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POLITICS, IDEAS & CIVIC LIFE IN MASSACHUSETTS

**Teachers are
not widgets,
so why do we
treat them
that way?**

Term paper trafficking

**Missed opportunity
on ethics**

**Jeffrey Mullan: The
last man standing**

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*Maria Fenwick, fourth-grade
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CommonWealth

EDITOR Bruce Mohl

bmohl@massinc.org | 617.742.6800 ext. 105

EXECUTIVE EDITOR Michael Jonas

mjonas@massinc.org | 617.742.6800 ext. 124

MANAGING EDITOR Robert David Sullivan

rsullivan@massinc.org | 617.742.6800 ext. 121

SENIOR ASSOCIATE EDITOR Gabrielle Gurley

ggurley@massinc.org | 617.742.6800 ext. 142

ASSOCIATE EDITOR Alison Lobron

alobron@massinc.org | 617.742.6800

SENIOR INVESTIGATIVE REPORTER Jack Sullivan

jsullivan@massinc.org | 617.742.6800 ext. 123

ART DIRECTOR Heather Hartshorn

CONTRIBUTING WRITERS Dave Denison, Dan Kennedy,

Neil Miller, Laura Pappano, Robert Preer, Phil Primack, B.J. Roche

WASHINGTON CORRESPONDENT Shawn Zeller

PROOFREADER Jessica Murphy

EDITORIAL ADVISORS Mickey Edwards, Ed Fouhy, Alex S. Jones,

Mary Jo Meisner, Daniel Okrent, Ellen Ruppel Shell, Alan Wolfe

PUBLISHER Gregory Torres

gtorres@massinc.org | 617.742.6800 ext. 103

SPONSORSHIP AND ADVERTISING Samantha Vidal

svidal@massinc.org | 617.742.6800 ext. 147

CIRCULATION Krisela Millios

kmillios@massinc.org | 617.742.6800 ext. 145

> Full contents, as well as online exclusives, are available at www.massinc.org

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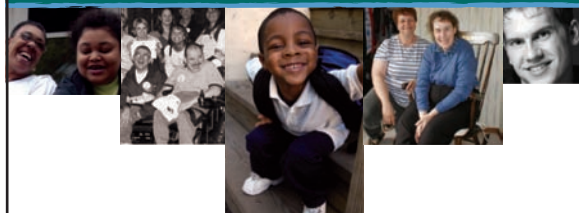
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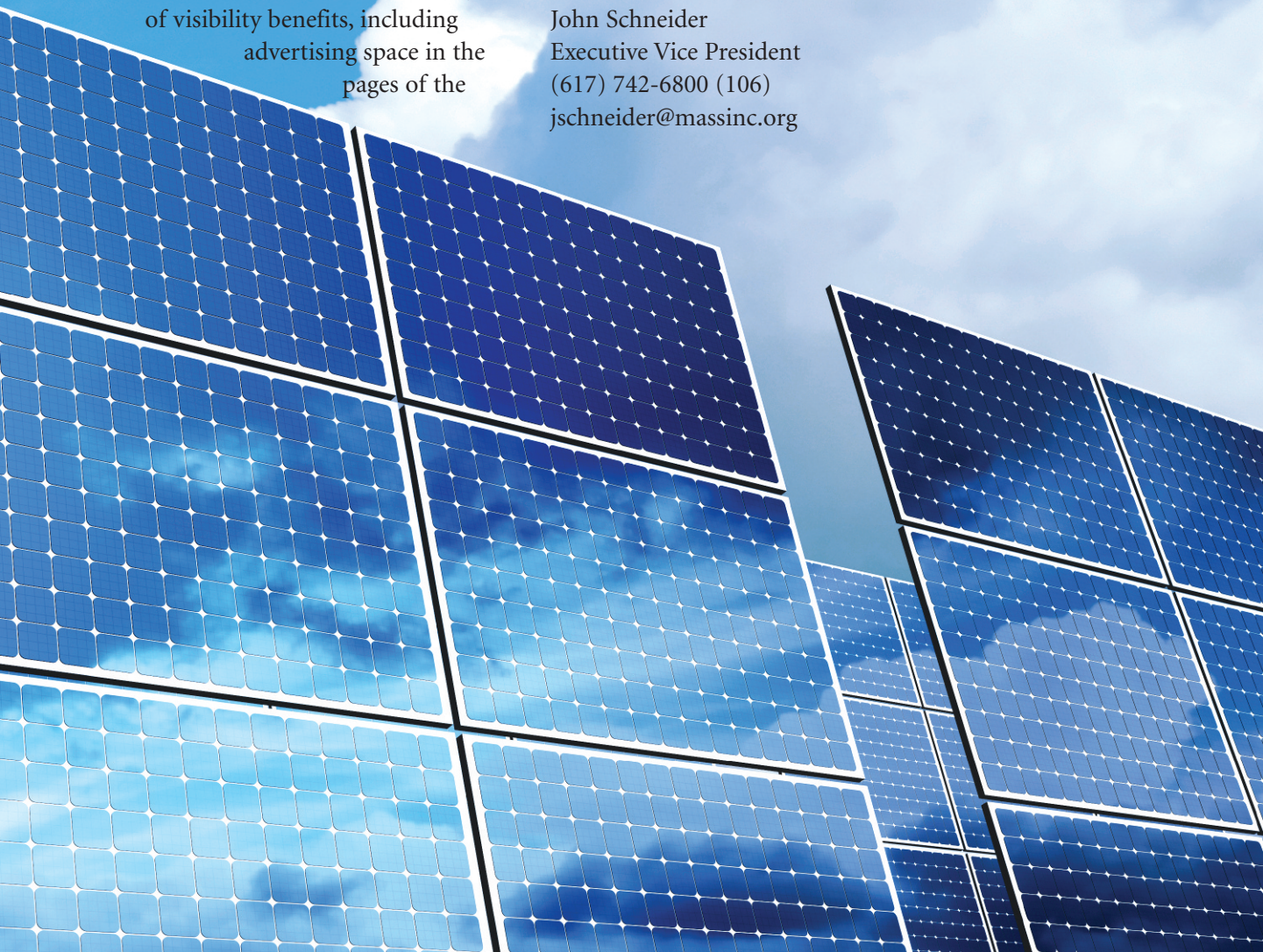
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STATE LOTTERIES ARE PREDATORY INSTITUTIONS

Michael Jonas's interview of Barbara Dafoe Whitehead was first-rate. (See "Ben Franklin Was Right," *CW*, Summer '09.) Interesting, substantive, and entertaining, it put a much needed spotlight on state-sponsored predatory gambling and the "lottery class."

Promoted in the name of getting someone else to pay our taxes, predatory gambling is one of the key drivers in our debt culture. Why is our government, especially during these difficult economic times, actively trying to convince citizens to lose their money instead of putting it into wealth-building tools that allow them to accumulate the capital to realize the American Dream?

It's time the state lottery's business model was put under the microscope. A report by the National Gambling Impact Commission showed that the top 5 percent of state lottery users account for 54 percent of total sales (spending about \$4,000 each) and the top 20 percent provide 82 percent of total sales. That means the casual Lottery players, who make up four out of every five players, are of little value to the Lottery's revenue scheme, for these casual players spend only about \$75 a year. What would happen if all players spent the same as these casual players? The answer is that sales would fall by 76 percent.

Despite recent efforts to prosecute predatory subprime lending and to stop the predatory financial practices

of the credit card industry, the state lottery rolls on unchecked, remaining arguably the biggest predatory institution still standing in America.

There will always be unprincipled people in our society who attempt to profit from "something for nothing" schemes, using financial gimmicks and predatory practices to create the lure of free money. Our government should not be among them.

Les Bernal

*Executive Director
Stop Predatory Gambling
Lawrence*

AUTHOR HAD ANTIPATHY TOWARD CHARTER SCHOOLS

CommonWealth need not have included in its description of Edward Moscovitch that his Perspective on charter schools ("No Magic Bullet") was taken from "a coalition of Massachusetts teachers' unions, principals, parents, superintendents, and school committees." It was already clear to the reader that this was the work of an anti-charter consultant hired by an anti-charter group to arrive at an anti-charter conclusion.

Moscovitch makes the same demographics-are-destiny pitch that charter school opponents have been making for over a decade. Once adjusted for those demographics, the argument goes, charter performance isn't much different from that of district schools.

More interesting is Moscovitch's effort to spin data supportive of char-



ter schools into a case against them. Even he notes that "a cluster of high-performing, high-poverty charter schools... are well ahead of virtually all non-charter schools." His results show the vast majority of charter schools scoring above the trend line on 10th-grade MCAS exams. The charts he uses show only the English portion of the test, since charter students' performance in math is even better.

The author's general antipathy to charter schools is clear, but it's harder to divine just what he and Mass Partners hope to accomplish. Moscovitch admits that the success of high-performing, high-poverty charters is beyond question. It is precisely those schools that the Patrick administration seeks to reproduce with its proposal to double the cap on charter schools in the Commonwealth's lowest-performing districts by allowing proven charter providers to replicate their success.

*Jon Clark and Kimberly Steadman
Co-directors
Edward W. Brooke Charter School
Roslindale*

CORRECTION: Because of a compilation error in data supplied to *CommonWealth*, the spending numbers for police and fire services were transposed in the "Measuring Menino" chart accompanying our cover story ("Menino's Long Ride") in the Summer issue. In fact, police spending in 2009 was \$284.9 million, while fire spending was \$161.6 million.

FINDING A GOOD OUTLET FOR GOOD INTENTIONS

I was impressed with Alison Lobron's column ("Seeking to Serve") because it highlighted a common and unfor-

fortunate problem. Many people want to help those in need, but they can't find an outlet for their good intentions.

Four years ago, I too wanted desperately to help those in my community after Hurricane Katrina displaced my family. I wanted to beat back the tide of hopelessness by showing others that I cared.

Luckily, I found Horizons for Homeless Children (HHC), a nonprofit organization that staffs "Playspaces" in homeless shelters. Since then, I have spent at least two hours a week playing with children in need as an HHC Playspace activity leader.

I continue to volunteer with HHC because their staff provides what every volunteer absolutely needs: comprehensive and ongoing training, a good working relationship with other nonprofits, and constant support and communication. Without this, I would feel overwhelmed and underutilized.

Finding an outlet for my good intentions filled a hole in my heart I did not think could be filled. At a time when I had lost hope, Horizons for Homeless Children, and the children I serve, gave me a reason to care again. I only wish more well-meaning people were as lucky.

*Katherine Lutz
Boston*

TAX-EXEMPT LAND HITS WESTERN TOWNS MOST

"Untouchable Turf" (Head Count) gives a Boston-centric view of tax-exempt properties. Too often western Massachusetts or rural communities are seemingly dismissed as unimportant. However, in the 10 cities and towns with the most tax-exempt property, the cities of Boston and Chelsea average 27.37 percent, and the remaining eight western towns

average 30.39 percent. One of the striking differences is that the positive economic impact that academic and nonprofit institutions have in Boston, such as jobs, is not usually a part of these small towns' economies. Forests and reservoirs do not produce equivalent economic activity. And these western communities do not have the for-profit business tax revenues of Boston or Chelsea.

I do hope Mayor Tom Menino understands the economic impact that nonprofit, tax-exempt academic, medical, social, and human service organizations contribute to Boston. If not, I'm sure a lot of us here in western Massachusetts would welcome these institutions into our communities.

*Timothy J. Diehl
Executive director
Berkshire Area Health
Education Center
Pittsfield*

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GIC HASN'T DONE ENOUGH TO CUT COSTS

Stephanie Ullmann's Inquiry on the GIC ("Towns Seek More Power to Curb Health Care Costs") spells out the inadequacies of both the original GIC legislation and the revisions offered by the Special Commission on Municipal Relief.

Swampscott was one of the first towns to attempt to join the GIC in 2007, right after the governor signed the bill in June. Both of our attempts failed. The unions refused to come to the table for eight months, and, ironically, they voted on the issue the

same day that the stock market had its historic 800-point decline.

The teachers' union here would rather lose teachers than give up anything. In the last two years we have had to let go 45 young untenured and low-seniority teachers due to budget cuts, while those with seniority have enjoyed a contract with several raises. They have no problem "eating their young."

And the town recently caved by reducing the employee contribution to health insurance from 40 percent to 30 percent. Instead of a town/employee split of 60/40, we will have

a split of 70/30.

We are being held hostage by the municipal unions, and we are drowning.

Mary DeChillo

*Former School Committee member
Swampscott*

CW FAN UNIMPRESSED BY SUMMER ISSUE

I am a great fan of your magazine. Alas, the summer issue is the weakest I recall in years.

Particular criticism to the author on the piece about concrete railroad ties ("Back Tracking"). I find the omission of any reference to Europe or Japan, where they have been the dominant technology for many decades, to be inexplicable. Are we back to hub-of-the-universe navel gazing?

*William Eykamp
Arlington*

We welcome letters to the editor. Send your comments to editor@massinc.org, or to Editor, *CommonWealth* magazine, 18 Tremont Street, Suite 1120, Boston, MA 02108. Please include a city or town, as well as a daytime phone number. Letters may be edited for clarity and length.

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*Cleve Killingsworth, Chief Executive Officer
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Expanding our horizons

LIKE EVERYONE ELSE in the news business, we here at *CommonWealth* are trying to figure out a way to cover the news and cover our costs. Thanks to generous grants from the Boston Foundation and the Knight Foundation, we've come a long way over the last year.

We've expanded our staff and dramatically expanded our horizons. Our quarterly issues now offer up a tantalizing stew of investigative reports, analysis, and opinion. We take an in-depth look at hot-button issues in a way that few other publications do. Our stories are starting to have a big impact on policymakers and others in the news media.

This issue is no exception. The cover story by Michael Jonas reveals how educators and policymakers are finally discovering a simple truth: Teachers are the key to education success, and school systems need to hire and retain great teachers, help those in the middle improve, and get rid of those that can't do the job. Yet across the state we treat teachers as if they are all the same. Good teachers are paid the same as bad teachers. Nearly all get satisfactory job ratings. It's a recipe for mediocrity.

Colman Herman, as he has in the past, finds a state law that no one bothers to enforce. He takes us on a tour of the shadowy world of Internet companies and entrepreneurs who write term papers for college students in apparent violation of a state law prohibiting the practice. What's surprising is not that cheating goes on, but that cheating goes on so openly and is abetted by people in responsible positions. The online come-ons—"It's not cheating, it's collaborating"—are amusing until you realize students are hiring others to do their work.

Continuing our push for greater transparency in Massachusetts government, Jack Sullivan writes about the unfinished business of ethics reform. He reports that the ethics disclosures that all state officials are required to file are antiquated and virtually hidden from public view. To

remedy the situation, *CommonWealth* is purchasing copies of the disclosures and posting them on its website.

Thanks to their political muscle, public sector unions have always been first among equals on Beacon Hill. But with the economy in shambles, state and local governments cutting budgets, and pension scandals grabbing the headlines, Gabrielle Gurley asks whether the clout of public sector unions is on the decline.

While these stories continue a long tradition at *CommonWealth*, the next big step in the magazine's trans-

Our new website will allow us to do much more reporting.

formation will come just prior to the release of our next issue with the launch of a magazine website that will allow us to continue our reporting between issues. As many of you know, we've been doing online reporting for close to a year on our blog *CWunbound*. We're building an audience and starting to have an impact, whether it's reporting about defective railroad ties on South Shore commuter rail lines or fact-checking the Boston mayoral debates.

Our new website, to be called *CommonWealthmagazine.org*, will allow us to do much more. Our goal is not to duplicate what the *Boston Globe* and other news media are doing, but to fill in the gaps as their news coverage shrinks. Toward that goal, we are signing content-sharing agreements with a number of news organizations.

The Boston and the Knight foundations have made this initial effort possible, but we need support from our readers to keep growing and remain strong. Thanks in advance for your support.


BRUCE MOHL

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CommonWealth is going online

CommonWealth magazine will be ushering in the new year with a new magazine website at www.commonwealthmagazine.org. Our current blog, at www.CWunbound.org, will continue until the launch and then be incorporated into the new website along with more news, more features, a trove of public records, and more opportunities for readers to discuss public policy and politics. It will also include the complete contents of our latest print issue, as well as an archive of *CommonWealth* stories going back to 1996.

Watch for *CommonWealth* online!



inquiries

Greenway gets Bloomberg boost

One of the biggest financial supporters of Boston's newest park, the Rose Fitzgerald Kennedy Greenway, is a New Yorker.

In its recently released annual report, the Greenway Conservancy, the park's private operator, lists New York City Mayor Michael Bloomberg as one of eight donors who have contributed \$1 million or more.

Bloomberg showed up at the official opening of the park a year ago and was later identified as the person whose contribution helped create the Mother's Walk, a Greenway path dedicated to Rose Kennedy and lined with engraved bricks paid for by supporters. But the size of Bloomberg's donation was never revealed, and his name never appeared as a donor on the Greenway Conservancy's website. Instead, one donor was identified only as "anonymous."

Stu Loeser, the mayor's spokesman, said Bloomberg made the donation in honor of his mother, Charlotte Bloomberg, who still lives in Medford in the house Bloomberg grew up in.

Bloomberg, a self-made billionaire who founded the Bloomberg financial information firm, loves to give away money. In fact, he often quips that his goal is to give away all his billions so that when he dies, the check to his undertaker bounces.

In 2008, he donated \$235 million to more than 1,200 organizations, making him the leading individual living donor in the United States, according to the Chronicle of Philanthropy.

► BRUCE MOHL

Lawmakers cagy on how they use expense stipends

► BY JACK SULLIVAN

MASSACHUSETTS LAWMAKERS RECEIVE a \$600 monthly stipend for expenses, even though nearly all of their needs, including office supplies, stationery, postage, and telephone service, are paid out of other legislative accounts and most use campaign funds for district expenses.

The stipend adds up to \$7,200 over the course of a year for each legislator, or \$1.44 million for all 200 representatives and senators. Lawmakers are not required to produce any receipts or account for how they spend the money.

One Republican lawmaker, who asked not to be identified, said his State House expenses, like all other legislators, are covered by the Sergeant at Arms' office; his travel costs to and from work are covered by so-called per diem payments; and his district office is paid for out of campaign funds. He says the expense money is basically an add-on to his \$61,440 base salary.

"It's just walking-around money," he says. Asked what he has paid for out of pocket for work-related expenses, he says, "Maybe some nails for picture hangars for my walls."

THE STIPEND IS \$7,200 PER YEAR.

Michael Widmer, president of the Massachusetts Taxpayers Foundation, a budget watchdog group, was stunned to learn of the stipend. He says that in his 25 years of analyzing state budgets, this is the first he recalls ever hearing about it.

"That's pretty good 'walking around money,'" he says. "Something like this, I think, really, really gets under people's skin, and I think rightly so. Trust in government on the part of the public is critical. Having a double standard, which these things really are, sends a bad message."

Other lawmakers disagree, saying they use the stipend to pay for various expenses that aren't covered by other accounts. State Sen. Steven Baddour of Methuen, the co-chairman of the Legislature's Transportation Committee, admits he doesn't use the entire \$600 each month to cover expenses, but he uses a good chunk of it.

"Do I use \$600 month in expenses? Clearly, I don't," Baddour says, adding, "There are a lot of expenses going into holding public office. We have hearings all along the Commonwealth. We travel out to those hearings. Those expenses, they're not covered."

The stipend, which has been periodically raised through the years from its initial \$400 a year in 1953, was doubled to its current level in 2000. While some legislators over the years have refused to take pay raises or donated them to charity, no one has ever refused the monthly stipend.



Sen. Steven Baddour

The stipend is viewed by both the state and federal government as income, but State House officials have regarded it as an expense reimbursement. Up until last year, the stipend money was paid separately to lawmakers and not included with their bimonthly paychecks. The money was

reported to the federal government as 1099 income, and Medicare and other withholding taxes were not deducted.

Under an agreement negotiated last year with the Internal Revenue Service, state Treasurer Timothy Cahill acknowledged the stipend money was not being disbursed appropriately and agreed to pay \$1.6 million in penalties and Medicare withholding to the federal government. He also agreed to start including the stipend money along with travel per diems in the paychecks mailed to lawmakers, and take out all appropriate taxes.

The change in approach raises the question of whether the stipends and per diem payments, which can run as

high as \$15,000 a year, are income subject to pension calculation. If they are, lawmakers could see their pension payouts increase.

Officials in Cahill's office say pension board decisions have held that such payments are not income subject to pension calculation, but Widmer is not so sure in the wake of the state's agreement with the federal government. "Now it's closer to compensation because you have taxes and Medicare being taken out," he says. "It's being treated similar to salary, so maybe there's an argument."

One lawmaker, who asked that he not be identified, says he'll make that argument when it comes time to calculate his pension. "If I'm having withholding taken out of this and taxes and the IRS says it's income, I'll certainly broach the subject when it's time to retire and point this out to them," the lawmaker says.

With services being cut at all levels of state government and average households continuing to tighten their belts, Widmer says it's time for lawmakers to revisit whether the expense stipends are really necessary.

"The entitlements in the private sector have long gone, but the entitlements in the public sector seem to go on forever," he says.

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Foreclosure limbo continues for retiree in Dorchester

► BY MICHAEL JONAS

THE GOOD NEWS for Helen Williams is that two years after receiving an initial foreclosure notice, she hasn't lost her house. The bad news is that she still doesn't know whether she will be able to keep it.



Helen Williams is still waiting to hear whether she'll be able to keep her home.

The 71-year-old retiree, whose case was spotlighted earlier this year in *CommonWealth* ("Broken Homes," Winter '09), is still nervously waiting to see if she will be able to work out a modification to a mortgage she never should have received and whose payments she can never hope to meet. Her plight has drawn the attention of the FBI, which sent two agents to interview her in August.

In 2005, Williams refinanced her three-family house on Corona Street in Dorchester for \$395,000 with the West Roxbury office of Home Run Mortgage, a now-defunct mortgage broker. The firm financed the loan through a subsidiary of Ameriquest Mortgage, the notorious predatory lender, also now shuttered, on whose board Gov. Deval Patrick once sat.

The loan was arranged by a broker named Jay Harris, someone Williams was referred to by a friend of her daughter's. He acted as though he was there to help her out, explaining how the loan would let her consolidate the two different home loans she then had on the house, plus give her \$50,000 in cash to carry out needed repairs. In reality, it seems Harris was more interested in helping himself out.

Williams's closing papers listed an astonishing \$10,522 in closing costs. And Harris convinced her to sign over an additional \$5,000 to him directly, telling her he otherwise would receive no commission for his work. Williams claims income of only \$703 a month in Social Security plus \$2,669 from the two apartments she rents in her house. She was shocked when she looked carefully at the closing papers after the loan was made and saw that the broker had listed her income as \$7,500 a month. Inflating a borrower's income, which is illegal, was a widely practiced tactic by brokers during the heyday of the reckless subprime lending that helped send the global economy into a tailspin.

In February 2007, after falling several months behind on the monthly payments of \$2,400, Williams received an initial foreclosure notice. With other debts also mounting, she filed for bankruptcy four months later, a move that puts a hold on any further foreclosure proceedings. Earlier this year, Williams

came out of bankruptcy, a step that is necessary in order to pursue any type of modification of a mortgage loan.

Williams has been putting about \$2,000 a month into an escrow account, the amount she says she could afford to pay in a reworking of her loan. She has contacted Bank of America, which now holds the loan, and even hired a lawyer to help her, but she has not been able to get an answer.

Richard Ravosa, the attorney she hired, says all he can get out of Bank of America is word that “they are evaluating her case.” He says the bank should take into account the highly questionable actions of the originating broker.

“My loan has to be modified. Everything was crooked,” Williams says of the misrepresentations on the loan application.

She evidently isn’t alone anymore in her belief that all wasn’t on the up-and-up. In August, Williams says, two FBI agents paid her a visit and spent an hour and a half looking at her loan papers and asking her and her daughter lots of questions, including details about the broker and even the layout of the office where the closing took place. “I asked them if they are going to press charges or anything,” says Williams. They told her “they are investigating.”

Special agent Gail Marcinkiewicz, a spokesman for the Boston FBI office, says she can neither confirm nor deny the existence of an investigation. But she says the office does have a mortgage fraud working group that is pursuing possible cases along with FBI offices across the country.

“They should go to jail,” Williams said last year of those she says took advantage of her, while emphasizing that her main priority is simply being able to keep her home.

Depending on how things go, perhaps she’ll get both wishes.

Towns offer space to keep popular RMV branches open

► BY GABRIELLE GURLEY

CITIES AND TOWNS across the Commonwealth are making the state an offer it can’t refuse: Free or low-cost public space for Registry of Motor Vehicles branches.

To save \$1.7 million annually in the midst of the worst budget crunch in recent years, the Registry announced plans this summer to close 11 of its 34 branch offices. But

the agency’s decision forced a few of the affected communities to realize how important the branches are, both in terms of customer service for local residents and the economic activity they generate. That prompted some municipalities and private businesses to make available free or reduced-cost space to keep their branches open.

Lowell offered the RMV a sweet deal in the city-owned Early Garage development after Registrar Rachel Kaprielian announced she was going to shut down the city’s Chelmsford Street branch. The closing of an office that served nearly 167,000 people last year galvanized city officials. Rep. David Nangle says he heard from more residents about the closing than about any other issue in his 11 years on Beacon Hill.

Nangle, along with other state and city officials, convinced Kaprielian to keep the current location open until February and then move into the 6,680-foot garage space. Kaprielian was amenable because she says there’s a lot of branch traffic in the Merrimac Valley, where more people tend to use cash and fewer have Internet access.

LOWELL OFFERED A SWEET DEAL.

The Registry will pay no rent for 18 months at the new site, and then pay \$9.25 per square foot, increasing to \$13.58 by the end of the 10-year lease. That’s less than half of the \$192,000 rent the agency pays now. The city is also footing the bill for the build-out of the agency’s offices as well as janitorial, water, and sewer costs. The RMV picks up the tab for electricity, heat, and the 14 employees.

But doesn’t re-opening offices slated for closure defeat the purpose of budget cuts? “This is kind of against what we are trying to do, but we still are going to save a lot of money over those 10 years,” admits Nangle.

Lowell isn’t alone in wanting to keep a Registry presence. Attleboro recently found a rent-free municipal space for an express RMV branch near City Hall, and Falmouth is looking for space as well. Similarly, the RMV pays no rent for its branch offices in Haverhill City Hall, at the Martha’s Vineyard Airport in Vineyard Haven, or in the privately owned Eastworks Mall in Easthampton, where the office helps bring in foot traffic. As for Boston, the Chinatown branch is still slated to close, but the registrar says she hasn’t ruled out similar ideas for preserving services in the Hub.

According to Kaprielian, municipalities, like the state, are suffering in a down economy, and everyone is looking for ways they can partner to save costs or spur business. She says the Registry is trying to drive more and more customers to its website (37 percent of license renewals were handled online in August, up from 31 percent in March), but it still needs to operate a number of

branches because not all transactions can be done online.

“There are reasons people have to come into a branch,” she says. “You can’t just cease doing that.”

Along with municipal money savers, the RMV is also seeking out state-owned facilities and public private partnerships. Branches have opened on the Charlton and Natick service plazas on the Massachusetts Turnpike. (The Natick branch has been criticized for its difficult access.) There’s also a new Beverly location in the works at a MBTA parking garage scheduled to open in 2011.

A yearlong pilot program with AAA Southern New England allows the state to provide license renewals and vehicle registrations to AAA members at the association’s Worcester and Newton offices. The automobile association doesn’t charge the state anything, and employees perform the transactions. If labor issues can be worked out, the Registry would like to expand the program.

Lloyd Albert, AAA Southern New England’s senior vice president of public and government affairs, says moving routine transactions online is valuable, but it’s not a cure-all for the budget crunch facing the Registry. “What we recognize, however, is that many people who don’t have access in the same way as others to computers, we have to have bricks and mortar as an alternative,” he

says. “I think to find low-cost ways of doing that makes a lot of sense.”

Carpentry apprentices help nonprofits, get real-world training

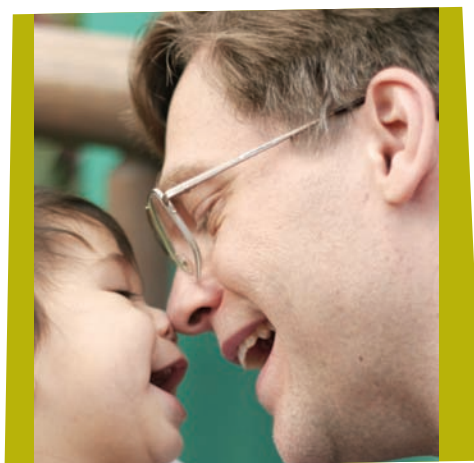
► BY ALISON LOBRON

FOR DAVID LEONHARDI, a union’s effort to increase its community service offerings has helped enhance his teaching.

Leonhardi is an instructor at the New England Regional Council of Carpenters’ training center in Millbury, where apprentice carpenters spend 16 weeks—one week per quarter for four years—learning the trade. In the past, his instruction was confined to the Central Massachusetts campus: He would teach carpentry using mock building projects, which students then tore down at the end of a

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course. While trainees learned the necessary skills, he says, they were often bothered by a sense of waste.

Increasingly, as part of NERCC's Helping Hammers program, Leonhardi is teaching on real work sites, complete with wind, rain, and anxious customers. Through Helping Hammers, the union donates apprentice labor to nonprofits, allowing groups like the Pine Street Inn, the YMCA, and the Boy Scouts to save money on construction projects. Nonprofits welcome the free labor, and instructors like the positive effects on carpentry apprentices.

Leonhardi thinks apprentices are often more engaged—and more receptive to learning—on a site than in a classroom. "It's hands-on stuff, stuff you can't simulate in a lab," he says. "A lot of our apprentices get into our program because maybe they didn't like school. You get them out on a job site and you see a different person."

He recalls one project, a senior center in South Boston, where his trainees enjoyed feeling like they were contributing to their own community. "A lot of the apprentices lived in Boston, so they really liked that," he says.

IT'S CALLED HELPING HAMMERS.

According to Mark Erlich, NERCC's executive secretary, the program started informally about a decade ago and has since assisted several dozen charities. But the more pro bono work they do, the more requests they get, he says, and he'd like to expand the program. So the name Helping Hammers is new, part of an effort to secure grant funding and increase the number of nonprofits served. Now, employer contributions—part of the union's collective bargaining agreement—pay for all apprentice training and instructor salaries, including Helping Hammers.

"The apprentices like it because they build something that will stay as opposed to building in a classroom setting, where it will get torn down after they finish it," says Erlich, a member of the MassINC board. "The owners like it because they get something built they couldn't otherwise afford. It's a win-win-win for everybody."

The one drawback for nonprofits is speed. "If you take a group of apprentices, they aren't going to be as productive as a seasoned union crew, but it's free," Erlich says. "It might take a little longer, but very few people get upset."

As executive director of the Massachusetts Affordable Housing Alliance, Tom Callahan relied on Helping Hammers in 2008 to build MAHA's new home ownership center in Dorchester. He said that the donated labor shaved 10 percent off the cost of a \$2 million building, and that the project hit no significant delays. "We were very happy beneficiaries," says Callahan. **CW**



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Census trends

BY ROBERT DAVID SULLIVAN

NEXT YEAR'S US Census promises more drama than usual, thanks to some recent demographic twists resulting from the economic crash of 2008. For example, the latest estimates have the state of Florida, long dependent on the real estate and construction industries, losing population for the first time since World War II. The trend toward bigger and bigger houses also seems to have hit a wall (see top of next page).

In Massachusetts, a decades-long exodus of residents to other states has slowed down considerably (see State of the States, CW, Spring '09), and our homeownership has continued to rise even as it's fallen from its peak in the rest of the US (see bottom of next page).

BIGGEST POPULATION GAINS IN MASSACHUSETTS

1980s	1990s	2000-08	2007-08
BOSTON: 11,289	BOSTON: 14,858	BOSTON: 19,636	N. READING: 3,364
LOWELL: 11,021	LYNN: 7,805	REVERE: 12,580	REVERE: 2,219
BARNSTABLE: 10,051	HAVERHILL: 7,551	CHELSEA: 6,282	CAMBRIDGE: 1,570
PLYMOUTH: 9,695	SHREWSBURY: 7,494	QUINCY: 4,114	CHELSEA: 1,483
WORCESTER: 7,960	FRANKLIN: 7,465	CAMBRIDGE: 3,953	BRAINTREE: 986

BIGGEST POPULATION LOSSES IN MASSACHUSETTS

1980s	1990s	2000-08	2007-08
ARLINGTON: -3,589	HARVARD: -6,348	PITTSFIELD: -3,044	BARNSTABLE: -332
PITTSFIELD: -3,352	NEW BEDFORD: -6,154	NEW BEDFORD: -2,495	SPRINGFIELD: -287
BRAINTREE: -2,501	SPRINGFIELD: -4,901	LYNN: -2,227	PITTSFIELD: -258
BROCKTON: -2,384	HOLYOKE: -3,866	BROOKLINE: -2,219	YARMOUTH: -180
MELROSE: -1,905	PITTSFIELD: -2,829	LAWRENCE: -2,112	NEW BEDFORD: -177

Source: US Census Bureau.

Note: Harvard's sharp drop in population during the 1990s was due to the closing of Fort Devens by the US Army. North Reading's sharp rise in 2007-08 is an estimate based on a large number of new housing permits in that town.

INTERNAL SHIFTS

Massachusetts has been characterized by slow population growth over the past few decades; in fact, it lost population for a few years before the economic crash seemed to freeze people in place. The table at left shows the biggest gainers and losers within the state.

During the 1980s, population shifted to both older cities and newer towns in the eastern part of the state outside Route 128. (Though Boston's 2 percent increase translated into the biggest raw change, towns such as Carver, Mashpee, and Sandwich had jumps of more than 50 percent.) This phenomenon continued into the 1990s, but the biggest population losers were no longer older Boston suburbs but instead Gateway Cities too far away to take advantage of the Hub's economy.

So far in the current decade, however, the biggest population gains have been in Boston itself and in close-by cities such as Cambridge, Chelsea, and Revere. Out-of-orbit industrial cities have continued to slump, but in the most current year available, the formerly robust Cape Cod region has started to shed people, with Barnstable, Bourne, Dennis, Sandwich, and Yarmouth all in the loss column.

What does this mean when the state, as seems inevitable, is forced to eliminate a congressional district in 2012? Based on population shifts (and grotesque lines), Barney Frank's congressional district is a logical target for extinction; it has three of the 10 biggest losers in the state (New Bedford, Brookline, and Newton). But given his seniority in the US House, it seems more likely that mapmakers will go after John Olver (whose western district includes Pittsfield) or relieve Ed Markey of the barely growing MetroWest suburbs and put him in the same district as North Shore Rep. John Tierney.

PERCENTAGE OF NEW ONE-FAMILY HOMES SOLD IN US WITH MORE THAN 2,400 SQUARE FEET

2000: 35%
2005: 43%
2008: 42%

Source: US Census Bureau.

CITY	% BORN IN MASS.	% BORN ELSEWHERE AS AMERICAN CITIZENS	% FOREIGN-BORN
BOSTON	46	25	29
BROCKTON	64	13	23
CAMBRIDGE	33	39	28
FALL RIVER	66	13	21
FRAMINGHAM	51	25	23
LAWRENCE	39	20	40
LOWELL	58	16	25
LYNN	57	11	32
NEW BEDFORD	66	14	21
NEWTON	50	32	18
QUINCY	59	15	26
SOMERVILLE	43	29	27
SPRINGFIELD	55	35	10
WORCESTER	61	21	18
STATE TOTAL	64	22	15
US TOTAL	59*	29	13

Source: 2007 American Community Survey, US Census Bureau.

Notes: Bolded numbers are higher than the statewide average in the same categories. "Born elsewhere as American citizens" includes natives of Puerto Rico and US territories, as well as those born abroad to American parents.

*Represents the percentage of residents living in the same state in which they were born.

MAGNET CITIES

Even though we've been losing people to other parts of the country for generations, thanks to high housing costs and low temperatures, the Bay State's need for a highly educated workforce has always attracted people from elsewhere. But as the table at left shows, some communities have more pull than others.

The Census Bureau provides annual data on cities of more than 60,000 people, and in that group Cambridge has the smallest share of lifelong Bay Staters (33 percent of the total), with other US natives at 39 percent and immigrants at 28 percent. The first number is similar to that of Chapel Hill, North Carolina, another high-tech college city, where only 36 percent of residents were born in-state. But Chapel Hill, like much of the urban South, has a very high percentage of people from other parts of the country (48 percent) and a much lower share of the foreign-born (15 percent).

The older industrial communities known as Gateway Cities have generally been less successful at attracting people from outside Massachusetts. Springfield is a bit of an aberration in that more than one-third of its residents come from elsewhere in the US, but almost 95 percent of the residents in that category were born in Puerto Rico. At the same time, its immigrant population (10 percent) is far lower than any other city of significant size. The result is a poorer and less diverse population than in, say, Lowell or Lynn.

The South Coast cities of Fall River and New Bedford stand out for their high percentages of Bay State natives. Still, many Gateway City equivalents elsewhere in America are even more parochial. For example, in Flint, Michigan, 76 percent of residents were born in-state, and a mere 1.3 percent were born outside the US.

HOMEOWNERSHIP RATES

1990: US 63.9%, MASS. 58.6%
2007: US 68.1%, MASS. 64.3%
2008: US 67.8%, MASS. 65.7%

Source: US Census Bureau.

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Graduate gap

BY ROBERT DAVID SULLIVAN

BY ONE MEASURE, Massachusetts is easily the most educated state in the United States. Among our residents over 25 years old, 37.9 percent had at least a bachelor's degree in 2007, according to US Census data—putting us in front of second-place Maryland (35.2 percent) and far ahead of the nation as a whole (27.5 percent). If our education ceiling is impressive, however, our floor is not so hot. The Bay State is tied for 17th place in high school graduation rates, with 88.4 percent of our over-25 residents holding diplomas—better than the national average of 84.5 percent, but well below first-place Wyoming's 91.2 percent.

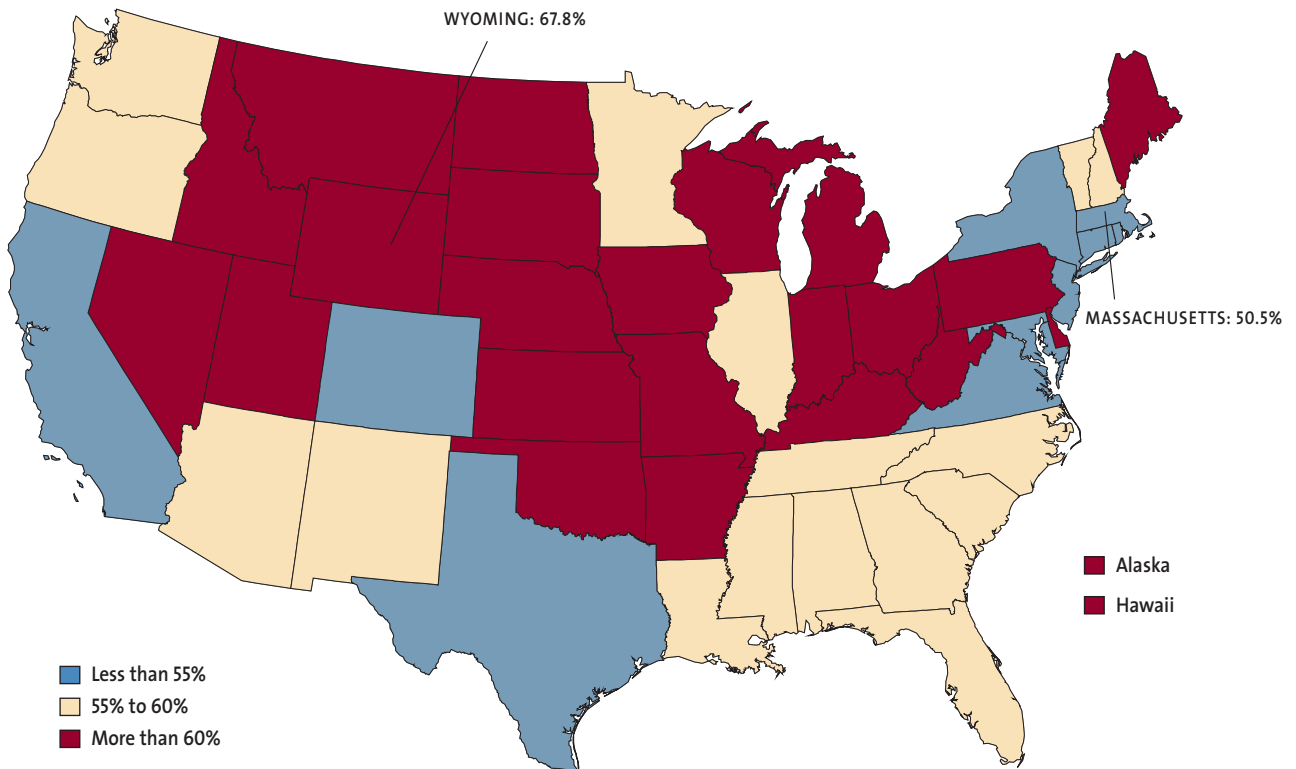
The combined result of these two statistics is that Massachusetts is dead last in the percentage of its population that has completed high school but not received a college degree, as shown on the map below. We're in the same company as several other urban states, mostly with above-average college graduate rates and so-so high school

completion rates. (The major exception is Texas, which has a so-so college graduate population and a well-below-average high school graduate population.)

Compared with 1990, the college-degree share of the Bay State population jumped by 8.1 points (up from 29.8 percent), one of the biggest increases in the US. At the same time, our high school graduate share rose by a more modest 4.7 points. (Nationally, it was up 9.0 points.) Our failure, as yet, to hit the 90 percent mark, is attributable to several cities with lagging graduation rates. In Lawrence, 37 percent of the adult population had not completed high school; the comparable figures were 36 percent in New Bedford and 34 percent in Pittsfield.

The states with the highest proportions of high school (but not college) graduates were mostly in the Farm Belt and Midwest. Intriguingly, they included eight of the 10 states with the lowest unemployment rates as of this August. **CW**

SHARE OF ADULT POPULATION WITH HIGH SCHOOL DIPLOMAS BUT NOT COLLEGE DEGREES



Source: US Census Bureau

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Municipal workforces

BY ROBERT DAVID SULLIVAN

JUST ABOUT EVERY community in the Bay State is trying to make do with less, but there are huge differences in the sizes of their municipal payrolls in relation to their population sizes. Statewide, there were 393 municipal employees for every 10,000 residents in FY 2008, according to the state Department of Revenue. But the ratio ranged from 28 in Phillipston (five employees for a population of 1,787) to 3,253 in the island chain known as Gosnold (27 employees for 83 people). Boston was almost exactly in the middle, ranking 171st of the 336 cities and towns with available data; it reported 23,755 city employees for a population of 609,023.

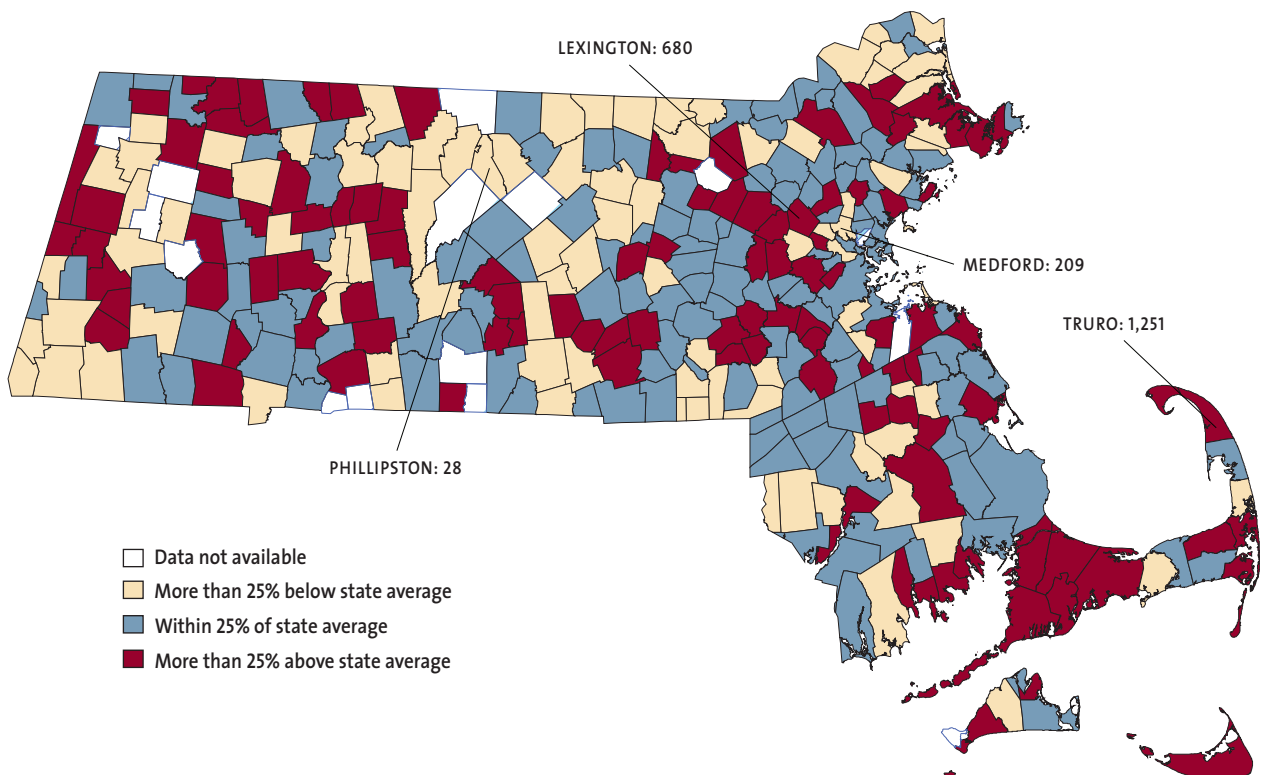
As shown on the map below, the biggest rosters on a proportional basis were in resort towns, where safety officials must deal with day-trippers and seasonal residents, and in affluent suburbs that spend a lot on schools. For example, Lexington, which had the highest ratio of municipal employees to residents among places of at least 30,000 people, spent \$2,202 per resident on education in FY 2008,

far above the state average of \$1,269.

Small workforces were especially common in exurban towns with recent population gains. But among places with at least 50,000 people, Medford had the smallest workforce per capita: 1,160 employees for 55,573 residents. Still, that doesn't mean the northern suburb had the lowest payroll costs: Medford ranked the highest among large cities in the average pay for its employees, at \$61,623 per year. (Most of the highest earners were police officers; Medford spent \$815 per resident on education, well below the state average.)

Taking into account salaries as well as the raw numbers of employees, Nantucket spent the most on the public payroll (\$3,154 per resident), with both struggling Holyoke and affluent Wellesley also near the top of the list. The town of Colrain was at the bottom (\$178 per resident), and a slew of Worcester County towns (including Charlton, Dudley, and Spencer) were also at the frugal end of the continuum. **CW**

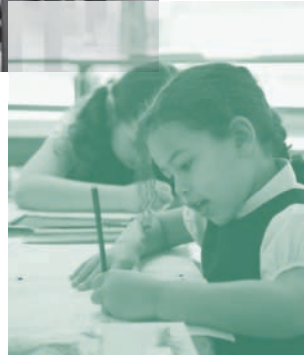
MUNICIPAL EMPLOYEES PER 10,000 RESIDENTS, FY 2008



Source: Massachusetts Department of Revenue, Division of Local Services (www.mass.gov/dls)

Incomplete Grade:

Massachusetts Education Reform at 15



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Reining in regulation?

Obama's choice of Harvard professor Cass Sunstein signals caution

BY SHAWN ZELLER

THE OBAMA ADMINISTRATION has dedicated 2009 to the most ambitious legislative agenda of any president in recent memory, from the economic stimulus package of the winter to this fall's landmark bills overhauling the health care system and attacking global warming.

But 2010 may well turn out to be quite the opposite—one marked by cautious regulating—if Obama's choice to be his administration's top regulatory watchdog, Cass R. Sunstein, says anything about the president's approach to carrying out and overseeing the new laws.

A law professor at Harvard, founder of its Program on Risk Regulation, and an outspoken advocate of weighing the cost of regulations against their benefits, Sunstein is regarded by all as a brilliant scholar.

But he's also been an equal opportunity provocateur, irritating liberals by questioning the efficiency and even constitutionality of environmental and health-and-safety regulations while annoying conservatives by endorsing more activist government approaches to societal problems.

So both sides are eager to see how Sunstein's academic work guides him as the regulatory czar at the Office of Management and Budget (OMB), where he has the power to delay, edit, or even kill regulations proposed by government agencies.

"OMB has been used since the Reagan administration as a political arm of the White House, so it will be very interesting to see what role Sunstein plays," says Rick Melberth, director of federal regulatory policy at OMB Watch, an advocacy group in Washington that favors tougher regulation.

Sunstein's most recent book, the best-seller *Nudge: Improving Decisions About Health, Wealth, and Happiness*, co-written with University of Chicago economist Richard H. Thaler, shows how

he doesn't fit neatly in an ideological box. It advocates a "libertarian paternalism" in governing that would allow citizens as much free choice over their affairs as possible, with a good dose of regulation aimed at steering them in healthy, productive directions.

Liberals are most troubled by Sunstein's devotion to cost-benefit analysis as a means of ensuring that regulators are held accountable for the effects of the rules they write. Many are highly skeptical of cost-benefit analysis as a regulatory principle because they see the equation as irredeemably compromised toward the cost side by industry lobbying. They would prefer to see OMB grant more deference to the government agencies that propose new regulations, playing more of a coordinating role than that of a devil's advocate.

"The problem with the cost-benefit method is, the inevitable result is that the benefits of environmental regulation get vastly underestimated," says Amy Sinden, a professor of law at Temple University in Philadelphia and a board member of the Center for Progressive Reform, a group of academics that supports strict health, safety, and environmental regulation. "It's so hard to quantify the value of a human life, of human health and environmental ecosystems, and so it's no accident that industry has consistently pushed for more cost-benefit analysis."

Environmentalists are worried too. "The risk is you could have people who understand the cost of everything and the value of nothing calling the shots," says Frank O'Donnell, president of Clean Air Watch.

Some conservatives, meanwhile, fear that Sunstein's version of cost-benefit analysis will ultimately put more weight on the benefit side of the equation, and that he will therefore be a more

activist regulator than they would prefer. Republican senators held up Sunstein's appointment for months, for example, because he's argued in his academic writing on behalf of animal rights. In general, however, conservatives have been more receptive to Sunstein's appointment than liberals have been because they expect that he will institutionalize a strong role for OMB, essentially carrying over George W. Bush's policy of placing the office at the center of the regulatory review process.

"The biggest fear that I had with the new administration was that the system of regulatory review would be eroded, and Sunstein helps ensure that doesn't happen," says James L. Gattuso, the senior research fellow in regulatory policy at the Heritage Foundation, a conservative think tank in Washington.

A MASSACHUSETTS NATIVE, Sunstein, 55, graduated from the Middlesex School in Concord, Harvard College, and Harvard Law School. He spent 27 years as a professor at the University of Chicago Law School, where he met and befriended a fellow professor, Obama, before joining Harvard's faculty last year. He has taken a leave of absence from Harvard to work in Washington during the 2009-2010 school year.

Sunstein's specialty is the field of "law and behavioral economics," studying how to write laws and regulations to shape sometimes irrational human behavior. After hiring Sunstein in February 2008, then-Harvard Law School Dean Elena Kagan—now the Justice Department's top lawyer—called him the "pre-eminent legal scholar of our time—the most wide-ranging, the most prolific, the most cited, and the most influential."

In his confirmation hearings before the Senate earlier this year, Sunstein tried to reassure worried Democrats that he would not stamp out new rules simply because of their costs. Sunstein said he would first seek to carry out Congress's legislative mandates, consistent with Obama's priorities. But he added that he would look to "institutionalize the notion of looking before you leap so that when the government is starting with a regulation, whether it involves homeland security, education, energy, or anything else, there's some sense of what the consequences are likely to be."

Such a cautious approach worries Sinden and her colleagues. After Sunstein's nomination earlier this year, the Center for Progressive Reform released a white paper noting that Sunstein's desire to know the consequences of regulation before taking action could result in an unnecessary reticence to regulate.

Sunstein, they pointed out, has questioned the consti-



Cass Sunstein may be best known for co-writing the book *Nudge*.

tutionality of the law governing the Occupational Safety and Health Administration, arguing that the 1970 health and safety law protecting workers on the job gives too much congressional authority to the executive branch. He also has suggested that instead of incurring the high cost

Liberals would have preferred another choice.

of reducing carbon emissions to deal with global warming, it might be more efficient to establish a fund to help future generations deal with problems associated with climate change.

Liberals would have preferred that Obama had chosen another former Massachusetts denizen, Lisa Heinzerling, for the head of OMB's Office of Information and Regulatory Affairs. Instead, Obama named her to the top job at the Environmental Protection Agency's Office of Policy, Economics, and Innovation, where she will have to work with Sunstein on any new rules dealing with global warming.

A former member of the Center for Progressive Reform and a onetime assistant attorney general in Massachusetts, Heinzerling wrote a 2007 legal brief for the state that convinced the Supreme Court to find that the Environmental Protection Agency did have authority to regulate greenhouse gases. She has long argued that it is better to err on the side of regulation when clear cost-benefit data is not available.

But Sunstein thoroughly rejects this “precautionary principle,” and he has locked horns with Heinzerling before. In 2004, for example, he called a Heinzerling book that makes the case for precautionary rulemaking “worse than unhelpful” and “utterly incoherent.”

Liberals’ worst fear is that Sunstein will follow in the footsteps of John D. Graham, a professor of public health at Harvard before joining Bush’s OMB and the founder of Harvard’s Center for Risk Analysis. From 2001 to 2006, Graham helped turn the OMB’s Office of Information and Regulatory Affairs into a powerful enforcer of the Bush administration’s anti-regulatory orthodoxy. He was credited—or blamed—with slowing or killing a variety of health, safety, and environmental rules. He ordered the EPA to revise rules aimed at restricting farm runoff, for example, and challenged the agency’s work on clean air regulation.

Graham says he sees Sunstein as the latest in a long line of Harvard faculty and students who’ve populated OMB, starting with Christopher DeMuth, a former Kennedy School professor who went on to head the Office of Information and Regulatory Affairs under President Reagan, and later led the American Enterprise Institute, one of Washington’s most prominent conservative think tanks.

Graham calls Sunstein “superbly qualified” to run OMB’s regulatory arm.

In his Senate testimony, Sunstein tried to play down any similarities with Graham. “My own approach to cost-benefit analysis is inclusive and humanized,” he said. “What I’ve emphasized in my academic writing is that cost-benefit analysis shouldn’t put regulation in an arithmetic strait-jacket. That there are values—moral, distributional, aesthetic, and otherwise—that have to play a part.” Indeed, he added, there are “limits” to “purely economic approaches to evaluation of costs and benefits.”

In policymaking, the ideal scenario, Sunstein argues in *Nudge*, is to find regulations that are efficient economically and create good incentives for people to lead healthy, productive lives. A prime example, he writes, is the Earned Income Tax Credit, which provides government funds to poor people based on how much they earn. A diverse array of conservatives and liberals support the program over more traditional welfare handouts because it alleviates poverty while rewarding work. But while such examples clearly exist in narrow cases, many liberals worry that the *Nudge* philosophy, untested in larger matters, may come up short when it comes time to write rules governing new health care or global warming laws. **CW**

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1954 First successful human organ transplant
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1962 First successful surgical reattachment of severed limb
—Massachusetts General Hospital

1984 First heart transplant performed in New England
—Brigham and Women’s Hospital

1993 Discovery of genes responsible for Huntington’s disease and inherited ALS
—Massachusetts General Hospital



1998 First successful transplant of kidney with bone marrow, removing long-term need for anti-rejection drugs
—Massachusetts General Hospital

2003 Development of CRP test to predict risk of heart attack and stroke
—Brigham and Women’s Hospital

2004 First quintuple lung transplant performed in the U.S.
—Brigham and Women’s Hospital

2008 Development of microchip device to detect rare, minute cancerous tumor cells in bloodstream of cancer patients
—Massachusetts General Hospital

2009 Partial face transplant, only the second ever in U.S.
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Second chances

Career changes become more common, but the support structure hasn't yet caught up **BY ALISON LOBRON**

THREE YEARS AGO, Dan Ladd of Lincoln closed up a real estate law practice and went back to school. Faced with a slow business climate and a desire for a skill he could take overseas, the former lawyer is now in training to be a veterinary technician.

Ladd, 59, is one of thousands of Massachusetts residents who are in the throes, or on the cusp, of a significant career change. More than 3 percent of Bay State workers have lost their jobs since this recession began in December 2007; others are sensing uncertainty in the air and want to re-evaluate their current paths.

But professionals seeking change say they find little in the way of a clear pathway to get there—surprising, given how common the situation is. After all, the average US worker of the Baby Boom generation held 10.8 jobs before age 42. (Not all of those job changes represented career changes, but no one has a better number because the government says there's no consensus on what constitutes a career change.) The stories of Dan Ladd and other successful career changers offer a glimpse at what strategies work and which ones might work.

On the individual level, a satisfactory transition requires experiencing the day-to-day aspects of a profession before spending money on further education; getting to know people outside one's usual network; identifying transferrable skills; and opening oneself up to unheard-of careers.

For policymakers, fostering successful change means thinking more broadly about when, in a person's life, public educational dollars should be invested. Painful as it's been, this recession offers an opportunity for us to recognize the extent to which our current system—in which you pay a lot of money up front for an education, often before you have an idea what you want to do—is poorly suited to an era in which many people will work for 50 years. A good first step, career changers say, would be different financial aid policies for people with, say, more than 10 years of work experience. Another would be fostering more avenues for people to test-drive different careers without making a significant investment in education. A third may

be acknowledging that men and women may approach transition differently, and that, for reasons that are unclear, state resources are now doing a better job reaching women.

There's also a cosmic cultural shift that needs to happen, a greater recognition that (measurable or not) career change is common. We still ask kids what they want to be when they grow up. The question that would better reflect our reality—and the likely future—is, “What do you want to try first?”

COURAGE FROM A SOUR ECONOMY

Ladd, a graduate of Boston University and Suffolk Law School, says he enjoyed practicing law for many years but increasingly craved a career that offered a “little more sense of adventure,” where he might be able to take his skills overseas. “It wasn't a pull so much to the veterinary field as a pull to a field that had different characteristics from law—more physically active, more opportunities to be outdoors, where I could develop a skill that was transferable elsewhere,” says Ladd.

“The idea of being a vet was always interesting to me,” he says. “In the '90s, I thought about it, but didn't quite have the courage.”

Courage came, in part, from a sour economy. Facing the beginnings of a real estate slump in 2006, and inspired by a girlfriend who had gone to nursing school in her 40s, Ladd sought help through Jewish Vocational Services. He knew only that he wanted hands-on work, likely involving animals or some form of landscape design. His counselor urged him to volunteer in as many fields as he found interesting, so he took a position at the Stone Zoo, then later switched to the animal hospital at the Franklin Park Zoo. While volunteering, he learned about veterinary technicians, a field that required less training than becoming a veterinarian would. He started a bachelor's of science program at Mount Ida College in January 2007 and expects to graduate next summer. While Ladd is eyeing work in Massachusetts, he also hopes to

bring his animal-care skills overseas, perhaps as a Peace Corps volunteer.

While he says he felt some financial freedom because he does not have children, he still needed loans to supplement his savings, and Ladd found the financial-aid process frustrating because schools treated him, in effect, as though he were 18 years old. “They’re really all structured around someone who is in their late teens or early twenties and getting loans based on parental income,” he says. When he applied for loans, he had to show his own past income as an indication of “family income”—even though, unlike the parent of a 19-year-old, he wouldn’t have the same salary while he went to school.

To be sure, financial aid is an anxious and uncertain process for students of all ages. But it’s also one that assumes that 20-ish is the age for education investment—and the rest of life is the time when you reap the benefits—when in fact, many need the training later in life.

“That’s why people like me are employed full-time!” jokes Phyllis Stein, a private career counselor in Cambridge. “There isn’t a structure the way there is when you’re in college. But that’s often way before you have enough data and information about yourself” to make a good decision, she says.

Kerin Mayher, 33, invested a lot in a career that turned out to be neither satisfying nor especially stable. A Raynham native who now lives in Medford, she studied psychology and sociology at the University of Massachusetts—Amherst and, as part of her academic program, worked to help prepare prison inmates for release. Through on-the-job training, she got a license to work as a social worker with children in the court system. She quickly assumed she’d make more money doing similar work if she had a law degree, so she went to Suffolk Law School. When she graduated—with \$100,000 in school loans—she found a job climate remarkably different than what she expected, and different than what she felt the school had promised her.

“What I failed to look into before I went to law school was that if you don’t graduate in the top 10 of your class, you don’t get one of those big law firm jobs that pay \$150,000,” says Mayher, who initially took a job in a general practice. “I was working my butt off to make \$45,000.”

In 2005, she got a job working for the state Department of Social Services, where she’d previously been a social



Dan Ladd left real estate law to become a veterinary technician.

worker. “It just wasn’t as fulfilling as I thought it would be. I wasn’t able to effect change like I thought I would,” says Mayher. She remembers feeling envious of the social workers, who earned overtime when she didn’t.

The next few years were a series of stops and starts, and personal challenges. After Mayher’s parents suffered serious injuries in a car accident in 2007, she quit the Social Services job “cold turkey,” she says. While helping her parents recuperate, Mayher managed her father’s residential rental business and then worked as a legal recruiter, where,

Financial aid assumes that 20 is the age for education.

she says, she learned how many attorneys are unhappy with their work.

“It was a good position for me, but then I got laid off,” she says. “I decided what I really enjoyed was the people contact, and helping professionals decide what they wanted to do. So I did some informational interviewing and joined some legal professional organizations, and gathered all the info I could. I took a temp job at the Northeastern Law School career office and did some career advising.” Mayher is now employed at one of the state’s one-stop career centers—where she tries to focus on ex-lawyers—and hopes to open her own consulting firm helping lawyers get re-trained.

Looking back, she wishes she’d spent more time in law offices. “I knew what a lawyer does, and of course I read

tons of John Grisham books and it seemed really exciting,” she says with a laugh. “I did a lot of internships in college, but I never did one at a law firm. I had no idea what it was really like to be a lawyer and, had I known that, I probably would not have gone down the path I went down. It isn’t a good fit for my personality.”

SELF-ASSESSMENT IS KEY

Both Mayher and Ladd believe the key to a successful change is to have the chance to try things out, which can be difficult when you’re already employed full-time. Indeed, the chance for exploration may be one of the few upsides to a layoff—though not everyone has the financial cushion for experimentation.

Suzanne Bump, state secretary for labor and workforce development, urges laid-off Massachusetts residents to take advantage of the state’s 37 “one-stop” career centers. Low-income residents may be eligible for federal vouchers for work-training and for one-on-one counseling. But professionals of all income levels can participate in courses to help them figure out how to transfer skills from one field to another. Bump says the number of workers with some post-secondary education visiting the state career

centers swelled in the last year. “There is a tremendous awareness of the need for skills assessment and a greater willingness to sit themselves down in the classroom and make a real investment in their skills capacity,” says Bump.

But Bump says the state faces a particular challenge around gender and figuring out how to better serve men. She reports that although this recession has hit male workers harder than female ones, approximately 60 percent of the lower-income people who visit one-stop career centers are women, a statistic that’s taken her office by surprise.

“There’s a real openness toward self-assessment and mediation on the part of women in the workforce,” says Bump. “Once we get out of crisis mode, I want us to really focus on what it is that we can do better to bring more men into the training system.”

Chris Leuchtenburg of Acton is a man who did seek help when he was unemployed—though he did so from private counselor Phyllis Stein. Leuchtenburg spent 25 years in the computer industry, working his way up to the position of vice president of business development for a start-up. But when the first dot-com bubble popped in 2001, his job went with it. He spent a year without a job and began seeing Stein. “I’d been thinking of leaving the

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WHAT WORKS

industry for some time, and this felt like nature's way of telling me the time was right," says Leuchtenburg. "I had a strong interest in music, so I looked at that, but I was also interested in the environment." He also wanted to do more hands-on work, in which he created a product rather than selling someone else's.

On Stein's advice, Leuchtenburg started a process that can strike dread into the heart of anyone who isn't a self-help book author: networking. His mother introduced him to a friend whose son worked for the Nature Conservancy in Connecticut, and that friend recommended he look into GIS. "I said, 'What's GIS?'" Leuchtenburg remembers.

As he learned about Geographic Information Systems, he got interested in the technical aspect of mapping, and began taking courses at UMass-Boston. He now works part-time for the state's Division of Ecological Restoration and part-time in the city of Cambridge's watershed division, making maps to help determine which rivers need restorations, and which dams could be removed.

While the technical environment is familiar, Leuchtenburg likes doing the hands-on piece rather than managing others. The father of three says his pay cut was significant, but it coincided with his wife's return to paid work after being home with their children. With some lifestyle cutbacks, they were able to afford the change, as well as the course work he needed.

The chance for exploration can be one of the few upsides to a layoff.

It is difficult to legislate for serendipitous encounters like the conversation that introduced Leuchtenburg to GIS—especially for Bay State residents without much of a financial cushion to figure out their next steps. But Secretary Bump hopes the one-stop centers will provide people with networking opportunities, like the one that worked for Leuchtenburg, as well as emotional support. "A major function of career centers is to allow people to maintain social ties and avoid the isolation and shame that can come from unemployment," she says.

Leuchtenburg says the combination of networking and career counseling—which helped him expand his sense of possibilities and manage the anxiety of unemployment—worked for him. "During that year, when I didn't know if I would work or when, that was stressful," he recalls. But having emerged from the other side of the change, he says, "My job satisfaction is fabulous." **CW**

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...How Will We Be Sure Our Students Are Learning What They Need To Know?

According to the Nellie Mae Education Foundation's latest report, *What It Takes to Succeed in the 21st Century – and How New Englanders Are Faring*, the success of our region will depend in large part on how proficient our residents are in the skills necessary for success in New England's increasingly knowledge-based economy - skills like communication, creativity, problem-solving, critical thinking, the ability to work as part of a team, and the use of modern technologies.

Standardized tests still play an important role in an accountability system by providing assessments of certain skills. However, we must recognize that knowledge is obtained in various ways, through different methods in different places, and we must begin to measure competency accordingly.

In order to produce the well-rounded citizens New England needs, we must utilize performance-based assessments that are rigorous, valid and revealing of what learners actually know.

At the Nellie Mae Education Foundation, we know that institutionalizing and implementing this effort is a test we can and must pass.

For more information, visit www.nmefdn.org



Nellie Mae
Education
Foundation

Opening Doors to Tomorrow

Teacher test

Identifying effective teachers is vital
to improving schools. So why do we act
as if all teachers are interchangeable?

BY MICHAEL JONAS

In 1966, the federal government released a seminal report titled *Equality of Educational Opportunity*. Written by James Coleman, a prominent sociologist, the report attempted to get at the various influences on student performance in American schools. The study, widely known simply as the Coleman Report, concluded that “only a small part of [student achievement] is the result of school factors, in contrast to family background differences between communities.”

Since then, study after study has shown the strong connection between forces outside schools—parenting, family stability, socioeconomic background—and achievement levels. Students in wealthier communities almost invariably score higher on standardized tests than those from lower-income communities.



But these broad patterns, which receive so much attention, mask something very important that is going on when student achievement data are broken down more finely at the level of individual students and classrooms. There, according to a growing body of research, clear differences are apparent in student achievement between classes in a given school made up of students of similar background. The conclusion the studies point to is that there are substantial differences among teachers in their ability to drive student learning.

The notion that teachers are the linchpin of student success is easy for many people to accept, since almost everyone can recall an extraordinary teacher who lit their passion for a particular subject or whose classes were universally regarded as among the best in their school. “That seems to be stipulated common knowledge now. People accept that,” says Paul Reville, the Massachusetts secretary of education. The issue, he says, becomes, “What do you do about it?”

It turns out, that is a very loaded question. There may be a growing recognition that the effectiveness of a teacher is the key school-based variable we can control, but almost none of the structures that have evolved over decades to govern how we hire, evaluate, pay, or assign teachers to classrooms is designed to operate with that in mind.

We base hiring decisions on certification credentials that don’t seem to correlate highly with teacher quality. Most teachers receive only cursory performance evaluations, with virtually every teacher graded highly. We use a one-size-for-all salary structure, in which the only factors used in raises are a teacher’s higher education credentials and number of years in the system, neither of which is strongly linked to teacher effectiveness. And we often let seniority, rather than merit, drive decisions about where a teacher is placed.

It is in many ways an industrial model that treats teachers as identical, interchangeable parts, when we increasingly know that they are not. The consequences of that mismatch are as far-reaching as the changes in teacher policy that many say are urgently needed.

“Teacher evaluation in this country is fundamentally broken,” says Arne Duncan, President Barack Obama’s education secretary, in an interview in Boston. “We don’t live in Lake Wobegon [where everyone is “above average”], but we have a system that pretends that we do. It hurts adults and it hurts children. It means, by definition, that the great teachers don’t get recognized and don’t get rewarded, and we don’t learn from them. The teachers in the middle don’t get the support they need to improve, and the teachers at the bottom—who, frankly, need to

find another profession—don’t get moved out. For us to continue to do what we’re doing, or to just tinker around the edges, is crazy.”

MEASURING UP

Eric Hanushek was a Harvard graduate student in economics when he was selected, in 1966, to join a yearlong seminar with many leading social scientists of the day to help formulate policy recommendations based on the Coleman Report. Though he agreed with the overarching finding that family background has a huge effect on student achievement, Hanushek says the idea that schools and teachers were not an important variable struck him as off-base.

“I thought that sounded kind of crazy, and it launched me into all this work,” says Hanushek, now a Stanford University researcher who has spent the ensuing four decades studying American schools. As he dug into student achievement data, Hanushek says, it became clear to him that “the kids in some classrooms tended to learn a lot more in a year than the kids in another classroom. I started saying at the time, ‘It looks like teacher differences are really important.’”

Hanushek became one of the first researchers to try to quantify the impact of teachers on student learning. Since student achievement tends to rise along with family income

‘We don’t live in Lake Wobegon, but we have a system that pretends that we do. It hurts adults and it hurts children.’

and other non-school factors, the challenge was to try to isolate the actual effect of teachers on learning. Hanushek and a North Carolina statistician named William Sanders were early developers of what has become known as the “value-added” model for assessing teacher effectiveness. Under this approach, researchers do not measure a teacher’s effectiveness based simply on student achievement scores, which are often correlated with “family background differences” and might or might not reflect any impact the teacher had. Instead, they try to gauge the growth in student achievement during a given school year. By looking at how much a student has progressed, regardless of where he or she started from, the model claims to capture the true effect of a given teacher. “You take most, if not all,



"The solution to the problem is right in front of us, if we could just get much more serious about identifying and rewarding effective teaching," says Harvard professor Tom Kane.

professor Tom Kane, has found that students assigned for a single year to a teacher in the top 25 percent of classrooms ranked by student achievement move ahead 10 percentile points more on achievement tests than similar students assigned a teacher in the bottom 25 percent of classrooms. "That's a quarter of the black-white achievement gap," says Kane. "That's a big difference."

To Kane such findings have profound implications for public education, particularly in districts serving lots of poor and minority children who sit on the bottom end of the achievement gap. When it comes to the search for a proven strategy to substantially improve their achievement levels, "we don't have to wish for it to exist," says Kane. "It does exist in about a quarter of our classrooms. What these data are telling us is that the solution to the problem is right in front of us, if we could just get much more serious about identifying and rewarding effective teaching."

Not everyone thinks it is nearly that simple. Critics of value-added assessments contend that there is far too much room for these studies to miss important factors that might account for apparent teacher-effectiveness differences but actually have nothing to do with the teacher. Jesse Rothstein, a University of California—Berkeley economist, wrote a paper earlier this year based on student data from North Carolina schools that suggested that principals do not randomly assign students to classes. He concluded that principals consciously or unconsciously assign some

the socioeconomic issues off the table," says Sanders.

Hanushek conducted one such study in schools in Gary, Indiana. He ranked teachers based on the average growth in achievement shown by students in their classes, and then he compared the difference in achievement progress over a school year in classes taught by teachers ranked the most effective (the 95th percentile or higher of all teachers) with those in classes of the lowest ranked teachers (the 5th percentile or lower). The difference amounted to a full year of learning, with students of the lowest performing teachers gaining half a year (compared with average achievement growth) while those taught by the highly effective teachers made one-and-a-half-year's worth of progress.

Another leading teacher effectiveness researcher, Harvard

teachers students capable of making larger gains, while other teachers tend to be assigned students who struggle more. If the researchers cannot identify such practices and adjust for them statistically, Rothstein says, value-added assessments could capture differences that have nothing to do with actual teacher effectiveness.

Kane recently completed one of the first value-added studies carried out using a true experimental design, in which the researchers were allowed to randomly make the student assignments. Since the results did not differ markedly from studies in which the principals made assignments, Kane says the findings suggest principals are not introducing unaccounted-for effects in their assignment of students. Like everyone involved in value-added research of teachers, he says more studies should be done to con-

firm the accuracy of assessments and improve the ability of the models to tease out the true teacher effects in student outcomes.

There are plenty of grounds for caution about the haphazard use of value-added assessments. The potential pitfalls are everywhere—from those Rothstein has raised to basing estimates on inadequate sample sizes or failing to use enough assessments of student achievement to account for random fluctuations in scores.

But there is also a price to pay, say some, for holding back indefinitely from judging teachers based on what is, at the end of the day, the job at hand. “The profession has resisted the idea that they should be held accountable for what students learn,” says Kate Walsh, president of the National Council on Teacher Quality, a Washington, DC, policy organization. As with any measurement instrument, value-added assessments “may not always be perfectly fair,” she says. “But you have to compare it to what we have now.”

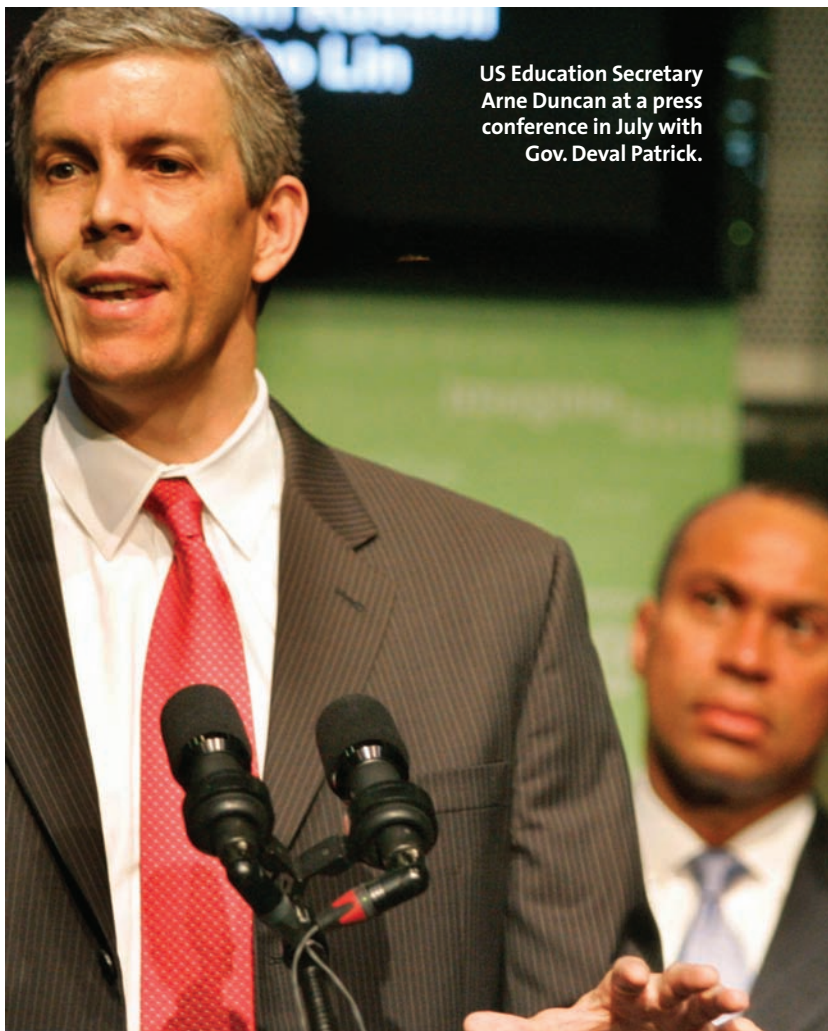
STRAIGHT ‘A’ TEACHERS

While nearly everyone agrees that there are clear differences in teachers’ effectiveness, you would never know that by looking at the evaluation systems used in most public school districts. Formal review of tenured teachers is typically done every two or three years, but evaluations often provide no meaningful information on teacher performance. That is because, in an example of grade inflation that would make even the most generous teacher blush, virtually all teachers are routinely awarded high marks.

“In many of our districts across the country, we are still operating in the old mindset where you’re either excellent or you’re nothing, so it puts a lot of pressure on principals and headmasters to rate people higher,” says Carol Johnson, the superintendent of Boston schools.

In June, the New Teacher Project, a New York-based nonprofit, released a report titled *The Widget Effect*, which looked at teacher evaluation data from 12 districts in Arkansas, Colorado, Illinois, and Ohio. In districts that use a so-called binary evaluation system with just two categories (usually “satisfactory” and “unsatisfactory,” or some variant of those) more than 99 percent of teachers were judged satisfactory over the four-year period from 2003 to 2006. In districts with more categories, 94 percent of teachers were in one of the top two rating categories, while less than 1 percent were rated unsatisfactory.

The pattern of almost uniformly high rating extends



US Education Secretary Arne Duncan at a press conference in July with Gov. Deval Patrick.

to teachers in schools making little progress in advancing student learning. An earlier 2007 study from the New Teacher Project reported that 87 percent of Chicago’s 600 public schools didn’t give a single unsatisfactory rating to a teacher from 2003 to 2005. Of these, 69 were schools that the city had declared to be failing.

Data on teacher evaluation in Boston, which uses a satisfactory/unsatisfactory rating system, show much the same pattern. Over the five-year period from 2003 through 2008, 97 percent of all evaluated teachers received a satisfactory designation, while just 3 percent received unsatisfactory reviews. At 72 of the district’s 135 schools, not a single teacher was given an unsatisfactory evaluation. Fifteen of these are on the state’s list of chronically underperforming schools.

“This phenomenon where you get schools where year after year the kids are failing, and the teachers are all deemed to be great—that’s not a recipe for improving learning for kids in poor neighborhoods,” says Dan Weisberg, the policy director at the New Teacher Project and a co-author of *The Widget Effect*.

In Worcester, district officials over the last several years

have recommended more teachers for professional development programs to improve their instruction, but data for the last five school years nonetheless show that 98 percent of all tenured teachers were in the top two evaluation categories (satisfactory or “special acknowledgement”).

Some districts appear to pay no attention at all to how their teachers are rated. Public records requests for such data from the school systems in Lawrence and Fall River, two of the state’s lowest performing districts, were turned down because officials in both communities said they simply don’t maintain statistics on aggregate performance levels of their teachers.

Among the reasons for the uniformly high evaluations in most districts, say those who study the issue, is that principals often have little training in how to review teacher performance, they allot minimal time for evaluations in already overworked days, and there is often so little riding on the outcome that negative evaluations may only sow ill will among a school’s teaching staff, while doing little to improve teacher performance.

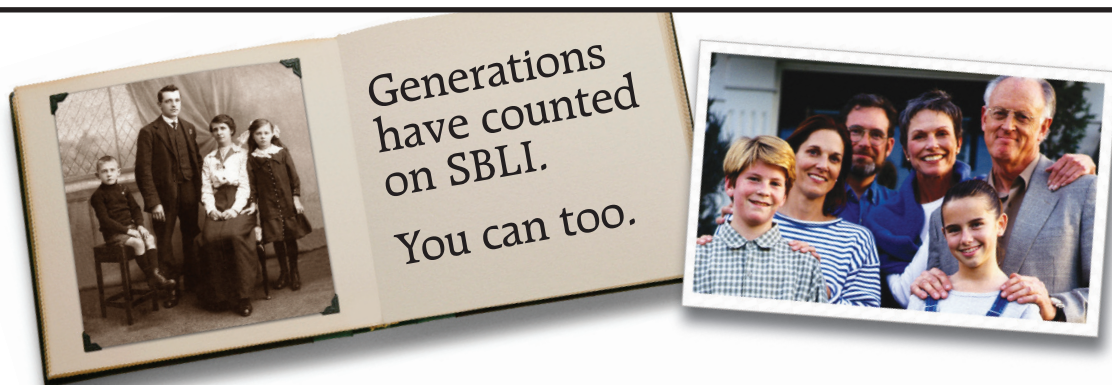
Pointing out substandard performance is “a starting point,” says Morgaen Donaldson, an education policy professor at the University of Connecticut. “In and of itself, it isn’t going to improve teaching and learning.”

That would require evaluations to be part of a more robust system than exists in most districts, with the potential for excellent teachers to gain special recognition—and perhaps added pay—and for those identified as having shortcomings to be steered to meaningful professional development, with rigorous follow-up of their progress and dismissal of those not showing enough improvement.

“I don’t know if it’s that the system is broken or [that it’s] the people at the head of the system,” says Anne Wass, the president of the Massachusetts Teachers Association, the state’s largest teachers’ union. “There’s tremendous need for principal education,” she says of the evaluation process. “There are many who don’t want to make people feel bad. They kind of look the other way.”

One thing union leaders are clear about in discussions of how to improve teacher evaluations is that they should not be based on student achievement results. “We are completely opposed to tying teacher evaluations to test scores,” says Thomas Gosnell, president of the American Federation of Teachers–Massachusetts. “We believe that is an absolutely imperfect measure of whether a teacher is a qualified teacher or not.”

Teacher effectiveness “isn’t something that’s easily quan-



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tified,” says Wass. “It is somebody who is able to relate to and connect with their students and the parents of their students, and is able to educate them to the fullest potential. One thing it is not is whether your kids get the highest test scores.”

Wass and Gosnell's position, however, is running head-on into growing support for incorporating measures of student achievement into the teacher evaluation system. “At the end of the day, results do matter,” says Johnson, the Boston schools superintendent. “I don't think we can say we're doing a good job if we continue to see the large achievement gaps we see in urban districts.”

No one is advocating that student test scores be used as the sole basis for teacher evaluation. But reform advocates say firm measures of student learning must be part of what teachers are judged on, along with things like portfolios of teacher lesson materials and direct classroom observations that assess performance against standards regarded as effective teaching practices.

Value-added assessments couldn't serve as the only basis for teacher evaluations even if there were agreement to do so. That's because only about one-quarter of US public school instructors teach subjects or grade levels in which students take standardized tests used to make value-added assessments. One area of research Harvard's Tom Kane is now pursuing is to see how consistently classroom-based observations and other types of evaluations line up with the results of value-added assessments of a teacher's effectiveness. The more they do correspond, he says, the greater the confidence we can have that teachers who rate highly in these non-quantitative assessments are also succeeding in promoting growth in student achievement.

For his part, Secretary of Education Duncan has been unambiguous in his call for student outcomes to matter a lot more in every aspect of a teacher's career. “Test scores alone should never drive evaluation, compensation, or tenure decisions,” he said in a speech in July to a convention of the National Education Association, the country's largest teachers' union. “But to remove student achievement entirely from evaluation is illogical and indefensible.”

THE TEACHER-QUALITY GAP

Nowhere are stakes higher in the push for greater attention to teacher effectiveness than in urban districts with lots of poor and minority children performing well below their grade levels. These students arrive with all the impacts of poverty that have been highlighted in studies going back to the Coleman Report of the mid-1960s. However, instead of trying to make up for some of the deficits they bring to school by putting our best teachers in their classrooms, we often saddle these students with

"It's just so nonsensical to me that there's no connection between performance and pay," says Maria Fenwick, a fourth-grade teacher in Boston.



That premise is the driving force behind a small Boston nonprofit called Teach Plus. Launched two years ago, the organization is focused on developing policies to retain experienced, effective teachers in urban schools. To help develop strategies to do that, the group enlisted those who know the challenges of urban teaching best: accomplished, but still relatively young, urban educators with three to 10 years of teaching experience. These teachers are often themselves wrestling with whether to remain in a profession where, particularly in urban districts, the challenges are unending and the standards and rewards that characterize other professions are largely absent. Teach Plus founder Celine Coggins, a former middle school teacher who left the classroom in order to try to drive broader policy change, recruited a cohort of "teaching policy fellows" from the ranks of young teachers in district schools or charter schools in Boston and other area urban systems.

The group met one evening a month for a year and a half, reviewing research on teacher policies, hearing from leading policymakers, and sharing thoughts from their own experiences in urban schools. The policy proposal they issued in April challenges many of the bedrock industrial-model policies that have governed the teaching profession for decades. It calls for districts to identify effective teachers using rigorous evaluation criteria, which could include student

the least experienced teachers.

There is no good evidence that a teacher with, say, 15 years of experience is more effective than one who has taught for eight or 10 years, but there is a clear learning curve for those in their first few years in the classroom. Large urban districts like Boston's have been losing as many as half of all new teachers within the first three years, a turnover rate that ensures that lots of classrooms in the most troubled schools remain continually staffed with teachers in their first few years in the profession.

"Every time we turn our backs on this practice of assigning our weakest teachers to the kids who need the best, our kids pay a horrible price and our country pays a horrible price," says Kati Haycock, president of the Education Trust, a Washington, DC, policy organization. "You cannot close the achievement gap without closing the teacher-quality gap."

achievement data among other factors. These teachers would be designated as members of an Excellence Corps. Based on a belief in the "tipping point" concept that a critical mass of effective teachers is needed to drive a

'You cannot close the achievement gap without closing the teacher-quality gap,' says Kati Haycock of the Education Trust.

change in the culture of a struggling school, the proposal calls for Excellence Corps teachers to make up no less than one-third of the teaching staff at a school. To recognize their demonstrated success with urban students, such

teachers would receive a base salary increase of 10 percent — with other staff at the school eligible for bonuses if they meet individual improvement goals and the building meets schoolwide achievement goals that would be established.

“We think we’ll be able to demonstrate that you can improve student achievement because you’ve got the right people in place and you’ve got the right working conditions in place,” says Coggins.

Teachers unions, with only a few exceptions, have opposed any type of merit or bonus pay that doesn’t go to all teachers in a school, arguing that it would damage collegiality and collaboration. “The business model of competition, I guess it works in the business world, but it won’t work in a school,” says Wass, the Massachusetts Teachers Association president. “Do you think people are going to want to give their good ideas to others? Do you think they’re going to want any kids who aren’t going to test as well? It would be a total disaster.”

Maria Fenwick, a fourth-grade teacher in the Boston schools and one of the Teach Plus fellows who helped draft the report, is passionate about urban education and knows that no one goes into the field for the money. But the 28-year-old Kingston native says it’s only natural to want to

be recognized and rewarded for hard work and results. “It’s very hard to see your colleagues who have many more years of experience getting paid much more and not working as hard,” says Fenwick. “It’s just so nonsensical to me that there’s no connection between performance and pay.”

Donaldson, the University of Connecticut researcher who studies teacher evaluation and compensation systems, sees a generational shift in teacher attitudes, with younger teachers more interested in seeing their work evaluated rigorously and their pay adjusted accordingly. “These people expect to be assessed based on their performance and receive rewards, if they perform well, or sanctions if they do not,” she wrote in a report released earlier this year by the Center for American Progress, a Washington, DC, think tank.

Fenwick transferred to another Boston school this year after growing disillusioned with the leadership at her former school, where she says the principal’s evaluations of teachers were perfunctory and where a sense of professional accountability for student learning was absent. She’s hoping for a better year at her new school, one of the district’s innovative pilot schools, which has greater autonomy in staffing decisions. But Fenwick is convinced that wholesale reforms like those in the Teach Plus pro-

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posals are needed if urban schools are going to be able to consistently attract and retain effective teachers. “A lot of people my age know if you’re talented and bright, you can leave and go do a lot of things,” she says.

PUSHING THE ENVELOPE

If there are big differences in teacher effectiveness, it might stand to reason that such factors, along with other qualities that could make a teacher a good fit for a particular position, should be the driving force in determining where someone teaches. In many districts, however, seniority rules can often tie the hands of school administrators and force them to accept teachers in a slot regardless of whether they believe they are the best candidate for the position.

Rhode Island’s education commissioner ordered the Providence schools to ignore seniority in hiring and transferring teachers.

A 2005 study of four large US urban school systems by the New Teacher Project reported that 40 percent of teacher vacancies in the districts were filled by teachers already in the system through procedures that administrators and principals had little or no say over. If teachers are regarded as interchangeable, seniority may be as good a system as any for deciding who has first claims on a job. But such systems are coming under scrutiny in an era when that premise is under question and underperforming schools are receiving heightened attention.

In February, Rhode Island’s state education commissioner pointed to the seven straight years in which the Providence schools failed to meet federal benchmarks for improved student achievement and ordered the state’s largest school system to develop teacher hiring and transfer procedures that ignore the seniority provisions in its contract with teachers. The commissioner claimed to have such authority under state education law. In August the city’s teachers union filed suit challenging the order. But with the court case pending, the district has moved ahead and ignored seniority rights in filling slots in six schools this fall, with plans to implement the change citywide next year.

“It will allow us as a district to choose the best candidates,” says Tom Brady, the Providence schools superin-

tendent. “Isn’t that real life? I’m being held accountable and I’m holding principals accountable as school building leaders for educational performance. If they can’t pick their team, how can you hold someone accountable for the results?”

In the Bay State’s biggest district, administrators have sought to gain more control over hiring decisions through negotiation, not unilateral intervention. In 1995, Boston opened its first pilot schools, which grant school leaders wide latitude over hiring, budget, and curriculum decisions. In 1998, the Boston Arts Academy, the city’s first high school for the visual and performing arts, opened as a pilot school. “I couldn’t do it without it,” founding principal Linda Nathan says of the hiring autonomy she has as leader of one of the city’s 21 pilot schools. “We are a mission-driven school, we have a very particular focus, and I need to be able to recruit faculty completely unfettered, based on how they will work toward the mission of the school.”

The administrators at Boston’s 114 regular district schools, however, don’t enjoy that unfettered ability to assemble a teaching team. At the end of each school year, because of changes in student population and shifts in the curriculum at particular schools, 100 to 200 tenured teachers end up in an “excess pool” without an assigned slot for the following year and need to be matched with open positions elsewhere in the system. If there are more open positions than teachers in the excess pool for any given subject area, the school department allows principals to open up hiring for positions at their school to outside candidates, as well as those in the excess pool, and select whomever they want. But if there are fewer vacancies than teachers in the pool, principals must choose teachers from the pool. What’s more, those with the most seniority get the first crack, and once three teachers have bid on a position, the building principal must make a hire from that group, regardless of whether he or she thinks any one of them is an ideal candidate to fill the job.

“You can tell they’re frustrated when they want to have the ability to really move the school and hire a quality person but we’re restricting them from hiring who they want,” says Bill Horwath, the district’s human resources director.

Many of the structures governing teaching policies were the sensible response to bad conditions. They developed at a time when teachers, overwhelmingly women and minorities for whom other professional doors were closed, were paid horribly and subject to arbitrary dismissal by administrators prone to handing jobs to friends and family. But policies that treat teachers as interchange-

able parts seem ill-suited to the task of driving big improvements in student achievement, especially at a time when success in school has become a prerequisite for making it in an increasingly knowledge-based economy.

“People ask us, ‘Whose fault is it?’” says Daly, the New Teacher Project president, of policies that don’t seem aligned with today’s needs. “What we say is, if there’s a conspiracy, it’s a conspiracy of dysfunction, not a conspiracy of ill will.”

That doesn’t, however, make the kind of the sea change in teacher policy being pushed from the highest levels on down any less profound. “You’re trying to make performance matter, and it’s never mattered before,” says Haycock, the Education Trust president. “If you believe it has to matter, like it does in practically every field, that’s a huge change in the tools that people have to have, and it’s a huge change in culture.”

PUSH FROM THE TOP

On a Thursday morning in mid-July, Arne Duncan stood next to Gov. Deval Patrick on a stage at Boston’s Museum of Science. It was a fitting location, surrounded by exhibits on innovative engineers and engineering design, because the US education secretary was in Boston to lend support to a proposal Patrick was unveiling to re-vamp the Commonwealth’s system for dealing with failing schools. Patrick announced that he would be filing legislation to double the number of charter school seats allowed in the state’s lowest-performing districts. He also proposed the creation of “readiness schools,” which would remain part of local districts but which would have the sort of latitude in hiring, budgeting, and school-day length that are hallmarks of charter schools and Boston’s pilot school model.

Proposals like the one offered by Patrick are exactly the sort of moves Duncan says are needed to meet the urgent challenge of improving US schools, especially in districts serving low-income children. And he is offering more than just words of praise for such efforts. Duncan is overseeing a \$4.3 billion fund, dubbed the Race to the Top program, which will make competitive grants to states that are pursuing innovative school reform strategies in four big areas—one of which is developing, rewarding, and retaining effective teachers. Massachusetts is one of many states hoping to land in the money.

Obama and Duncan have been aggressive in calling for big changes in US schools, and they are using the powers of their substantial purse strings, along with the bully pulpit, to get states to get on board. The guidelines for Race to the Top funding say that any state with a legal ban on the use of student achievement data in teacher evaluations is automatically ineligible for an award—a condi-

tion that does not apply to Massachusetts but does to a handful of states, including California and New York. The Department of Education is further requiring applicants to describe what their state is doing to make it possible to link teacher evaluations to student achievement data.

In March, state education officials announced that Massachusetts would begin to use student achievement scores to build a valued-added data system that can track individual students’ growth from year to year. State officials have not laid out any formal plans to utilize the system to assess teacher effectiveness, but it seems clear that there is interest in moving in that direction, and the state will cite the new database in its application for Race to the Top funds.

Mitchell Chester, the state education commissioner, says the value-added approach gets beyond the discussions that explain away poor performance among poor kids because of their disadvantaged background. “It takes away the excuse-making,” he says. “It takes into account where the child started from. It’s not asking the teacher whether the child was able to jump over the high bar the first time out. It’s asking, ‘Based on where the child was able to jump previously, have you helped the child vault

State education officials plan to use student achievement scores to track students’ growth from year to year.

higher?’ We cannot shy away from using evidence of student learning as part of our evaluation and feedback mechanism.”

Chester says he’s also interested in “seeding” efforts across the state to try different approaches to teacher compensation and evaluation. The Obama administration is proposing a substantial increase, from \$97 million to \$487 million, in another federal program called the Teacher Incentive Fund, which underwrites performance-based teacher and principal compensation programs and other efforts aimed at promoting and rewarding teacher effectiveness.

Meanwhile, as a condition of receiving federal aid earlier in the year as part of the fiscal stabilization aid to state governments, Massachusetts officials, like those in all states receiving help, have been told by Duncan’s office that they will have to gather and submit evaluation data on how teachers are rated in each school district.

"Trust me, the secretary knows what the answers are going to be," says Weisberg, the policy director at the New Teacher Project. "The ratings are all going to be good or great. Nobody bases this on student achievement. So he's doing what any good lawyer does: Asking questions to which he already knows the answer to prove a point."

The federal education department isn't the only place staking lots of money on the idea that teacher effectiveness is a key to improving schools. Last year, the Gates Foundation announced that it would commit \$500 million over five years to research and implement strategies to identify effective teachers and increase their numbers in schools. The foundation has hired Harvard's Tom Kane to oversee the research, which will include efforts to identify different forms of teacher evaluation that correlate highly with quantitative assessments linked to student achievement.

The foundation is also planning to invest heavily in a handful of school districts that have pledged to comprehensively rework teacher policies covering everything from evaluation to compensation and promotion. "We have a belief that if we can make it work some places, those things can ultimately go to scale across the country," says Chris Williams, a deputy director in the foundation's

education program.

Any effort to take new teacher policies fully to scale in the country will involve incorporating them into reauthorization of the No Child Left Behind Law, the landmark 2002 legislation that set new accountability standards for US schools. Although Race to the Top is a one-time program, its main principles, including the emphasis on teacher effectiveness, are likely to form the framework over the coming months for the debate over reauthorization of the No Child Left Behind statute.

US Rep. George Miller and the late Ted Kennedy were the chief Democratic authors of the law, and the veteran California lawmaker will now be one of the most influential congressional voices in the reauthorization process. "Race to the Top will tell us a lot," says Miller, the chairman of the House Education and Labor Committee. As for its focus on teacher effectiveness and the call for more rigorous evaluation of teachers tied directly to measures of student learning, Miller can't see how we wouldn't move in that direction. "I don't know how you achieve what we say as a nation we want to and must achieve if we don't make these changes," he says. "Every other major institution in the world has adapted to the information age and said, 'Information makes me smarter.'" **CW**



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Phil 09

Term paper trafficking

Web businesses thrive by peddling 'customized' term papers to students willing to pay for someone else's work

BY COLMAN M. HERMAN

Despite laws in Massachusetts and 16 other states, lawsuits, honor codes, and even sophisticated plagiarism-detection software, college students continue to buy term papers and other academic material from individuals and companies that have built a thriving business out of cheating.

Websites with names like Papergeeks.com, 15000papers.com, Schoolsucks.com, and echeat.com advertise easy access to recycled and "customized" term papers with catchy slogans like "Download Your Workload" and "It's Not Cheating, It's Collaborating."

Craigslist, that purveyor of virtually anything and everything, offers hundreds of listings from people ready, willing, and occasionally able to write term papers for students. They come with

enticing come-ons like, “Don’t want to write your papers? That’s OK. We don’t think you should have to either!” Another says, “Give me your stress and I will give you peace of mind and an A+.” The email address was telling: studyless_partymore@yahoo.com.

CommonWealth set out to explore this shadowy underworld. Posing as a student over a three-month period from July to September, I emailed a request for a 20-page, double-spaced term paper written about physician-assisted suicide to 66 individuals and companies advertising on the Boston site of Craigslist. Sixty-two responses came back, quoting prices ranging from \$90 to \$1,200. The average price was \$370, or \$18.50 a page. I also contacted a handful of other businesses about admissions essays or a dissertation literature review.

Many of the term paper writers boasted of Ivy League pedigrees and stellar writing skills in their ads. Not all of them were truthful. Eddie H., the founder of Ivy League Essays, a frequent advertiser on Craigslist, claims to be a senior at Columbia University, but in an interview he admitted he was not.

A writer identifying herself as doctoral student Allison Murphy promised that none of her work would be plagiarized. But much of a writing sample she sent along about the privatization of prisons was taken word for word, comma for comma, from the website www.privatizationofprisons.com.

Still, many of the writers for hire appear to have impressive credentials. Dr. Rivka Colen, a physician practicing at the Beth Israel Deaconess Medical Center in Boston, offered to write or edit admissions essays for medical school. Her fee to write four essays was \$800. Colen said in a follow-up telephone interview that she does writing on the side “to help out medical students” and that she provides students with a questionnaire to complete before writing their essays for them.

A person who identified herself as Elie Losleben, who wanted \$950 to write the 20-page paper on physician-assisted suicide, said she is a graduate of Johns Hopkins University with a master’s degree in public health and is currently working for a nonprofit organization in Liberia helping poor women start businesses.

“I don’t get caught,” Losleben crowed in an email exchange. “I’m a professional writer and I know how to change narrative voice to meet the needs of my clients. Kind of like an actress, after reading one or two of your papers, I know how to mimic the way that you write.”

Damian Bonazzolli, who promised a “quality grade” if he was hired to write the 20-page paper, responded to an initial inquiry by sending, unsolicited, his résumé. It indi-

cated he is a senior staff attorney for the Massachusetts Appeals Court, a job that pays him \$94,000 a year, according to state records. He wanted \$300 to write the paper on physician-assisted suicide.

In an email exchange, Bonazzolli said turning in a paper that he had written would not be illegal. “I am aware of no state or federal statute that prohibits such a practice. This is not the equivalent of, say, lying on a federal employment or tax form,” he said. “Could your school take disciplinary action? Of course. But that’s quite dif-

For a 20-page paper on physician-assisted suicide, the quoted prices ranged from \$90 to \$370, or an average of \$18.50 a page.

ferent from a criminal prosecution.”

In a follow-up telephone interview, Bonazzolli insisted that students should abide by the ethics codes of their schools and added that he was unaware of the Massachusetts law on term papers.

Passed in 1972, the Massachusetts statute outlaws the sale of a “theme, term paper, thesis or other paper or the written results of research” if those involved know or have reason to know that the material will be submitted for academic credit and represented as original work. The law also prohibits individuals from taking an exam for someone else. Admissions essays, like those Colen offered to write, are not mentioned in the law. Violators are subject to a fine of not more than \$100, imprisonment for not more than six months, or both. Sixteen other states have similar laws, and most colleges and universities have policies on academic integrity prohibiting students from passing off someone else’s work as their own.

SKIRTING THE LAW

Many term paper writers claim they are not actually writing term papers for others but are instead providing “model” research for students to use as guides to write their own papers. Other term paper writers say they are serving as tutors. Some even say students need to cite the company in the reference list of their term papers.

But Darby Dickerson, dean of the law school at Stetson University in Gulfport, Florida, and the author of a 2007 article on academic plagiarism in the *Villanova Law Review* that said “cheating and plagiarism are as common

on college campuses as dirty laundry and beer,” says the disclaimers that appear on many of the term paper websites are put there to provide cover. “The term-paper mills often characterize the services they offer in such a way to skirt state laws,” she says.

A person who identified himself as Kevin Matteson of Gloucester, a former bartender, martial arts teacher, massage therapist, and graduate of Rhode Island College, offered to write a “model paper” on physician-assisted suicide for \$400. “We are not doing anything wrong,” he said in an email. “You are just one of the many important people who hire a writer to produce top-quality work.” When I wrote back to Matteson saying I didn’t think my school would buy Matteson’s interpretation, he responded: “I wouldn’t buy it either.”

In its Craigslist ad, McBell Research said “nothing illegal is going on here” and added on its website that it does not “condone nor encourage the violation of academic integrity policies and discourages such misuse.” Yet when I wrote back to McBell, which quoted a price of \$500 to write the 20-page paper on physician-assisted suicide, that I would be taking its paper and turning it in to my professor, an unidentified official at the company turned less strident. “You’re more than welcome to do anything

with the work involved. The disclaimer is more of a formality than anything,” the official said in an email.

Other term paper writers brazenly acknowledge they know their customers are passing in the papers they write for them. One woman, who identified herself as Carol Rockwell and offered to write the term paper for \$210, said in an email that “this is a faith-based business” where both writer and student want to avoid trouble. “We would have just as much to lose if we were caught as you,” she said. “Some of us are still affiliated with our universities [and] . . . a few are still working on doctorate degrees.”

Rockwell, who says she has a doctorate in clinical psychology and lives in the Boston area, wrote that her business dealings with clients can go on a long time. “Much of what we do involves repeat clients that will use us for one assignment and then use us repeatedly until they reach degree attainment,” she said. “In some cases, as funny as it sounds, we even have ‘regulars’ that once they complete their degree, we will write their applications for their next degree, complete their work for that program, [and] often do their master’s thesis.”

In follow-up interviews with many of the term paper writers after they were informed that *CommonWealth* was preparing a story, some became angry that anyone would

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expose what they are doing. Others were surprisingly cavalier. Losleben, the Johns Hopkins graduate, jokingly offered to write the article for *CommonWealth* for \$500.

A writer who identified herself as Joy Adeyemi, whose Craigslist ad said, “I’ll write your paper. It’s that simple,” said she used to help fellow students with their essays and homework and one day asked herself, “Why not get paid for it?”

Another term paper writer who identified himself only as Obtruhamchi said he is trying to help students survive academia. “I am making it easier for the people who might actually make some type of difference to get through the trash heap of our educational system and out into the real world,” he said.

In interviews with students from Boston University, Northeastern University, Harvard University, and the Universities of Massachusetts at Boston and at Lowell, they said they had stumbled across term paper suppliers doing Google searches.

Most said they had never bought a term paper or known anyone who had. But one recent graduate of Northeastern admitted that he had written a history paper for someone else for \$200, and Renee Lee, who graduated earlier this year from UMass–Boston, says she knew two or three students who wrote papers for many students at the school.

“I know 10 people off the top of my head that they wrote papers for. I’m sure there are others that I don’t know about,” says Lee. The cost was \$10 a page for a “B” paper, according to Lee, or more for an “A” paper. “One of my friends arranged that every single one of her papers for at least two full semesters be written by the guys in question,” she says, adding that no one was ever caught.

Many students said they are routinely warned at the start of a semester that their work will be checked for plagiarism using Google or plagiarism-detection software. “They have explicitly told us the rules and consequences regarding plagiarism and have told us on occasion about the software used to detect plagiarism,” says Christina Giordano, a student at Harvard.

“Most journalism professors I’ve had basically said on the first day of class that if you cheat or plagiarize anything in the class, you fail the course, no questions asked,” says Kathryn Barlet, a student at Northeastern. “A lot of other professors don’t even mention it, and I don’t really think that plagiarism is taken as seriously as it should be in some cases.”

‘IT’S A CANCER’

Officials at several Boston area colleges and universities had little to say about the subject of plagiarism. The press offices at Northeastern University, Boston College, Tufts University, MIT, and Harvard were unable to find anyone

who would speak on the subject. Joan Liem, dean of graduate studies at UMass–Boston, said she’s aware that some plagiarism goes on at the school but didn’t provide any details. A spokeswoman for the Massachusetts Department of Higher Education said the agency does not track

‘Plagiarism is absolutely pervasive,’ claims John Barrie, the president of TurnItIn.com. ‘It’s a cancer.’

plagiarism incidents. And officials at Craigslist did not respond to repeated requests for their views on the legality and ethics of the term paper writing services being advertised on their website.

“It really isn’t an issue,” says Colin Riley, head of media relations at Boston University. “It probably happens from time to time,” he says, “but it’s not anything widespread. This is something you’re never going to stop, people finding shortcuts.”

Donald McCabe, a business professor at Rutgers University who has written extensively on academic dishonesty, says, “One of the difficulties in doing the work I do is the reluctance of some schools to survey their students. Many seem to be afraid of what they might find out and the impact of any negative findings if they become public.”

Many professors fight back against term paper cheating by crafting very specific assignments or by requiring students to turn in drafts. Many universities also use plagiarism-detection software. TurnItIn.com, the industry leader, provides its software to 10,000 client institutions in 110 countries that pay \$1 per student per year for unlimited use.

Available in 31 languages, TurnItIn will analyze 80 million term papers in 2010 for plagiarism, or more precisely, “matching text.” On its busiest days, TurnItIn examines a quarter of a million papers.

One-third of all papers processed by TurnItIn are “less than original,” according to TurnItIn president John Barrie. “Plagiarism is absolutely pervasive,” he says. “It’s a cancer. If students don’t do their own work, their schools turn into degree-printing houses.”

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The whole notion of plagiarism has evolved over time. Hard as it is to imagine, there was a time when college students were not required to write papers. In her book *Competing Notions of Authorship*, Sue Simmons Carter reports that in the 18th and early 19th centuries, American colleges and universities offered instruction mostly in what was called rhetoric, requiring their students to present information in speeches. But that all changed when rhetoric was replaced by instruction in writing. And so the term paper began, and plagiarism came with it.

Fast forward to the 1960s and early 1970s, which saw the arrival of a new enterprise: term paper mills. These started as bare-bones storefronts where students could simply walk in and buy a recycled paper or order a “custom-written” paper just as easily as buying a burger at McDonald’s.

In Boston, companies such as Universal Research began advertising in underground and campus newspapers and posting flyers on college bulletin boards. The owner of Universal, who called himself “Mr. Papers,” told the *Harvard Crimson* in 1971, “I can’t believe this is happening to me. Last October, I didn’t have enough money

to wash my own laundry. Now I’m earning more money than Nate Pusey,” who was then president of Harvard.

The term paper mills were condemned by the universities in Boston, led by Boston University. BU, in fact, filed a lawsuit in state court in the early 1970s that led to per-

Boston University ran its own sting operation in 1997, buying term papers on Toni Morrison’s novel *Beloved*.

manent injunctions prohibiting the defendant term paper companies from operating in Massachusetts.

The next year saw the passage in Massachusetts of a criminal statute outlawing the sale of term papers, but no attorney general or district attorney has ever filed a case under the statute. When the term paper companies didn’t go away, BU went back into state court in the early 1980s and sued more of them, resulting in more permanent injunctions being issued.

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But still the term paper cheating continued and accelerated with the rise of the Internet. The problem became so widespread that, in 1997, BU found it necessary to ramp up its attack, this time running a sting operation in which university representatives purchased term papers about Nobel Prize-winning author Toni Morrison's novel *Beloved* from a whole slew of companies. The university then sued the companies, this time in federal court, alleging they were violating the RICO (Racketeer Influenced and Corrupt Organizations) statute in terms of mail and wire fraud, the Massachusetts term paper statute, and the Massachusetts Consumer Protection Act.

But the court dismissed the RICO claim based on technical pleading deficiencies, dismissed the action under the term paper statute on grounds that a private party like BU could not bring such a suit, and disallowed the claim under the Consumer Protection Act because BU was not engaged in trade or commerce at the time its agents purchased the term papers and thus did not have standing.

Eleven years later, at least one of the companies sued by BU—The Paper Store—is still in business operating under the domain name www.paperstore.net, as well under 50 other website addresses. The websites offer papers with such titles as “Ethical Considerations in Academic Plagiar-

ism” (five pages, three references, \$49.75) and “Plagiarism is Theft” (seven pages, seven references, \$69.65). The Paper Store even has a website devoted specifically to papers on ethics (www.ethicspapers.com).

John Silber, the former president of BU who oversaw the university's legal crackdowns on term paper suppliers, initially declined comment, saying it was not his place and he was busy working on a book about philosopher Immanuel Kant. But when later told there is a website specializing in providing papers on Kant (www.kant-essays.com), Silber fired back an email saying, “I was stunned to read this brazen piece of corruption concerning papers on Kant. I wish there were a way I could put these saboteurs of the educational process out of business.”

Kevin McKenna, an associate dean at Clark University in Worcester, says the stakes are huge in stopping term paper cheating. “The individual who cheats his way to earning a degree has defined his character,” says McKenna. “This will be reflected in what kind of citizen he will be and how he behaves in the workforce. It is for the benefit of all that we shed light on these activities with the hope of ending them.” **CW**

Katie Fulton, an intern at MassINC, contributed to this article.

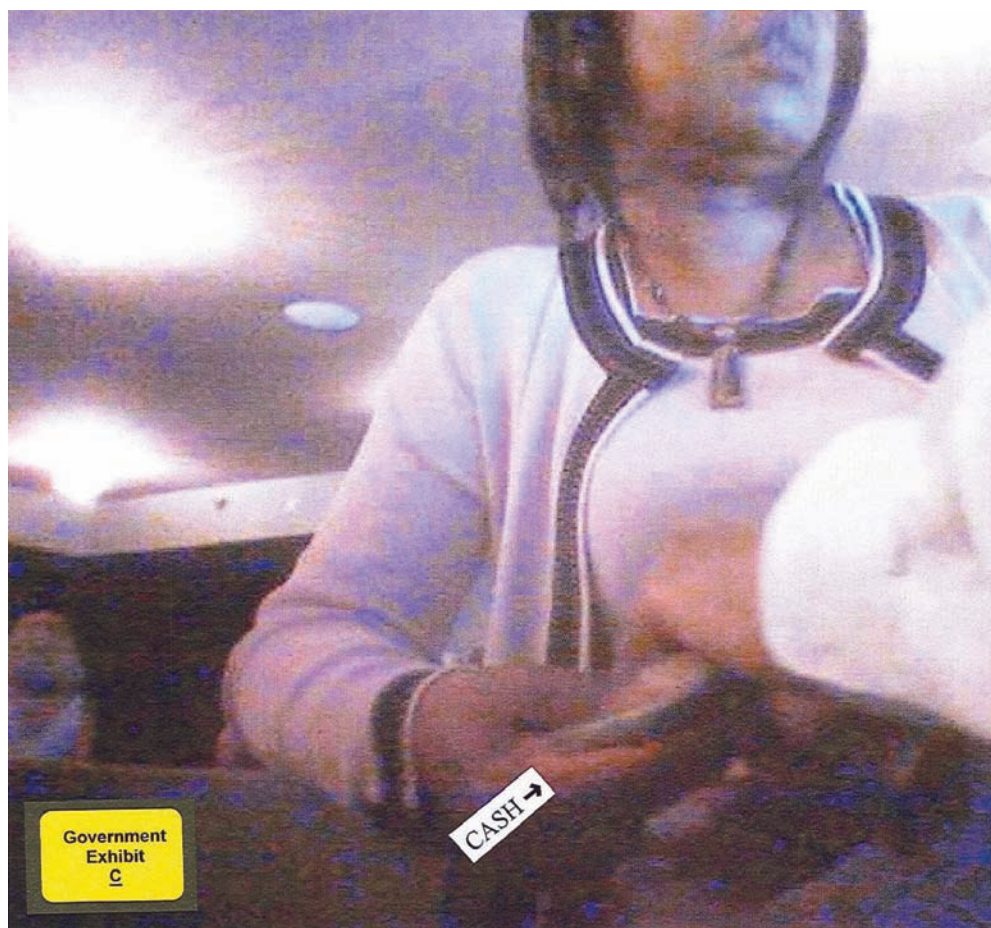


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Missed opportunity

Ethics reform has done little to make public officials' financial data — and possible conflicts of interest — accessible to taxpayers

BY JACK SULLIVAN



Scandals, like the one involving former Sen. Dianne Wilkerson, who allegedly stuffed cash in her bra, prompted ethics reform this summer.

Government
Exhibit
D

In the wake of the indictments of former state Sen. Dianne Wilkerson and former House Speaker Salvatore DiMasi, a State House under siege by a fed-up public recently fashioned the first major ethics reform in 30 years. The legislation increased penalties for ethics violations and corruption, severely limited lobbyist activities, clamped down on gifts and freebies for lawmakers, and increased the enforcement powers of the secretary of state, the attorney general, and the State Ethics Commission.

FULL DISCLOSURE

To encourage greater transparency in state government, *CommonWealth* is posting the largely hidden ethics filings of public officials on its website, CWunbound.org. When our new magazine website, CommonWealthmagazine.org, launches early next year, more ethics filings and other public records will be added.



"State government hasn't technologically risen to the modern challenges," says Pam Wilmot, executive director of the Boston chapter of Common Cause.

Overlooked in the rush for reform were the conflict-of-interest disclosures and statements of financial interest that nearly 5,000 state and county officials file annually.

The documents are not as sexy as wiretaps or lobbyist gift bans, but they are the public face of ethics laws in Massachusetts. They paint a portrait of who our public officials are, revealing their outside jobs, their real estate holdings, and their business investments. They also alert the public to potential ethics conflicts officials may face in their daily jobs.

Yet these bread-and-butter ethics requirements have fallen out of sight and into disrepair. The conflict-of-interest disclosures are scattered across state government with no index or central clearinghouse to help people to search for them. The information required for the statements of financial interest hasn't been updated in 30 years. Many of the financial yardsticks used in the forms are no longer relevant and, despite claims that Massachu-

setts is a leader in ethics reforms, the disclosure requirements are not as rigorous as those in other states.

Like the conflict-of-interest disclosures, the statements of financial interest are largely hidden from public view. The Ethics Commission isn't allowed to post them on the Internet, as 29 other states do, and it charges a dollar for each form requested. Massachusetts is also one of only four states in the nation that requires anyone requesting a form to show identification and disclose where they work, information that is turned over to the official whose statement is being requested.

Not surprisingly, fewer and fewer people are reviewing the filings. In 2001, the Ethics Commission received requests from 127 people for 918 statements of financial interest. Last year, just 60 people sought 149 filings.

Even Ethics Commission officials don't review the filings very closely. Until recently, the division charged with oversight of the statements of financial interest had two employees, who, according to the commission's annual report, took nine months to review the documents for completion and compliance. One of the employees died this past summer and hasn't been replaced.

While *CommonWealth* can't change the laws regarding

59%
LEGISLATORS
REPORTING OUTSIDE
EMPLOYMENT

access to ethics filings, we can make it easier for the public to view them. The magazine has purchased 300 statements of financial interest, including those of the entire Legislature and top officials in the executive branch, and is posting them on our website so members of the public can view them. We are also gathering copies of conflict-of-interest disclosures and, because they are intended to be public records, posting them on the website as well. More ethics filings will be added over time, and other government documents will be added as well.

“This is information that should be made—is needed to be made—public,” says Pam Wilmot, executive direc-

tor of the Boston chapter of the watchdog group Common Cause. “That should be the role of government, but the fact is a lot of third parties have been taking the lead. State government hasn’t technologically risen to the modern challenges.”

OUT-OF-DATE MEASURES OF OUTSIDE INCOME

In 2008, state Rep. Cory Atkins earned \$58,000 as a lawmaker representing four towns in the 14th Middlesex district. Her statement of financial interest for 2008, the most recent year available, indicates she made at least four times

Financial disclosures by state BY JACK SULLIVAN

Here is a brief comparison of what public officials in Massachusetts and a few other selected states are required to disclose on their financial interest statements and how easy the public can access that information:

	Massachusetts	Louisiana	Wisconsin	Minnesota
ACCESSIBILITY				
Financial disclosure on web		✓		✓
Charge for requesting form	\$1 each	None	25 cents	None
Requester's identity private		✓	✓	✓
OUTSIDE EMPLOYMENT				
Employer name required	✓	✓	✓	✓
Employer description required		✓	✓	
Income ranges required to report	Seven levels to a maximum of \$100,000 or more	Six levels to a maximum of \$200,000 or more	\$1,000 or more	None
PERSONAL INFORMATION				
Spouse identified		✓		
Spouse employment	✓	✓	✓	
Spouse income reported		✓	✓	
Home address public		✓		
ASSETS AND LIABILITIES				
Real property ownership	✓	✓	✓	✓
Out-of-state property	✓	✓		
Real property value range	Seven levels to a maximum of \$100,000 or more	Six levels to a maximum of \$200,000 or more	\$1,000 or more	None
Amount of home mortgage		✓	✓	
POTENTIAL CONFLICTS				
Business clients and associates		✓	✓	
Investments and securities listed	✓	✓	✓	✓
Investment value range	\$1,000 or more	Six levels to a maximum of \$200,000 or more	\$1,000 or more	None

Sources: Massachusetts State Ethics Commission, Louisiana Board of Ethics, State of Wisconsin Government Accountability Board, and Minnesota Campaign Finance and Public Disclosure Board

as much in outside income.

The Concord Democrat's statement of financial interest, or SFI, shows outside income from three sources. Atkins, who lists her profession as "writer/legislator" in her official biography, earned more than \$100,000 from her membership on the board of NEHE-MRI, a Concord-based medical imaging group. She made between \$40,000 and \$60,000 as a member of the board of GrainPro Inc., a Concord-based company that manufactures food storage systems for Third World countries. And she was paid more than \$100,000 as a stockholder in ADS Ventures, the lobbying firm of her ex-husband, former state Rep. and US Congressman Chester Atkins.

The Atkins filing illustrates the strengths and weaknesses of SFIs. Her filing lays out her private business dealings, allowing constituents to see not only how she is making a living, but also where possible conflicts might arise with her legislative work. Like most lawmakers, she

says there is a "firewall" between her public duties as a representative and her private business interests. "It means I can afford to be a representative," she says of her private sector dealings with a laugh. "No one can live off a legislator salary."

She is not alone in her pursuit of outside income. An analysis of the most recent filings of all 200 state lawmakers indicates 118, or 59 percent, report some form of outside employment. The remaining 82 lawmakers report no outside employment, but more than half of them received extra legislative pay for being part of leadership. Only 39 House members and two newly elected senators, who were members of the House last year, claimed no outside income or extra legislative pay.

Forty-five of the lawmakers with outside jobs reported earning more from those jobs than their standard legislative base pay, which was \$58,237 in 2008. Eighteen reported out-

MENINO'S FINANCIAL STATEMENT TOUGH TO CAPTURE

Boston is one of the few places in the state that requires elected and appointed officials to file financial interest disclosures. But some of them are anything but accessible.

In the City Clerk's office, it took a few minutes to find the file that had the city councilors' statements of financial interest. The statement of City Councilor Michael Flaherty, who is facing Mayor Thomas Menino in a runoff election, indicates he earned \$100,000 to \$200,000 through his South Boston law office in 2008, in addition to the \$87,500 he earns as a city councilor.

Flaherty also reported that he and his wife own a three-family home in South Boston (they live in one apartment and rent the other two but do not list the income from their tenants) and a vacation home in Dennis, both listed as worth \$300,000 or more on the form. Assessing records show the South Boston home is valued at \$818,000. The Dennis home is assessed at \$404,600.

Finding Mayor Menino's statement of financial interest was not so easy. The clerk's office said the mayor's statement is filed with the State Ethics Commission, but it isn't because the state ethics law on financial interest statements covers only state and county officials.

When informed that the statement is not on file with the Ethics Commission, the clerk's office sent me down one floor to the mayor's office, where an earnest yet confused receptionist made a call to someone who transferred her to someone else who transferred her to the law department.

With a smile on her face that said she had the answer, she directed me to go to the Office of Budget Management on

the 8th floor and confidently said it was also on the city's website. But when I asked her to show me, she couldn't find it on her computer (because it's not).

So up to Room 813, where I encountered similar blank stares. But one of the managers attempted to get to the bottom of it and, after several calls, directed me back to the clerk's office on the 6th floor. When I got there, they said I'd have to go down the hall to Room 603, which said Mayor's Office Staff on the door. The folks there didn't have a clue what I was talking about but referred me to someone named Gary upstairs in Room 802.

Room 802 turned out to be the office of the Arts Commission, where I learned Gary was gone. No one seemed to know why Gary would have the mayor's financial statements.

I called the mayor's press office for help, but there was no call back. One more attempt with the clerk's office two days later met with success. An office staffer said the form had been "misfiled." For the record, the statement shows Menino listed his \$175,000 salary as his only income; his wife, Angela, earns \$20,000 to \$40,000 as a consultant; he and his wife own their Readville home, valued at \$375,500; and he is one of four owners, along with relatives, of a three-family on Hyde Park Avenue assessed at \$526,000.

—JACK SULLIVAN



18

**LAWMAKERS WITH
MORE THAN \$100,000
IN OUTSIDE
INCOME**

side earnings of \$100,000 or more. Ten of the 18 held leadership positions carrying extra pay ranging from \$7,500 to \$25,000, depending on the position. Sen. Michael W. Morrissey, for instance, a Quincy Democrat who reports earning \$100,000 or more from his law practice, received \$25,000 above his base legislative salary as co-chair of the Committee on Consumer Protection and Professional Licensure.

While the SFIs reveal a lot, several weaknesses hamper their usefulness. For example, the dollar ranges for income and home values haven't been updated since 1978, when the law took effect. There are seven ranges in all, the highest being \$100,000 or more. Those ranges may have been appropriate when the average annual household income was \$17,000 and the average price of a house was \$54,800. Today, however, the average household income in Massachusetts is a little more than \$62,000 and the median home price is about \$302,000.

Because of the run-up in real estate prices, the values for homes on the SFI are almost meaningless. Of the 132 state representatives listing a home on their SFI, all value their property at \$100,000 or more. In the Senate, 38 of the 40 members declared their home's value at \$100,000 or more.

Atkins put her two homes in the \$100,000-plus category, but municipal records indicate that her 11-room Concord home is actually assessed at \$1.8 million and her 2,300-square-foot condominium near Buzzards Bay is assessed at \$431,300.

Massachusetts is not alone in failing to require more precise reporting. Wisconsin only requires officials to report earnings of more than \$1,000, while Minnesota does not require filers to report how much they make at all. But South Carolina requires officials to disclose the exact amount they earned, and Louisiana recently updated its reporting levels so the highest category is above \$200,000.

Boston, one of the few cities or towns in Massachusetts that requires municipal officials to file SFIs, requires more detailed information than the state. Its form has upper ranges of \$100,000 to \$200,000; \$200,000 to \$300,000; and \$300,000 or more.

Retired Judge E. George Daher, the former chairman of the Ethics Commission who commissioned a top-to-bottom review of the agency in 2005, says the 1978 reporting levels should be revised. "If I was doing it, I would be a lot more direct in my questioning, ask for a higher degree

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of specificity,” he says. “It asks the right questions [on the form], but it doesn’t demand enough from the respondent.”

The Massachusetts SFI has other weaknesses. Atkins’s daughter works at her ex-husband’s firm as director of government strategies, but she is not listed on her mother’s

SFI, which requires only the jobs and business interests of dependent children to be reported. The form also does not require the description of the spouse’s employer or how much the spouse earns.

It does not require filers to place a value on their investment holdings. Instead, they are only required to report investments that exceed \$1,000 in value.

That may have been adequate in 1978, when the Dow Jones Industrial Average just broke 800, but with the Dow now hovering around 10,000, a higher limit might be more appropriate.

Massachusetts also does not require filers to list income they make from business ownership, dividends, or sales of stock. DiMasi, for instance, reported earning between \$5,000 and \$10,000 last year practicing law, but he also

reported owning 100 percent of his law firm, the same firm where federal officials allege he made thousands of dollars—legally and illegally—by steering friends, lobbyists, and other clients to another lawyer with an office at his firm and collecting a cut of the fees. Twenty-one states, including states with such different political cul-

Dollar ranges for income and home values haven’t been updated since 1978.

tures as Arkansas and Maine, require officials to list their business clients and their partners’ clients. But Massachusetts doesn’t have that requirement, so the 35 lawyers in the Legislature don’t have to disclose anything unless there is an imminent potential conflict.

In some respects, the information available on SFIs is shrinking. Until last year, SFIs included home addresses and the names of spouses and dependent children. Now

4,835

OFFICIALS REQUIRED
TO FILE STATEMENTS
OF FINANCIAL
INTEREST

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that information is redacted when SFIs are released to the public, in keeping with a law designed to protect law enforcement and other public safety employees from harassment. Ethics staff now even black out the State House email addresses of lawmakers and their office phone numbers, both of which are available on the Legislature's website.

"We have to protect families' addresses," says Deirdre Roney, general counsel for the Ethics Commission. "That's what we think that's required of us. I'm going to err on the side of caution."

A BYZANTINE FILING SYSTEM

Thousands of conflict-of-interest disclosures have been filed across the state, but almost no one ever sees them because of the byzantine way they are filed and stored. Most disclosures are filed with the State Ethics Commission, but legislators also file with the House or Senate clerk in addition to the commission, and many municipal officials file with local authorities. All the records are kept in paper form, and there is no central index telling where to look for a specific record.

At the Ethics Commission, the disclosures are kept in 17 three-inch thick, three-ring binders divided into nine different categories outlined in the statute. Depending upon the binder, they can be filed in either chronological order or alphabetical order.

In the House, a manila folder in the clerk's office has the disclosures sorted in order by name dating back to 1991, with a separate folder for past representatives. The Senate clerk maintains the filings by its members in a box containing a variety of "communications" from senators in chronological order but archives all communications after two years in the State Archives building.

In many cities and towns, the clerk's office maintains disclosures. But a random sampling of about a dozen communities found few clerks who could easily produce the statements or even knew what they were.

State and local officials file the disclosures to protect themselves legally from violations of the state's conflict of interest laws. Officials are supposed to file a disclosure when they become entangled in some relationship with a family member, business associate, or client where a "reasonable person" may see the appearance of a conflict.

Most disclosures are mundane—no one voluntarily says they are acting unethically—but they provide a glimpse into the ethical issues facing public officials and how they deal with them.

Scores of public college and university professors file disclosures annually because they assign textbooks they've authored to their students, resulting in potential royalties ranging from a few dollars to thousands of dol-



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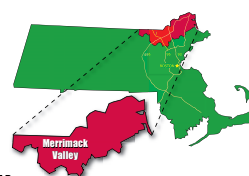
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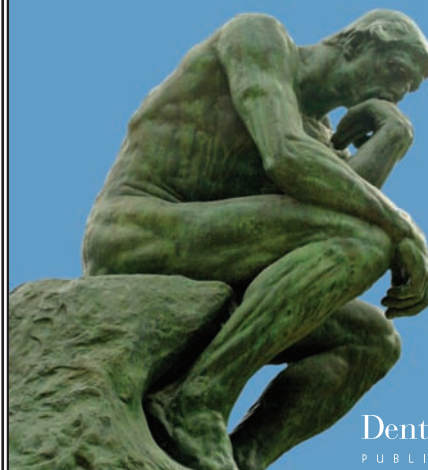
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lars a semester.

Just after taking office in 2007, Attorney General Martha Coakley disclosed she hired her sister's husband as a \$68,000-a-year analyst. Several years earlier, when she was Middlesex District Attorney, Coakley disclosed to the commission her office hired her nephew as an assistant district attorney.

Former Gov. Mitt Romney, who is touring the country raising money as he eyes another run at the presidency, filed a statement in 2005 that he was granting a waiver for a Dartmouth campaign contributor and fundraiser to build a structure on a regulated waterway. Last year, Gov. Deval Patrick filed a similar disclosure that he also was granting a waiver to an aide for a dock to be built on a waterway. Both governors said the waivers were recommended by their environmental advisors and they were confident their own decision-making was not being affected by the connections.

Roney, the Ethics Commission's general counsel, says if a non-elected official informs his or her superior about a potential conflict and is given the all clear, the official cannot be charged with an ethics violation. Boston Mayor Thomas Menino, for example, granted waivers to some of his department heads, including three to former Police Commissioner Paul Evans. The waivers allowed Evans to put his niece and nephew on the department payroll and promote his brother to captain.

Elected officials make the call themselves on potential conflicts, sometimes after seeking advice from the Ethics Commission, but, even so, once the disclosure is on file they can't be charged with an ethics law violation unless there is an actual conflict—for instance, someone hiring his own daughter. "The statute's intended to create a 'safe harbor,'" says Roney. "Once you've made the disclosure, then under the statute it's unreasonable to determine there's an appearance of conflict."

Late last year, Sen. Marc Pacheco, a Democrat from Taunton, filed a disclosure about a trade trip he was taking to Portugal and China. In the disclosure, Pacheco didn't say who was paying for the trip, but he revealed that the owners of the site in China where he was speaking at a trade seminar were Massachusetts residents who had interests in gaming operations. Pacheco's district covers some areas where casino and race track gambling are being considered.

And last fall, several legislators filed disclosures about trips they accepted to a forum in Tampa on broadband legislation hosted by the National Conference of State Legislatures. Airfare and hotel accommodations were paid for by the NCSL, which is funded through corporate contributions. Yet each lawmaker reported a different amount. State Rep. Mark Falzone listed the value of the airfare and hotel at \$1,300, while his colleague, Rep. Stephen

45

LAWMAKERS WHOSE
OUTSIDE INCOME
EXCEEDS BASE
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Kulik, said the cost was \$725. Sen. Michael Morrissey said his trip cost just \$341.

Sen. Steven Baddour, a Democrat from Methuen who co-chairs the Legislature's Transportation Committee, says he regularly files conflict-of-interest disclosures out of "an abundance of caution." He has disclosed that his law firm represents several clients, including McDonald's and Irving Oil and several highway contractors, who could be affected by legislation passing through his committee. He also filed a disclosure when he attempted to launch an outdoor advertising company, whose business would be affected by bills coming before his committee. And as vice chair of the Judiciary Committee, he disclosed that a partner in his law firm and a staffer in his office were related to judges and that he represents the Massachusetts Chief Probation Officers. The probation department is part of the Trial Court, whose budget is approved by the Judiciary Committee. He neglected to list on his SFI that his wife is an assistant probation officer. He said it was an oversight that will be corrected.

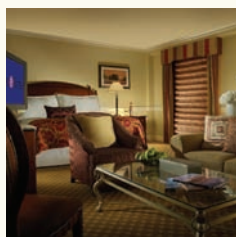
"A lot of us see the term 'appearance of a conflict' and scratch our heads," Baddour says. "Anything can have an appearance of conflict. A lot of the filings I've done over the past seven years, I don't think there's a conflict. You

look at the law and you look at the issue, it's better to be safe."

COUNTING ON THE PUBLIC

Every time there's a major scandal in Massachusetts, it seems, there's a call for an ethics crackdown. The state's first conflict-of-interest laws were passed in 1963, after a scandal erupted over the awarding of contracts for the construction of the underground parking garage beneath Boston Common. Some 15 years later, in the wake of another scandal involving contracts for the University of Massachusetts campus in Dorchester, the Ward Commission called for even tougher oversight and disclosure. The State Ethics Commission was formed from that 1978 legislation and, with it, a new era of open government was hailed.

Yet just this past summer another major scandal surfaced when Wilkerson was indicted for accepting bribes and DiMasi was indicted for steering contracts to a company that was indirectly paying him money. The publicity over the indictments prompted another ethics crackdown on Beacon Hill.



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Lawmakers keep ratcheting up penalties and fines, but the corruption doesn't seem to stop. Since the first ethics law went on the books in 1963, five House speakers have been indicted or convicted for malfeasance in office.

Some argue that greater access and transparency will not necessarily deter those intent on breaking the law. Wilkerson, who was photographed stuffing cash in her sweater and took \$10,000 checks from developers she claimed were friends bearing gifts, never disclosed the money she allegedly received in an undercover federal sting or from developers whose interests she pushed in the Legislature.

"When you're talking about corruption, you're frequently dealing with people who have gone to great lengths to conceal things," says former Ethics Commission chairman George Brown, a professor at Boston College Law School and a member of Gov. Deval Patrick's ethics reform task force. "If public employee X is willing to break the substantive law, he or she is probably willing to break the disclosure law."

Still, Peter Sturges, another former executive director of the Ethics Commission, says he thinks it would be helpful if more of the information collected by the agency was available online so the public could be enlisted in

keeping a watchful eye on the stewards of their government. "There have been a number of situations over the years where the information comes to the forefront by someone in the public," he says.

Certainly public officials pay attention to who is looking at their ethics filings. When *CommonWealth* filed requests for more than 300 SFIs, about a half-dozen representatives and senators as well as officials from Massport, Consumer Affairs and the Department of Correction called to inquire why their forms had been pulled by a reporter.

While few officials are keen on their private information becoming public fodder, most say, at least publicly, they understand the demands for disclosure to keep them honest and government open. Baddour says there's a risk that greater disclosure of ethics filings might prompt more discussion of his actions, but he says "it's easier to handle a negative newspaper story than to explain an ethics investigation." He says it's pretty clear heavier fines and jail sentences have done little to deter officials' malfeasance.

"We didn't need a law to tell us bribery is illegal," Baddour says. "What we need to do is a better job of transparency." **CW**

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Police union members protest the use of civilian flaggers in Everett last October.

State of the unions

Cash-poor state and local officials are taking aim at public sector union salaries and benefits, but organized labor isn't backing down

BY GABRIELLE GURLEY

Governor Patrick, Anti-Labor. Governor Patrick, Anti-Public Safety. That was the 411 from Arlington and Medford police officers lined up more than 200 strong in front of Arlington's Town Hall in late June. There wasn't any chanting or marching, just plenty of signs doing the talking on a damp and chilly evening. The reason behind the impressive turnout wasn't much of a mystery. Already ballistic over the governor's support for replacing uniformed police with civilian flaggers on some road construction details, municipal police officers were facing a second hit to their wallets, losing pay increases for pursuing degrees in criminal justice under the so-called Quinn Bill.

When Deval Patrick finally arrived for his town hall meeting, Harold MacGilvray, president of the Massachusetts Municipal Police Coalition, and several other union leaders buttonholed him about the Quinn Bill. In the fiscal 2010 budget awaiting Patrick's signature, funding for the police career incentive pay program had been cut to \$10 million, about \$40 million less than last year. The

program had produced a better educated police force, the union leaders said, and they wanted to persuade him to take a second look at the cut. Instead, Patrick turned the tables on them. "Where am I supposed to get the money?" he asked.

That's the question public sector unions are hearing more and more as the state furloughs employees, trims benefits, and transfers more workers into the state health insurance system.

Thanks to their get-out-the-vote strength on the campaign trail, Massachusetts public sector unions have traditionally enjoyed a mutually beneficial relationship with state and local politicians. In return for steering votes to favored candidates, the unions received support for healthy wage increases, strong pensions, and generous health care benefits for their members.

But the worst recession since the Great Depression, soaring health care costs, and a steady stream of news stories about pension and disability abuses by individual public employees have changed the dynamics of the

Police union leader
Harold MacGilvray
objects to reduced
state funding for the
Quinn Bill.



relationship. Public officials are beginning to push back on sacred cows like the Quinn Bill, raising the prospect that the power and influence of public sector unions may be irrecoverably weakening.

"We may not have reached that tipping point yet, but we are very close," says Rep. Harriett Stanley, a West Newbury Democrat, who chairs the Joint Committee on Health Care Financing.

On top of a national economy gone sour, Massachusetts faces homegrown budget busters like Medicaid, pensions, and debt service obligations that will outstrip revenues, even with a sales tax increase. This year alone, those payments comprise nearly half of the budget; in years to come they'll chomp away at still more of it, leaving less for everything else. This ticking time bomb, plus cooling voter support for public sector fringe benefits, gives lawmakers an opening shot at everything labor leaders hold dear.

Tom Juravich, director of the Labor Relations and Research Center at the University of Massachusetts at

Amherst, says Bay State public sector unions are facing their biggest challenge since they gained the right to bargain collectively more than 35 years ago.

But leaders of public sector unions are not all panicking. "Unions are alive and well," says Robert McCarthy, president of the Professional Fire Fighters of Massachusetts. "We're going to continue to do what we need to do to protect our benefits. My members put their lives on the line 24 hours a day, 365 days a year."

LOOK FOR THE UNION LABEL

One of the first states with a strong labor presence, Massachusetts allowed public employees to join unions in 1958 and granted collective bargaining rights to most state and municipal employees in 1973. Although union membership nationally is declining, public sector unions in the Bay State remain strong. According to unionstats.com, more than 60 percent of Bay State public sector workers were union members in 2008, a 10-year high.

As the nation's industrial sector has declined, the union factory jobs that swelled the ranks of the middle classes in Lowell, New Bedford, and elsewhere moved to the South and to countries like China and India. Public sector unions eventually moved to the forefront of the labor movement. But today those unions are facing the same pressures that practically killed off the private sector unions: layoffs, modest or deferred raises, and cuts in pension and health care benefits.

Why have public sector unions had so much clout? Unlike their private sector counterparts, they've had some control over their fate. Teachers, police, and other municipal employees were decimated by job cuts after the passage of Proposition 2½ in 1980. But that proved to be a

Union support has long been a major advantage for Democratic candidates in Massachusetts.

wake-up call. In 1990, public unions helped fend off a ballot drive for a significant cut in state taxes; in 2008, they mobilized against a repeal of the state income tax. The Massachusetts Teachers Association alone contributed more than \$3 million to the anti-repeal campaign.

Union support has long been a factor in the success of Democratic candidates nationwide and in Massachusetts. Unions rallied to US Sen. Edward Kennedy to help him beat back a strong challenge from Mitt Romney in 1994.

Public sector unions like the MTA and the Service Employees International Union were also major players in Patrick's lopsided 2006 victory for governor.

"We have taken people out when they needed to be taken out," says Robert Haynes, the Massachusetts AFL-CIO president, "and we have elected countless people to office that would not have [gotten] there without the support of [public and private] employee unions. We are good at what we do."

However, the political landscape in Massachusetts is changing. Today, disgruntled voters are speaking out against union pay and benefits that they themselves can only dream of. Only one in 10 Americans belongs to a union, so most workers are far removed from the days of having an organization negotiate for them with management over wages, pensions, and other benefits.

"The salaries for municipal employees in Boston certainly have improved because of collective bargaining," says Samuel Tyler, president of the Boston Municipal Research Bureau, a business-funded watchdog group. "Contracts have been a little more generous over the past 10 years than in the private sector."

According to Tyler, in fiscal 2009 it took five single-family property tax bills (at an average of \$2,762 each) to

pay the city's share of the average family HMO insurance premium for just one city employee. And municipal employers are legally committed to pay pensions that are calculated on retirement age, years of creditable service, job classification, and the highest three-year salary average. Meanwhile, private sector employers are cutting back on their modest contributions to employees' 401(k) plans.

In general, public employees are not living the lives of the rich and famous. William Bulger, the former Senate president and University of Massachusetts chancellor, may pull down a pension of \$196,000 a year (which he boosted by including his housing allowance in his pension calculation), but the average annual pension for a state employee is about \$24,000. Stanley, the West Newbury representative, says she receives emails all the time from constituents who complain that public sector employees are lazy, their benefits excessive, and their pensions extravagant. "The facts do not support these assertions, but people have chosen to believe it, [and] it is really tough to argue them off those points," she says.

News about flagrant abuses, like the case of the disabled firefighter competing in a bodybuilding contest, has hurt public employees' standing. So have intractable conflicts like long-running contract disputes over drug testing,

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pensions, and other issues between the city of Boston and Boston Firefighters Local 718. (At press time, the two parties were in arbitration before the state Joint Labor-Management Committee.)

So with these examples in mind and people losing jobs and benefits all around, some are convinced that every public sector employee is gaming the system. “Because wealth is becoming distributed so unevenly, I think you are going to continue to see this middle-class anxiety,” says Rep. Katherine Clark, a Melrose Democrat. “Public unions become the scapegoat for it, especially [since] all it takes is a few bad actors for the whole system to seem corrupt.”

This change in public opinion has emboldened lawmakers to make their moves. Earlier this year Patrick signed a pension reform law that curbed the most outrageous abuses (like Bulger’s) in the state retirement system. One of the state’s most powerful unions, the Boston Carmen’s Union Local 589, took significant hits from an overhaul of the state’s transportation bureaucracy. The debt-plagued MBTA’s labor costs are some of the highest in the country, and to gain savings, the Legislature scrapped the agency’s longstanding and much-criticized “23 and out” policy, which allowed workers to retire in early middle age (with some of them moving on to earn full salaries at new jobs). Future employees must work 25 years and reach age 55 before they can collect benefits.

MBTA employees and retirees, along with Massachusetts Turnpike Authority and Tobin Bridge workers, were also shifted into the state health insurance system. But although the reforms will save the state millions in fringe benefit costs, the Carmen’s Union and other MBTA unions aren’t playing ball. Last month, they filed a lawsuit in Suffolk Superior Court to block those and other changes. (Carmen’s Union president Stephen MacDougall did not respond to requests for comment for this article.)

Stanley says she wants unions to be part of the solution, not part of the problem. “When the pie is large enough to accommodate everybody, collaboration is probably that much easier,” says Stanley. “When the pie is the same size or even shrinking, as we see right now, that collaboration becomes tougher.”

GOING ON THE DEFENSIVE

Unions won’t agree to anything that infringes on collective bargaining without a struggle. To them, state lawmakers and municipal managers are maneuvering behind closed doors to deprive them of hard-won pay scales, work rules, and benefits instead of openly negotiating in good faith. “This is the contested terrain right now,” says UMass–Amherst’s Juravich. “To what degree are political players

going to be able to alter the nature of collective bargaining here in the Commonwealth?”

This question explains why police were so incensed about the Quinn Bill. Enacted in the 1970s, the law was designed as a tool to professionalize police forces. It calls for base salary increases of 10 percent for an associate’s degree, 20 percent for a bachelor’s degree, and 25 percent for a master’s degree—with the state picking up half the cost of the raises for municipal police officers.

Union leader MacGilvray, a 13-year veteran of the Medford Police, argues that the Quinn Bill isn’t a perk. With his schedule, a second job is a nonstarter, he says, and he needs the extra income. “My base salary would not be able to buy a home in Medford [or] support a family of four kids,” he says.

Gov. Patrick proposed \$42 million to fund the Quinn Bill (down from \$50 million the previous year), which was bad enough as far as municipal police unions were concerned. But when it emerged from the House Ways and Means Committee, lawmakers had zero-funded the program.

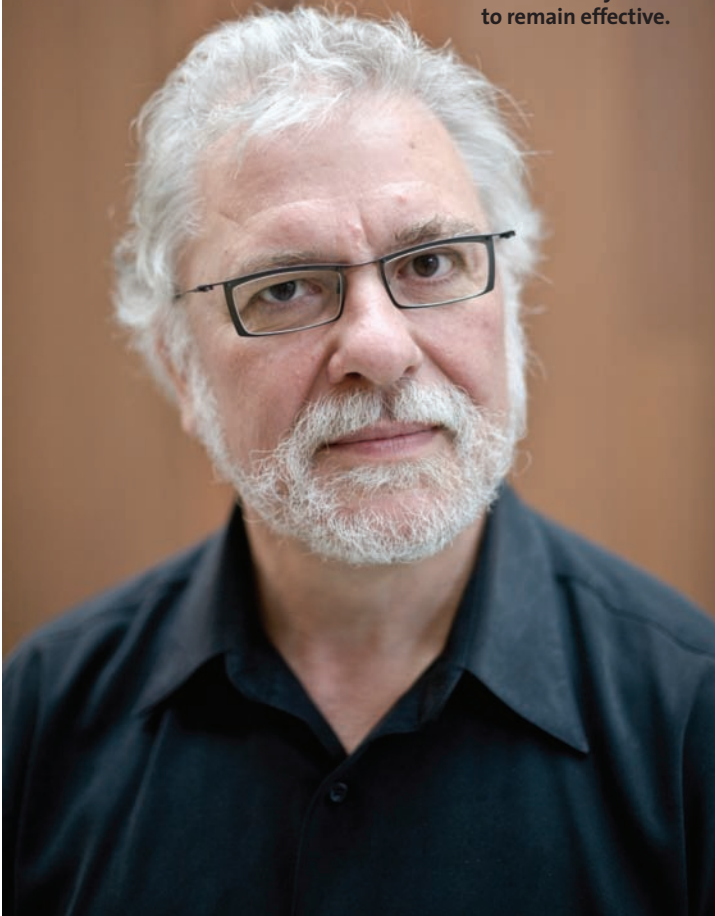
“We had a lot of money we had to find, and that [program] was \$42 million,” says House Ways and Means Chairman Charles Murphy. Zero-funding roused police unions and their allies. Rep. Christopher Fallon, a Malden Democrat and the son of a police officer paralyzed in the line of duty, gave a passionate speech on the House floor hailing the program as not a benefit but “an entitlement.” The final House budget slotted the program at \$25 million.

Public unions won’t agree to anything that infringes on collective bargaining without a struggle.

However, sentiment didn’t sway the Senate. What got the attention of senators was an April Department of Revenue report, released after the House finished its deliberations, showing tax receipts for the month coming in at \$500 million below projections. Senators responded by slicing \$15 million from the House appropriation, making new municipal and state police hires no longer eligible for the benefit, and barring the State Police union from including any Quinn Bill language in any future agreement.

(Many communities are now waiting to see if they are legally on the hook for funding the state portion of the Quinn Bill benefits. At press time, Mashpee, North Andover, and Westborough were dealing with legal action by police unions.)

UMass-Amherst's
Tom Juravich says
unions must be
flexible if they want
to remain effective.



"We were the collateral damage of a fiscal crisis," says George DiBlasi, government liaison for the Massachusetts Fraternal Order of Police, a law enforcement advocacy group.

UMass-Amherst's Juravich says unions must be flexible if they want to remain effective: "They have to have the courage to say no when it's appropriate, but I think they also have to have the courage to move in new directions and talk about issues."

The Quinn Bill was the highest-profile face-off between state officials and public sector unions, but hovering under the radar was another challenge that has important implications for future budgets. The Pacheco Law requires state agencies seeking to award contracts to private companies to show cost and quality savings for services that would otherwise be performed by state employees. Critics see the measure as a barrier to privatization; organized labor views it as a means to preserve jobs. Contracts under \$200,000 have always been exempt from the law, but this year the Legislature raised the contract ceiling threshold to \$500,000, marking the first time the threshold has been raised since the law was passed in 1993.

"I was not happy with the fact that it was modified," says Sen. Marc Pacheco, but he added that he was pleased

that lawmakers were able to get the measure back to a "more reasonable modification." (Senate Republicans failed to raise the threshold to \$2 million, a move that would have opened doors to more competition since there are more contracts in that range.)

But even that modest change was seen as a setback by unions. The law was changed with no debate, according to Rich Rogers, executive secretary-treasurer of the Greater Boston Labor Council. "Nobody is questioning you can save money, but if the reason you can save money is slashing people's wages and benefits, all you are doing is further eroding the economy," he says.

On the municipal side, an estimated 75 or more communities have negotiated pay freezes of one form or another, covering some or all groups of their workers, according to the Massachusetts Municipal Association. Those moves have sparked wage-and-benefits battles across the state. When Franklin faced a \$5 million budget gap, town administrator Jeffrey Nutting asked the municipal unions to take a wage freeze and defer raises until July 2010.

"I'm not going to kid anybody, if you want to save the jobs of your members, you need to have a pay freeze," he says he told the unions. (All the town's unions speedily agreed, except for the teachers' union, which took several months before finally signing on.)

A bigger hot button issue is municipal health care, which is subject to collective bargaining. Most cities and towns have not moved to the Group Insurance Commission (GIC), the state's health care system that gives employees less of a say in plan design. Many current contracts require municipal employers to assume more of the costs than their workers do, so municipal union leaders show little inclination to give up negotiating plan design elements, such as deductibles, co-pays for doctor visits, and pharmaceutical coverage. These elements are breaking municipal budgets and forcing managers to triage benefits, though the ultimate solution to mounting health care costs may depend on national legislation.

Plan design may be a bigger issue during the fiscal 2011 budget season, which promises to be even more dire than the past one. Murphy insists that lawmakers will look for savings anywhere they can find them.

"Whether or not plan design should be submitted to collective bargaining or not will be a point of debate," he says. The House Ways and Means chairman adds that there's more movement toward taking steps and votes that perhaps would not have been taken six years ago. "Fiscal realities are such that decisions have to be made regardless of the outcome and regardless of the fact that we're upsetting unions. It's still got to be done," he argues. "There is more of a willingness to do that now, given the deficit we're facing next year and the year after that."

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stone, director of Northeastern University's Dukakis Center for Urban and Regional Policy, argues for a new "grand bargain" between public officials and unions that preserves union jobs in return for quality, cost-effective public services. But rather than finding common ground or calling for a new dialogue with public officials, Bluestone fears that unions are going in the opposite direction, espousing more hardened positions and showing more antagonism. He says unions need to be more open to reforms such as reductions in work rules and job classifications, as well as membership in the GIC.

The true test of public sector union power and influence will be on display next November. So far, politicians up for reelection are bucking union demands. Even though he's facing a tough reelection fight next year, Patrick pushed for pension reform and didn't fight to increase Quinn Bill funding. Both Patrick and Boston Mayor Thomas Menino are also risking the wrath of the teachers' unions with their charter school expansion proposals. "Some of [Patrick's] initiatives are real problems for us," says Thomas Gosnell, the American Federation of Teachers Massachusetts president.

Most union leaders say they are keeping open minds on the gubernatorial candidates heading into the 2010 election. Michael Grunko, president of Service Employees International Union, Local 509, says he thinks that Patrick is the best choice at this point. Nevertheless, he warns that the union doesn't expect the same massive outpouring of support in this election that they saw in the last. "Frankly, in tough times our enthusiasm gets tempered by our own members, and our members are not happy people at this point," he says.

Bluestone agrees. "They don't have to come out and support Charlie Baker or Tim Cahill or Christy Mihos, but by not providing strong support to Deval, this makes it more difficult for him to get reelected," he says.

But Haynes, of the Massachusetts AFL-CIO, makes no secret of the fact that he's keeping track of how candidates responded to public sector union issues like police details, municipal health care, and pension and transportation reform. "We are angry at a number of people for not standing up [for us]," he says.

As the campaign and budget seasons heat up, tempers are bound to explode over how shrinking state resources get divided up. Public sector union leaders aren't enthralled with the idea of "givebacks," however, and believe the assault on their benefits will ease once the overall economy shows signs of improvement—even in the face of a state revenue picture that remains grim.

"Our enemies have been writing our obituaries for years," says Rogers of the Greater Boston Labor Council. "I'm pretty confident that when the good times return, we'll be able to advance our agenda again." **CW**



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The last man standing

After jettisoning two cabinet
secretaries, a Turnpike chief, and
an MBTA general manager,
Gov. Patrick turns to Jeffrey Mullan
as his transportation czar

Jeffrey Mullan is out walking his dog in the fading summer twilight. I see him as I drive down a street in Milton and pull over to say hi. It's the second time in weeks that I've bumped into him (the first was at a road race in Milton where he was handing out a prize), and the conversation turns quickly again to his job as executive director of the Massachusetts Turnpike Authority. He says he's trying to bring all of the state's roads and bridges under unified management. Cars squeeze by behind him as we chat, but he pays them no heed. "This is big," he says. "You ought to think about writing something about it."

PHOTOGRAPHS BY FRANK CURRAN

I follow up with the press person at the executive office of transportation, who suggests I might also want to interview Mullan's boss, James Aloisi, the state's secretary of transportation. But by the time the interview rolls around in mid-September, Aloisi is on his way out (after just nine

different in the wake of a massive transportation overhaul approved by the Legislature and signed by the governor this summer. Instead of a cabinet post with broad responsibilities and limited power, Mullan will become the state's transportation czar, with oversight over nearly all of the state's roads and bridges, the MBTA, commuter rail, and the Registry of Motor Vehicles.

It's a killer job, both because he's trying to merge multiple agencies into one and because the state's transportation network is a mess. The state's roads and bridges are in desperate need of repair. (See "Pump It Up," *CW*, Summer '08.) The T regularly suffers accidents and breakdowns as it copes with a crippling debt load of \$8 billion. Commuter rail lines south of Boston are scrambling to repair defective concrete railroad ties. (See "Back Tracking," *CW*, Summer '09.) And the Registry is closing branches to save money, which has increased average wait times to more than 32 minutes.

Mullan's job is to bring order out of this chaos and at the same time cut costs. Patrick and state lawmakers promised huge savings through transportation consolidation, but most observers say the transportation network will need new revenues as soon as next year, on top of the \$275 million the Legislature provided through a hike in the state sales tax this year. Some of the savings were supposed to come from changes in union benefits and work rules, but the T's unions are already suing to block many of them.

The deck seems overwhelmingly stacked against him, but Mullan is upbeat as we talk in his office at the state transportation building. He's been working on transportation issues for most of his adult life, first at

the state Highway Department assembling land parcels for the Central Artery project and then during 14 years as an attorney at Foley Hoag LLP before returning to state government as undersecretary of transportation in March 2007. Mullan says the challenges ahead represent the biggest opportunity to revamp the state's transportation system since the late 1960s, when Gov. John Volpe implemented the secretariat system of government we have now. What follows is an edited transcript of our conversation on September 16, a day after he was selected by the governor to be the next secretary of transportation.

—BRUCE MOHL



months on the job) and Mullan is on his way up.

He is the last man standing in the state's transportation bureaucracy, the lone survivor of a game of musical chairs played over the last year by Gov. Deval Patrick's top transportation aides. First to go was Bernard Cohen, Patrick's initial secretary of transportation. Alan LeBovidge, the head of the Massachusetts Turnpike Authority, bailed next. Then Dan Grabauskas, the general manager of the MBTA, was squeezed out. And finally Aloisi, who succeeded Cohen, announced he would be leaving on Halloween.

Mullan, 48, takes over as secretary of transportation on November 1, but the job description is now radically

COMMONWEALTH: Why are you so excited about this job?

MULLAN: This is huge transformational change. The eyes of the nation are on us. Nobody in America has attempted what we're doing. There is no state in the union that has an integrated Department of Transportation [DOT] like the one that the Legislature and the governor have fashioned here. We've got no real road map, to use the pun. One of my big jobs is to calibrate the pace of progress. I'm impatient. The governor is impatient. The workers are more patient, so we need to move them along. That's a big part of change management. It's no different than what General Motors is going through, or General Electric is going through, or any big company goes through during a merger.

CW: Where do you start?

MULLAN: The governor had asked me, "How do you make progress when you do big things?" and I said, "You put one step in front of the other and you keep moving forward." What's happened in transportation in the last 20 or 25 years is that we've had leaders who have made progress, but they've been undercut by other people who have retarded that progress. You move one step forward, but you have to take two steps back because there's another agency that's being counterproductive. The opportunity that's presented by Mass. DOT is to stop all that and to make slow steady progress toward the objective, which is a more efficient transportation delivery system for the citizens of the Commonwealth. It's not really much more complicated than that.

CW: How big is the super agency you will head?

MULLAN: There are 5,100 bridges, 9,500 miles of roads, 4,400 highway employees, and 6,000 or so transit employees. So we've got about 10,000 employees. We've got about a \$3 billion enterprise that we're running.

CW: What kind of shape is it in?

MULLAN: The organization is wounded. Morale is low. People are anxious. Most of America is anxious, so I won't pretend transportation is any different. I think people see and can readily accept the vision of an integrated transportation organization. I think for many of them, what this is about is regaining some of their self-esteem because of the problems we've had in transportation. Every state in the union that has an older infrastructure is facing the same problems. The Transportation Finance Commission has documented some \$20 billion in backlog projects that

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CONVERSATION

we have to do before we get to new programs. There's no question we are going to face funding challenges going forward, and I would be foolish not to be concerned about that.

CW: Who's your boss?

MULLAN: I'm appointed by the governor, statutorily.

CW: But you also report to a five-person board appointed by the governor.

MULLAN: I will be reporting to the board, absolutely.

CW: So what if the board says, "Do this," and the governor says, "Do that"?

MULLAN: The governor is my boss.

CW: What's the role of the board?

MULLAN: The board is to manage policy affairs of the Massachusetts Department of Transportation. We need to work with the board to articulate exactly the responsibilities they will be carrying out on a monthly basis versus the executive function I will be carrying out.

CW: Do you worry about this management structure where you basically have two bosses?

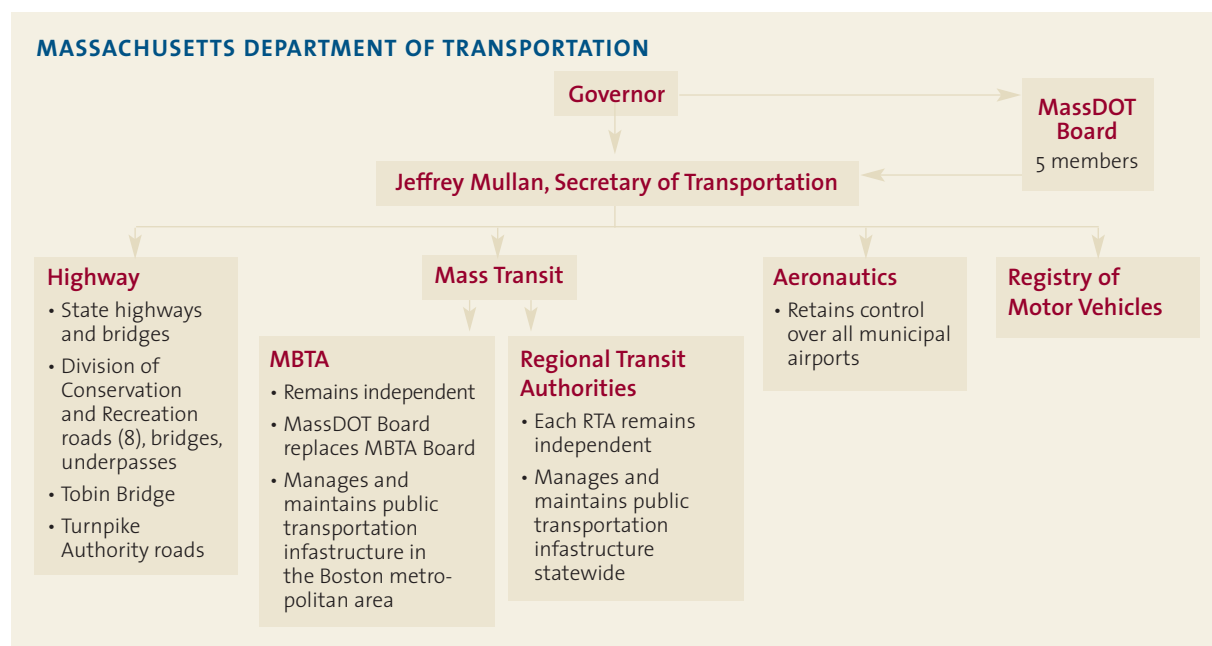
MULLAN: Is it perfect? No. No one is saying it's perfect.

It's the structure we've got. I think it's workable. It's like a corporate model. It's got a lot of government feel to it. With the right people and the right focus, it's workable.

CW: What's the challenge of merging the road operations of the state Highway Department, the Turnpike Authority, the Division of Conservation and Recreation, and the Tobin Bridge, which is being turned over to you from the Massachusetts Port Authority?

MULLAN: I've put it this way: The Mass. DOT needs to have the best of the best. On the highway side, we're merging four public works agencies. We need to have the vision that Frederick Law Olmsted and Charles Elliot brought to the Metropolitan Parks Commission, which is now the DCR. We need to have the determination of William F. Callahan, who was the first Turnpike chairman and was a highway commissioner and was on the Mystic River Bridge Authority board. We have to have some of the integrity of John Volpe, who was a Mass. highway commissioner and, of course, the governor of the Commonwealth. And we need to have a fair amount of the business acumen of our predecessors at the Port Authority, who really run their organization like a business.

The organizations we are merging are defined by those cultures. To put it a different way, the highway department is a construction company. It has an enormous capital program. It builds roads. The DCR is a parks agency that has a large engineering capacity, but they have a park heritage that was grounded in Olmsted and Elliott. The Turnpike Authority is an operating entity. It doesn't have a



large capital program, but it's really focused on operations, which is why it's earned itself the reputation of managing the best-run road in the Commonwealth. The people at the Turnpike Authority come to work in T-shirts. The people at the highway department come to work in suits and ties. That's one way to think about it. The [Tobin] Bridge is like a mini-public works department, where they've got many people doing multiple jobs, so they're a stand-alone organization. What I want to do is take the operational capacity at the Turnpike, the construction ability at the highway department, the business acumen at the Port Authority, and the respect for the environment at DCR, and make that all part of Mass DOT.

CW: Are employees receptive to the merger?

MULLAN: People are very anxious about losing salary and losing benefits. These are difficult times for us in transportation and across the nation. We need to show people that we can be more efficient with their dollars and be good stewards of the infrastructure. A reason morale is low is because people are nervous about the merger.

CW: In a practical sense, what happens to all the unions with this merger? You've got a bunch of public sector unions, as well as the steelworkers, the Teamsters, and the International Brotherhood of Electrical Workers.

MULLAN: The legislation requires that we consolidate the workforce by reclassifying all of our employees into the state system and then consolidating the bargaining units. It remains an open question as to how we are going to implement that, and it's something we continue to work on.

CW: How would that work?

MULLAN: Let's take the steelworkers, for example. Steelworkers at the Turnpike Authority include engineers. If you're an engineer and you work for the Commonwealth and you're in a bargaining unit, you are almost certainly represented by the Massachusetts Organization of State Engineers and Scientists. Two different unions. Two different union contracts. Two different organizations. When we go to one organization, the legislation anticipates we will have one salary structure and that the bargaining unit that will survive will be the Commonwealth's bargaining unit. That's a fair reading of the legislation. As you can imagine, the unions that are not going to survive are not happy about that.

CW: You've talked about instilling a focus on the customer in the transportation bureaucracy. How are you going to do that?

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MULLAN: I'm going to train our managers to focus on customer service. That's part of our integration into Mass. DOT. I'm going to show them what's important to us. The way the governor looks at customer service is, we need to run our system through the eyes of the consumer. Let's forget about jurisdictional boundaries and really focus on moving goods and services and people from point A to point B. That's a big part of what Mass DOT is about, really, focusing on mobility and what people really want.

CW: You talk about improving customer service, but isn't the Registry of Motor Vehicles headed in the wrong direction with the cutbacks there? Wait times are edging up as the agency closes branches and pares spending by \$13 million.

MULLAN: I can't say we're focused on running our transportation operation with a customer service emphasis and not be concerned with wait times. But wait times are closely associated with the budget. I can show you with a graph how the Registry's budget, when it goes up and it's funded at a historic level, the wait times are reasonable. When funding isn't there, wait times go up. One of the reasons why people are waiting in line is that staff are leaving and we're

closing branches. So more people have to go to fewer offices.

CW: Can you increase the budget of the Registry?

MULLAN: I'm not the financial person, but from what I understand about fiscal 2011, it's not looking good.

CW: The Patrick administration keeps talking about the need for South Coast rail, building commuter rail links to Fall River and New Bedford. How can we afford to expand the commuter rail system when we can't seem to pay for the transportation system we have now?

MULLAN: If we had that attitude, would we ever build anything? Do we not owe it to the people of the South Coast and the people in Fall River and New Bedford who have been promised commuter rail for 20 years? Why would we feel it was appropriate to say we've built all these other facilities, but sorry, we can't build that? What we need to do is put a plan in place to make it affordable. That's what the executive office of transportation is working on right now. I don't have all the details right now about the state of South Coast rail, but we've made more progress in two years on delivering that promise to the Commonwealth's



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CONVERSATION

citizens than prior administrations have in the last 20. I don't think we're complete with the planning by any means, but I don't think it's time to get away from that.

CW: Dan Grabauskas was squeezed out as general manager of the T earlier this year. If you had been secretary at that time, would you have forced him out?

MULLAN: [He pauses for awhile, thinking.] That's a hypothetical. I don't think I should answer that.

CW: Is it true you went to the same high school as Grabauskas?

MULLAN: I did. I'm older than he is. I didn't know him. He was a couple years behind me at Saint John's High School in Shrewsbury. Actually, I shouldn't tell you this, but Matt Amorello [the former head of the Turnpike who was forced out in 2006 after a portion of a Big Dig tunnel ceiling collapsed, killing a woman who was a passenger in a car traveling through the tunnel], Jeff Mullan, and Dan Grabauskas all went to the same high school. I graduated from Saint John's in '79, Grabauskas was probably in '81, and Amorello was in '77 or '76.

CW: Did Grabauskas do a bad job at the T?

MULLAN: I think some things that Dan Grabauskas did were OK. I have not looked at his record to evaluate it. But there clearly were concerns about Dan's performance that the current secretary [Aloisi] has addressed. I don't know enough about the particulars because I wasn't directly involved.

CW: You handled that question well.

MULLAN: This isn't my first paper route.

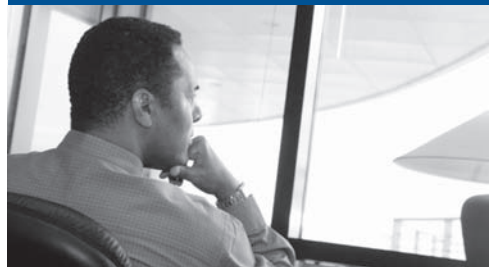
CW: Will consolidation of the state's transportation agencies yield a reduction in the transportation workforce?

MULLAN: We think that, like any merger, there are going to be efficiencies at the top. The truth is, we need more engineers at the DOT. The foot soldiers, the boots on the ground, will continue to be needed either at the levels we have or near the levels we have now. Certainly at the administrative ranks there is potential for cuts.

CW: The hike in the sales tax funneled \$275 million to transportation this year, \$100 million to the Turnpike, \$160 million to the T, and \$15 million to regional transit authorities. Even with that infusion of cash, won't you need more money in the near future?

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MULLAN: I think that we are not looking in the near future at a toll increase on the Metropolitan Highway System [which includes the portion of the Turnpike from Boston to the Weston tolls]. We're fine there, I would say, for the next couple of years. On the transit side, the MBTA has been provided with \$160 million of additional subsidies from the Commonwealth. As you know, there's debate about the need for a fare increase. [Former John Hancock chief executive officer] David D'Allesandro is doing a top-to-bottom review of the MBTA. I don't expect it until November. It would be premature for me to say what the prospect of future fare increases are until I have a chance to take a look at that report.

CW: The transportation consolidation legislation calls for the state to stop paying highway employees with the proceeds of bond funds. Can you do that? What are the challenges you face with that?

MULLAN: In 1990, Mass. Highway had 3,000 employees. In 2007, it had about 1,600. When it had 3,000 employees, there were about 80 percent being paid on the operating budget and 20 percent paid on the capital budget. In 2007 it was the reverse. You had fewer employees, but it was 80 percent on capital and 20 percent on operating. During these 17 years the operating budgets of the Commonwealth looked pretty good because [we were paying workers with bonds]. But the Transportation Finance Commission gave us a pretty substantial number that we could save over 20 years by moving people [back] to the operating budget. The problem is, we need to come up with a revenue source. We're doing more with less, but we don't have nearly the share of the budget that we really need to have.

[Paying employees from the capital budget] is not good fiscal practice, and it's not good for the infrastructure. We'd much rather be using those dollars to fix our roads and bridges, but we don't get to fix the roads and bridges without the employees. We need more money or we need to continue this practice, which nobody supports. From a business perspective, it's crazy. We're paying interest to pay salaries.

The problems that we see on this issue are on the statewide system. We have three cost centers on the highway system. We've got the Metropolitan Highway System, which is Interstate 90 from the Weston tolls to Route 1, the Tobin Bridge, and Interstate 93 between the John F. Gilmore Bridge in Somerville and Southampton Street down at South Bay. That's one system. We've got the western Turnpike, which is Weston to New York. And we've got the balance of the state system.

Toll equity requires that the money that's earned on the Metropolitan Highway System and the western Turnpike stay on those systems. The problem is with the bal-

ance of the state system. That's a Highway Department problem. It will be a Mass DOT problem. The people who work on the metropolitan highway system get paid with toll revenue; the people who work on the western Turnpike get paid with toll revenue. The people who work on the balance of the system, a large portion of them get paid with capital dollars. The problem is not enough revenue in the state system.

CW: There are proposals on Beacon Hill to create more toll roads. Do you favor that?

MULLAN: Nobody in the administration is proposing to toll new roads.

CW: So where will the money you need come from?

MULLAN: What we're focused on right now is reforms, efficiencies, and creating the new organization. I think they'll be plenty of time to talk about new revenues another day. But that's not where our focus is right now. We spent last year—well, enough said on that.

CW: You favored an increase in the gas tax earlier. Would

you support that again?

MULLAN: I wouldn't say specifically, no.

CW: You don't want to talk about where new revenues will come from?

MULLAN: That's not our central plank right now. We're focused on efficiencies in the system. I'm hoping we're preparing for new revenues sometime in the future, but that's a ways off right now—at least until I'm finished with this interview. [Laughs.]

CW: You are obviously excited about this job, but it seems daunting. Why are you so energized?

MULLAN: It's the post-Big Dig era. We're in it. What it's all about is change. That's our project. It's about a new way. It's about customer focus. It's about a singular mission. I know people think I'm crazy, but it just doesn't happen [by itself], creating organizations like this with the knowledge that what you're doing is going to be good in the short and longer term. You just don't get these opportunities that often. Think I'm crazy? **CW**



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Ed reform erosion

The state's performance goals are threatened by inadequate funding

BY EDWARD MOSCOVITCH

IN 1993, THE state passed an education reform law with a funding formula that closely followed proposals I developed with the late Jack Rennie and the Massachusetts Business Alliance for Education. The formula's foundation budget established spending goals for each district; based on those spending goals and local property wealth and personal income, the formula also laid out how much the state should supply in aid to cities and towns. The formula was about money, but it was also about a set of management objectives—how small classes should be, how to adjust spending for inflation, how to encourage cities and towns to do more on their own, and how to spend the money effectively. The algebra behind the funding formula was complicated, but the management objectives were easy to understand.

Some of these management goals remain in effect, but most of the key ones have been eroded away. It's a troubling trend. The annual debate about the funding formula is no longer about the management goals we set in 1993 but has instead become a numbers game. How little can we spend and still claim we are meeting the 1993 goals? How can we forestall another school-funding lawsuit?

The 1993 funding changes were a key part of a broad bargain between educators and the state government. Educators agreed to be held accountable, in the form of the MCAS tests and the associated graduation requirements. The governors and the Legislature agreed to provide funding sufficient to enable schools to educate students to high standards.

The law's foundation budget spelled this bargain out in terms any layperson could understand. Specifically, the goal was a class size of 22 for grades K-5, a class size of 25 for middle schools, and a class size of 17 for high schools. In addition to class-

room teachers, the formula provided for art, music, gym, and library teachers; it also included staffing goals for principals, school nurses, custodians, and the central office.

The class-size objectives were essential. We can have an intelligent discussion about whether a class size of 22 in elementary schools is small enough (or too small!), but, sadly, the 2006 changes to the formula now state the spending goal in dollar figures rather than class sizes and staffing levels. Who knows whether \$2,733.55 per pupil for classroom



instruction—the target for classroom instruction in elementary schools last school year—is a reasonable figure?

Funding has also not kept pace with the management objectives. The 1993 legislation required that annual funding goals be adjusted upward each year for inflation, but as a practical matter the inflation adjustments have not been sufficient to cover the full impact of higher costs, primarily in the area of employee health care. Over the last several years, health care costs for school employees have grown by some 12 percent a year, while the index used to adjust the foundation budget was growing at about 3.5 percent. As a result, actual spending for health insurance last year exceeded the foundation allowance by \$1 billion.

It's clear that runaway inflation in health care costs is a major threat to the success of our education reform. I've suggested elsewhere that employee health care should be removed from the foundation budget and that all school employees should be covered at state expense through the (generally less expensive) state-run Group Insurance Commission. In this way, the state would have both the

tools and responsibility to address the problem, and our children would no longer be held hostage to rising health care costs.

Given last year's actual health care costs, a district spending right at the foundation budget would have had 33 students in the average elementary school class and 37 in middle school classes. With major cuts in both state aid and local contributions, class sizes in this new school year will be higher still.

Certainly spending alone doesn't guarantee educational success. But I doubt that anyone who knows schools believes that schools can excel with classes this large. Funding this low throws into doubt the whole rationale behind the 1993 reform law. There's clearly no appetite for the taxes necessary to meet the goals we set in 1993. But that hasn't stopped the governor from ratcheting up pressure on districts to improve performance.

Concentrating as it did on numbers and not management objectives, the budget debate this past spring tended to hide these problems rather than illuminate them. Gov. Deval Patrick used an inflation factor 1.5 percentage points lower than what the formula called for. In so doing, he not only left schools short of the goal—a result that was inevitable given the revenue shortfall—but artificially lowered the spending goal itself, thereby hiding the extent of the problem. The switch three years ago to a dollar spending figure instead of class size goals makes it much harder to understand how far current spending falls short from the 1993 spending goals.

THE 1993 REFORM set ambitious performance goals for schools in return for increased funding. To make this work, we had to ensure that the increased funding intended for schools actually reached the schools. The law required that the amount of their own money that cities and towns contributed toward support of the schools had to rise each year in proportion to the overall increase in local revenues. The large increases in state aid in the first few years therefore really did go toward increasing school budgets.

This provision remained in effect until 2006, when Gov. Mitt Romney and the Legislature allowed cities and towns to reduce local contributions as state aid increased, as long as the total spending met the foundation budget goal. That might have made sense if the foundation budget were still adequate to meet our original goals for class sizes and spending on books and professional development, but for the last few years that has no longer been the case.

As a practical matter, this new failure to separate school from municipal funding is now hitting hard. Much of the federal stimulus money nominally intended for schools

has in fact been used to prevent decreases in police and fire department budgets. Given the awful choices they face, it's hard to fault mayors and selectmen. But if President Obama comes to Massachusetts to see how his education aid was spent, it will be awkward to have to tell him that the increases in state funding for the schools were largely offset by cuts in local school support, so that the net effect was to stave off deep cuts elsewhere in city budgets. How can we hold schools accountable for increases in education aid when those increases are largely nullified by offsetting cuts in local funding?

In designing the Chapter 70 formula in 1993, we were acutely aware that local officials would be afraid to increase local funding for schools beyond the minimum requirement if they thought that the state would use such increases as a reason to cut state aid. We bent over back-

There's clearly no appetite for the taxes necessary to meet the 1993 reform goals.

wards to make sure that local need was measured by such things as enrollment and poverty, not local decisions to support schools.

This approach remained in effect until last spring, when Gov. Patrick very unwisely decided to cut aid—by millions of dollars—to certain districts that had been contributing more than the minimum. Most (but not all) of the districts were among the poorest in the state, including Lynn and Fall River. The net impact of Lynn's and Fall River's past generosity toward their schools is now several million dollars less in state aid than they would be getting had they been less supportive—and school spending no higher than it otherwise would have been. When I asked administration officials why any city or town should now ever spend more than the minimum, they assured me that this was a one-time change and they'd never do it again. But who would believe that?

With the state so obviously unable to provide adequate support, the administration should bend over backward to encourage cities and towns to do more on their own, not punish those that do so!

One of the worst features of government administration is the way that public officials hastily spend each June any money left over from the budget year, lest it revert to the state or city treasury. To end this practice, the 1993 law provided that schools could carry over to the new school year unspent funds equal to up to 5 percent of their overall budget. This would give them a strong incentive to save those funds for major purchases, such as improving education technology or repairing school roofs.

Unfortunately, some districts have misinterpreted this provision to mean they need to appropriate only 95 percent of the foundation budget amount. The problem here is not legislative change, but inadequate enforcement of our original intent.

Two key management provisions of the original law have enjoyed broad support and remain in effect. Recognizing that it is more expensive to educate youngsters from disadvantaged backgrounds, the per-student funding goals for high-poverty communities like Chelsea are significantly higher than those for well-off towns like Wellesley.

Also, the foundation budget is based on an assumed number of special education students rather than the actual count. Our (wise) state policy is to encourage districts wherever possible to meet the needs of struggling students within the regular education program. If districts had received extra funding for identifying special needs students, they'd go out of their way to put more students in special education. Set up the way it is, the funding formula re-enforces (instead of undercutting) state education policy.

Candor about what we can and cannot afford—and how far short it falls of what we need—cuts across the political grain, particularly in an election year. When

money is tight, the natural tendency is to save money anyway possible, regardless of the long-term consequences. Sadly, it's easy to forget the funding formulas are not just about money out of the state treasury, but also about encouraging productive behavior by school officials and local government and, ultimately, about providing the resources necessary to meet the high goals all of us have for our public schools.

In the spring of 1992, Governor Weld liked the Massachusetts Business Alliance for Education's proposals for high-stakes testing, charter schools, and other reforms, but rejected our funding goals. In a truly memorable episode, Rennie unloaded on the governor. His voice rose, his face grew red, and he angrily said that there was no way he would participate in the fraud of promising ambitious improvements in student performance while countenancing spending levels he knew were inadequate to achieve those goals. Reform was dead for a year; it passed in 1993 after Weld accepted our foundation budget. It's too bad there's no one here now to have a similar showdown with Gov. Patrick! **CW**

Edward Moscovitch is president of Cape Ann Economics and chairman of the Bay State Reading Institute.



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METROPOLITAN POLICY PROGRAM
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Public spaces, private rules

Government agencies redefine themselves to evade transparency laws

BY NED FLAHERTY

MANY GOVERNMENT AGENCIES are quietly redefining themselves as private, nonprofit businesses. Citizens are learning that, at some agencies, public accountability laws no longer apply, or never existed.

Our proven tools for ensuring good government include the rights to observe and record government meetings, purchase copies of government records, monitor conflicts of interest, and demand fiscal controls. But every time another government agency redefines itself as a “private nonprofit” corporation, those rights instantly evaporate.

To understand what’s going on, it may be helpful to take a little quiz. Can you guess which of the following are private businesses?

- The Rose Fitzgerald Kennedy Greenway Conservancy is the operator and protector of one of Boston’s largest downtown public parks, which was built with city, state, and federal assets.

- The Frog Pond Foundation, sporting the mayor’s name, the Boston Parks Department logo, and the city insignia, operates a government-built winter ice rink and summer wading pool in the Frog Pond on Boston Common (created in 1640), the oldest American public park. Boston Common is operated by the Boston Parks Department.

- Boston Connects is an anti-poverty agency created by Congress, funded through the US Department of Housing and Urban Development and controlled by the mayor of Boston, to approve federal tax-free bond loans in impoverished neighborhoods. Boston Connects funds turnpike air rights development projects, including a \$35 million federal tax-free bond loan to Columbus Center, approved in 2007, and a \$52 million loan slated for Fenway Center next year. It is staffed by economic development personnel from the Boston Redevelopment Authority.

- Boston Loan Development is a program that lends up to \$250,000, at government-subsidized rates, to small, non-retail businesses. The program is one of several economic development industrial initiatives that are staffed by Boston Redevelopment Authority employees.

- The Fund for Parks and Recreation maintains Boston public parks and recreational facilities. It is staffed by Boston Parks Department employees, who are paid from property taxes and other city revenues.

The correct answer is all of the above. The Greenway Conservancy, Frog Pond Foundation, Boston Connects, Boston Local Development Corporation, and Fund for Parks and Recreation all operate as private businesses, so

citizens have no legal right to copy public records and no legal right to attend or record public meetings. Just like private businesses, these agencies choose what they release to the public, and what they withhold.

Not only are public agencies getting privatized, but public property is, too. For example, the 1.7-acre Normal B. Leventhal Park in Boston, casually referred to as Post Office Square, is actually owned by a limited dividend corporation called the Friends of Post Office Square Inc. After 40 years, when all investors are to be repaid, the



park is supposed to revert to city ownership, but in the four-decade meantime, it is a private business.

Because Post Office Square and the Rose Fitzgerald Kennedy Greenway are privately controlled, citizens visiting them lose the right of free speech, and, as with all private prop-

erty, the proprietors can have trespassers arrested. The Greenway does plan to allow free speech, in reserved areas where visitors can, for example, collect signatures to run for office or recite religious texts, but visitors exercising their rights of free speech who step outside the reserved area—into the rest of the park—risk arrest.

A public agency wanting to evade Massachusetts public accountability laws first obtains nonprofit status simply by getting the US Internal Revenue Service to agree that it is exempt from federal income taxes. The agency then obtains “private” status by simply writing bylaws with a sentence that declares the organization as private.

Once a government body is privatized this way, the public has little practical recourse because the very transparency laws that would assist citizens in revoking the private nonprofit status no longer apply.

FEW CITIZENS KNOW that such privatization is possible, because the evidence is well hidden. Agencies don’t publicize their identity switches and often continue portraying themselves as regular public agencies. Even an agency’s own employees are often unaware that the public body employing them operates itself as a private business. The truth comes out only if a citizen tries to enforce public accountability laws and doesn’t take no for an answer.

I attended the Greenway Conservancy annual meeting on September 1 and told Conservancy office manager

Priscilla Bradley that I would be recording the proceedings, as permitted by the Massachusetts Open Meeting Law. She told me that the public is never allowed to record anything. When I insisted that the Greenway is a public park, she directed me to executive director Nancy Brennan, who said that written legal opinions allow the Conservancy to ignore the open meeting and public records laws. I replied that any organization controlling a public park is, by definition, a public body and that I was going to exercise my legal right to record the meeting. She then passed me to Conservancy chairman Peter Meade, who listened to my rationale and promptly reversed the policy. While Meade deserves credit for recognizing the Conservancy's public identity, he granted me permission to record the proceedings only after a showdown.

When I asked for the release of minority jobs contracts that Boston Connects negotiated with developers, executive director Shirley Carrington patiently replied that she doesn't want to, doesn't have to, and can't be forced to release them—because Boston Connects is a private, nonprofit corporation where citizens have no standing.

A public agency often declares itself to be nonprofit to help it raise money, since a donor to a nonprofit can legitimately claim a charitable contribution as a tax deduction

on his tax return. At the same time, however, I believe the “private” status should never be used, because it's not necessary to accept donations and it turns otherwise accountable agencies into shadowy entities that are beyond the reach of government accountability laws. A private status is an open invitation to agency staff or elected officials who want to reduce—or end—public scrutiny.

Executives at government agencies claiming to be private bodies share a remarkably similar defense: Because they voluntarily comply with some parts of some public accountability laws, they believe that they are excused from complying with all the rest.

Massachusetts public accountability laws must apply uniformly to every public function, so that the “private nonprofit” label never shields government from having to be transparent. Otherwise, we may discover one morning that the quaint, service-oriented offices long revered in civics schoolbooks have been replaced by a tight-lipped army of corporations, answerable to people we can't identify, following policies we can't see, and operating in ways we can't control. **CW**

Ned Flaherty is an urban planning activist and a co-founder of the Alliance of Boston Neighborhoods.

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Time warp

Women are still waiting for an electoral breakthrough in Massachusetts

I HAVE A CONFESSION: I recently spent a week's vacation watching the entire second season of AMC's *Mad Men*. True, all sorts of wholesome outdoor activities occupied the daytime hours, but every evening, we'd dim the lights and turn a Vermont cottage into a 1960s New York advertising agency. Escapism was the goal, yet the more I watched the frustrations of rookie copywriter Peggy Olson, the less the show felt like an escape. Instead, Madison Avenue, circa 1962, began to remind me of Massachusetts politics, circa 2009—at least with respect to gender dynamics.

Peggy faces plenty of overt barriers to success, like lewd comments and lower pay, but the covert obstacles are equally insidious. It's assumed she won't want to join clients for drinks (when deals get made), so nobody invites her. She has to push for the office space and secretarial support her male colleagues receive without asking.

Fast-forward almost 50 years. When it comes to gender, fields like advertising—and academia, medicine, and law—look quite different than they did 49 years ago. But politically, we seem stuck in a time warp. In 1960, Massachusetts had one congresswoman: Edith Nourse Rogers, the widow of a popular local politician. In 2009, we have one congresswoman: Niki Tsongas, the widow of a popular local politician.

In 1960, we had zero female constitutional officers; today, we have one. There's currently one woman on the 13-member Boston City Council, and there was only one woman among the 15 primary-election contenders for the four at-large seats this year. We've never elected a female governor. And, of course, we've never had a female US Senator—although 2009 could be the year that changes.

BEFORE I CONSIDER the likelihood of a change, it's worth examining covert obstacles and why they may be particularly pernicious in our state. Most of our neighbor states have had female governors or senators or both, but not us. When women have succeeded here, they have done so largely by way of marriage; indeed, after Sen. Edward Kennedy's death, his widow, Victoria, was seen as an immediate front-runner, though she wasn't expressing interest in the job.

Other women have had trouble finding windows of opportunity. "To the extent that women are relative newcomers, they don't have the same networks," says Kira Sanbonmatsu, a scholar at the New Jersey-based Rutgers University Center on Women in Politics. "They may not be first in line when that congressional seat opens up."

Sheila Capone-Wulsin, executive director of the Massachusetts Women's Political Caucus, hopes that with a woman, Therese Murray, at the helm of the state Senate, female legislators will hear of higher-up opportunities earlier and have time to position themselves for a race. But she also notes that in recent years, her organization has begun

As on *Mad Men*, men get top jobs, women get supporting roles.

focusing as much on getting women appointed to high-ranking government jobs as on getting them elected.

"We don't recognize electing women as the only way for women to hold power in politics," she says. "If you're a cabinet secretary like Suzanne Bump or Leslie Kirwan, you can have an awful lot of influence."

She's right, of course. Plus, getting appointed can be a precursor to running for office—just ask Charlie Baker, the former cabinet secretary now making a run for governor. But behind-the-scenes influence is still behind the scenes. It's still another way in which, as on *Mad Men*, men get the top jobs while women play supporting roles.

The experience of other New England states suggests that a single woman, like Peggy on *Mad Men*, can alter the political culture dramatically. Republican Margaret Chase Smith of Maine was elected to the US Senate in 1948; today, both of Maine's senators are Republican women. In 1983, Vesta Roy of New Hampshire became the first woman to be president of a state Senate; today, New Hampshire is the only state that doesn't have a male majority in its Senate.

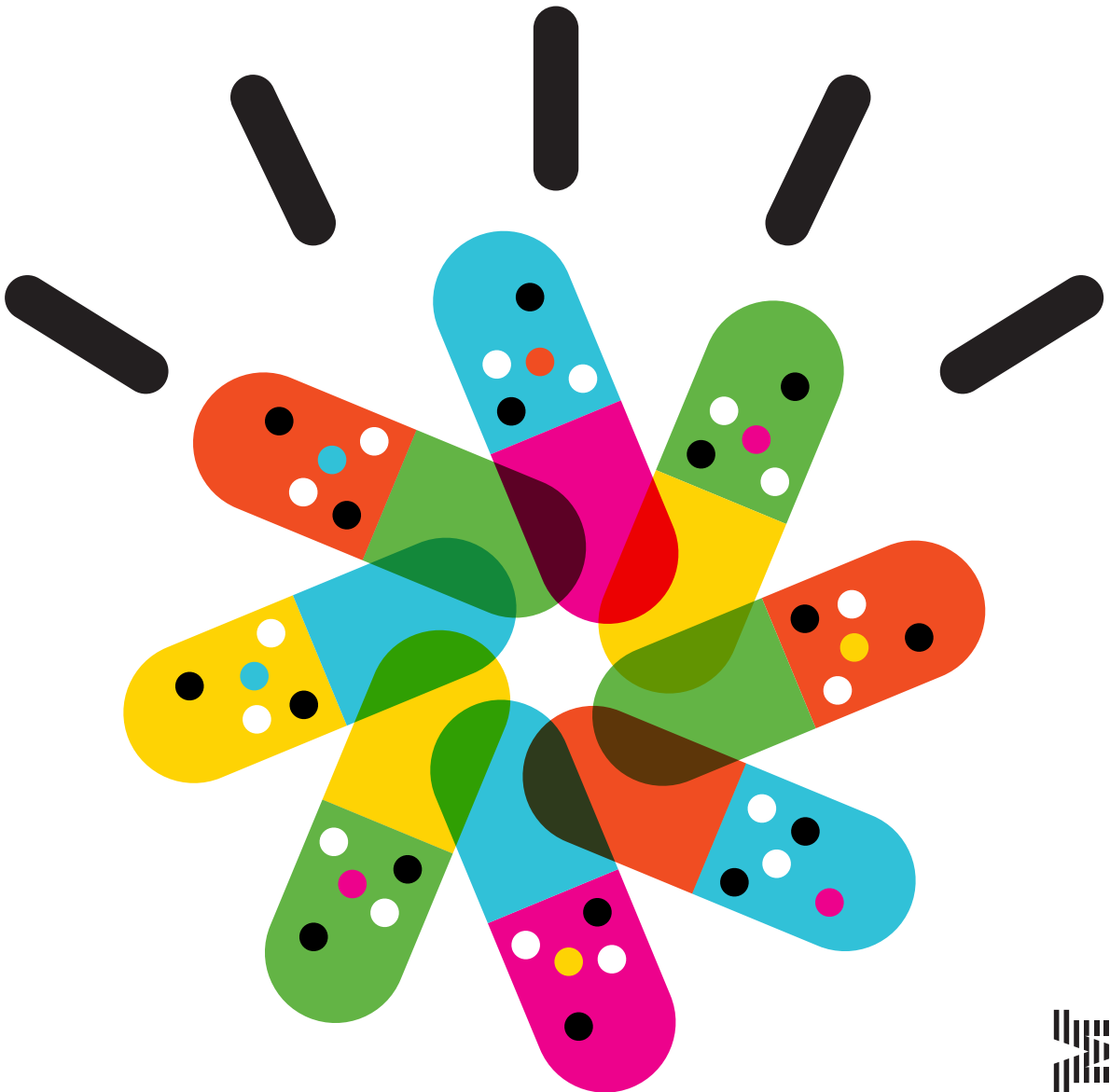
We need a Peggy here—someone unflappable, who isn't afraid to create a tradition for herself. Attorney General Martha Coakley could be that person. So, in a different way, could Therese Murray. Maybe, by the time *Mad Men* returns for a fourth season, there will be more high heels in our highest offices—and the past won't look quite so much like the present. **CW**

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