than the amount, known as the annual required contribution, that accounting standards recommend.

The state has underfunded its pension obligations for years, which is one reason it has a staggering unfunded liability of \$29.1 billion. That amount is the difference between how much the system's own actuaries say it should

have to meet its pension promises and the amount it actually has.

The contribution shortfalls have been substantial in many years. In 2013 and 2014, for example, the state paid a combined total of \$1.8 billion less into the system than what was required by the accounting standards.

Figures on the 2017 pension contribution level were included in a recently released annual report for the school employees retirement system.

"As part of our normal process, additional payments were made this year to make up for prior years when the ARC [annual required contribution] wasn't met due to payroll that didn't meet expectations," said Caleb Buhs, director of communications for the Department of Technology, Management and Budget.

The increasing costs of the employee pension system have been described as a budget-killer for local school districts.

For example, Utica Community Schools' contribution to MPERS increased by \$23.6 million over a six-year period, jumping from \$19.9 million in 2011 to \$43.5 million in 2017. If the pension costs had stayed at its 2011 level, the district could have given each of the 1,450-plus teachers in the district a \$16,000 bonus this year.

"Lawmakers and managers have regularly missed its payments into the pension system and have accidentally made school employees the state's largest creditors," said James Hohman, director of fiscal policy at the Mackinac Center for Public Policy. "So it's a relief to see them working to pay down these obligations."

In 2017 Michigan's legislators voted to close this defined benefit school pension to new employees, 20 years after their predecessors closed a defined benefit system for state employees. New school employees now can enroll in a defined benefit system, in which they themselves must absorb a portion of any future underfunding. Alternately, they may enroll in a defined contribution 401(k) account with substantial employer contributions or a self-funded annuity. Closing the previous system does not mean its liabilities disappear, but it does contain them and lead to eventually paying them off. ■

The original version of this story was posted online on March 8, 2018 and is available at MichCapCon.com/24419.

Whitmer 'Tired Of ... Corporate Tax Giveaways' But Voted For Dozens

BY TOM GANTERT

Democratic gubernatorial candidate Gretchen Whitmer has tried to play both sides of the fence when it comes to her position on corporate welfare.

The candidate debuted a new 100-second campaign commercial on Thursday. In the video, Whitmer says she fought against Gov. Rick Snyder's "corporate tax giveaways."

"Because I'm tired of corporations getting more tax breaks, while you get hit with a retirement tax," Whitmer said.

Yet earlier in March, at a Michigan Economic Developers Association forum, Whitmer had a completely different stance on giving subsidies and tax breaks to businesses selected by political appointees.

MiBiz.com reported: "Democratic candidate and former State Senator Gretchen Whitmer gave perhaps the most full-throated endorsement of ramping up the use of targeted tax incentives, saying that if elected she would 'unleash the MEDC' to pursue a '52-week jobs blitz' in her first year in office.

In many ways, that strategy shares similarities with the incentive-based policies of former Gov. Jennifer Granholm — whose efforts were derailed by the economic downturn, according to Whitmer."

The MEDC is the state agency in charge of Michigan's corporate welfare programs.

MiBiz.com also reported Whitmer saying that "under Snyder, the state has eschewed many economic development tools such as brownfield and historic redevelopment tax credits in favor of a strategy that embraces lower and simpler taxes."

"These are crucial pieces of the toolbox that communities need across the state," Whitmer said of the targeted credits. "I think the approach right now in Lansing has been a drag on Michigan's comeback."

MiBiz.com continued: "Whitmer's proposal to bring back a variety of tax credits and more targeted incentives stands in contrast to her GOP opponents as well as her fellow Democrats seeking the nomination in the August primary."



Whitmer didn't respond to an email sent to her campaign asking for her stance on corporate welfare. But her voting history shows clear support for giving state taxpayer subsidies to particular corporations and developers selected by politicians and political appointees.

For example, Whitmer voted in favor of creating a "Next Michigan Development Corporation" program that gives cash and tax breaks focused primarily on owners of

businesses near Detroit's airports, dubbed the "aerotropolis."

She voted in favor of giving \$50 million to a company that wanted to make electric car batteries in 2011. In the 2000s she voted to give taxpayer subsidies worth hundreds of millions of dollars to solar panel and electric car battery makers.

And in 2008, Whitmer voted for a state film incentive program that eventually gave \$500 million in Michigan taxpayer dollars to Hollywood producers. In 2014 she voted to extend the program indefinitely, but the Legislature elected at the end of that year instead terminated film subsidies the following spring. During Whitmer's tenure in the state House and Senate, she and her Democratic colleagues were nearly unanimous in favor of these and many more special interest subsidies and tax breaks. ■

The original version of this story was posted online on March 9, 2018 and is available at MichCapCon.com/25423.

newsBITES

How 'Ineffective' Michigan Teachers Get \$26k More Than 'Highly Effective' Ones

Research shows more letters after a teacher's name won't help, but districts pay for them anyway

Under the Utica Community Schools teachers' contract, a teacher deemed "ineffective" can collect as much as \$26,000 more each year than a colleague of equivalent seniority who is rated "highly effective." The difference is due to extra compensation given to teachers who have accumulated academic credentials beyond a bachelors degree, which is a common practice statewide.

The non-profit public policy think tank Brookings Institution stated, "the fact that teachers with master's degrees are no more effective in the classroom, on average, than their colleagues without advanced degrees is one of the most consistent findings in education research." ■

The original version of this story was posted online on March 12, 2018 and is available at MichCapCon.com/25427.

I'M JUST A BILL

Michigan✓**votes.org**

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

House Bill 4321

Authorize extra \$160 million for road repairs

Introduced by Rep. Laura Cox (R)

To appropriate \$160 million from state general fund revenue to road repairs, and \$15 million for "next generation technologies, hydrogen fueling stations, and demonstration projects related to enhanced transportation services for senior citizens." The bill also appropriates \$7.4 million for other purposes, including \$1 million for MSU sex abuse scandal investigations.

House Bill 4430

Ban agencies from participating in federal metadata collection

Introduced by Rep. Martin Howrylak (R)

To prohibit state agencies, local governments and their employees from assisting or providing material support to a federal agency in collecting electronic data or metadata concerning any person, except with a warrant (with some legally recognized exceptions), or with an individual's informed consent, or if the information had been collected legally by a state or local agency.

House Bill 4535

Give 30 days "grace" to affix license plate tab

Introduced by Rep. Curt VanderWall (R)

To authorize a 30 day "grace" period between the time a person pays the vehicle registration tax and when they actually affix the license plate or tab to the vehicle.

House Bill 5438

Define withholding drugs as human trafficking coercion

Introduced by Rep. Laura Cox (R)

To expand the definition of coercion in a law addressing human trafficking, so it includes "controlling or facilitating access to controlled substances for no legitimate medical purpose."

Senate Bill 798

Establish foster care alternative

Introduced by Sen. Peter MacGregor (R)

To establish an alternative for court-ordered foster care that would allow a parent or guardian to sign a "safe families" power of attorney form delegating to another person (potentially but not necessarily a family member) the care, custody or property of a minor child for up to 180 days with no intimation of "abandonment," subject to rules prescribed by the bill including background checks, home inspections and more.

House Bill 4606

Revise medical marijuana law transport regulations

Introduced by Rep. Peter Lucido (R)

To repeal a law that bans transporting medical marijuana in a vehicle unless it is enclosed in a case or is in the vehicle's trunk and is inaccessible from inside the vehicle. The citizen-initiated law that legalized medical marijuana is silent on transporting it, and a recent court ruling held that a person authorized to use medical marijuana cannot be prosecuted under a different law for transporting it. A motion to reconsider the vote was adopted so it may come up again.

House Bill 4053

Establish English as official state language

Introduced by Rep. Tom Barrett (R)

To establish English as the official state language. This would apply to government activities, but not to private sector activity. It would require governmental documents, records, meetings, actions, and policies to be in English, but would not prohibit them from also being in another language.