

LOOK WHO'S TALKING: CAPE WIND'S JIM GORDON AND COAL BILLIONAIRE BILL KOCH

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FEAR AND LOATHING on the TAX TRAIL '13

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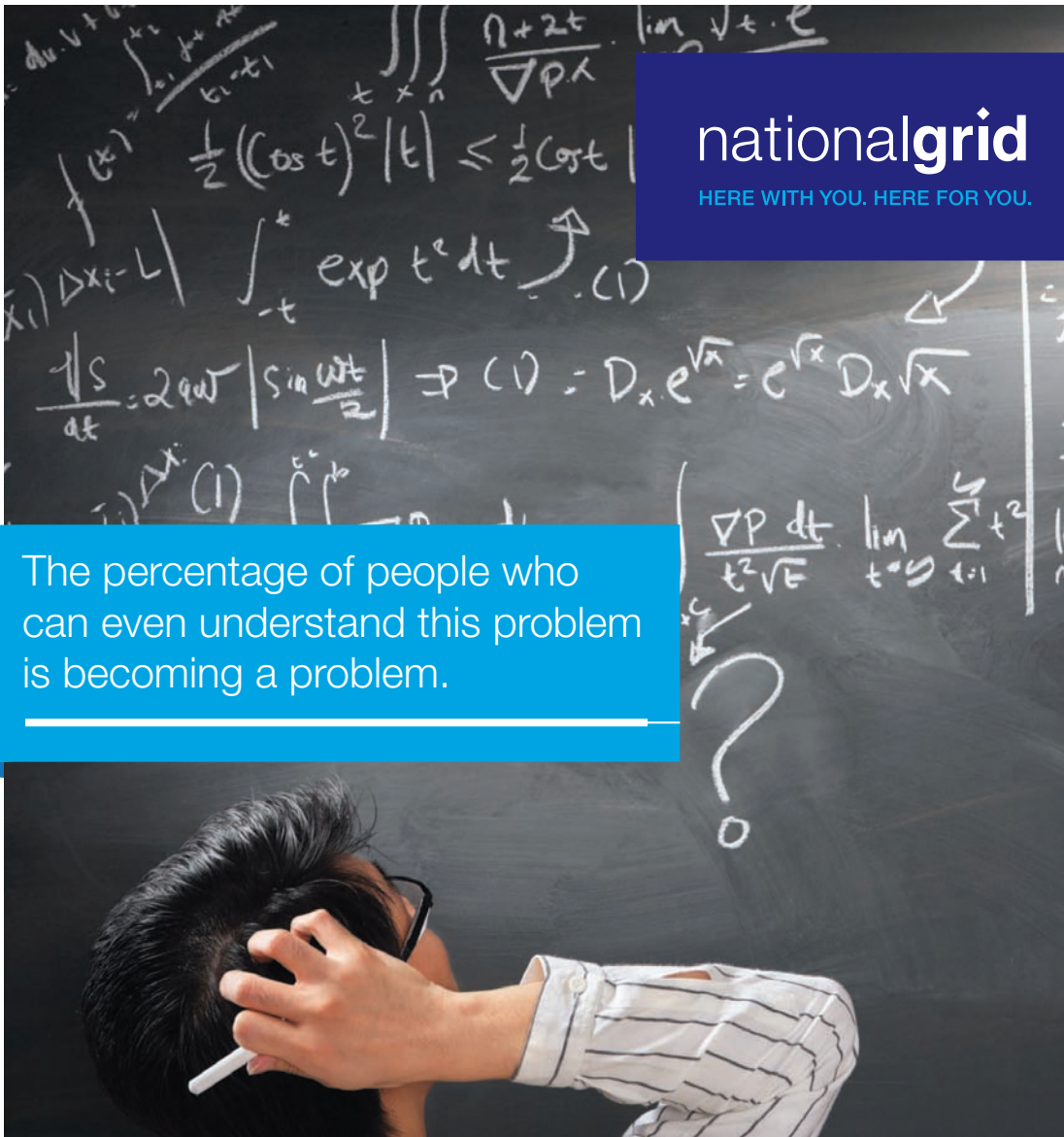
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ARTICLES

- 28 | FEAR AND LOATHING ON THE TAX TRAIL** What the great tax debate on Beacon Hill is really about. **BY PAUL McMORROW**
- 40 | LOOK WHO'S TALKING** The man behind Cape Wind and the project's biggest opponent have been negotiating privately for more than a decade. **BY BRUCE MOHL**
- 48 | WHAT HAPPENED TO JOHNNY RAMOS IS CRIMINAL** They took away his job, all because of a crime he committed 34 years ago. **BY JACK SULLIVAN**
- 52 | SPRINGFIELD BETS ON SIBLING RIVALRY** The Picknelly brothers are offering dueling casino proposals in the state's third-largest city. **BY GABRIELLE GURLEY**
- 60 | SECONDHAND CHEMO** Cancer drugs help patients, but could they be endangering caregivers, family members, and the environment? **BY COLMAN M. HERMAN**

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DEPARTMENTS

- 7 | CORRESPONDENCE**
- 9 | EDITOR'S NOTE**
- 11 | INQUIRIES**
- 17 | ONE ON ONE**
The UMass Boston professor with the stick. **BY BRUCE MOHL**
- 19 | STATISTICALLY SIGNIFICANT**
Voting power in Boston is shifting geographically, but mostly during state and national elections. **BY LAWRENCE S. DICARA AND JAMES D. SUTHERLAND**
- 23 | HEAD COUNT** Some of the state's communities think two years is too short for a mayoral term. **BY JACK SULLIVAN**
- 25 | WASHINGTON NOTEBOOK**
When it comes to congressional clout, seniority isn't what it used to be. **BY SHAWN ZELLER**

DISCUSSION

- 64 | CONVERSATION** Thomas Kane says we can measure teacher effectiveness in a way that is fair to teachers and to students. **BY MICHAEL JONAS**
- 73 | ARGUMENT AND COUNTERPOINT**
We should subsidize big hydro, treating it just like any other renewable. **BY R.J. LYMAN**

Hydro doesn't need subsidies and shouldn't replace homegrown renewables. **BY PETER ROTHSTEIN**
- 78 | BOOK REVIEW** Former Brockton mayor Jack Yunits offers some Gateway City insights. **REVIEWED BY MARK S. STERNMAN**



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DPH CHIEF CRITICIZED

It is unfortunate that Interim Department of Public Health Commissioner Dr. Lauren Smith made statements regarding patients with chronic Lyme disease that do not reflect evolving understanding about the persistent symptoms that many patients experience because of delayed or inadequate treatment. [After the Winter '13 issue went to press with the article "Mass. Commission taking new tack on Lyme disease," Smith said her agency would not support the use of long-term antibiotics to treat Lyme disease.]

The two DPH representatives on the Lyme Commission worked with the rest of Lyme Commission members

to produce a carefully worded document that emphasizes the importance for doctors to recognize that there are numerous patients with persisting symptoms, and that further research is needed to determine whether persisting infection is or is not the cause of these symptoms. Currently, there are no tests or means to determine if the bacteria that cause Lyme disease are still present or absent in a given individual with what is usually described as chronic or post-Lyme disease.

Until the time comes when there are more data about the mechanisms underlying the persisting symptoms of patients with Lyme disease, it is inappropriate to conclude that there is



no such thing as chronic Lyme disease, and that there are not other antibiotic treatment regimens that can be effective. Indeed, there are well-documented, peer-reviewed publications that describe effective antibiotic regimens.

*Dr. Sam Donta
Lyme Commission member
Falmouth*

UPDATES FILM TAX CREDIT

In our last issue, we reported that the success of the state's film tax credit was prompting local entrepreneurs to jump into the movie business ("Film tax credit launching businesses," Inquiries). One company is building a film studio in Devens and another launched a production truck rental business in Northborough. Shortly after our report, Gov. Deval Patrick created some uncertainty for those entrepreneurs by proposing to cap the film tax credit at \$40 million a year. The move is expected to save the state \$20 million in fiscal 2014 and \$40 million the following year. Patrick made a similar proposal several years ago, but backed off in the face of opposition from industry officials and lawmakers. Even so, the hint of change caused a falloff in movie productions in Massachusetts. Patrick responded at the time by sending a delegation to Hollywood promising fealty to the tax credit.

BROCKTON CHARTER REJECTED

As our last issue reported ("School - ing outside the box," Head Count), Brockton and Pittsfield are the only Gateway Cities without a charter or innovation school, a distinction that continues after state officials rejected an application by the International Charter School of Brockton. The proposed Brockton charter school would have been run by the for-profit SABIS Educational Systems Inc., which operates 80 other schools around the world, including in Holyoke and Springfield. The charter proposal, backed by former Brockton mayor Jack Yunits (whose mayoral memoir is reviewed in this issue), was opposed by the city's public schools establishment, including the district's super-

intendent, Matthew Malone, who in January became Gov. Patrick's new secretary of education.

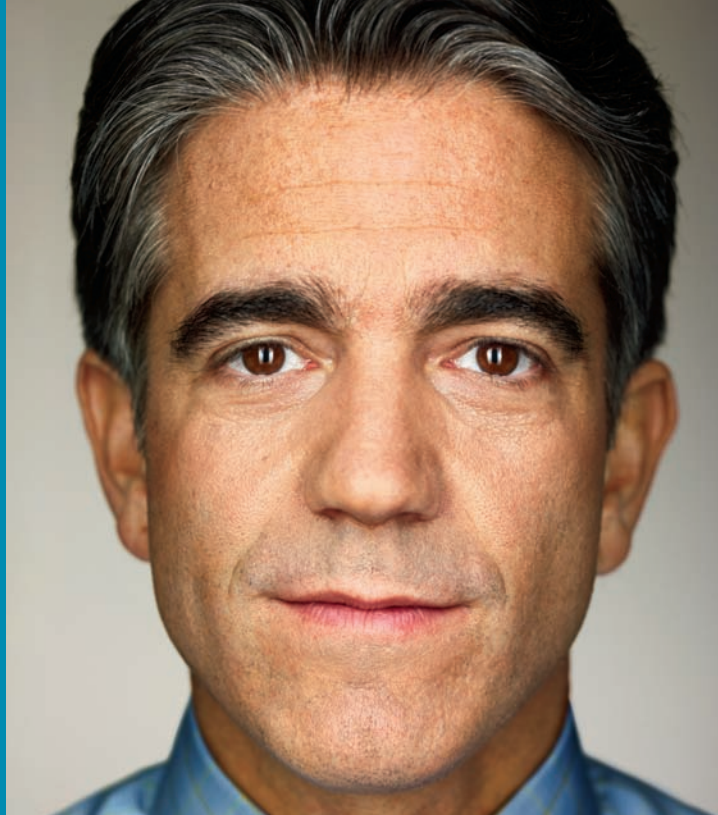
VIRTUAL SCHOOL CONFUSION

The Massachusetts Virtual Academy at Greenfield, the focus of a story on virtual learning last spring ("Log-on learning," Spring '12), nearly shut down. The Greenfield School Committee decided to close the school this summer rather than submit to state oversight as required by a law signed in January. But then the committee changed its mind. Our earlier story on the school, which serves 470 students across the state, found disappointing academic results and an administration that was resistant to outside scrutiny. **CW**

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Tips, questions, and unexpected surprises

PEOPLE ASK ME all the time where we get our story ideas. There's no easy answer. Sometimes they come from a tip, sometimes they spring from a question that needs answering, and sometimes the story starts out trying to answer one question and ends up somewhere entirely different. In this issue, we have a little bit of everything.

Jack Sullivan's story about Johnny Ramos came to us through a tip. We heard that state officials had forced Ramos out of his job as a security officer—a job he had performed satisfactorily for 25 years—because of a felony conviction 34 years ago when he was 18. Everyone felt he was getting a bum rap, but no one saw a way to get around a 50-year-old law that prohibits anyone with a felony conviction from working a security job. Jack's reporting uncovered all sorts of interesting policy questions about the case, from how long someone should be penalized for their crimes to whether blanket hiring prohibitions are discriminatory.

Many of the stories in this issue seek answers to questions. Those opposed to Gov. Deval Patrick's \$1.9 billion tax package say we can't afford it. Paul McMorrow wanted to know if they are right, and ended up producing a great read about the best way to evaluate the state's tax burden and the very superficial debate we are having about new revenues. Instead of debating which projects and programs should be funded, we seem to hunt for a "magic number."

Gabrielle Gurley explores what happens when two brothers square off against each other in the race for a casino license in Springfield. A lot is at stake, not only for the Picknelly brothers but also for the state and its third-largest city.

Colman Herman wanted to find out whether there really is such a thing as secondhand chemotherapy, and whether a Rhode Island company pushing for legislation

here in Massachusetts has the answer for it. Colman's reporting indicates there is growing concern about the danger chemotherapy drugs pose for those who come in contact with cancer patients and the environment, but widespread doubts about the company's solution.

My story in this issue is an example of reporting that started out focused in one area and ended up somewhere very different. I began by looking at how the Alliance to Protect Nantucket Sound, the chief opponent of Cape Wind, was financing a legal challenge to the wind farm by the town of Barnstable. That work whetted my appetite for more, leading me to the two protagonists in the fight over Cape Wind: Jim Gordon, the wind farm's developer, and

There's no easy answer to the question about where we get our story ideas.

Bill Koch, the billionaire businessman who doesn't want to look at turbines from his summer home in Osterville.

For awhile, it didn't look like a story about the two men was going to happen. Gordon refused to talk to me and Koch doesn't talk to many reporters at all. But then Koch did agree to an interview, and Gordon decided he better respond. To my surprise, two men who I presumed dealt with each other only through intermediaries were actually on a first-name basis and had been talking with each other about Cape Wind for more than a decade. For those who want to read transcripts of my interviews with the two men, check out our website. By the way, you may have had problems in the past accessing the website because someone had launched an attack against it. But now everything is operating smoothly. Come back and give us another try.

Bruce Mohl

BRUCE MOHL

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T's got a ticket to write

The state and most municipalities impose a surcharge for parking violations and give the vehicle owner 21 days to appeal before assessing a penalty. The MBTA, by contrast, assesses a penalty after just three days, appeal or no appeal.

Someone caught parking in a T lot without putting the proper payment in the honor box will find a ticket on their windshield with a dire warning: Pay the \$4 fine or appeal within three days, or get hit with an extra \$20 fine. Ignore the ticket completely and your license and registration may not get renewed.

The fine print on the back of the ticket matches what's on the tickets of every other government parking authority: Drivers have 21 days to file an appeal. But the T will still hit you with a \$20 surcharge if the appeal is filed after three days. The agency hits you with a \$1 surcharge even if you appeal within three days.

"This rule was adopted to discourage appeals that are filed just to delay payments," T spokesman Joe Pesaturo wrote in an email.

The MBTA's tickets also seem dated. For example, the ticket says the T has the authority to issue parking tickets and fines under section 6A, chapter 161A of the Massachusetts General Laws, but that section was repealed in 1999. Pesaturo cited another law that gives the T the authority to issue tickets and fines.

Pesaturo says more than 334,000 tickets have been issued by the T for nonpayment of a parking fee over the last three years. He said the company that handled parking enforcement issues for the T during that period did not track appeals or penalty payments.

► JACK SULLIVAN

A souper campaign

► JACK SULLIVAN

FALL RIVER MAYOR Will Flanagan is up for reelection this year. He's also launching a new soup that will be sold in area supermarkets, with the proceeds going to provide scholarships for the city's students.

In the mayor's mind, his candidacy and his soup are unrelated. But there is obviously some synergy between the campaign and the soup, since the soup container that will be staring out at customers at the local Shaw's or Stop & Shop will have Flanagan's face plastered all over it next to the label, which reads "Mayor Flanagan's Signature Kale with Chourico Sausage Soup." The city's iconic Braga Bridge is also featured on the label.

"I don't think people are going to vote for me based upon a kale soup," Flanagan says. "They may vote against me if they don't like it. The soup has my name and face, but it's not going to be a vote-getter for me."

Flanagan has teamed up with Fall River-based Blount Fine Foods, which makes and market soups, chowders, and prepared foods for the likes of Panera and Legal Seafoods, to get the recipe "inspired" by his grandmother on area shelves. Net proceeds from the sales will go to college scholarships for the city's students through a foundation Flanagan has created. A 20-ounce jar will sell for \$5.99.

MIXING SOUP, POLITICS

"I'm a strong advocate for education," says Flanagan, who by dint of office is chairman of the School Committee. "The cost of a college education continues to rise and this is a chance to help promote higher education for our students who might not otherwise have an opportunity to attend."

Todd Blount, president and CEO of Blount Fine Foods, says Flanagan approached him with the idea for the soup right around the time the company was looking to bring a kale soup to market. He insists he felt no pressure from the mayor's office and jumped at the chance to help the city that is home to his growing firm.

"The key to this is the nonprofit," says Blount, who with his wife contributed \$1,150 to Flanagan's campaign in the last two years, according to records. "We see this as a labor of love. Even if we lose money on it, we're committed to giving X percent to the fund. We've reduced all our costs. This is really kind of an arts and crafts project. The goodness of the project far outweighs any question of motives."

Blount says Flanagan was the first to bring a kale soup to his attention, but admits his company's interest would likely not have been piqued if it was "Will's Kale Soup" instead of "Mayor Flanagan's." Blount says the soup venture is similar to the "Mayor's Own Marinara Sauce" marketed by former Providence mayor Vincent "Buddy" Cianci, a mentor to Flanagan. Sales

of the Cianci marinara, which was marketed by another distribution firm, also benefited a scholarship fund.

Spokesmen for the state Ethics Commission and the Office of Campaign and Political Finance had no comment about the deal between Flanagan and any business owner who relies on his administration to get permits and approvals for a variety of issues.

Jason Tait, a spokesman for the campaign finance office, directed *CommonWealth* to several opinions by the Federal Election Commission. In one case in 2004, the agency ruled advertisements for a used car business run by a Senate candidate in Wisconsin did not constitute improper electioneering, which is a communication or advertisement intended to promote a candidate or a political issue. But last year, the FEC ruled that a plumber running for Congress in Oklahoma was subject to electioneering rules because of ads for his company that were running within 30 days of the election.

At the Ethics Commission, a spokesman referred to the state's conflict of interest law that spells out when an elected official has to disclose a potential conflict in business dealings and whether that official has to recuse him or herself in decisions regarding a business associate. The key phrase, the spokesman said, is what a "reasonable" person would perceive of the relationship.

Flanagan says potential ethics or campaign finance issues never came up as he developed the idea to market a soup. He says lawyers went through the set-up of the foundation and checked-off on the marketing of the soup.

"I was very clear," he says. "Nobody is going to make any money off this thing."

As for the soup itself, it's not bad. But what self-respecting Portuguese grandmother doesn't have a recipe for kale soup? And how many of them never thought of tossing in chourico, the spicy sausage that seems a staple in nearly every refrigerator in Fall River?

Flanagan says the soup was "inspired" by his grandmother's recipe, though it's not the exact recipe. He says his grandmother, who was from the Azores, had the same approach as most Portuguese families when it comes to ingredients: If it's in the refrigerator, it goes in the soup.

Close calls with natural gas

► BRUCE MOHL

THE REGION'S POWER grid had a close call during the February blizzard. Six power plants running on natural gas ran out of fuel and couldn't obtain any more. Several oil-fired plants said their fuel stocks were depleted so they couldn't supply any more electricity. Along with other plants shut down because of storm-related outages, more than 6,000 megawatts of power were unavailable at a time when the grid was struggling to meet demand.

The operators of the regional power grid managed to keep the lights on, but they avoided drastic measures only because the cold snap eased quickly and no other plants encountered problems. Now the operators are saying the region's growing dependence on natural gas—a fuel that has brought enormous economic and environmental benefits to New England—is "a rapidly-escalating strategic risk."

Gordon van Welie, president of ISO-New England, the power grid operator, says the natural gas pipelines coming into the region don't have enough capacity when demand for power peaks. "What New England has to do is build up its pipeline capacity and build up its storage," he says.

Natural gas has taken over in New England because of its lower carbon emissions and, more recently, because it is relatively cheap. In 1990, gas accounted for just under 6 percent of the region's electricity generation, far less than nuclear (35.5 percent), oil (34 percent), and coal (16 percent.) Last year, natural gas produced 52 percent of the region's electricity, followed by nuclear at 31 percent.

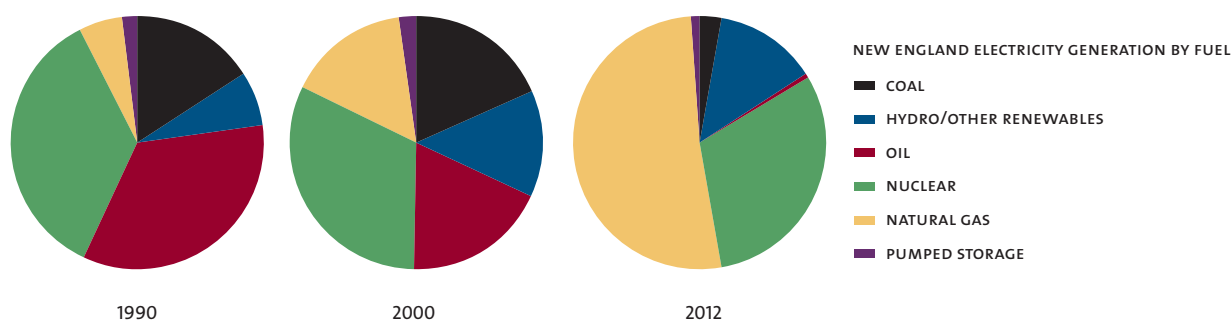
Coal now accounts for just 3 percent of power generation and oil less than 1 percent.

The shift to natural gas yielded enormous economic and environmental benefits. The falloff in coal and oil electricity production has dramatically cut carbon emissions, allowing Massachusetts to easily reach its targets for greenhouse gas reduction.

The growing supply of domestically



NEW ENGLAND'S SHIFT TO GAS



Source: ISO-New England

produced natural gas from hydrologic fracturing, or fracking, has also driven down the price of the fuel. Natural gas prices and electricity prices hit their lowest level last year since 2003. The region's wholesale electricity bill last year fell to \$5.2 billion, down more than a billion dollars from the previous year and down \$7 billion from 2008.

The popularity of natural gas shows few signs of abating. Many analysts expect natural gas prices to remain low for much of the decade, which could lead the fuel to increase its share of the electricity market even further. Oil

and coal plants already find themselves sitting idle much of the time. The owner of the Brayton Point Power Station in Somerset sold the facility at a fire sale in March and previously shut down the coal-fired Salem Power Station. The Mount Tom coal plant in Holyoke is preparing to shut down for an entire year.

But the popularity of natural gas is creating some bottlenecks. Pipelines coming into the region from the south and west are operating at near capacity during periods of high demand, while declining production in Canada has limited supplies from the north. Shipments of liquefied

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natural gas are down because prices are much more attractive in Europe.

The tightness in supply is already having an impact on prices. The US Energy Information Administration says the average price of natural gas coming into New England has been the highest in the nation over the winter months, nearly a third higher on average than deliveries to the New York area and at times nearly nine times as much as the national average.

The cause of the jump in prices is pipeline capacity, but poor planning also plays a role. Oil-fired power plants rarely run anymore, so they keep very low stocks of fuel on hand. When demand for power peaks, the plants fire up but can only operate for a couple days before they run out of fuel. Many natural gas plants are accustomed to

buying their supplies as they are needed; when demand spikes, deliveries for heating homes and businesses take priority, leaving the power plant operators without fuel.

PIPELINE CAPACITY NEEDED.

Van Welie says the solution to the region's problem is not to prop up older oil and coal plants, which are dirtier and tend to break down when they do run. He says the solution is to build additional natural gas pipeline capacity into the region, but he can't just wave a wand and make it happen.

His organization is developing financial incentives that will reward those power suppliers who meet or exceed pledges to deliver electricity when needed, and penalize those who fail to deliver on time. Van Welie believes the financial incentives will spur natural-gas fired plants to structure deals with pipelines that will lead to expansion of existing lines or the construction of new ones.

"We have a transition on our hands," says van Welie, who concedes that his incentive proposal will probably yield more reliable supplies of natural gas at higher prices, a tradeoff he is willing to accept.

Jim Gordon, who is trying to build Cape Wind, says his proposed wind farm in Nantucket Sound could be another answer to New England's gas crunch. Gordon, who built and later sold five of the region's gas plants, says the power from Cape Wind could diversify New England's fuel mix, reduce carbon emissions, and ease pressure on natural gas.

Cape Wind, as designed, is capable of generating 468 megawatts of electricity, or about a third of Brayton Point's output at full capacity. The expectation is that Cape Wind will operate at about 37 percent of capacity on a year-round basis—29 percent in the summer and 45 percent in the winter. "It's analogous to having a gas well in Nantucket Sound," Gordon says.

Morse tries to get back on track

► MICHAEL JONAS

Alex Morse took Holyoke by storm two years ago. The 22-year-old freshly minted Brown University graduate shocked the city's political establishment by defeating Holyoke's incumbent mayor in a campaign that drew heavily on his youth and energy. Morse argued that the beleaguered former mill city needs to embrace the innovation and arts economy in order to draw new businesses and residents. And he vowed to help make dramatic improvements in its schools, which Morse said was the best way to launch children from low-income families out of poverty.



"I apologized for getting off track," says Holyoke Mayor Alex Morse.

But if there was a single issue that catapulted the red-headed Holyoke native into office it was his unwavering opposition to a proposed casino in the city. “I’ll do whatever I can to keep it out of here,” Morse told *CommonWealth* in a profile shortly after his election in November 2011 (“Holyoke hope,” Winter ’12). “I think it’s bad economic policy. I think it’s an act of desperation for the state and for the city of Holyoke. It doesn’t alleviate poverty, it adds to poverty. We’re on the verge. We can choose to have a casino economy or aim for something better.”

It was a stance that fit well with Morse’s innovation-economy message, and many think it provided his 650-vote margin of victory. So it sent shockwaves on a scale nearly as great as his election when Morse announced last November, less than year after taking office, that he was dropping his casino opposition. He insisted that his view on the downsides of casinos had not changed. Morse said he felt compelled to consider a new Holyoke casino proposal that had surfaced and to weigh whether hosting a casino—and receiving the tax payments and other potential upsides—might be preferable to seeing a casino land in a neighboring community and having Holyoke suffer all the harm of a nearby casino while reaping none of the offsetting benefits.

The reaction from casino opponents, many of whom had been his strongest supporters, came fast and furious. More than 100 of them, some heckling and calling him a liar, crowded into City Hall where Morse made his dramatic announcement on the Monday following Thanksgiving. “We were a pretty unhappy bunch,” says John Epstein, a leader of the city’s anti-casino forces who had worked hard to help elect Morse.

Epstein put it mildly. Casino opponents weren’t just unhappy; they were livid. Morse—who only a month earlier had penned a detailed commentary piece laying out his anti-casino stance for *CommonWealth*’s fall issue—was pummeled by supporters who felt betrayed by his sudden reversal on the issue. But less than three weeks after his casino change of heart, Morse reversed course again, declaring that he was ending any consideration of a casino. He said he had concluded his original opposition to a casino in Holyoke was the right stand after all, and vowed that he was sticking with it—for good. “A casino may be coming to our area, but it will not be coming here,” he said in a statement.

Today, Morse is trying to put the whole casino contretemps behind him. “I apologized for getting off track and I want to do everything I can to get back on track,” he

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says. Morse says he spent a week knocking unannounced on the doors of his biggest supporters, asking to come in and sit in their kitchens or living rooms and explain himself. "It was a message of humility and having the courage to admit when you've made a mistake," he says. "I think the fact that I was sincere and honest went a long way."

Morse says he has been eager to return his focus to the issues he ran on. He successfully appealed to the City Council to fund a new position for Holyoke's first creative economy coordinator. He points to urban renewal plans that were recently approved for four downtown neighborhoods and the start of work on the redevelopment of the former Holyoke Catholic High School which is being converted into 50 units of moderate-income housing.

Meanwhile, with Holyoke mayors serving two-year terms, Morse is already gearing up for his first reelection race this fall. (So far, Morse has drawn only one declared challenger, first-time candidate Jim Santiago.) "I'm confident entering the election season," Morse says. "Without a doubt we've been able to repair my base really quickly," he says when asked about any lasting political damage from the casino controversy.

City Councilor Rebecca Lisi, a casino opponent who strongly supported Morse's mayoral campaign, says anti-

casino residents have largely forgiven his brief dalliance with casino support. "For the most part, they're satisfied," she says. "I don't see any grudges." Lisi thinks the burst of energy and new ideas Morse has brought to City Hall, which has been so welcomed, also explains his casino missteps. "What we really

CAN HE BRING "OTHER STUFF?"

loved about Alex during the campaign was how brazen and bold he could be. I think this was the flip side of that coin," she says of his zigzagging on the casino issue. "I think it exposed Alex's inexperience to a certain extent."

"He dug himself a bit of a hole," says City Council President Kevin Jourdain. "He's trying to dig out of it and reestablish his credibility. There's mixed opinion as to whether or not he's weathered it."

Jourdain says voters will tend to be forgiving, especially if Morse can show progress in other areas. "I think he needs to bring some economic development projects to the city," says Jourdain. "That's ultimately going to be the test of whether or not he's been successful as mayor or not. He said no to casinos. If he can bring other stuff, people will be happy." **CW**

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MASSDEVELOPMENT

High water mark

UMass Boston professor Ellen Douglas maps the impact of rising sea levels in Boston

BY BRUCE MOHL | PHOTOGRAPH BY J. CAPPUCCIO

Your report on rising sea levels suggests Boston dodged a bullet with Hurricane Sandy. The report says if Sandy had come ashore five hours earlier, at high tide, 6.6 percent of the city would have been flooded, with water reaching all the way to City Hall. What did we learn from Sandy? Sandy did us a favor. It certainly didn't do New York City a favor, but it did us a favor because it missed us. When you see a map like the one in our report you say, well, could that really happen? Then, when Sandy came in, you had to say, yeah, it can happen.

What's with the stick? We have these maps that are color-coded to show the extent of flooding and also the depth. The stick is just a way of adding a third dimension. When I hold up that stick and say here's zero to 2.5 feet of sea level rise or here's 5 feet of sea level rise, suddenly people get it. I mean five feet is almost to the top of my head.

Your report urges Bostonians to prepare for sea level rising because of climate change. Does that mean it's too late to prevent climate change? No, actually one of the things we hope people get is that it's not too late. We need to continue mitigation, which is reducing our carbon emissions, because that makes a dif-

ference between 3 feet of sea level rise and 6 feet of sea level rise by the end of the century.

How worried are you about climate change? There's still a lot of things we don't know. Life and the earth are amazingly resilient. The planet's going to be fine no matter what. Humans may or may not survive, but the planet will adjust and life will adapt and evolve in order to survive. If we want to live in a place in which we can survive, we need to do our best to reverse the impacts that we've created.

It seems like some people aren't preparing for sea levels to rise. From a purely logical perspective, it doesn't make sense to rebuild along the coast. It doesn't make sense to rebuild a city that's below sea level. Some of those things are stupid. On the other hand, we have to take into account people's views and why they are doing this so maybe we can come up with better alternatives.

What drew you to hydrology, the science dealing with the distribution and circulation of water on and below the earth's surface? Water is so ubiquitous. It's everywhere and we use it for everything, but we kind of ignore it. It's like one of those precious commodities that you take for granted, kind of like your spouse or your family. You don't notice it until it's gone.

You received your doctorate from Tufts. Where did you go to school before that? I didn't start college at the University of New Hampshire until I was 30, so I was a mature, nontraditional student. I joined the earth science teaching program in the first semester, but then the next semester they started the BS in hydrology and I just thought that's what I wanted to do. I was like the first person to enter the program.

What did you do before going to school? Oh, gosh. I was a receptionist, a bank teller, and I worked at a car dealership. I altered wedding dresses, which is the only job I ever got fired from. I worked at a valve manufacturing company and I was a bookkeeper. **CW**



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Where the votes are in Boston

BY LAWRENCE S. DICARA AND JAMES D. SUTHERLAND

THE 2000 CENSUS categorized Boston as a majority-minority city for the first time in its history, but this new classification has not been the primary cause of a changing political climate in the city over the last decade. Black, Hispanic, and Asian voters, while increasing in number, do not yet represent a significant percentage of Boston's voting electorate because many of them are immigrants or under the age of 18. Instead, the real changes in the Boston electorate are occurring within the Caucasian community, where a vast collection of younger and educated white people, mostly born elsewhere, have the potential to determine the city's political future. Potential is the key word. These young, white residents already exert great influence on the city's voting in statewide and federal elections, but so far they have shown little inclination to vote in municipal elections.

When voters went to the polls in the presidential election this past fall, the eight precincts which contributed the greatest turnout to the city's overall vote total were all in the downtown area. For the most part, these were places where very few people lived 30 or 40 years ago but which are now becoming popular residential addresses. The precincts are located in Bay Village and the South End (Ward 5-precinct 1 and Ward 3-precinct 7), Chinatown and Downtown Crossing (Ward 3-precinct 8 and Ward 3-precinct 6), the North End Waterfront (3-1), the South Boston Waterfront (6-1), the Back Bay and South End (4-2), and the West End (3-5).

The past four elections have demonstrated that more and more people from these downtown neighborhoods are voting. Neighborhoods such as East Boston and parts of Dorchester (Fields Corner and Meetinghouse Hill) no longer carry the electoral clout that they did a generation ago because of their large immigrant populations which are not allowed to vote. This transformation in relative neighborhood electoral clout is a microcosm for what has been happening demographically across the city during the last generation.

People are living in areas of Boston that no one

classified as residential merely a generation ago. The Charlestown Navy Yard, North End Waterfront, the South Boston Waterfront, Downtown, and "SoWa" (south of Washington in the South End) are but a few examples of a shift toward the northern neighborhoods of Boston. The consequences of this residential shift northward became evident last October as the Boston City Council struggled to redraw the lines of its nine districts in a way that accounted for the city's changing population and demographics. Furthermore, this trend only stands to accelerate as the Boston Redevelopment Authority continues to sign off on countless new residential buildings in these neighborhoods.

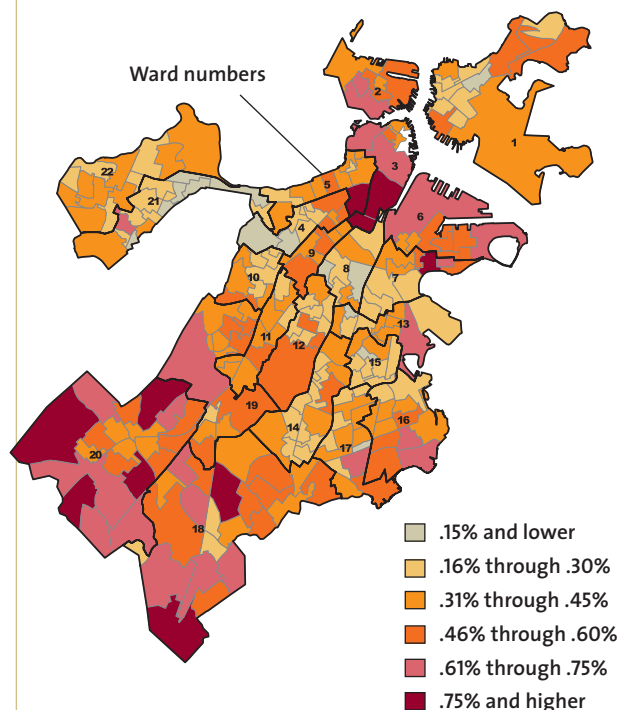
Remarkably, the precincts in Chinatown and along the South Boston waterfront were not even in the top 200 precincts (out of Boston's 254 precincts) in terms of relative voter turnout just 40 years ago. Only a generation ago, Chinatown's precinct was home to Boston's adult entertainment district, popularly known as the Combat Zone. Long gone are the strip clubs, prostitutes, and adult theatres that once lined these downtown streets. The primary neighborhood "conflict" today revolves around the possible displacement of longtime-residents, primarily Chinese, by the construction of high-rise luxury condominiums.

Similarly, the South Boston waterfront precinct, which consists primarily of the area north of Broadway Station, includes the city's old industrial waterfront. Although the area still has its fair share of industrial space, it has been the beneficiary of redevelopment and revitalization coupled with a growth in population since the completion of the Central Artery/Tunnel and the Silver Line. Unlike the almost suburban nature of some of the city's other neighborhoods, the South Boston waterfront could become a very densely populated neighborhood over the next generation.

Another major electoral shift in Boston is the repopulation of some of the city's older neighborhoods. For instance, Jamaica Plain today has a greater percentage of Boston's voters than it did 40 years ago, primarily because houses which were

STATISTICALLY SIGNIFICANT

PROPORTION OF CITYWIDE VOTE CAST BY EACH OF BOSTON'S 254 PRECINCTS: 2009 MAYORAL ELECTION



empty are now full, and new housing units along the Southwest Corridor have been constructed. As elsewhere in the city, it is not necessarily families that are repopulating Jamaica Plain. Less than one-fifth of JP's residents are under the age of 18. Far fewer children means more adults—and, in turn, more voters—are living in the neighborhood.

These changing housing and family patterns have become increasingly important in a political sense during the last 40 years. In 1970, almost 38 percent of Boston's residents were under the age of 18. Today, children under 18 account for just 17 percent of our city's population. Furthermore, the average household size has decreased by almost 25 percent in the last 50 years. Given this shift, it is understandable that Boston's families are steadily growing smaller and that neighborhoods such as West Roxbury, South Boston, and the coastal parts of Dorchester, which were considered the electoral breadbasket for generations, have fewer people living there than was the case a generation ago.

Despite all these changes, there continues to be a disproportionate number of voters in city elections who reside in elderly housing developments. Precincts that house these elderly developments have exceptionally higher turnouts than their adjacent precincts. For instance, turnouts in

CHANGE IN PROPORTION OF BOSTON'S TOTAL VOTER TURNOUT BY WARD BETWEEN 1970 AND 2012

WARD	COUNCIL	MAYOR	PRESIDENT	NEIGHBORHOOD
1	-41.62%	-30.54%	-35.77%	East Boston
2	14.29%	30.69%	26.44%	Charlestown
3	8.95%	61.68%	65.45%	North End/Chinatown
4	27.71%	18.40%	32.60%	Fenway/South End
5	17.94%	-7.26%	-12.74%	Back Bay/Beacon Hill/Bay Village
6	23.49%	29.06%	21.95%	South Boston
7	-16.76%	-9.73%	-18.14%	South Boston
8	22.89%	16.54%	69.56%	Roxbury/South End
9	103.31%	71.33%	139.59%	Roxbury
10	14.01%	-1.80%	14.28%	Mission Hill/Jamaica Plain
11	23.02%	18.22%	32.67%	Jamaica Plain
12	15.04%	-3.55%	22.63%	Roxbury
13	2.69%	-8.87%	-2.49%	Dorchester
14	19.15%	-0.47%	43.48%	Dorchester/Mattapan
15	-15.07%	-29.44%	-12.91%	Dorchester
16	18.35%	-2.83%	-20.15%	Dorchester
17	-7.32%	-5.09%	2.02%	Dorchester
18	-12.56%	0.16%	-11.26%	Hyde Park/Roslindale/Mattapan
19	10.44%	13.28%	0.61%	Jamaica Plain/Roslindale
20	-4.79%	12.35%	-17.29%	Roslindale/West Roxbury
21	-13.85%	-38.59%	-15.93%	Allston-Brighton
22	-36.49%	-19.92%	-17.80%	Allston-Brighton

Ward 7-precinct 3 (Foley Apartments at the foot of South Boston), Ward 10-precinct 4 (Mission Park at the foot of Mission Hill), Ward 16-precinct 12 (Keystone Apartments on Dorchester's border with Milton) and Ward 21-precinct 13 (Jewish Community Housing for the Elderly near Cleveland Circle in Brighton) provide a disproportionate amount of their individual ward's overall turnout. Local candidates are understandably attracted to such captive and reliable voters, despite the fact that they are not representative of the city's population at large.

The reason for the outsized influence of elderly developments in municipal elections is because so many of Boston's voters tend to skip city races. Sadly, approximately one-third of Bostonians who voted in the most recent presidential election will not vote again for another four years if recent patterns continue. This selective voter participation in political contests is part of a pattern that has emerged within the past 30 years. The quadrennial high turnout is one of the reasons why Elizabeth Warren carried the City of Boston over Scott Brown by more than 100,000 votes—a significant portion of her margin of victory.

Less than half of those who voted in the 2012 presidential election are likely to vote in the upcoming mayoral election. Similarly, roughly 40,000 fewer Boston voters

are likely to cast ballots for the November mayoral election than voted in the 2010 special election that saw Brown become the first Republican US senator from Massachusetts since 1979, or either statewide gubernatorial election that Deval Patrick won.

Although it shouldn't be considered an identity crisis, Boston finds itself at a turning point demographically, culturally, and politically. The larger electorate is younger, more liberal, more educated, and more often than not comprised of those who have moved to the city within the past 10 years.

The significant gap in turnout between federal or statewide elections and local elections has a variety of political consequences. If any candidate for mayor or City Council can excite some of those voters who only vote once every four years or some of the 40,000 to 50,000 who tend to vote in each even-numbered year, then that person could have a dramatic impact on the future of Boston's political landscape. **CW**

Lawrence S. DiCara is an attorney with Nixon Peabody in Boston and a former Boston City Council president. James Sutherland is a Ph.D. student in the Department of Political Science at Northeastern University.

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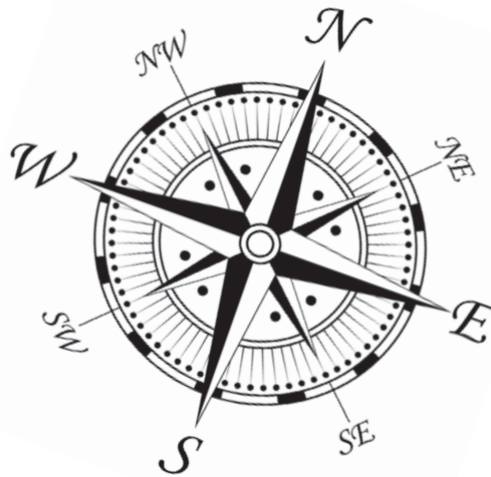
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Is two years too short?

Some communities lengthen mayoral terms from two to four years **BY JACK SULLIVAN**

THIRTEEN TIMES BETWEEN 1983 and 2010, John Barrett III ran for mayor of North Adams and won. But Barrett said the constant drumbeat of running for election in the second year of each two-year term took its toll on his energy and his ability to focus on the job at hand.

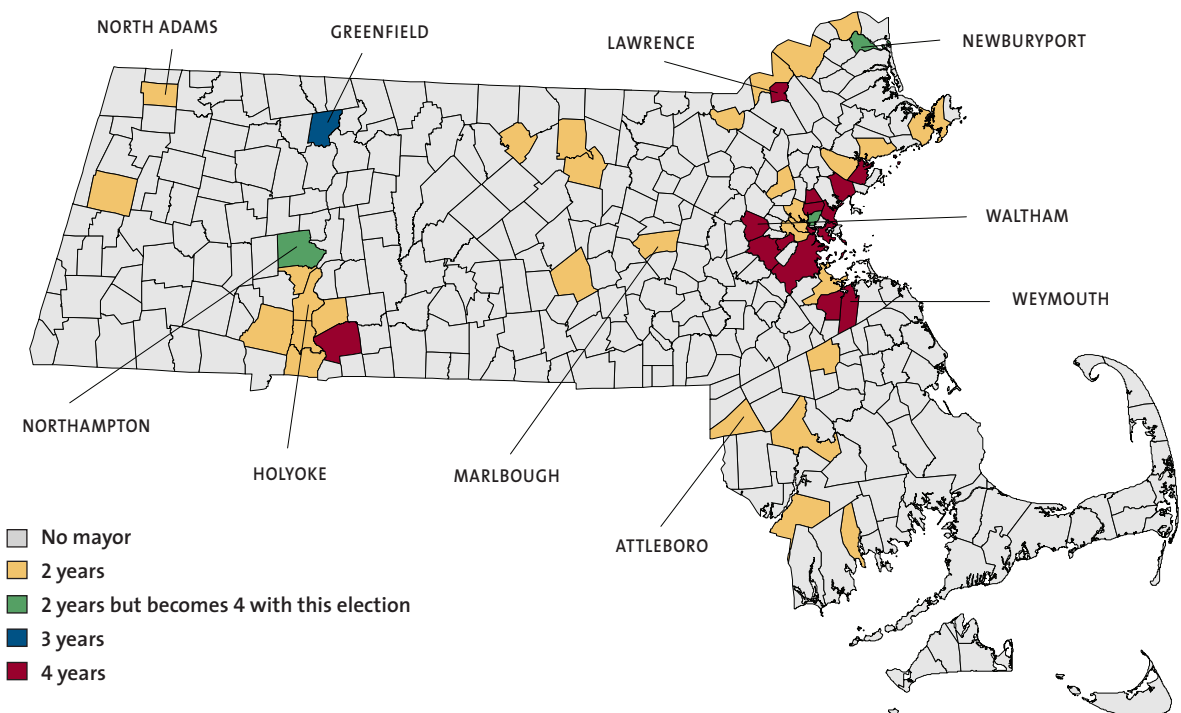
“You usually spend the first year being mayor and the second year you concentrate on things to get reelected,” says Barrett, now a city councilor in his hometown. “You get elected and you’re setting up the vision and what you want to accomplish and—*boom*—you’re running for reelection again from the git-go.”

Barrett is part of a growing movement that thinks two-year terms for mayors of Massachusetts cities and towns is bad public policy. Barrett and others say a shift to four-year terms would eliminate much of the political posturing that goes with a two-year term and send a message of stability and accountability to businesses who need reassurance that policies and processes won’t change in the blink of an eye.

“What can you reasonably get done and get judged by in two years?” asks Stephen McGoldrick, the interim director of the Collins Center at the University of Massachusetts Boston, who advises local communities seeking to change their governance. “When you’re there for two, it seems the bureaucracy is less responsive than if you’re there for four.”

In Massachusetts, 46 communities have mayors. Of those mayors, 33 have two-year terms, 12 serve four-year terms, and one, Greenfield, has a three-year term. Five communities have shifted from two-year to four-year terms since 1998 and three others—Everett, Newburyport, and Northampton—are changing this fall. Voters in Agawam will be asked this fall if they want a four-year mayor while efforts are underway in Quincy and Pittsfield to place a four-year mayoral term on the ballot. Braintree and Weymouth, the most recent towns to adopt a mayoral form of government, went right to a four-year term for the chief executive in 2008 and 1999, respectively.

WHAT ARE YOUR TERMS?



Source: Department of Housing and Community Development



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HEAD COUNT

Quincy Mayor Thomas Koch, who will be running for his fourth, two-year term this year, says he is fine with whatever voters decide. “I knew the rules getting in,” he says. “I’m comfortable with the two years. But I think the four-year term has great merit.”

Koch says running for office every two years inevitably takes time away from doing the job of mayor. “It does divert some of your energy, some of your time, some of your resources,” he says. “It’s not the 9-5, you live this job. You want to devote all of that energy to getting it done. If there’s a four-year term, there’s times a decision comes up that will have an impact for years down the line. If you’re in a two-year term, you start to think, ‘How’s that going to affect my reelection?’ You’re able to make better business decisions.”

The Quincy term extension drive is being spearheaded by the Quincy Chamber of Commerce, and Koch says the group’s involvement is an indication that businesses are looking for certainty in a city’s chief executive. Quincy is undertaking a \$1.6 billion redevelopment of the downtown. Koch says the developer, Street-Works, expressed anxiety during negotiations about the perceived instability of a mayor running every two years and the potential for policies to change if a challenger doesn’t share the same vision.

“Folks dealing with the city don’t want to see horses change in the middle of a project,” says Koch, who is not taking a political stand on the ballot effort. “They wonder, could someone come in and unplug it?”

Barrett points to the Massachusetts Museum of Contemporary Art in North Adams as a multi-million-dollar project that was key to his city’s growth plans. It took 14 years from the time it was proposed until it opened its doors in 1999. Barrett says that if someone with less support for the project had defeated him, it never would have survived.

“That was a major project,” he says. “If there hadn’t been that continuity in government, it would not exist. Any mayor who gets anything done has to be there a minimum of eight years.”

The communities with four-year terms tend to be concentrated in and around Boston, while the vast majority of municipalities with two-year terms are outside Route 128. Barrett says the geographical arrangement may be linked to population density, with smaller communities outside 128 more cautious about change.

“They’re smaller and they look at things more carefully,” says Barrett. “That’s a big decision for them to make.”

McGoldrick says that for many municipalities the two-year terms have been around so long that no one questions them. “I think these two-year terms are vestiges of the late 1800s and early 1900s,” he says. Voters “haven’t been able to muster enough energy to change them.” **CW**



Capitol turnover

When it comes to congressional clout, seniority isn't what it used to be

BY SHAWN ZELLER

MASSACHUSETTS REPRESENTATIVES AND senators have for decades enjoyed key committee and leadership posts in Congress because of their seniority, and the state has reaped the benefits, both in funding from Washington and in policy advantageous to the state.

Before his death in 2009, Sen. Edward M. Kennedy delivered funding for state projects ranging from the Big Dig to the federal courthouse in Boston. He was “irreplaceable,” says Ronald Weich, a former Kennedy aide who is now dean of the University of Baltimore School of Law. Add in the loss through retirement of US Reps. William Delahunt, Barney Frank, and John Olver, and the resignation in February of Sen. John Kerry, and the state’s congressional delegation starts to look a lot like this year’s Red Sox—a team with a lot of new faces.

When Kennedy died, the Massachusetts congressional delegation was approaching 200 years of combined service in Congress. Now the delegation has less than 125, and that number could drop even further if one of the Democratic congressmen running for Kerry’s seat prevails and becomes a rookie senator. Will the state’s clout in the corridors of Congress fall with it?

David Hopkins, a political science professor at Boston College, says the blow to the state’s seniority is no reason to despair. The loss in seniority matters in Washington, he says. “But not a lot.”

Senior members of Congress have historically controlled the flow of legislation through their committees and have had more opportunity to add funds for home state projects. But a series of changes over the last six years, most notably the concentration of power among party leaders instead of committee chairmen, the banning of funding

earmarks, and two tidal wave elections, in 2006 and 2010, are making seniority less of a factor.

Today, key legislation in Washington is often written by just a few party leaders without the input of committee chairmen. The situation is similar to what’s happening in Boston on Beacon Hill, where power is concentrated in the hands of the governor, the House speaker, and the Senate president. In Congress, President Obama, Senate Majority Leader Harry Reid of Nevada, House Speaker John Boehner of Ohio, and the top Republican in the Senate, Mitch McConnell of Kentucky, are the key players.

Party leaders in Washington are pledging this year to return to “regular order,” in which bills advance from subcommittees to committees to the floors of the House and Senate, and then to House-Senate conferences where the two chambers reconcile their respective versions. But that isn’t the way the process has worked in years. Consider the New Year’s fight over the fiscal cliff, in which Obama, McConnell, and Reid brokered a deal in private. Or the 2011 legislation negotiated by Obama and Boehner that averted a government default. The last time Congress was able to pass all of its spending measures under regular order was 1994.

Earmarking, the legislative practice of steering funds to lawmakers’ pet projects back home, is also gone. Under pressure from deficit hawks, the House banned the practice in 2010 and the Senate followed in 2011. Both moves lessened the power of the House and Senate appropriations committees.

The appropriations committees have declined as power centers to such a degree that earlier this year Democratic Sen. Patrick Leahy of Vermont turned down the Senate Appropriations Committee’s chairmanship to stay on as the chairman of the

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Judiciary Committee. At Appropriations, he would have overseen a shrinking federal budget with no earmarks. At Judiciary, Leahy has a hand in this year's two big policy debates: immigration and gun control.

The second most senior Democrat didn't want the job either. Iowa's Tom Harkin turned down the position to remain the chairman of the Health, Education, Labor, and Pensions Committee. (In January, Harkin also announced that he won't seek reelection next year.)

"The reduced importance of appropriations changes everything," says Izzy Klein, a former aide to US Rep. Edward Markey of Malden as well as New York Democratic Sen. Charles Schumer. Now, Klein says, representatives and senators acquire power by "transcending committee seniority and making their issues national in scope."

Massachusetts still has representatives capable of flexing power in this new environment. In the House, Somerville's Michael Capuano, a senior Democrat on the Transportation and Infrastructure Committee, is close with Democratic leader Nancy Pelosi. Worcester's Jim McGovern is the second-ranking Democrat on the Rules Committee, which controls the procedures for considering bills on the House floor. Should the Democrats retake the House, Springfield's Richard Neal could ascend to the chairmanship of the tax-writing Ways and Means Committee.

The House delegation might take a blow if its dean, Markey—with 36 years of seniority and the top Democratic seat on the Natural Resources Committee—moves to the Senate. He's competing for the Democratic nomination with Stephen Lynch, who has spent 11 years in the House and sits on the Financial Services Committee.

"With all these people moving on, we are going to take a hit. With seniority comes clout," says McGovern. "But we've been through this before. What I've learned over the years is that we have a very adaptable delegation."

McGovern and Capuano are among the most senior remaining House members—Neal will be the new dean if Markey wins his Senate race—but their ties to Democratic Party leaders make them more important than their seniority alone would indicate. Between them, there's "a huge amount of clout," says David C. King, senior lecturer in public policy at Harvard's John F. Kennedy School of Government. "They don't have the same policymaking expertise of Barney Frank, but Capuano deals in raw power. He has influence over every policy domain through his relationship with leadership. And then McGovern as part of the Rules Committee is at the pinch point in the funnel that controls access to the floor."

The rest of the delegation is well represented on the House's authorizing committees, such as the Education and the Workforce Committee and the Armed Services Committee, which now have more power over federal funding than appropriators because the authorizing com-

mittees determine the maximum amount that appropriators can spend. Authorizing committees also draft the language that influences how grantmakers at Obama administration agencies direct funds back to state projects.

Massachusetts has seats on 15 of the 21 House committees, including those with authority over the budgets of most federal agencies. The state no longer has a seat on the Appropriations Committee since Amherst's Olver retired at the end of 2012 and his district was eliminated as part of the redistricting process.

In the Senate, Massachusetts' situation would appear grave, if seniority were the only determinant of power. Democrat Elizabeth Warren, who defeated Republican Scott Brown in November and now holds Kennedy's old seat, ranks 97th in seniority. Kerry's interim replacement, Democrat William "Mo" Cowan, is dead last. (Senate seniority is based on service in the upper chamber, with ties broken by factoring in previous years as a House representative, presidential cabinet member, or governor. If there are still ties after that, states with greater populations go first.)

Warren may prove more influential than her seniority would indicate. A former Harvard Law School professor, she arrives in Washington with a reputation for policy expertise and a knack for attracting media attention, as she did during recent banking hearings.

"Liberal activists know who she is," says Hopkins. She has the ability to command a national audience, he says.

States with deeper benches—Massachusetts now has nine representatives to go with its two senators—tend to recover more quickly from a hit to their seniority, especially if the new blood arriving in Washington is ambitious. Tennessee, which also has an 11-member delegation, lost two influential Republican senators between 2002 and 2006, first Fred Thompson, the chairman of the Governmental Affairs Committee, and then Bill Frist, who resigned as Senate Majority Leader. But the state now has a top appropriator in Sen. Lamar Alexander and an influential voice on foreign policy in Sen. Bob Corker.

Hopkins points out that Massachusetts's loss in seniority comes at a time when Congress as a whole is less experienced than it has been in many years. Over the last six years, more than half of the House and Senate has turned over, an unusually high rate of upheaval prompted by the Democratic wave of 2006 and the Republican one in 2010. The retirement announcements this year of Senate Democrats Jay Rockefeller of West Virginia and Harkin mean that no more than four Democrats in the upper chamber will have more than 28 years of seniority when the next Congress convenes in January 2015.

Since Massachusetts has a long history of re-electing incumbent Democrats—none has lost since US Reps. Nick Mavroules and Joseph Early in 1992—it might not take long for Massachusetts lawmakers to move up. **CW**

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SP928 (12/12)



FEAR AND LOATHING on the TAX TRAIL '13

BY PAUL McMORROW

THE MEN IN expensive suits came by the hundreds, but as they ambled into the ballroom at the Boston Park Plaza Hotel on a cold March morning, they already knew how the show they were about to witness would end. House Speaker Robert DeLeo had tipped his hand the night before, and the morning newspapers lying in piles of slush and snow across the city noted that DeLeo was about to drop the hammer on Gov. Deval Patrick. Patrick had run out a \$1.9 billion tax proposal several weeks earlier. The governor's revenue plan backstopped a significant expansion in new transportation and education spending. With 2014, and the end of his term as governor suddenly looming, Patrick had gone on the offensive, and done so in a big way, making a legacy bid while he still had time to craft one. He hit the Legislature with a multi-billion-dollar shopping list spanning new rail lines and subway cars, aggressive road and bridge construction, universal pre-kindergarten, extended for struggling schools, and millions in aid to public higher ed. It was an ambitious turn by a governor who had spent several years wrestling with deficits and spending cuts. The Chamber of Commerce crowd

chewed their cold eggs and potatoes, knowing DeLeo was about to crush Patrick. The only suspense lay in the pageantry.

DeLeo let the governor down as softly as possible. He spent most of his Park Plaza speech insisting that there's no bigger fan of education and infrastructure than he. The governor was right, DeLeo said, to target education and transportation, and he was right to say the state needed to spend money on each. Then he paused, and then he brought Patrick's whole tax package crashing down. Any new revenue package, DeLeo argued, "should be far more narrow in scope and of a significantly smaller size," without "creating collateral damage" among residents and businesses. So DeLeo agreed with everything Patrick had put on the table, except for the money part. Which is to say he doesn't really agree with Patrick after all.

Patrick has been barnstorming across the state since January, trying to roust lawmakers into supporting his tax and spending plan. He has appealed to both their lower and higher selves, dangling district-by-district spending maps in front of legislators' noses, and exhorting them to "find the political courage to

choose what's right for our long-term good instead of just what's easy for short-term politics." None of it has worked. The Legislature looks poised to scrap Patrick's massive revenue gambit, just as it shot down his 2009 bid to raise the gas tax, and a 2007 effort to raise municipal tax revenues before that.

Lawmakers have expressed unease about both the size and scope of Patrick's tax plan. It's too big, they've complained. It reaches too deeply into the pockets of taxpayers who are already stretched too thin. They can't afford it, and there's no way they'll bear it quietly.

Beneath those objections, though, there's something else at play, something much more fundamental.

DeLeo spent much of his Park Plaza speech bobbing and weaving on the details of what he planned to advance in place of Patrick's tax package. At one point, he joked that he really wasn't trying to duck questions from the audience before admitting that, well, yes, he was. When the Speaker finally did drop his guard, it was to say that almost all Beacon Hill tax proposals are radioactive: "Look, it's never an easy avenue, never an easy discussion when it comes to a vote on taxes. No discussion about taxes is easy. I know that."

Democrats dominate the Massachusetts Legislature, and they live in mortal fear of tax votes. Visions of the bad old days of the 1970s—when financial instability and runaway taxes invited legislative turmoil—still haunt the halls of the State House. The "Taxachusetts" ghosts howl whenever a governor starts talking about raising taxes. This reflexive fear of taxes—past crowds out the present. But it turns out the present isn't nearly as terrifying as the critics of Patrick's tax plan make it out to be.

Taxes in Massachusetts are stubbornly average. They have been for the past three decades, and they would remain so even under Patrick's impossibly huge, dead-in-the-water, never-going-to-happen-in-a-million-years \$1.9 billion tax proposal.

The fight over Patrick's tax plan touches plenty of third rails. It's a fight about the reach and role of state government, about the balance of power between Boston and the rest of the state, about Patrick's own legacy and ambition, and about the Legislature's fear of contested elections. It is not, however, about breaking the state's back with new taxes.

CRUNCHING THE NUMBERS

At first blush, taxes in Massachusetts look abnormally high. In 2010, Massachusetts collected more than \$5,100 per resident

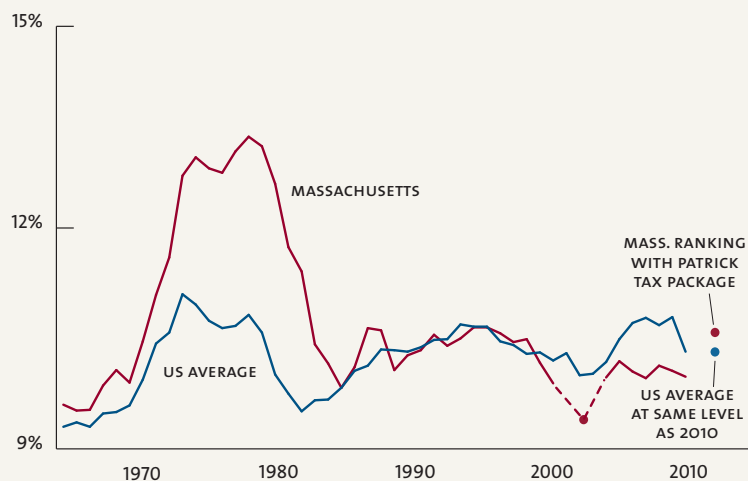
in state and local taxes. That tax bill was \$1,000 more than the national average. On a per-person basis, in 2010, only six states collected more taxes than Massachusetts did. The disparity between what Massachusetts residents see on their tax bills and what most of the rest of the country pays seems to confirm the worst caricatures of the Bay State—that true-blue Massachusetts has a thirst for taxes that far outstrips the rest of the country.

This per-capita measurement sounds a lot worse than it really is. And it shows why taxation is such a tricky subject to nail down in Massachusetts. It's easy to start, and end, a conversation by saying that Bay State residents own some of the highest tax bills in the country. It's much more difficult to argue that, while the numbers on tax bills here look sky-high, they actually aren't.

Patrick's tax proposal would raise the state income tax rate from 5.25 percent to 6.25 percent. It would cut the state sales tax from 6.25 percent to 4.5 percent. It would raise taxes from the sale of candy, soda, and cigarettes, make some modifications to the corporate tax code, and swap a number of personal tax write-offs for a broader personal tax exemption. All told, these maneuvers would raise \$1.9 billion in additional annual revenues; Patrick would use the new taxes to pay back bonds for a new \$13 billion transportation spending program, and \$900 million in added annual spending on new education programs, from pre-kindergarten to college. And they would shift the weight of the state's tax burden, with poorer residents paying somewhat smaller tax bills, and upper income residents paying more.

To put Patrick's tax plan in context, *CommonWealth*

STATE AND LOCAL TAXES AS A SHARE OF PERSONAL INCOME



Source: US Census Bureau, US Bureau of Economic Analysis
Note: Mass. data available for all years except 2001 and 2003.

compiled tax data for all 50 states, going back to 1963. We layered this tax data, drawn from the US Census Bureau and encompassing all state and local tax collections, with data on economic performance from the US Bureau of Economic Analysis, and Massachusetts state budget data from the office of the state comptroller. These figures combine to show how taxes in Massachusetts compare to the rest of the country over time, and how state taxes have evolved.

The Massachusetts tax bills that are higher than those in other states only tell part of the story, and it's a very incomplete tale without the other pieces. Wages are higher here than in other states, too, and the economy is more productive. The state's stronger economy and higher wages more than make up for the high sticker price on residents' tax bills. So as a share of residents' income, or as a share of the state economy, taxes are actually lower in Massachusetts than they are in nominally low-tax states like Kansas, West Virginia, and Indiana. Economists with opposing views of the governor's tax plan agree on using taxes as a share of overall income, and not per-cap-

There's a disconnect between the way Gov. Patrick approaches taxes and the way the Legislature does.



STATE AND LOCAL TAXES AS SHARE OF PERSONAL INCOME, 2010



Source: US Census Bureau, US Bureau of Economic Analysis

ta tax collections, to gauge the impact of taxes on residents. This calculation provides a common baseline with which to frame the tax debate, and measure the impact of the governor's \$1.9 billion tax plan.

Census data show that, as a share of their income, Massachusetts residents pay an exceedingly average tax bill. The Bay State's overall tax bill falls squarely in the middle of the 50 states: It has the 26th-highest tax burden as measured by income, and the 24th-highest as measured by economic output. (These figures cover both state and local tax collections; they are for 2010, the last year for which the Census data were available.) As a share of the state's economy, Massachusetts taxes are slightly higher than the national average (in 2010, Massachusetts state and local tax collections equaled 8.9 percent of gross state product, compared to the 8.8 percent national average), while the state's taxes as a share of income currently stand below the national average. The income measurement actually overstates the tax burden on Massachusetts residents, since it doesn't include capital gains income.

"We're in a fortunate position in this state," says Noah Berger, president of the liberal Massachusetts Budget and Policy Center. "We're wealthier, and the revenue base is higher, so we can spend more on things

like education. Some states are in a death spiral of cutting education, and then taxing off a lower base. We've been able to escape that."

Massachusetts earned its Taxachusetts moniker in the 1970s, when tax bills soared at astronomical rates. In 1969, the state owned the country's 16th-highest tax bill as a share of income; by 1977 and 1978, it ranked third. Over the course of the decade, taxes shot up an average of 16

Massachusetts earned its "Taxachusetts" moniker in the 1970s, when tax bills soared at astronomical rates.

percent every year. Those sorts of increases aren't sustainable, economically or politically. The late '70s saw Massachusetts become a crucible in the national tax wars. In 1980, two years after the state's governor, Michael Dukakis, fell to the fiscally conservative Ed King in a Democratic primary, voters approved Proposition 2½. The ballot question threw the brakes on runaway property taxes, and served as a dramatic shot across the bow of the Legislature.

State and local taxes began falling before the enactment



WHERE HAVE ALL THE ANTI-TAX ADVOCATES GONE?

BY GARRETT QUINN

Barbara Anderson used to prowling the halls of the State House with a vengeance whenever lawmakers started thinking about raising taxes or tinkering with her

now-33-year-old baby, Proposition 2½. She would position herself outside the House or Senate chamber, look the solons in the eye, and make sure they knew someone was watching. Her quick wit and her street-fighter sensibilities made her a formidable foe.

Today, however, Anderson is barely seen on Beacon Hill. With her red hair turned gray, the 70-year-old executive director of Citizens for Limited Taxation rarely visits the State House any more. She's as feisty as ever, but now she works the phones from her home in Marblehead and writes newspaper columns. Her in-your-face anti-tax approach is gone at a time when Gov. Deval Patrick and most of the state's liberal estab-

lishment are pushing for a \$1.9 billion tax increase to stabilize and expand the state's transportation network and finance heavy investments in education.

No one has filled Anderson's shoes. Someone may emerge from the meetings she holds once a month in Lexington for conservative leaders; the sessions are modeled after the Wednesday Morning Group in Washington hosted by her ideological soulmate, Grover Norquist of the Alliance for Tax Reform. A relatively new anti-tax group calling itself the Massachusetts Fiscal Alliance is also trying to establish a foothold on the state's political scene.

"We have such a small bench. There just aren't that many on the right," says Paul Craney, who runs the Fiscal Alliance and is the former executive director of the Washington, DC, Republican Party.

Judy Meredith, a veteran liberal lobbyist, says the antitax crowd is not that organized or formidable any more. "The Tea Party people will fade away as the tax limitation people have

of Prop. 2½, but the law brought Massachusetts taxes in line with the national average. It has kept tax collections around the national average for 30 years—through the booms of the 1980s and late 1990s, through the deep recession of the early 1990s, and through the wild economic swings of the past decade. Taxes have stayed below the national average since 1999, even in the face of a pair of \$1 billion state tax increases over the past decade.

Patrick's \$1.9 billion in tax increases wouldn't drastically alter that balance. DeLeo has indicated that the Legislature will pare down the size of Patrick's revenue proposal. But even if it didn't, and Patrick got everything he asked for, \$1.9 billion in additional taxes would bump Massachusetts from 26th to 17th in taxes as a share of income using 2010 state data. That ranking would put Massachusetts just ahead of Michigan, but behind Indiana. The state's tax bill would move slightly higher than the national average, but it wouldn't be the kind of radical outlier it was in the late 1970s—not unless Indiana is also a radical haven of taxing and spending. Measured as a share of the state economy, Patrick's \$1.9 billion would move Massachusetts up the list from 24th to 18th.

"We would still be well positioned with respect to our regional and economic competitors," argues Glen Shor, the state's secretary of administration and finance and Patrick's top budget deputy. "We need to be mindful of our burden relative to other states, but we are not Taxachusetts today, and this proposal would not result in us becoming Taxachusetts."

faded away nationally and in this state," she says. "Barbara is still available for a great quote and she's got her mailing list and her organization, but there is only one of her."

Some wonder whether the past successes of the antitax movement in Massachusetts have seeped into the political culture, making angry marches on Beacon Hill superfluous today.

Jim Braude, a liberal radio and TV host and a former opponent of Anderson's during the tax battles of the 1990s, says the deep-rooted fear of raising taxes among lawmakers today is the result of the work of Anderson and her allies. "Taxphobia has infected the Legislature to a far greater degree today than it did when she and I were involved in the tax wars. There was much greater willingness in the '80s and early '90s to do what they call 'revenue enhancement,' otherwise known as tax-raising," he says. "I wouldn't say there's no need for the Barbara Andersons of the world, but I would say



Barbara Anderson

WALRUSES AND FLUFF

Bill Weld caught fire right around the same time the Massachusetts economy did. The former prosecutor found his voice amidst a landscape of failed banks, rock-bottom real estate values, gaping budget deficits, and state debt that hovered inches away from junk bond ratings. That voice was one of rock-ribbed fiscal conservatism. Weld mocked Michael Dukakis's big, failing state government. He embraced a ballot campaign to reverse \$2 billion in tax increases, and promised to slash an additional \$1 billion from the state budget, in part by laying off 10,000 state workers. And then he took office, and reality set in. Weld shed a big sales tax hike, but he ended up using every dime of the Dukakis income tax increase he decried on the campaign trail. The \$1 billion in cuts failed to materialize. Weld's 1991 budget was bigger than the 1990 spending plan his predecessor enacted; the one in 1992 was bigger than that, and 1993's grew, too.

Last December, two decades after Weld shouted down waste, fraud, mismanagement, and walruses in state government, Rep. Dan Winslow was knocking on then-Administration and Finance Secretary Jay Gonzalez's door, bearing an armful of marshmallow Fluff. Winslow once served as a state judge, on an appointment from Weld; these days, he's a state legislator, professional provocateur and US Senate candidate. He was at Gonzalez's door, tubs of sugar in hand, because the then-state budget chief was trying to plug a half-billion dollar hole in the state budget with local aid cuts and borrowing from the state's rainy day

the need is less than it once was."

Michael Widmer, president of the Massachusetts Taxpayers Foundation, says there's been an attitudinal shift on taxes across the country. "I think there is a much broader anti-tax sentiment in the country than there was 30 years ago. I think it's more the national change," he says.

Anderson and her team at Citizens for Limited Taxation aren't sure what they will do if a major tax package passes. They are considering a ballot question repealing any tax hike, or they could back anti-tax candidates in the 2014 election.

"I have this vision for 2014," Anderson says. "We're going to come in with our candidates and it's going to be like 2010 and 1990. We're going to wipe them out."

Garrett Quinn is a freelance writer living in Cambridge.



education fell by 28 percent, higher education aid fell by 31 percent, and local aid fell by 46 percent.

Transportation costs have out-paced transportation spending for years. As a result, the Department of Transportation is paying employees with borrowed bond money, the state has many more rickety bridges than it can afford to fix, and MBTA subway cars are running decades past their retirement dates. Patrick's failed 2009 gas tax proposal was supposed to fund a winnowing down of the list of deferred maintenance projects; instead, budget deficits have persisted, and maintenance bills have climbed. A fire in an old electrical line shut down the Green Line on the morning Patrick sent his budget to the House.

"It's not like we're surprised by the deficit at the T, or, as well as

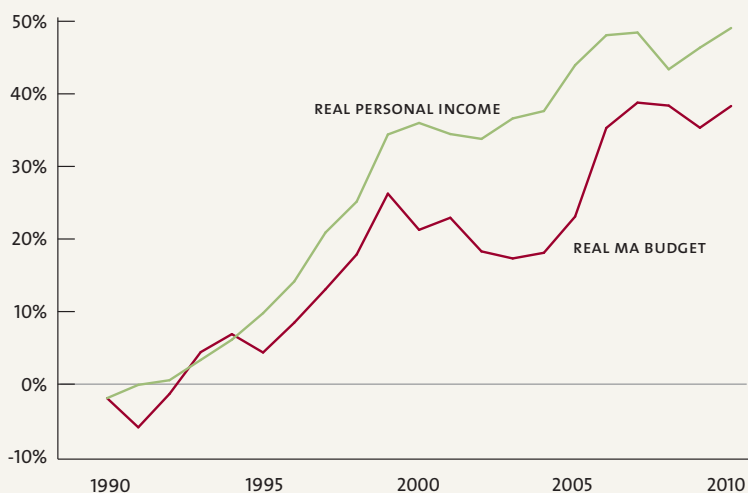
fund. Winslow's 10 tubs of Fluff directed Gonzalez's attention elsewhere—illegal immigrants, welfare cash, and executive branch press aides. Gonzalez returned the gift, calling Winslow's jab at budgetary fluff "just not realistic."

As the Weld and Winslow examples illustrate, the state budget is an irresistible target. It just sits there, \$32 billion large and getting fatter every day. There's great temptation to shake it until the \$1.9 billion Patrick is after falls out. Things usually don't work out that way. For one, the budget isn't nearly as big as it looks. In Fiscal 2012, Medicaid, pensions, and debt costs ate up 40 percent of the budget; add in local aid, and 59 percent of the budget was spoken for before the state's courts, colleges, and human service agencies saw a dime. Health care costs have slowly crowded out nearly every other account in the budget. Since 1990, real inflation-adjusted spending on Medicaid has swelled by 128 percent, compared to a 38 percent increase in the overall budget, and a 15 percent increase in all non-Medicaid spending. These increases leave more programs fighting for fewer dollars: According to Mass. Budget, between 2001 and 2012, real inflation-adjusted spending on early

we've done, the amount of deferred maintenance in our roads and bridges," Patrick says. "We are exactly where I said we'd be if we didn't do the gas tax."

The geography of where these bills fall creates a political problem for the governor. The T has enormous budgetary holes, and Patrick's tax plan funds them in a big way: It covers \$3.2 billion in operating deficits at the agency,

REAL CHANGE IN PERSONAL INCOME AND STATE BUDGET SPENDING SINCE 1990



Source: Massachusetts Comptroller, US Bureau of Economic Analysis

and spends \$4.9 billion on new subway cars, buses, and track and electrical repairs, as well as construction projects expanding South Station and extending the Green Line to Medford. That's a lot of money spent on the urban core, making the plan unsalable to legislators outside Boston. So the governor has balanced it by spreading more money across the state. Regional transit authorities get a piece of the action. New Bedford and Fall River get their rail expansion. Suburban legislators get new highway interchanges. Springfield gets a rail expansion on top of a huge highway reconstruction. If politics is a game of addition, addition has swelled Patrick's transportation tab well past legislators' comfort points.

REAL MONEY

Deval Patrick is in his element. After DeLeo rained on the governor's revenue-raising parade at the Park Plaza Hotel, busloads of union workers and liberal activists have crammed into every inch of a State House basement auditorium to let Patrick know they have his back. They're spilling out of the balconies and crowding the rafters. And Patrick has them in a frenzy. He's back in campaign mode, preaching the gospel of roads, schools, and taxes. He comes

out hot, voice raised, pounding the podium, then he dials it back, standing there easily, his left hand in his pocket, enjoying a casual conversation with several hundred of his closest friends. He tells them he's pushing for billions in new spending on roads, rails, and schools because that's what his friends in the audience, and across the state, have asked him to do. People want better transportation and better schools, he says, and most of them recognize that these things cost money. He tosses off the clearest explanation of what his tax plan costs that he's given in the two months he's been pushing it: The tax hike falls mostly on the state's highest earners, but even those earning north of \$100,000 would see their tax bills rise by magnitudes of hundreds of dollars, not thousands. "Now, that's not nothing," he says, misplacing a G. "That's real money... But the folks who are more fortunate, I don't think it's wrong to ask them to contribute according to their ability to pay."

The governor is at his best when he winds it up for a friendly crowd, and on this gray March morning, he's in top form. He begs the crowd to resist "what we always seem to do in this Commonwealth, and in this country, which is running the other way when it's time to talk about taxes," and instead talk honestly about taxes, "because taxes are the price of civilization." That isn't a problem for these

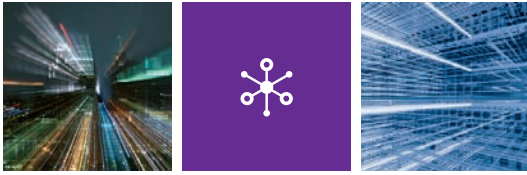
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folks, who have assembled on Beacon Hill to lobby for higher taxes. So Patrick sends them upstairs, clipboards in hand, to knock on the doors of all 200 legislators.

There's a disconnect between the way Patrick approaches taxes and the way the Legislature does. The governor built his revenue plan from the ground up. The \$1.9 billion he's asking for is the price tag of all the things he wants to do—the early education initiative, the aid to struggling schools and colleges, and the cost of carrying the bonds to pay for a host of new bridges, roadways, and subway car fleets. (“To be perfectly blunt with you,” he said at a January press conference, “you don’t ask for money without having a plan” to spend it.) You can pick on the projects Patrick put on his list, like the hugely expensive South Coast Rail expansion, but no one is disputing the cost of the line items on the governor’s wish list. Even after shaving off the big-ticket transit expansions and road interchange projects from the governor’s \$13 billion list, the transportation tab still tops \$9 billion. The revenue number is big because there’s a lot of need.

The Legislature, on the other hand, is playing it less by math and more by feel. Legislative leadership hasn’t shot down Patrick’s tax request out of hand, as happened with the 2009 gas tax bid. But DeLeo has said he’s looking for a “magic number” to pin on the House’s transportation plan. Which is to say, the House is starting with a revenue figure they can sell membership on, and then telling the governor to go buy what he can with it. After he spoke at the Park Plaza and pinned his opposition to Patrick’s tax plan on the package’s size and scope, DeLeo fielded a question about how taxes in Massachusetts compare to other states, and whether Patrick’s \$1.9 billion in new taxes would significantly alter the state’s standing. “I think we always want to get to a point where we’re in a better situation than other states, but I think we are competitive,” he said. He didn’t put a number on how high up the tax burden rankings Massachusetts would have to climb to make the state uncompetitive; instead, he grounded his opposition to the tax plan in his gut. “The concern I have is the effect, if we go to that level that quickly, what the effect is going to be on businesses and families. That that might be just a little bit too quickly and too large an amount.”

Patrick’s allies in the Legislature say largely the same thing—that the debate over Patrick’s tax plan has been more about blunting a large revenue figure than debating whether the figure is appropriate. “I’m hearing we’re overreaching, that the number is too much, there are doubts about whether it’s doable,” says state Sen. Dan Wolf, a Cape Cod Democrat and vocal backer of Patrick’s plan. “This discussion needs to be very data-driven. We can’t aspire to great government, great services, and expect to pay less than everybody else.”

DODGING SWORDS

There are plenty of avenues to contest Patrick's tax proposal on. Michael Widmer, the president of the Massachusetts Taxpayers Foundation, says that while businesses and interest groups outside the State House were expecting a push on transportation funding, Patrick's bid to add spending on education caught many by surprise. As a result, he argues, the programs Patrick wants to fund haven't been vetted fully, and come with much less oversight built in. Charlie Baker, Patrick's 2010 Republican opponent and a potential candidate in 2014, argues that any tax increase would chase away businesses and lock in the state to its recent pattern of stagnant job growth. Jim Stergios, executive director of the conservative Pioneer Institute, acknowledges the need to put more money into transportation, but he criticizes the state's habit of meeting every need with "a gold-plated, universal solution," and the reflex of meeting every government shortcoming with a new government program.

The objections that Widmer, Baker, and Stergios raise haven't factored into the current tax debate. There will be no debate about whether it's good policy for Massachusetts to spend money on universal early education, or commuter rail to New Bedford, or a pair of massive new highway inter-

changes on Route 128, because legislative leadership has declared the entire tax package too big. The data may not back this claim, but sweeping proclamations about unacceptable costs are enough to halt debate, and they obscure the real tension behind the programs Patrick has put on the table.

It's no accident that, when the *Boston Herald* asked Worcester Rep. John Binienda about Patrick's tax package, he responded with an anecdote he told the governor about the year Bill Weld and a crop of anti-tax Republicans took Beacon Hill by storm. "I explained the election of 1990 to the governor," the Democratic lawmaker told the paper. "The governor's not coming back. He's finishing off his term and he's gone. I don't know how many people he's going to get to fall on their sword for him." Two weeks later, Binienda put it in even simpler terms: "Some of us want our jobs back."

Walk into the reception area of the governor's office, grab a seat on a couch, and you're staring at four portraits: Mitt Romney, Jane Swift, Paul Cellucci, Bill Weld. They're the last four governors to occupy the Corner Office before Patrick. They're all Republicans. And they give any visitor to Patrick's office an idea of what the Legislature fears every day. The guy on the right, the patrician with the denim,



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and the armadillo—he's the scariest one of them all.

Democrats dominate Beacon Hill. They don't have very many bad election cycles. But the ones they do have linger—especially the ones that enabled Prop. 2½ and Bill Weld. The Democratic Legislature has left those days behind by tacking to the right. Except in extreme circumstances, like when recessions blow multi-billion dollar holes in the budget, tax talk is generally anathema. Unabashed liberals like Wolf are outliers; most Democrats' job security on Beacon Hill now depends on crowding out their would-be opponents on fiscal issues. This is what legislators such as Binienda mean when they complain about the size of Patrick's tax proposal: It's big enough to make their next election cycle miserable, which means it's too big.

The pro-tax rally that saw Patrick making union activists swoon was actually the governor's second trip to the State House auditorium in a week. The first visit saw the governor in a much more reserved mood, trading pleasantries with House and Senate ways and means committee members. Patrick made his case for funding education and transportation spending, but the conversation turned to State House politics.

"The citizens I represent want all the things you listed,

it's just that, many of them don't want to pay for them," Sen. Marc Pacheco told Patrick. Pacheco, a veteran Democrat from Taunton, then suggested putting Patrick's tax proposal on the ballot. "It's not because I'm afraid to vote, or because I don't have a backbone, but because I've seen what happens," Pacheco said. What happens is folks like Bill Weld. Pacheco predicted that anti-tax activists would begin organizing a ballot question to repeal any tax increase 15 minutes after it passed the Legislature, and said he feared the repeal effort would dominate the 2014 election cycle. "The [ballot] question will be leverage to try to change the type of governor we have, and the type of Legislature we have," he said.

A BIG ASK

Deval Patrick has heard legislators' political angst. He doesn't buy it.

It's a Monday morning in mid-March, and Patrick is sitting at a large table in his sunny State House office. As he defends his tax push, the governor plays idly with his reading glasses. His black lab Toby is sprawled out on the rug at Patrick's feet, sleeping. At this table, in the run-up to his 2010 reelection, Patrick weighed whether to sign a

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\$1 billion sales tax increase the Legislature had sent him. The sales tax was the Legislature's idea, not his. His political advisors had urged him to veto the tax: "Don't sign it, that's the end, you won't get reelected," Patrick says they told him. He signed the tax increase, and then he defend-

"It's a big ask. Nobody wants their taxes to go up," Patrick says.

ed it, successfully. For Patrick, the lesson is that politicians don't have to fear tax increases, as long as they believe in whatever the taxes buy, and they're willing to defend it.

"We are constantly underestimating voters," Patrick says. "Not that explaining to them always means they'll agree, but I think they bridle at the notion they're being played, that we're trying to outsmart them. I think we owe it to them to say, 'Look, you sent me here to do what's right, this is my best judgment, this is why, make your

judgment.'"

"I don't want to be offhand or light about the ask. It's a big ask," he adds. "Nobody wants their taxes to go up. I don't want my taxes to go up. That's why it's so important that we connect what we're asking people to spend to what they get." When asked to choose, Patrick says Massachusetts residents want better transportation infrastructure, not less. They want schools to work for everybody, and understand that more money is part of that equation. "There's a lot of consensus about what to invest in, and the worthiness of it," he says. "And there's the predictable queasiness about asking people to pay for it. When I say predictable, I mean, not just among political people, but the general public."

Patrick then offers a grudging nod to Grover Norquist, head of the Washington-based Americans for Tax Reform. Patrick was at Harvard with Norquist, who has made signing his group's no-new-taxes pledge a litmus test for Republican candidates. "My classmate Grover Norquist's no-new-taxes thing has become a real part of the sort of instinct of people," says Patrick. "My point here is, we can have more accelerated growth if we invest, but we have to decide to make the kinds of sacrifices in our time that our grandparents did in theirs." **CW**

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Look who's talking

The man behind Cape Wind and the project's biggest opponent have been negotiating privately for more than a decade

BY BRUCE MOHL



AFTER SPENDING 12 years and \$65 million trying to bring wind turbines to Nantucket Sound, Jim Gordon thinks the end of his struggle is in sight. "This is the year," he says in February at a Boston conference attended by about 150 offshore wind industry officials from around the world. Gordon is cautious by nature, careful not to get ahead of himself in a struggle that has assumed Sisyphean proportions. But in front of a crowd that is counting on Cape Wind to become the nation's first offshore wind farm, he offers reassuring words. The nation's only commercial offshore wind lease is safely in his back pocket, along with all of the state





and federal permits he needs. President Obama and Gov. Deval Patrick are firmly on his side. And Gordon says he is making progress in arranging construction financing for the project with the Bank of Tokyo and the federal Department of Energy.

All that remains is a handful of lawsuits in Washington challenging federal government approvals of the wind farm. Gordon tells the audience the lawsuits don't have any merit, but it's clear he's also worried about the "coal billionaire" behind the litigation and the potential for delay. He doesn't mention the billionaire's name, but everyone in the room knows he is talking about Bill Koch, the flamboyant Florida businessman who opposes Cape Wind because he doesn't want to look at it from his Osterville summer home. Koch has plowed more than \$5 million into a group opposing Cape Wind, pursuing a strategy of "delay, delay, delay" in an effort to bleed Gordon financially until he gives up and walks away.

Cape Wind has become a symbol in the national debate over climate change, but the project itself has become a test of wills between Gordon and Koch, two 1 percenters with radically different views of the country's energy future. Most news coverage of their long-running feud focuses on the actions of their surrogate lawyers, advocacy groups, and public relations people. What few people realize is that the 59-year-old Gordon and the 72-year-old Koch are on a first-name basis. In lengthy, separate interviews, they reveal that they have known each other since the 1990s, and been arguing about Cape Wind in private chats on the phone and in person for more than a decade. Koch, interviewed by phone, calls Gordon "a very good entrepreneur and a brilliant marketer." Gordon, interviewed in person at his Boston office, calls Koch "a very amiable guy, an interesting guy." Gordon courts Koch relentlessly, trying to win him over with logic, facts, money, and even veiled threats. Nothing has worked. Like the stalled national debate over climate change, the Gordon-Koch talks are going nowhere. Yet the two men keep talking.

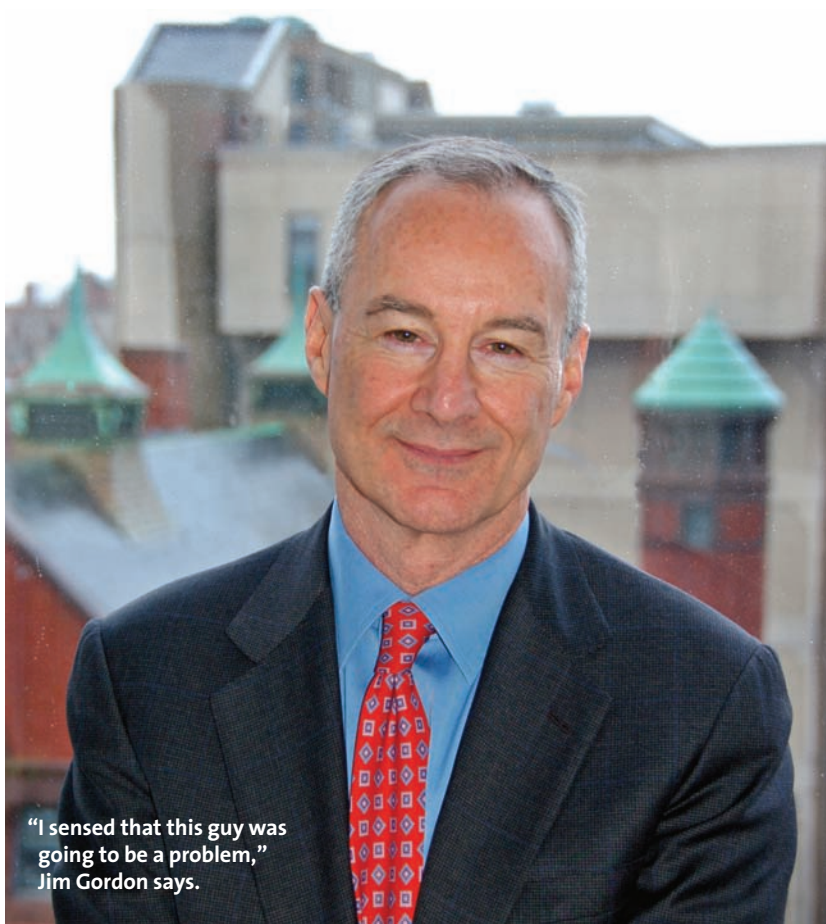
Fittingly, Koch and Gordon first met in the mid-1990s on the ocean. Koch, the winner of the America's Cup in 1992, recruited the first all-women team to compete for the Cup in 1995. As the team was preparing, Koch learned that Gordon was selling an interest in two natural gas-fired power plants he built in the 1980s. Koch was interested in investing. To get to know Gordon better, he invit-

ed him to Newport, Rhode Island, to watch the sailing team practice. Gordon smiles, remembering the day. He says he spent an afternoon on board a sailboat with Koch and a handful of other guests and attended a party later

The 59-year-old Gordon and the 72-year-old Koch have known each other since the '90s and are on a first-name basis.

that night at a home Koch was renting. Some of the other party guests included Dennis Conner, known as Mr. America's Cup for his four victories, and many members of the sailing team, including Shelley Beattie, who was known as Siren on the TV show *American Gladiators*. "I didn't grow up in that milieu of Newport, so it was an interesting way to spend an afternoon," Gordon says. "I felt like I was kind of watching a movie."

Gordon ended up selling a stake in his power plants to



"I sensed that this guy was going to be a problem," Jim Gordon says.



Bill Koch, one of the wealthiest men on the planet, is an avid collector of fine wines, fine art, nautical gear, and western memorabilia.

GE Capital, so he and Koch didn't talk again until 2002, when Gordon, trying to build support for Cape Wind, reached out to his fellow energy entrepreneur. At the time, Gordon says he knew little about Koch other than that he ran an energy business, liked to sail, and had a place on Cape Cod. On the phone, Gordon says he gave Koch an overview of Cape Wind; Koch responded by inviting Gordon to have dinner with him on the Cape so they could discuss the wind farm further.

Gordon remembers driving down to Osterville and pulling up to the checkpoint for the private Oyster Harbors Club, a very exclusive enclave that is home to assorted Mellons and DuPonts. It seemed promising that a ceremonial windmill sat next to the guard shack.

Gordon is a wealthy man, with more than \$150 million in personal investments and a \$4 million townhouse on Beacon Hill located a block away from Secretary of State John Kerry's home in Louisburg Square. But Gordon is not in the same league financially as Koch, who is worth \$4 billion and ranked No. 320 on the Forbes list of the wealthiest people on the planet. (Koch's more conservative brothers, Charles and Davis, are tied for sixth at \$34 billion each.) Koch runs Oxbow Corp., an energy company that mines and markets coal, petroleum coke (a byproduct of oil refining), steel, and natural gas with

more than \$4 billion in sales and 1,100 employees. Koch is an avid collector of fine wines, fine art, nautical gear, and western memorabilia. He owns a home in Palm Beach and is building a complete western town on land he owns near Aspen, Colorado, where he plans to play host to his wife's extended family, his six children (four of whom are 16 or under), and various customers and suppliers. His sprawling Cape Cod land holdings, including his longtime summer place called Homeport, carry an assessed value of nearly \$33 million.

Koch showed Gordon around the grounds of his waterfront property, pointing with pride to the Fernando Botero statues dotting the lawn and taking him down to the massive wine cellar modeled after the captain's quarters of the USS Constitution. Gordon remembers the wine collection was so extensive that Koch used a scanner to track what they were drinking that night. Koch also remembers the night. "We had a nice dinner and a nice conversation, some nice bottles of wine," he says.

Afterwards, they retired to a sitting room to talk about Cape Wind. Gordon says he went through his usual presentation, including a visual rendering of what the turbines would look like from shore. "I said, 'Bill, we think this is a good project. It's on a very shallow shoal. It's away from the shipping lanes and the ferry lanes. Here's what it will

look like.' I remember when I showed him the visual simulation, he said to me—I'll never forget—'Jim, I'm going to do my own visual simulation and if I don't like the way these things look, I'm going to fight you tooth and nail.'" Gordon says he left that night feeling uneasy. "I sensed that this guy was going to be a problem," he says.

Koch remembers the night a bit differently. "He went through his spiel, his salesmanship on how Cape Wind is so environmentally friendly, global warming, and all that stuff. And I was blunt with him. I said, 'Hey, Jim, I've looked at the alternative energy business. I've used all those BS arguments myself. I know what's really going on here.'" Koch says he felt the project wouldn't work financially unless Gordon landed a big government subsidy or some "fat" power contracts. He also says he told Gordon that the wind farms would be "visual pollution" for him. Koch claims Gordon offered to bring him in as an investor on the project, a contention Gordon denies.

Both men say the night ended with Koch still undecided on Cape Wind. Gordon says he and Koch talked several times by phone over the next few years, but had no breakthroughs. In 2005, Koch's position began to harden. He became cochairman of the Alliance to Protect Nantucket Sound, the group leading the fight against Cape Wind,

and the following year he wrote an op-ed piece for the *Wall Street Journal* entitled "Tilting at windmills." The article made several assumptions about the type of power contracts and subsidies Cape Wind would need to succeed and concluded the project was a "giant boondoggle for the benefit of one developer." Gordon responded with his own article, accusing "coal magnate William Koch" of misleading the public. The battle lines were drawn, yet Gordon kept calling and Koch kept picking up the phone.

On one phone call, Koch says Gordon offered to reimburse him all the money he was spending to oppose Cape Wind if Koch switched sides. Gordon declines comment on that conversation. "I'm not going to comment on any confidential negotiations I've had or discussions I've had with him about settlement," he says.

Gordon says he occasionally would visit Koch in Florida when he was visiting his mother, who lives there during the winter. At one meeting at Koch's yacht club in West Palm Beach, Gordon says, he made the case that Cape Wind would reduce the wholesale clearing price of electricity in New England and cut the bills of the region's power customers. Koch wasn't interested. "I told him I was buying more property on the Cape for a family compound and the windmills would interfere with the aesthetics," he says.

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"In addition to that, they cost too much. They'd up my power bill."

The image of Koch complaining about an increase in his power bill is amusing. His property tax bill alone in Barnstable is nearly \$342,000 a year.

The most recent call between the two men came late last year. Koch says Gordon called to warn him that environmentalists were going to start harassing him for his opposition to Cape Wind and the only way to avoid the pounding was to come out in support of the project. Gordon says his call was more of a heads-up than a warning. "I told him that environmentalists are furious with him and they are," he says. Either way, Koch, who in the past has waged epic battles against his brothers, the state of Massachusetts, the Turkish mafia, and fraudulent wine dealers, isn't backing down. "The environmentalists are already after me," he says. "So bring it on, baby."

GORDON VS. KOCH

Jim Gordon, who grew up in Newton and worked at his father's corner grocery stores during his adolescence, graduated from Boston University in 1974 with a major in broadcasting and the goal of becoming a movie director. Yet he quickly discovered he had a knack for business and a talent for sensing the next big thing in the energy business. While waiting in a gas line in 1975, Gordon says he hit on the idea of starting a company that would help people reduce their energy usage and lessen the nation's dependence on Mideast oil. The company, Energy Management Inc., started by selling energy-saving devices and,

Cape Wind's utility contracts are "fat—huge, huge, hugely fat," Koch says.

over time, began retrofitting buildings to cut their energy consumption. By the late 1980s and 1990s, Gordon was building power plants that ran on wood chips and natural gas. The plants produced electricity in a more environmentally friendly way than existing coal and oil plants. In fact, Gordon boasts that three of his natural gas-fired plants killed off three proposed coal plants. Gordon eventually sold off all of his power plants by 1999 and made a killing.

As Gordon looked around for the next big thing, he saw an article in the *Boston Globe* about someone who was proposing wind and fish farms off Cape Cod. The wind farm idea intrigued him since it offered the possibility of

producing electricity in Massachusetts that emitted no greenhouse gases, consumed no water, discharged zero waste, diversified the region's energy mix, and had the potential to create local jobs.

Led by Sen. Edward M. Kennedy, Cape Cod elites reacted in horror. They gave all sorts of reasons for their opposition, but it always seemed to boil down to something unsaid: they were in favor of wind power as long as the turbines weren't within sight of their oceanfront compounds. Koch has the courage to admit he doesn't want to look at the turbines. But he also knew a NIMBY argument would never derail Cape Wind, so he began analyzing the project from an economic perspective. He says his analysis was informed by his own past experience trying to sell green energy to customers of Southern California Edison at a premium of 2 cents per kilowatt hour.

"Over 15 years, guess how much green energy I sold?" Koch asks. "Zero. No one would pay. What that said to me was that California wanted green energy, but homeowners didn't want to pay for it. When it comes to dollars and cents, people want the cheapest energy possible."

The power from Cape Wind, if it ever gets built, won't be cheap. The utility National Grid, prodded by legislation pushed by Gov. Patrick, signed a deal to purchase 50 percent of Cape Wind's output at an initial price of 18.7 cents per kilowatt hour, rising 3 percent a year. At the time, the price was nearly two times the going rate of electricity. In 2012, NStar, the state's other major utility, was trying to win state approval for a merger with Northeast Utilities in Connecticut. Patrick used the leverage of the utility merger to force NStar to accept the same terms as National Grid for 27.5 percent of Cape Wind's output.

Koch describes Cape Wind's utility contracts as "fat—huge, huge, hugely fat." The state Department of Public Utilities acknowledges NStar's customers will pay \$438 million to \$513 million above market rates over the 15-year life of the utility's contract, but concluded that these higher costs were more than offset by such environmental intangibles as the project's size, its location close to energy users, and its advanced stage of development.

Interestingly, NStar in late 2011, just a few months before it agreed to buy Cape Wind power, negotiated renewable energy contracts with three onshore wind farms in Massachusetts, New Hampshire, and Maine. The combined power output of the three wind farms is slightly less than what Cape Wind is offering NStar, but the price is significantly lower—\$111 million below market rates over the 10-year life of the contracts.

"If mankind was worried about CO₂, rather than paying Jim Gordon \$500 million a year and making him wealthy, why don't you plant a helluva lot of trees because trees and bushes take CO₂ and convert it into oxygen," Koch says. "What Jim Gordon is feeding off of is percep-

tion, not reality. The perception is that windmills are good because the wind is free. That's a very simple perception, but the reality is putting his windmills up is going to cost a hell of a lot of money that would take away from other purposes, such as feeding our families, getting good medical care, getting a good education, etc."

But what about Cape Wind's potential to slow the march of global warming? Where does the coal billionaire stand on what many consider the environmental issue of our time?

Koch pauses for awhile, and then launches into a long analysis that essentially acknowledges climate change is rapidly occurring but rejects offshore wind turbines as the answer. He says scientists who attempt to predict the pace of global warming cannot take into account all the potential variables, including the possibility that a comet could strike the earth or a volcano could erupt, both of which are potentially climate-changing events. He also talks at length about how the earth and its oceans are constantly adapting to changing environmental conditions.

"In fact, there's a theory called Gaia, which means the earth is always self-adjusting. When something gets out of line, the earth adjusts back to it," he says. "The whole point is we don't know. All mankind can do is adapt."

Adaptation is a central theme of the Gaia theory,

developed in the 1970s by British scientist James Lovelock and the late University of Massachusetts Amherst microbiologist Lynn Margulis. The theory holds that living organisms interact with their surroundings on earth to form a self-regulating system that creates the conditions for life on the planet. Lovelock believes climate change is in full swing, brought on by the clearing of forests, carbon emissions, and overpopulation. He is dismissive of most green energy schemes, however, particularly wind power, as too little benefit too late. He favors massive development of nuclear power and a move to high ground to prepare for the rising tide.

"The real Earth does not need saving," he writes in his 2009 book, *The Vanishing Face of Gaia: A Final Warning*. "It can, will, and always has saved itself, and it is now starting to do so by changing to a state much less favorable for us and other animals."

Gordon believes the Earth does need saving, and he thinks his wind farm can be part of the solution. He also makes no apology for building a project that will yield him a profit. "It's important that people in this industry see that it's not just coal and petroleum coke people that can make money, but renewable energy developers can also make money," he says. "Because if we don't, we're not

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going to have innovation in this industry and we're not going to have projects two, three, and four."

Gordon bristles at any suggestion that it's too late to combat climate change. "The choice of heading for higher ground is not one I'm willing to accept. I have three children. One is six, one is nine, and I have a 24-year-old. This is the greatest environmental threat," he says. The wind entrepreneur also seems amazed that Koch and many of the other Cape Cod opponents of his project yet occupy waterfront properties that are likely to be among the first to feel the effects of climate change. "Cape Cod being a low-lying coastal community, it's most susceptible to the impacts of climate change," he says. "There's a biblical irony here. For someone like Bill Koch to fight this project, it is a biblical irony."

COUNTING DOWN THE CLOCK

It's coming down to crunch time for Cape Wind. Gordon must begin construction of his wind farm by the end of 2015 or face losing the contracts he has with National Grid and Northeast Utilities. The time frame seems doable. He has most everything he needs except a loan for the construction work. Lenders are probably skittish about the pending Washington court appeals related to the project, but if Obama's Department of Energy approves a loan guarantee for the wind farm those concerns are likely to evaporate. "We feel we're in a very good place," Gordon says.

In fact, Gordon is telling Massachusetts electric ratepayers that it's in their self-interest to see Cape Wind begin construction this year. His utility contracts mandate that the price he receives for his power will rise by 2 cents a kilowatt hour if the project is unable to obtain a federal investment tax credit. To qualify for the tax credit, Cape Wind must start construction before the credit expires at the end of this year.

Koch says he is pursuing two Cape Wind strategies. "One is to just delay, delay, delay, which we're doing and hopefully we can win some of these bureaucrats over," he says. "The other way is to elect politicians who understand how foolhardy alternative energy is."

The court appeals in Washington are part of the delay strategy. They challenge Cape Wind approvals granted by the Interior Department, the Fish and Wildlife Service, the Federal Aviation Administration, and the US Coast Guard. The Alliance to Protect Nantucket Sound is footing the bill for all but one of the court challenges. The Alliance is also mobilizing opposition within Congress to giving Cape Wind a federal loan guarantee.

The Alliance hasn't had much success in court, except in the US Court of Appeals for the District of Columbia, a conservative-leaning body that has been caught in a political tug-of-war between Obama and Republicans in Washington. The appeals court has only seven of its 11 justices, and a majority of them were appointed by past Republican presidents. Obama nominees to the court haven't survived the Senate approval process. In 2011, the court ruled the FAA failed to adequately review whether Cape Wind would pose a danger to pilots flying by visual flight rules. It took another year before the FAA affirmed its earlier decision, a ruling that is again being challenged.

Charles McLaughlin, the assistant town counsel in Barnstable, which is suing the FAA over its decision, says Cape Wind's opponents have an advantage over Gordon. "We only have to win one of these," he says of the Washington court cases. "He has to win every one."

On the political front, Koch pumped several million dollars into efforts to elect Cape Wind foe Mitt Romney as president, but he hasn't made an effort to influence any races in Massachusetts even though Bay State Republicans generally don't support the wind farm.

Koch seems just as amazed as Gordon that the Cape Wind fight has dragged on so long, but for different reasons. "Christ, this has been delayed for 10 years and any rational guy would have said there's a time value of money and say, 'Why am I doing this?'" says Koch. "He's not that rich a guy to be able to fund it all himself or to even fund the portion of the equity that has to be put up by the investors."

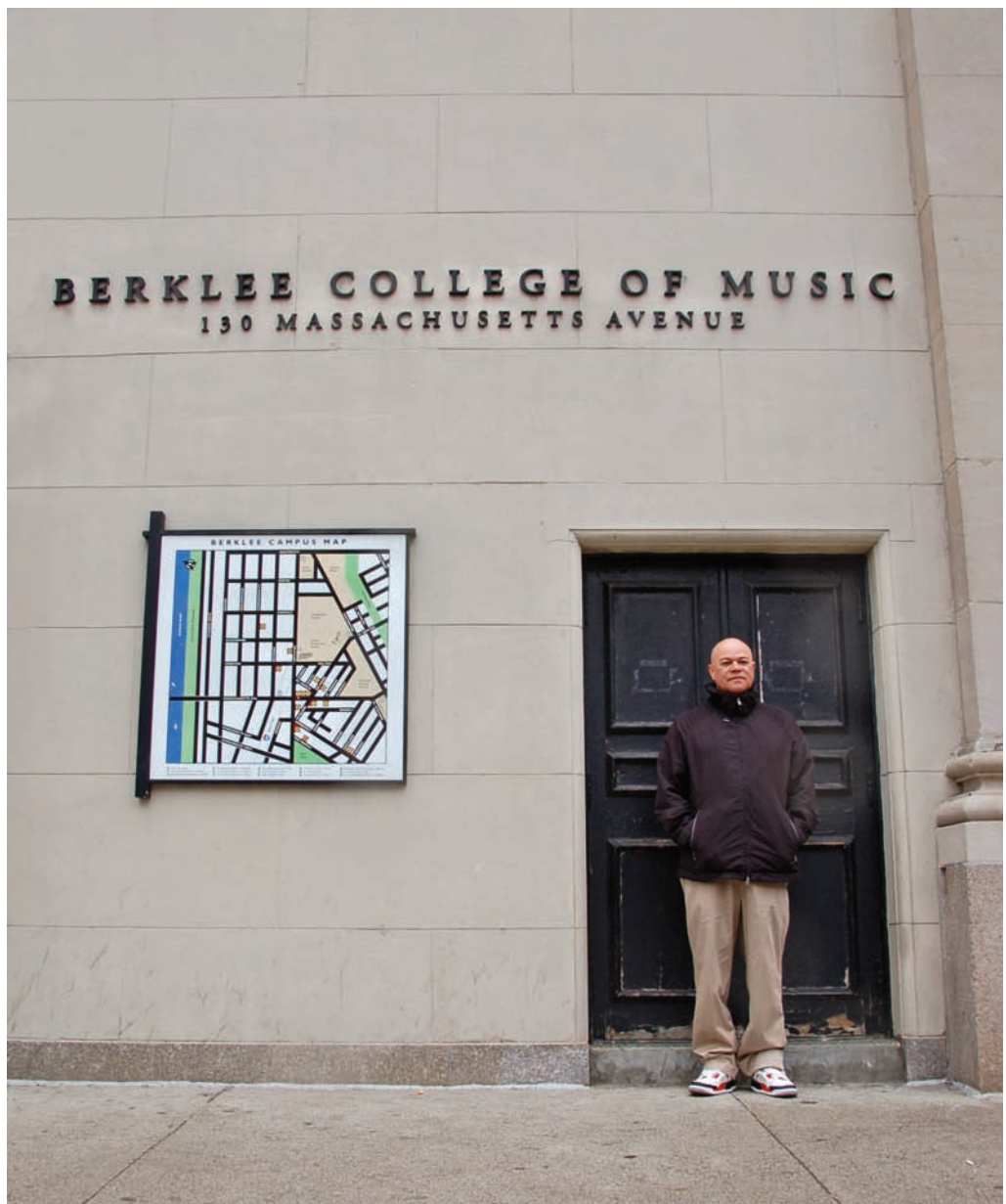
"He's done a masterful job and he's sold a great line of BS. I've really got to compliment him on that," says Koch. "But I think he's made the mistake of falling in love with this project. I don't know how he's ever going to get his money out."

Koch says Gordon keeps calling him but he hasn't been answering lately. He says he may write him a note at some point explaining his opposition, but he has no plans to give up the fight. "Why should I?" he asks.

Gordon, for his part, says he plans to keep reaching out to Koch. It's what he did with the late Walter Cronkite and state Sen. Dan Wolf of Barnstable, men who were opposed to Cape Wind before he convinced them of the merits of the project. He says he still hopes Koch will come around.

"This isn't a contest," Gordon says. "It's not, does Jim Gordon ultimately win or does Bill Koch ultimately win? The real winner is the environment, it's preserving the environment of Cape Cod, enhancing our health, energy security, creating jobs, and a new industry for Massachusetts. That is what's at stake. This is not a clash of egos. If Bill is leading me on, if that's what he's doing, I've got to go down that path. I've got to go down every path that I can to try to make this project move forward." **CW**

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What happened to Johnny Ramos is criminal

BY JACK SULLIVAN | PHOTOGRAPHS BY J. CAPPUCCIO

Johnny Ramos says

he did “a lot of stupid things” when he was a teenager growing up in Boston’s South End. He says he never used drugs or carried a gun, but still got into plenty of trouble. At the age of 17, he got arrested for fleeing from police officers after an incident involving a “hot car.” While on probation, Ramos and a friend were caught stripping parts off of what he says was an abandoned car in a garage in the South End. He was convicted of breaking and entering, a felony, and a judge sentenced him to three months at the state’s minimum security prison farm in Concord “to teach me a lesson.”

When he got out, Ramos says he turned his life around. He picked up odd work cleaning buildings and some day labor before landing a job at a private security firm around 1988, though he’s a bit fuzzy on the exact start, which he said could have been several years earlier. Ramos says he always dreamed about being a police officer after graduating from English High School, but realized he would never be able to get a gun permit with his felony conviction. He says his job as a security officer was the next best thing: It gave him stability and a steady paycheck after years of trying to find both.

“Even though this security job is low-paying and everything, it kept me out of so much trouble,” says Ramos, who started on the 4-to-midnight shift. “I would come home at 12 and everybody would tell me, ‘You just missed it. Everybody got scooped up [by the police.]’”

Over the past 25 years, Ramos built a solid, respectable life. He worked primarily at the Berklee College of Music and The Boston Conservatory, and developed good relationships with administrators, faculty, and students who would stop at his desk or in the hallways and chat. Along the way, Ramos had a child with a woman who is no longer in his life. He is raising his 14-year-old son by himself in the same South End apartment complex where he grew up and also caring for his elderly mother, all on the \$27,000 he makes as a security guard.

But the past that he thought was long dead and buried caught up with him in December. Ramos, who turns 52 in May, says he received a call from a State Police trooper who told him he had to quit his job because of a 1960 law barring anyone convicted of a felony or an offense involving moral turpitude from working as a security guard. Just like that, he was out of a job, left without health care for himself and his son, and forced onto public assistance. Five of his colleagues at the security firm, Longwood Security Services in the Back Bay, were also terminated because of their criminal backgrounds. One was in his 70s and, like Ramos, had a record that began and ended in his teens.

While the State Police have launched an internal investigation into the trooper who forced the Longwood

employees to quit because she may have violated protocols and procedures, a spokesman for the law enforcement agency says state law is clear that someone with a felony conviction cannot work as a security guard. Still, the spokesman, David Procopio, says the ruling was difficult.

“We recognize that some of these people were long-standing employees with good records of service with Longwood and were well-respected and highly-regarded at the institutions where they were assigned,” Procopio says.

Carmen Griggs, dean of students at The Boston Conservatory where Ramos worked for the past decade, referred most questions about Ramos to Longwood, saying the company is a contractor that hires its own employees. But, Griggs says, if Longwood hired Ramos back, the school would also welcome his return despite his past. “If they felt comfortable having John back, we would be comfortable having him back,” she says.

The case puts a stark spotlight on the issue of how long criminal offenders should be penalized for the crimes they commit. In Ramos’s case, he lost a job he had held for 25 years because of a conviction 34 years ago when he was 18. Gov. Deval Patrick succeeded in passing legislation in 2010 restricting how far back employers could look into the criminal lives of job applicants. But Patrick’s law did not overturn the 50-year-old statute prohibiting security firms from hiring those convicted of felonies.

Top Patrick aides say there is no conflict between the governor’s position and the 50-year-old law, but US officials say state laws like the one in Massachusetts may be in violation of federal statutes prohibiting discrimination. A pending case in Pennsylvania, with a fact pattern strikingly similar to the situation involving Ramos, has led to the issuance of guidelines barring security firms from denying jobs to anyone based solely on whether they have a criminal record.

“Most employers understand those who have served their time deserve a chance,” says Eugene Ferraro, an expert in ethics and security who is a consultant and member of ASIS International, a security industry association. “The law is the law and it’s likely the law is defective in this case. This sounds like it smacks of unfairness [but] the law often conflicts with common sense.”

A CORI CONFLICT?

In July of 2010, Gov. Patrick signed into law a major reform of the Criminal Offender Records Information statute, one that he and advocates insist will provide protection for the public while at the same time breaking down the barriers for former offenders to find employment and housing and create some distance from their past.

“Successful crime fighting also means reducing the

risk that former inmates will return to crime by helping them rebuild their lives,” Patrick said when he first unveiled his plan to overhaul the CORI system in 2008.

The new CORI law changes the length of time a criminal record is available to employers. Under the old CORI law, felony records going back 15 years, unless they were sealed, would be given to employers performing a background check on job applicants. Under the new CORI law, felony records are only available for 10 years after an offender is released from custody and probation. The changes do not affect people convicted of murder, manslaughter, or sex offenses; their records are permanently available.

Under those rules, Ramos thought he could legally answer “no” when asked if he had ever been convicted of a felony. So when he was asked by Longwood to fill out an affidavit about his past in January 2012, that’s what he did. In the box that asked if he’d ever been convicted of a crime, he checked “no,” he says. “They’ve asked things like that before,” says Ramos. “All they wanted before was information from three years back, five years back. That was the law back then.”

Ramos says that more than 11 months after he filled out the questionnaire, which he says he barely remembers, he got a call from State Trooper Denise Doherty, who accused him of lying on his form because he failed to note his felony conviction at age 18. Ramos says Doherty told him that he had to quit his job or face charges of perjury. Doherty, at the time, was a member of the State Police Division of Standards and Training, which oversees the licensing of security companies and private investigators. When Ramos refused to resign without some sort of formal written explanation, he says she threatened him.

“She said, ‘If you want something in writing, we’ll send you something. We’ll send you a letter to go to court for perjury,’” Ramos says. Undeterred, Ramos reported for work, but his supervisor informed him Doherty had called and the company was forced to take him off the payroll. Ramos says his supervisor told him he was sorry he had to let Ramos go, but his hands were tied by the law. He also told Ramos about the other workers who were let go.

Doherty, who refused to talk to a reporter when contacted at her office, may have been acting inappropriately and outside her authority. Procopio says state police officials regularly audit security companies to ensure they are

in compliance with the law. The process is for a commanding officer to assign a case to an investigator, who then goes to the security office to make sure the license is current, valid, and properly displayed. The trooper then asks for a list of employees and, if a background check flags any of them, the trooper informs his or her supervisor, who then calls the licensee and informs them about the existence of ex-offenders on the payroll.

Doherty, however, undertook the audit on her own initiative and, rather than calling her commander with the findings, called each of the individual employees, according to officials. Only after Ramos refused to quit did Doherty call Longwood president John Connelly to force his hand, Ramos and Connelly confirmed. Procopio says Doherty is now under investigation.

State audits of security firms are fairly frequent and routine. Last year, Procopio says, the department’s Certification Unit performed 125 audits at security companies. Procopio says investigators typically find no more than “one or two” violations of the hiring law over the course of a year, but last year Longwood was the only company with violations. He could not say why the long-time employees at Longwood were never flagged during audits in prior years or why there were so many.

Connelly, Longwood’s president, says the company has never been audited in the 27 years since he started it. Connelly says he checks the criminal backgrounds of the employees he hires as well as those workers he absorbs when he buys another firm, as he did in Ramos’s case. He says employees also sign an affidavit swearing they do not have a criminal record.

Connelly couldn’t explain why Ramos’s record never turned up, but he says he was told by state officials over the years that his access to criminal records for background checks was limited. He also acknowledges he relies on others to do background checks on employees. “Certainly, human error plays a role in everything,” he says.

A lawyer for the Executive Office of Public Safety and Security suggested Connelly should not have any reduced access to criminal records. He says security firms are granted the same unchecked access to unsealed adult criminal backgrounds as law enforcement, nuclear power plants, or public housing agencies.

A spokesman for the public safety office says there is “no conflict” between the revised CORI statute promoted



by the governor and the 1960 law placing a blanket prohibition on the hiring of anyone at a security firm who has been convicted of a felony. He says security officers and employees sign affidavits under the pains and penalties of perjury stating they have never been convicted of a felony.

"Applicants for jobs are required to tell the truth," Terrel Harris wrote in an email. "State law says for one to be a security guard (special police), one cannot have a felony conviction. They should have answered yes on their application. Why they were never flagged is a question for the company to answer. As for philosophical conflict, there is no conflict with the administration's philosophy guiding changes in the CORI laws. Law enforcement officers are and should be held to the highest standards."

LAWS CALLED INTO QUESTION

State laws barring anyone with a felony from holding a job as a security guard are coming under scrutiny from the federal Equal Employment Opportunity Commission. The commission says such laws, like the one in Massachusetts, may result in discrimination if they are used by companies to deny employment to job applicants. The agency says such blanket refusals to hire someone with a record tend to penalize minorities disproportionately.

The federal agency began looking into the issue after receiving a complaint from a man who was turned down for a job as a security guard in Pennsylvania because he had been twice convicted of burglary. G4S Secure Systems, one of the country's largest security firms, refused to hire the man, citing a Pennsylvania law that is almost identical to the law in Massachusetts.

EEOC officials and other advocates testified before the US Commission on Civil Rights in December that security firms can check a job applicant's background and make a case that a criminal record could adversely impact his ability to perform the job. But they said a criminal record should not be a preemptive factor in the hiring decision. The officials also said that the federal Civil Rights Act, specifically Title VII, which bars discrimination based on disparate treatment, trumps state and local statutes.

"Under Title VII, the mere fact of having a criminal record should not automatically, and without consideration, bar a person from all future employment," Carol Miaskoff, the acting associate legal counsel at EEOC, told the Civil Rights commissioners.

The case involving G4S has not been resolved yet, but the EEOC has already issued guidelines for employers to follow. The new guidelines tell employers they could be subject to claims of discrimination should they use criminal records as the sole reason to deny employment because of the "disparate" impact on minorities.

The qualifications for security jobs are minimal, with

a high school diploma being the most common requirement and little to no prior experience expected. The pay is commensurate with the minimal education requirements, mostly in the \$20,000 to \$30,000 range. Federal officials say minorities, who often have less access to higher education, are attracted to security jobs, yet they often have criminal records which disqualify them.

The EEOC guidance cites race-based disparities in convictions and incarcerations and also refers to a number of studies showing minorities have a harder time finding jobs because of their criminal records. The EEOC says employers should take into consideration the individual circumstances of each applicant, such as the facts surrounding the conviction, the number of convictions, how old the offender was at the time of the conviction, and how long before the job application the conviction occurred.

Ferraro, the ethics and security expert, says the EEOC action creates a Catch-22 for security companies. On the one hand, he says, it's "common sense" that sensitive positions that require trust should be staffed by those with no criminal background. But he says there are security jobs that could be filled by someone who may have a record but has the potential to be a valuable asset.

"It's a dilemma for the employer; which battle do they want to fight: the state, which may take their license, or a federal employment action?" he asks. "Most employers, though, would go out of their way to hire someone with a record if they otherwise might be a qualified applicant."

The armed forces do not have a blanket prohibition on enlistees having criminal records, granting military applicants nearly 4,000 "misconduct" waivers during fiscal 2011, including 32 for felony convictions. "While present standards are high, we have not adopted a zero-defect mentality," says Lt. Cmdr. Nate Christensen, a spokesman for the Defense Department. "Everyone makes mistakes. We evaluate each applicant from a whole-person perspective."

As *CommonWealth* went to press, Ramos asked state officials to seal his criminal record in an effort to shield his teenage transgression from public view. The state's probation commissioner approved his request and Longwood Security invited him to return to work. But Ramos says he's not sure the change will work, for good reason.

State Police officials say that, even though employers cannot see sealed convictions, the record would still be open to law enforcement officials doing security firm screenings. Told about Ramos's efforts to seal his record, Harris, the public safety spokesman, says the strategy is unlikely to be successful. He says eventually the State Police will audit Longwood and discover the sealed record contains a felony, which would trigger a notification that Ramos cannot be working as a security guard.

If that happens, Ramos's past, once again, would come back to haunt him. **CW**



The Picknelly brothers, Peter A., left, and Paul, right, are pushing competing casino proposals.

Springfield bets on sibling rivalry

The Picknelly brothers, with dueling casino proposals, are at the center of Springfield's push for gambling

BY GABRIELLE GURLEY | ILLUSTRATION BY JOHN UELAND | PHOTOGRAPHS BY BRIAN McDERMOTT

THE WHEEL OF fortune came to rest on the big money for Massachusetts two years ago when Gov. Deval Patrick signed legislation ushering the Bay State into the casino era. After decades of attempts by gambling proponents, the plans are well underway for three resort casinos and one slot parlor. The gambling legislation divides the state into three zones—Greater Boston, Western Massachusetts, and Southeastern Massachusetts—with one casino license for each.

What is surprising is that the scramble in Western Massachusetts, where there are four applicants vying for the region's single casino license, is just as fierce as the one in Greater Boston, where the biggest bucks are expected to be made. Even more surprising in the Western

Mass. sweepstakes is the family drama, with two brothers from a storied Springfield clan going at it as rivals aligned with competing gambling firms.

The casino showdown is the latest chapter in a long-running saga of sibling rivalry, but this time around the future of the third-largest city in Massachusetts could also be at stake. Four years after a state-mandated finance control board straightened out Springfield's troubled municipal books, the city is no closer to attracting large numbers of good-paying jobs for low- and middle-income residents. Until now. The prospect of a casino in downtown Springfield, and the promise of the several thousand new jobs it would bring, have heads spinning. If anything, Springfield is even hungrier for something to root for after

the destruction wrought by a recent natural gas explosion and the 2011 tornado that tore through the city.

Peter A. Picknelly, the head of Peter Pan Bus Lines, cast his lot with Penn National Gaming, a Pennsylvania gaming operator that mixes Hollywood-themed nostalgia into its developments and earned nearly \$3 billion last year. His brother Paul Picknelly, a hotel operator and real estate developer, teamed up with MGM Resorts International, the \$9 billion purveyor of high-end Las Vegas-style glitz. Both firms have tantalized the town with talk of giving a shot in the arm to a downtown that goes comatose after sunset.

For some, the Picknelly brothers are the only Springfield business honchos willing to take big risks in a city where business leaders have more conservative inclinations. "The family has the most horsepower in the city of Springfield," says Ed Hough, president of L.E. Belcher, a Springfield fuel wholesaler.

Later this year, Springfield voters will have their say in a referendum asking whether they want a casino. If they vote yes, and if the state gaming commission decides that one of the two Springfield plans is superior to the two other regional proposals—Mohegan Sun in Palmer or Hard Rock International at the Eastern States Exposition in West Springfield—one Picknelly brother will be poised to become an even bigger and wealthier player in the region. If the commission goes in a different direction, the Picknellys will have their fingerprints all over one of the most colossal letdowns in Springfield history.

CASINO ROYALE

Peter L. Picknelly, the late father of the dueling casino brothers, is everywhere around the North End gateway into downtown Springfield. An enormous high-top sneaker inside the city's Peter Pan Bus Lines terminal sports his portrait and the bus "transportation center," bears his name, as does a silver pyramid outside the terminal and the "Welcome to Springfield" sign nearby.

Picknelly took the Peter Pan Bus Lines brand that his Italian immigrant father launched during the Depression and turned it into one of the largest pri-



"He is my brother; I love him. We simply disagree on where the best location is," says Peter A. Picknelly of brother Paul.

vate bus companies in the country. The elder Picknelly was the man local groups could count on to steer a successful capital campaign or pick up the tab for the annual holiday lights extravaganza. “Every city should have a Picknelly family,” says former Springfield mayor Michael Albano, now a member of the Governor’s Council. “If we needed \$50,000 for a day care center, I could go to Peter senior quietly on a Saturday morning up in his office... make the case, and he would do it.”

The Picknelly interest in gambling started with the father. Nearly 20 years ago, he led an unsuccessful cam-

The Picknelly interest in gambling started with the father, who led an unsuccessful casino bid nearly 20 years ago.

paign to build a casino to rev up an ailing city. It was a novel idea in the 1990s. At the time, Gov. William Weld and state lawmakers were focused on a New Bedford casino compact with the Aquinnah Wampanoag, but Beacon Hill agreed to consider a casino in Springfield if voters approved the idea. The Catholic Church campaigned hard against gambling, and its strong opposition helped persuade voters to narrowly reject referendums in 1994 and again in 1995.

That Picknelly stood to make serious dollars on his casino plan goes without saying, but few dispute that he also embraced the idea of a casino as an economic lifesaver for his beloved hometown. “He really believed that it would not only be helpful to him financially, but that Springfield needed a kick in the butt of some kind,” says Dr. Mark Mullan, a Springfield internist who worked with Picknelly in the 1990s on an unsuccessful effort to build a baseball stadium and attract a minor league team. Mullan does not, however, share the Picknellys’ belief in the benefits of a casino. He is treasurer of Citizens Against Casino Gaming and a leading opponent of a casino in Springfield.

The elder Picknelly had a well-known taste for gambling. Rolls-Royces were his cars of choice and he snatched up the vanity license plate “GAMBLE” for one of them. According to *Driving Vision: The Story of Peter Pan Bus Lines*, a family history that his company published in 2000, Picknelly enjoyed trips to Foxwoods, the first destination-resort casino to open in the East outside of New Jersey.

The thrice-married Picknelly, who died in 2004, had three children from his first union: Mary Jean, Peter, and

Paul. They followed their father into the family businesses, and his hard-driving, 24/7 work ethic colored their lives. “We’re close in a business way more than other ways,” the elder Picknelly told a University of Massachusetts Amherst interviewer in 1995. “We don’t do family picnics or Sunday dinners.”

Picknelly never wavered from his conviction that casinos could save Springfield. “I go to Foxwoods on occasion, and I see the development down there, which is huge,” he said in *Driving Vision*. “We could have had that here.”

Since Springfield’s first go-round with gambling, casinos have spread from woody outposts like Foxwoods and Mohegan Sun in Connecticut to struggling urban centers such as Detroit, Toledo, and Bethlehem, Pennsylvania, communities that cast about for jobs and any tax revenues they can get without going to taxpayers for new levies. The jury is out, however, on whether an urban casino can create enough jobs and local tax revenue—and draw enough out-of-towners—to reverse the fortunes of cash-poor cities and towns.

Les Bernal, executive director of Stop Predatory Gambling, a national anti-casino advocacy group, says the industry can’t point to a single example of a depressed urban area that has been revived by gambling. “They can’t find a location in America that has come back because of a casino,” says Bernal.

BLOOD BROTHERS

Thin and wiry right up to his brown, spiky hair, Peter A. Picknelly, Peter Pan’s present-day chairman and CEO, gushes about his partnership with Penn National. “Our plan is really my dad’s view on steroids, if I can use that example,” he says. “It is bigger than what he envisioned and it includes more property [and] it revitalizes Union Station,” he says, referring to the city’s shuttered train depot.

Picknelly, 53, who wears glasses like his father and favors business casual attire, is putting up 50 percent of the \$807 million for Penn National’s “Hollywood Springfield” casino project in the North End of the downtown. The city bus station, now near a gloomy no-man’s land of empty storefronts, modest cafes, and clothing shops, as well as the current headquarters of Springfield’s newspaper, *The Republican*, would be replaced by the casino complex. The paper’s parent company executed an option to sell the parcels it owns to Penn National. Under the plan, *The Republican* would split its news and printing operations between two new locations. Meanwhile, Peter Pan’s bus operations would move to a renovated Union Station.

Peter A., as he is sometimes known to distinguish him from his father Peter L., admits he will to do “whatever it takes” to get a casino in Springfield—even if it means

reluctantly talking to a journalist. “I’m not a celebrity, I’m kind a shy guy,” he says.

“Neither one of them is as flamboyant and as outgoing as their dad,” says Jeffrey Ciuffreda, president of the Affiliated Chambers of Commerce of Greater Springfield, about the Picknelly brothers.

And neither man is as bullish about their hometown as their father. Peter and Paul were ready to throw Springfield under the bus for Palmer. Each brother had made his own investments in Mohegan Sun’s Palmer casino plans. The Northeast Gaming Group, the company working with Mohegan Sun, has sued Peter Picknelly, for allegedly backing out of a project, and Penn National, for joining him in the competing Springfield venture.

Peter Picknelly declined to comment on the litigation, except to call it “completely frivolous” and “completely extortion.” At press time, Northeast had also informed Paul Picknelly and MGM about conflicts between the current Springfield project and his earlier Palmer investment, but has not taken any action. How the litigation might affect the brothers’ two bids in Springfield is unclear.

Peter, a married father of four whose wife is a Peter Pan Bus Lines vice president, was never interested in anything else other than joining his father and running the family business. Like his father, he dropped out of college to move back to Springfield where he’s lived ever since. “That’s probably one of the poorer decisions I’ve ever made,” he says of his decision to leave Boston University after two years. (His father quit Northeastern University after one year.) Picknelly started out as a bus dispatcher in Boston; by age 25, his father had made him company president. “There’s diesel fuel in my veins, that’s what I like to do,” Picknelly says.

Hough, the Springfield fuel company executive, who is a long-time friend of the younger Peter Picknelly, says Peter is no longer concerned about being in his father’s shadow. Peter Pan Bus Lines is a \$100 million company with 700 employees, a 250-vehicle fleet, and a partnership with Greyhound, the country’s largest bus company. He owns and manages his own real estate company, the Opal Real Estate Group, and has diversified into areas like wholesale firearms distribution and conveyor belt manufacturing.

His business muscle has translated into political clout. He is a prolific political donor who’s made sizable contributions to the state Democratic Party and to a bevy of mostly Western Massachusetts lawmakers, including Springfield Mayor Domenic Sarno and Bruce Stebbins, a former Springfield business development administrator and city councilor who now sits on the gaming commission. Picknelly served on Gov. Deval Patrick’s transportation transition team in 2006.

The fraternal showdown for the city’s biggest business deal in decades has plenty of people scratching their heads.



Even the Northeast Gaming Group’s legal complaint delves into the brothers’ conflict, alleging that Peter Picknelly “wanted to have a greater interest in the proposed Palmer casino project than his brother Paul Picknelly had.”

Peter A. takes a deep breath, and then resorts to a double-negative, when asked the question on everyone’s mind: Why are he and his brother on opposite sides? “Paul and I do not *not* get along by any stretch,” he says. “He is my brother; I love him. We simply disagree on where the best location is” for a casino. “My family has been pursuing this location for two decades now,” Peter adds, referring to the North End site. “You have to ask him why he charted off course, I guess.”

Mullan, the Springfield doctor active with the local anti-casino group, says the brotherly competition is prompting lots of speculation, most of it uninformed. “I was surprised that they would be on opposite sides, like everybody was,” says Mullan. “There were people [who thought] it was a Picknelly family plot, that as long as one of them got it, it was good for them. Then I heard through the grapevine...that they weren’t talking to each other for a period of time. I think, as in most things, the truth is somewhere in the middle.”

Paul Picknelly, 52, is more of a behind-the-scenes operator who hasn’t been seen around town promoting the MGM brand as much as his brother does for Penn National. As a young man, Paul left Holyoke Community College to work for a Florida bus line that his father co-owned. Eventually, he returned to work at Peter Pan and moved up to chief operating officer.

A Peter Pan official described him this way in the company-published family history: “Paul was a great dis-



Far left: Penn National billboard hovers above Springfield bus terminal. Above: Penn promotion inside terminal. Left: Penn buttons.

patcher, a real operations-minded person. He was like his father that way, able to think quickly on his feet, to be able to solve problems or foresee something coming down the road and prepare for it before it happened.”

Despite Peter Picknelly’s suggestion that they simply disagreed on the best location for a casino, the rift between the brothers did not begin there. When the three Picknelly siblings started working at Peter Pan together, their relationship, according to a 1996 *Forbes* article, disintegrated to the point that their spats demoralized employees and sometimes put Mary Jean, who ran the tour groups division, in the middle. To preserve his carefully constructed business empire, the elder Picknelly came

up with a solution: In 1993, he created a real estate group by acquiring a downtown Sheraton hotel and the adjacent office building and installed Paul as the head of it, while leaving Peter at the helm of the bus business. “Life has been so much better since he’s been gone,” a relieved Peter told *Forbes*.

The jewel in Paul’s crown is Monarch Enterprises, the real estate management and development company located in Monarch Place, an attractive office complex of rust-colored, veined-marble walls anchored by the Sheraton. (His siblings are directors of the hotel’s corporate entity.) The married father of two, who lives in nearby Hampden, also owns and operates the Hilton Garden Inn near the Basketball Hall of Fame, as well as one hotel each in Worcester and Holyoke.

Paul Picknelly is a minority investor in the \$850 million MGM project (MGM declined to put a dollar figure on his exact share), which is proposed for the tornado-scarred South End of downtown Springfield. He declined to be interviewed for this article. In a statement provided to *CommonWealth*, he described why he pursued a deal with MGM. “I had spoken with a lot of casino operators, but none were as invested as MGM Resorts in a vision that would revitalize this city’s once thriving downtown area,” he wrote. “It was clear that MGM’s team and I envisioned the same outward-facing, community-enhancing resort casino model that would build on all that is good about Springfield.”

NO FURTHER BETS

With words like “renaissance,” “ripple effect,” and “game-changer” getting tossed around like poker chips, it’s hard for city officials to resist the allure of two private companies promising to pay for a major downtown overhaul. Both casino operators say that their retail, dining, and entertainment complexes will also push their patrons into surrounding area restaurants, small businesses, and existing entertainment venues. A stone’s throw from the bus station, the soon-to-be renovated Paramount Theater, owned by the New England Farm Workers Council, would be leased to Penn National to focus on live events. MGM plans to partner with the MassMutual Center and other local venues rather than build its own dedicated entertainment arena.

In a high-poverty, majority-minority city of 153,000, where unemployment is more than 10 percent, there are more permanent jobs up for grabs with a casino than Springfield has seen in a long time. The Penn National plan calls for 2,400 jobs, while MGM’s assumes 3,100 will be created. Penn says its salaries will average \$40,000 plus benefits; MGM goes a bit higher, at \$50,000 plus benefits.

Penn National and MGM are already spreading cash

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around town, from grocery giveaways to after-school programs, even before a shovel goes into the ground for a casino. "Look at Springfield's plight today," says William Hornbuckle, president of MGM Springfield. "What Fortune 500 company is knocking on [Springfield's] door and saying, 'Hey, guys, I'd like to come to your community and invest \$800 million.'"

In the short-term, Hornbuckle is probably right. With Springfield up against its Proposition 2½ levy limit, city leaders have nowhere else to go to generate tax dollars if they want to avoid more employee layoffs and cuts in city services. There are other projects that Springfield can move forward on whether or not a casino comes to the city, including the long-stalled redevelopment of Union Station, which is getting an infusion of state and federal funds. But reviving the train facility, a dream of the elder Picknelly, is in a kind of limbo, along with other downtown construction, until the casino question gets sorted out. And none of those projects add up to the kind of dollars that casino operators are willing to invest.

One question the state may have to take a gamble on is whether city leaders in Springfield, only four years removed from state financial control over municipal affairs, are ready to manage the annual windfall of anywhere from \$15 to \$20 million in new revenues from a casino. There are early indications that some officials are already overwhelmed by the task. With residents lining up with their to-do lists at a recent meeting, City Council President James Ferrera repeatedly asked Springfield's hired gaming consultant if the casino agreement could make MGM or Penn National responsible for selecting the specific projects they would finance with their payments to the city. The consultant informed Ferrera that it was the job of Springfield officials, not the casino operators, to decide how to spend the money the operators agree to pay the city.

The city's mayor, Domenic Sarno, will finalize a host community agreement with one or both of the casino operators, spelling out the parameters of what the companies will do on issues such as property tax revenues, traffic, mitigation, and the like. One or both agreements will then go to the city council, which must ratify the decision, and then the plan or plans will go to the ballot. A referendum could be held as early as the June special election for US Senate or as late as the November general election.

The Episcopal Diocese of Western Massachusetts and the Council of Churches of Greater Springfield have come out against casino gambling, basing their arguments more on socioeconomic grounds than moral ones. The fear is that poor residents will turn to gambling as a solution to their money troubles and end up worse off. The Catholic Church, which sold a former rectory building to Paul Picknelly's MGM-affiliated company, has not yet mounted opposition comparable to the forces it



A model of the MGM Springfield casino complex inside the firm's information center on Main Street.

marshaled years ago.

Magdalena Gómez, a co-founder and artistic director of Teatro Vida, a local theater company, fears that if a casino comes to town, smaller arts venues won't be able to compete and that more than a few Springfielders will end up poor and broke like her father, a problem gambler. "Casinos are no different than a peep show," Gomez says. "Put in a quarter, get a glimpse; if you want more, you have to put in another quarter."

Some in town are convinced that one of the Springfield

With Springfield up against its Proposition 2½ limit, city leaders need new tax dollars to avoid layoffs and service cuts.

proposals is a shoo-in to win the Western Massachusetts gaming license, largely because the struggling city needs an infusion of investment. But others are not so sure. The casino statute calls for the gaming commission to consider factors such as the inclusion of workforce training programs and the likely impact of a casino on local businesses in the host community and neighboring towns. The statute, however, is silent on whether an urban or rural casino is better.

Albano, the former Springfield mayor, doesn't buy the argument that a rural site would better shield lower-income urbanites from the pitfalls of gambling. He says people can drive to the Connecticut casinos or take a bus any day of the week. "The options are there," he says. But Albano has gone from vocal casino booster while in the mayor's

office to skeptic. Laying aside the impressive posters, models, and computer-generated renderings of a new and improved downtown Springfield that the casino operators eagerly display, he wonders what a casino can really do for the city over the long-term. He says gambling has hardly been a magic elixir for Detroit, a city with three casinos that is in such desperate straits it was recently taken over by the state of Michigan. "The casinos are struggling, Detroit is struggling," Albano says. "Springfield is not unlike Detroit in a lot of ways."

Though most observers think residents are likely to give gambling a thumbs up when a Springfield casino plan is put to a citywide referendum, it's possible Springfield voters could nix the casino idea, in which case the story ends there. Barring that outcome, the city faces two sets of risks.

Should one of the Picknelly brothers fulfill their father's dream and land a casino for Springfield, the champagne corks will pop and city leaders and casino supporters will undoubtedly extol the wonders a gleaming new gambling complex will bring to their beleaguered community. Proponents say a casino is just the economic boost that the city needs to hitch to its modest financial recovery and rebuilding efforts following the tornado. The risk is that opponents could be vindicated and the promise of a casino-driven rebirth doesn't pan out.

The other risk is that the city loses out in the gambling sweepstakes and the Western Mass. casino goes to Palmer or West Springfield. The Picknellys, Penn National, and MGM will move on to new deals. But Springfield has banked everything on a casino. Unlike nearby Holyoke, where Mayor Alex Morse recently aban-

doned a brief flirtation with casinos and turned back to his pledge to focus on the city's innovation and arts economy, Springfield does not have a true Plan B to fall back on if the casinos go somewhere else.

Things aren't quite as dire in Springfield as they were several years ago. Since 2009, the year the state-authorized control board returned management to city officials, Springfield has produced balanced budgets and received stable bond ratings. "Everybody, *everybody*, thought that we'd fall off the face of the earth," says a defiant Mayor Sarno, his voice rising. "The exact opposite has happened."

Still, the mayor would need to put on quite the poker face to say he's not banking on a casino—and the Picknelly family—to speed things along. **CW**

Secondhand chemo

Cancer drugs help patients,
but could they also be endangering caregivers,
family members, and the environment?

BY COLMAN M. HERMAN | PHOTOGRAPH BY MARK OSTOW

NOT TOO LONG ago people smoked everywhere and gave little thought to how their smoke might be affecting others. Then scientific studies began exploring the danger of secondhand smoke, and in 1993 the Environmental Protection Agency concluded that secondhand smoke was causing 3,000 lung cancer-related deaths each year. It took another decade before a scientific and legal consensus emerged on the issue, triggering laws banning smoking in workplaces, restaurants, and many public areas.

Now a similar debate is emerging about a phenomenon some are calling secondhand chemotherapy. Concern is growing that powerful chemotherapy drugs used to fight cancer may be having a secondhand effect on drug company personnel who manufacture the drugs, the pharmacists who compound them, the nurses who administer them, the friends and family members who interact with cancer patients, and the environment in general.

Manufacturers and hospitals are already taking precautions with their own personnel, and the hospitals are advising their patients on how to guard against secondhand chemotherapy effects when they head home. A Rhode

Island-based company called Pharma-Cycle says these precautions don't go far enough. The company, which manufactures a kit it says will prevent secondhand chemotherapy, is pushing legislation in Massachusetts that would create a commission to study the problem. A resolution similar to the Massachusetts legislation passed last year in Rhode Island.

Pharma-Cycle says secondhand chemotherapy is especially dangerous to unborn babies and young children, whose systems are particularly vulnerable because of their fast-developing cells. The company also says still-active chemotherapy drugs are being found in the urine, feces, and vomit of cancer patients and making their way into the environment through sewage systems.

"There is a growing body of scientific evidence showing that toxic chemotherapy drugs are entering public and private water supplies intact, threatening humans and wildlife," Pharma-Cycle founder and president James Mullowney says on the company's website.

Some experts say Mullowney is overstating the public health and environmental threats posed by chemotherapy



Workers at Beth Israel
Deaconess Medical Center
prepare chemotherapy
drugs in a clean room.

drugs. But the reality is that no one knows for sure.

The Environmental Protection Agency says studies indicate pharmaceuticals of all types are present in the nation's water bodies. "Further research suggests that certain drugs may cause ecological harm," the EPA says on its website. "More research is needed to determine the extent of ecological harm and any role it may have in potential human health effects. To date, scientists have found no evidence of adverse human health effects from [pharmaceuticals] in the environment."

The EPA does not require testing for drugs in the water supply, nor has it specified any acceptable limits. Most experts think drugs are there in at least trace amounts. "There's about 100,000 chemicals in commercial use," says James Shine, an environmental scientist at the Harvard School of Public Health. "And if we try hard enough, if we have a really good analytical chemist, we can measure all of those in any sample. I could take a cup of coffee I drank this morning and take it to a really good chemist somewhere, and we could measure Prozac in there. We could measure Viagra in there."

In a broad sense, chemotherapy refers to the use of any drug to treat any disease. But, in common usage, it refers to the use of drugs to combat cancer—any one of more than 100 diseases characterized by the development of abnormal cells that divide uncontrollably and can invade other parts of the body.

The chemotherapy drugs used to treat cancer are called cytotoxins. They work by killing the cancer cells or by stopping them from multiplying, often achieving significant benefits for patients, including a cure or remission (the cancer can no longer be detected), control (keeping the cancer from spreading or slowing its growth), or palliation (easing symptoms when the outlook is poor).

But these cytotoxins are not selective, meaning they also kill healthy cells. They are, in essence, poisons that can cause very uncomfortable, short-term side effects (including fatigue, nausea, vomiting, constipation, diarrhea, loss of appetite, and hair loss) and some very serious long-term side effects (including damage to the heart, lungs, nervous system, kidneys, and reproductive organs). Paradoxically, cytotoxins can themselves cause cancer that shows up years later.

By the very handling of some cytotoxins, individuals can experience secondhand chemotherapy by inhaling the agents or getting them on their skin or in their eyes.

Harold DeMonaco, director of innovation and support at Massachusetts General Hospital and the former head of a hazardous drug safety task force, says the hospital has had difficulty completely removing trace amounts of cytotoxins from the environment. He says chemotherapy residue has been found on computer keys and on elevator buttons.

Pharmaceutical companies take extensive precautions

to protect their employees who are involved in the manufacture of chemotherapy agents, sometimes using robots to handle the drugs. Hospital workers also follow strict protocols. Pharmacists, for example, must wear gloves and impermeable gowns when handling cytotoxins. Preparation of the drugs is done in special "clean rooms" that are environmentally controlled for heating, ventilation, and air conditioning.

Nurses also take rigorous precautions when working with chemotherapy agents. The Oncology Nursing Society recommends nurses wear double gloves, goggles, and protective gowns for all activities associated with the administration of chemotherapy agents.

Hospitals are alerting patients about secondhand chemotherapy dangers. After doing their job, certain cytotoxins—cyclophosphamide, methotrexate, and gemcitabine are some examples—pass out of the patients' bodies as unmetabolized chemicals in their feces, urine, vomit, sweat, saliva, tears, semen, and vaginal secretions, and remain active for up to 48 hours. This presents a possible danger to anyone who comes in contact with the patient's excretions as well as to the environment when the waste is flushed down the toilet.

CANCER SOCIETY GUIDELINES

The American Cancer Society has issued guidelines on what patients should do. Patients are told to flush the toilet twice after use to make sure all waste is gone. Men are advised to sit on the toilet to avoid splashes. Condoms are recommended during sex and deep kissing is not advised. Caregivers are told to wear disposable waterproof gloves and to wash their hands after helping a patient even if gloves are worn.

"The patients are given both oral and written instructions that are typed out at the time of discharge and individualized for each patient," says Cathy Rowland, a nurse educator at Dana-Farber/Brigham and Women's Cancer Center. The information follows the American Cancer Society guidelines. Mass General and Beth Israel Deaconess Medical Center offer similar advice.

Mullowney, the founder and president of Pharma-Cycle, says that hospitals aren't doing enough to alert chemotherapy patients and their caregivers about the precautions they should be taking at home. He also says the hospitals should tell their patients not to flush their waste down the toilet.

Mullowney's company, whose slogan is "Pharma-Cycle, Stopping the Spread of Cancer & Birth Defects," says a cancer patient's bodily fluids will contain strong chemicals that are dangerous to others the first few days after a chemotherapy treatment. "They can cause damage to the DNA of healthy cells and trigger cancer," a company pro-

motional sheet says. “They can badly injure, even kill, unborn babies and children.”

The Pharma-Cycle kit contains a variety of items, including 12 receptacles that hang on the toilet bowl to capture the cancer patient’s waste. There are also vomit collection bags, protective gloves, zip lock bags, wet wipes, and disposable sheets. When the waste comes into contact with a chemical packet glued inside the collection devices, the company says it is converted into a “neutralized” solid. The kit also contains shipping materials for sending the waste back to Pharma-Cycle, which then forwards it to a chemical disposal facility. The kit has one patent and a second pending, Mullowney says.

The price of the kit is \$1,200. How long it would last depends on how often the patient throws up or goes to the bathroom. Patients often go through many rounds of chemotherapy.

With a degree in chemistry from the University of Massachusetts, Mullowney claims to have pioneered the field of cytotoxic sanitary waste. He says he has 26 years of experience in the hazardous waste business and is “out to save the planet” with his company, which is based in Newport, RI.

Mullowney calls cytotoxic drugs in the water supply a “developing time bomb,” saying their presence has caused “great alarm” among environmental scientists.

Mullowney hired a lobbyist and got legislation introduced in Massachusetts in 2011 that would have required physicians and other health care professionals who are directly involved with the prescribing or administering of chemotherapy drugs to provide patients with the means of properly collecting and disposing of their bodily waste.

The lobbyist, Stephen Mulloney, who touts his client as “kind of like the Rachel Carson of this era,” a reference to the author of *Silent Spring*, the book that launched the environmental movement, says the proposed legislation went too far and was pulled back. “It might have been a leap forward without enough substantive background,” he says.

BILL WOULD CREATE COMMISSION

New legislation introduced this year by Rep. Tackey Chan of Quincy calls for the establishment of a special 14-member commission to “study the levels and effects of cytotoxic drugs in the environment.” The ultimate goal, according to Mullowney, is to get a legislative mandate that would require health insurance to pay for his company’s kit.

To aid him in advancing his cause, Mullowney created a board of advisors that lists as members two people from the federal Environmental Protection Agency and one from the University of Massachusetts. All three—Nicholas Anastas and Christian Daughton, both EPA authorities

on drugs in the water supply, and Thomas Zoeller of the University of Massachusetts Amherst biology department—say they talked with Mullowney but never agreed to be on his advisory board. The EPA issued a statement asking Mullowney “to stop making statements asserting an association between the company and EPA scientists and to refrain from misrepresenting EPA research.”

Mullowney says he asked the two EPA scientists to serve on his advisory board and they agreed. He says he will comply with what EPA wants, but does not see the conflict. “We are working on the same thing,” he says.

Although there are apparently no studies indicating cytotoxins have created health problems for family members of patients or caregivers, there has been some research into on-the-job exposure to workers. A study published in 2010 found that nurses who worked in a cancer center or an oncology nursing unit had an increased risk of breast cancer. The findings of an earlier study in 2005 suggest that chemotherapy nurses are more likely to experience infertility, miscarriage, and preterm births, and their offspring have a higher risk of learning disabilities.

Joel Tichner, an environmental scientist at UMass Lowell, says he would buy the Pharma-Cycle kit if someone in his family came down with cancer to be safe rather than sorry. “If we can reduce the amount going into the environment by even a little bit, that would be a good thing while we’re trying to figure out how to deal with this problem,” he says. “It’s short-term solution.”

But most other experts contacted by *CommonWealth* were wary or outright hostile to the idea. Holly Dowling, a nurse educator at Beth Israel Deaconess, says that before anyone plops down \$1,200 for the Pharma-Cycle kit, more information is needed. “The kit is interesting food for thought,” she says. “But I think there needs to be more exploration what risk human waste possesses.”

DeMonaco of Mass General agrees. “Should we work to reduce the environmental exposure and potential patient and family-member exposure to these agents,” he says. “I think the answer is yes. Is there a significant risk to patients’ families as it relates to these agents? There’s absolutely no data to support that contention.”

DeMonaco is also troubled by the promotional literature put out by Pharma-Cycle. “They’re trying to scare people into buying their kits,” he says. “And these people are already scared enough.... Fear-mongering and absolutism really don’t have any place in this discussion.”

James Hammitt of the Harvard Center for Risk Analysis says key variables to consider are how much benefit is gained by reducing exposure to cytotoxins and how much is spent or given up to attain that benefit. “I’m skeptical that what they’re [Pharma-Cycle] doing with the waste is a lot better than putting it through a sewage treatment plant,” he says. **CW**



Teacher lessons

After leading the most ambitious study of teacher effectiveness ever undertaken, Thomas Kane says we can measure quality in ways that are fair to teachers—and to students who deserve the best instructors schools can provide.

PHOTOGRAPHS BY FRANK CURRAN

A CENTRAL FOCUS of education reform efforts over the last decade has been the premise that classroom teachers are the single most important in-school variable affecting student learning.

The idea that there are big differences in teacher performance is axiomatic to anyone who recalls sitting at a classroom desk, or to any parent who has marveled at the impact of a great teacher on a child—or fretted over the lack of learning when that child was saddled with a clearly ineffective teacher. But researchers, school leaders, and teachers unions have argued over how to measure differences in teacher effectiveness and how to translate any such findings into policy and practice.

Thomas Kane, a professor at the Harvard Graduate School of Education, has been at the helm of the largest research study to date that has tried to address many of the

questions roiling the teacher effectiveness debate. The Bill & Melinda Gates Foundation funded a massive, \$45 million, three-year study under Kane's leadership, the final report of which was issued in January. The Measures of Effective Teaching project recruited 3,000 teachers to volunteer for the study in six US school districts.

The study assessed teachers of students in grades 4 through 9 using three different measures: student test scores, classroom observations by trained evaluators, and student feedback surveys. The researchers concluded that combining the information from all three approaches, with test scores accounting for one-third to one-half of a composite index, provides the best measure of teacher effectiveness.

Teachers were assessed based on their students' progress on standardized test scores in math and English. Such "value-added" assessments are designed to measure

CONVERSATION

the true impact of a teacher by taking into account the varying achievement levels at which students begin each school year.

Teachers were also assessed based on classroom observations by trained evaluators. Unlike conventional in-person teacher evaluations, these involved videotaping multiple classroom sessions, which were then reviewed by at least two different observers.

Finally, the study gathered feedback from those with the most extensive knowledge of a teacher's day-to-day classroom practice—his or her students. Student appraisals of such qualities as a teacher's ability to explain concepts in different ways or to manage classroom time well were remarkably consistent with how that teacher fared in the assessment based on student achievement scores. Ronald Ferguson, a Harvard colleague of Kane's, developed the student feedback questionnaire used in the study. "Kids know effective teaching when they experience it," Ferguson told *The New York Times* in 2010, when preliminary results from the student survey component were released.

Kane, an economist who has spent years studying teacher effectiveness and education policy, seems temperamentally well-suited to navigate the minefield of today's education reform debates. He speaks with thoughtful deliberation, betraying more than a hint of his North Carolina roots, and makes his points strongly but without the finger-pointing that too often undermines any hope of finding common ground in such discussions. Kane is quick to acknowledge the many nuances involved in examining what makes for great teaching. But he is steadfast in arguing that any areas of uncertainty shouldn't hold back policy reforms that make use of the firm knowledge that has been gained, which he believes can contribute to big improvements in American schools.

How much change the MET study will spur in teacher policies remains to be seen, but its significance in adding to our understanding of teacher effectiveness is hard to overstate. Andrew Smarick, a well-known national education policy expert, wrote that it "may prove to be the most important K–12 research study of this generation."

I sat down with Kane at his office in Cambridge to better understand why that may be the case. What follows is an edited transcript of our conversation.

—MICHAEL JONAS

COMMONWEALTH: The whole premise of the research project was that there are meaningful differences in the effectiveness of teachers and that we might be able to measure these reliably. Can you talk a little about how that idea developed? What have been the prevailing norms or policies that it is challenging?



THOMAS KANE: A couple of coauthors and I wrote a paper in 2006 where we noted what many people had been observing for decades: First, that there are these large differences in student achievement gains in different teachers' classrooms; second, that those differences had very little to do with the teachers' initial credentials [like whether they have a master's degree or not]; and third, that the teachers seemed to improve from their first to their second to their third year of teaching but then plateaued afterward. One way to read those three initial facts is that it's important to try to measure performance on the job because there are big differences in test score gains, but school systems weren't organizing themselves to do this. There's been a lot of confusion about our examination of test score gains. The way I view them is they are, in a sense, the tip of the iceberg. They are the thing that is suggesting there's a lot more below the surface, that there presumably are big differences in teacher practice that are generating those achievement differences. We designed the study to try to also learn more about what those differences in practice are and to see whether you can measure them. All the evidence has been suggesting for years that measuring performance on the job is critical, and yet we've never taken those results seriously.

CW: In many ways, the policies in place for how we hire, evaluate, and compensate teachers in the country have been

proceeding along without recognition of any of these factors. Was it like two ships passing in the dark?

KANE: Actually, it's worse than that. It's almost as if our policies were designed as if just the opposite were true. It's not just that the policies were designed unaware of the facts. The policies were designed as if we were living in some parallel universe where the opposite of what the evidence was suggesting was true. All of our policies focus on teachers' credentials at the time they start teaching. So when states think of licensure, when they think of their role in ensuring a high-quality teaching force, they think of raising the standards for entering teaching. But all the evidence suggests that's not where the action is, that the licensure requirements are not that related to student achievement gains. It's hard to know who the great teachers are going to be before they get into the classroom. Then, once they're there, the things we have done have been perfunctory. Teacher evaluations and classroom observations have been required in school districts for years, and yet in the typical system, 98 percent or more of teachers are given the same satisfactory rating. That's just making a mockery of the whole idea.

CW: So you went at it with the premise that we need to work backwards—we need to see where real strong learning is taking place, in whose classrooms, and from that begin to map backwards and hopefully figure out what it is that's making those teachers effective?

If you combine these measures, you can identify teachers who cause greater student achievement to happen.

KANE: There had been attempts over the years to propose ways to identify effective teaching practice in the classroom. Back in 1996, Charlotte Danielson published a book, *Framework for Teaching*, which proposed a set of behaviors that education research implied would be related to student achievement gains. And there were others. We said, let's set up a study where we could compare and contrast those and test some of these hypotheses about what effective teaching looks like. And let's do so in a way that lets us combine several different measures. So we said, suppose for the same group of classrooms we also collected student surveys. And suppose we also collected a test of teachers' pedagogical content knowledge. And let's see whether the combination of measures could do better than

any one alone. That had not been done before, and it certainly had not been done on such a broad scale—3,000 classrooms.

CW: How would you summarize the big-picture conclusion from the project?

KANE: The most important finding was we learned that if you combine those measures, you can identify sets of teachers who cause greater student achievement to happen. And I use that word “cause” because in the second year of the study we randomly assigned classrooms [of students] to different teachers. We had measured teachers' practice in the first year, when they were assigned to classrooms the usual way. From that we had an impression—based on the observations, student surveys, and achievement gains—of who the more effective and less effective teachers are. We said, let's test those impressions by randomly assigning classrooms to both groups, and let's see what happens. And what we learned was not only were there differences in achievement following random assignment, but the differences were similar to what we would have predicted based on data in the first year. Teachers do tend to be assigned different kinds of students, but it's based largely on the students' prior test scores, and that is something you can control for.

CW: What did you find in terms of quantitative measurements that try to capture what it means to be in the classroom of a highly effective teacher versus the least effective?

KANE: In math, a top-quartile teacher on the combined measure generated 7.6 more months of learning in a typical school year than a teacher in the bottom quartile. To put it another way, that's a quarter of the black-white achievement gap closed in a single year. Or, still another way, if we could find a way to ensure that our average teacher generated gains similar to a top-quartile teacher, we would close the US achievement gap with Japan in two years. The effects are smaller in English language arts. In ELA, having a top quartile teacher generates 2.6 additional months of learning in a single year relative to a bottom quartile teacher.

CW: The broader conclusion that the study drew was that the ideal way to assess effectiveness is by using all three of the measures. Some critics have said the achievement score gains alone tell you all you need to know about who is and who isn't effective. They've suggested that because assessing teachers based on student test scores has become so controversial, the Gates Foundation tried to paper that over by dressing up the conclusions to say student feedback and classroom observations are also key parts of the equation.

KANE: It's only dressing up the findings if you don't accept the idea that this is about more than just accountability. My frustration with that criticism is that we were very explicit that being able to predict student achievement gains in the future is only one of the goals in trying to measure effective teaching. Another goal is to be able to provide feedback to a teacher on specific practices that they might change in order to see future achievement gains. And a third goal would be to come up with a measure that's not going to fluctuate too wildly from year to year or from classroom to classroom. Each of the three measures—the student achievement gains on state tests, student surveys, and classrooms observations—had different strengths and weaknesses.

Measuring a teacher's track record at being able to cause large gains in achievement in the past does seem to have considerable predictive power with respect to their likely gains with future groups of students. But those measures are terrible in terms of providing teachers with suggestions about what they might do differently in terms of actual practice, and they also tend to fluctuate from classroom to classroom. The classroom observations and the student surveys, because they refer to specific aspects of somebody's practice, could have that sort of diagnostic value of pointing a teacher to think about aspects of their practice they should work on. In particular, the student surveys boost reliability. They are the least likely to fluctuate from year to year and from classroom to classroom. What we learned from the classroom observations by adults was that even with trained observers there was a significant amount of judgment involved. If you read any of these instruments, like the one on questioning skills, you'll see there's plenty of room for judgment in there.

CW: You mean, are teachers good at Socratic teaching or getting that kind of dialogue going?

KANE: Yes. So the instrument is fairly clear at the extremes. A teacher will get a low score if they ask a bunch of yes/no questions, if the teacher does all the questioning, if there are very few students involved in the questioning. A teacher will get a high score if the questioning is not just yes/no, if it requires students to explain their understanding of something, because it turns out that any new knowledge is based on old knowledge—it's the way we learn. Those are the two extremes. The middle categories become a little squishier to identify, and so when I say we learned that judgment matters, we learned that even after we trained these raters, in watching any given video, the raters often disagreed. One way to increase reliability is to average. We learned that when you're having adults observe, you want to have at least two adults and four observations, because we also saw that a teacher's practice varied from class to

class, and you wouldn't want to just base it all on one class. Now you can average two or three adults and you can average three or four lessons. But with the students, you're averaging over 25 students in an elementary classroom, and 75 or 100 students for middle and high school teachers. So you get the power of averaging over just lots more observers, and the students are not there for just three or four lessons, they're there for 180 days over the course of the school year.

CW: So it's a matter of statistical power or sample size?

KANE: Right. So even if the average student is not nearly as discerning as the average adult, you get to have many more students involved rather than a couple of adults.

CW: Some people have asked, won't students just view favorably teachers that are nice, teachers that are lenient, teachers that have qualities that aren't necessarily the ones of interest that you might be able to correlate with what we think of as effective teaching or the ability to drive learning?

There is no way
any system could hope
to fire its way out of
this problem.

KANE: In these questions, we tried not to just conduct a popularity contest. The questions focus on specific student experiences in the classroom. In that sense, I actually think the questions are even better than the questions that are used in higher education as part of our student evaluations.

Can I circle back to one thing that I think is important? You stated the criticism from the right—why include observations and student surveys when student achievement gains are the most predictive? But there's criticism from the left that says, why use student achievement gains? I thought we'd made a lot of progress on that question. Five years ago, it was not rare to hear somebody say student achievement should play no role whatsoever—

CW: And that schools were becoming test factories.

KANE: Right. I think that has become rarer now, but it has not disappeared. There are two things that that argument misses. One is, suppose that a teacher is getting gains using very unconventional methods. That teacher will be happy that student achievement gains are part of the picture and not just classroom observations and student surveys. So think of the Doug Flutie of the world, who don't look like the classic NFL quarterback, and yet through his career



he won football games. So while I do think it's important to try to identify the key aspects of practice that are associated with better student learning and provide teachers with feedback on that, I also think we need to be humble enough to recognize that even those general pointers might not work for a subset of teachers and that there needs to be an outlet for recognizing that. If student achievement gains aren't part of the outlet, we're driving people to conformity. So if we want to leave room for people who are getting great results with unconventional means, student achievement gains have to be a part of it.

A second point I wanted to make about the why-use-test-scores critique is that people have correctly pointed out, hey, look, these tests that we're using are only measuring a subset of the skills that we want teachers to be teaching. That's obviously correct. But the conclusion that some people draw from that doesn't necessarily follow. High-stakes decisions are being made all the time. It's not that we can avoid making them. In most collective bargaining agreements, if a teacher's contract is renewed at the end of the second year, they get tenure in their third year. A principal is trying to use whatever information they have for making a difficult decision. Even if the test score gains on the state test are a limited measure and lots of other things will matter, what makes us think that those would be less related to student achievement gains on the state tests than the other things like experience or master's

degrees? One of the things we could do in this study was to take seriously the criticism that the state tests are incomplete. So in addition to the state tests we gave, students took supplemental assessments that in math probed for conceptual understanding. So they're not just applying an algorithm that they've used in school; they're given a word problem that might require an understanding of addition to solve.

CW: So it sits outside of the teach-to-the-test structure?

KANE: Right. And in literacy, we had a test that required kids to provide some short-answer, written responses to the prompts rather than just multiple choice questions. We wanted to ask, are the teachers that are generating gains on these assessments different from the teachers that are generating gains on the state tests? And while they weren't perfectly correlated, they were related, and they were much more related to each other than experience or master's degrees, the two other things that we are making lots of high-stakes decisions on now. Now that doesn't mean that if it were possible to include more items requiring conceptual understanding on the state test that wouldn't be a good idea. It actually probably would be a good idea. But to think that the current tests are measuring things that are completely unrelated to conceptual understanding, I think, is just wrong, and is sort of taken as implicit in many of the arguments against it.

CW: The whole discussion around these issues often gets reduced to the idea that we're looking for a way to axe bad teachers or reward great ones. I suppose at the extremes that might be the case, but it's probably not going to be useful for making those kinds of decisions for the big bulk of teachers who fall somewhere in the middle.

KANE: I agree they probably won't be useful for making those kinds of decisions, but I actually would bet that's where the most information is. You've hit on what I think is one of the fundamental mistakes we make when we frame this discussion. Accountability is definitely part of the discussion. But from reading the blog posts or public debate or cocktail party discussions, you'd think it was 85, 95 percent of the issue. But you're absolutely right, there is no way that any system could hope to fire its way out of this problem. Rather, for the vast majority of teachers these measures will be used as feedback, hopefully, for driving changes in improvement in practice. We will not see dramatic gains in student achievement unless we see dramatic differences in teaching. But that's adult behavior change, and that's hard. Think about this as a public health challenge. Imagine if we were all to try to lose 20 pounds. Imagine how we would possibly try to do that without bathroom scales. One way to think about the MET

project is we're trying to build a rudimentary bathroom scale that could be used as a basis for a massive adult behavior change effort. We can't underestimate the difficulty of that challenge. We also can't underestimate the necessity of that challenge. So a starting point is to ensure that we're providing feedback to folks on the job. I think teachers will embrace that aspect of it, and I'm afraid that too much emphasis on the accountability side of it has led teachers to be afraid of it and alienated by it.

CW: But as you say, accountability is still part of the story here. What is your view on the use of value-added assessments based on test scores to make high-stakes accountability decisions—whether this involves terminating those at the bottom or somehow rewarding exceptional talent seen at the upper end?

KANE: As we think about making high-stakes decisions, we need to focus where the benefits are highest. That's the initial tenure decision. After a teacher has been on the job for a couple of years, a district knows an awful lot more than they did at the moment of hiring about the teacher's performance. Principals should ensure that only those who are clearly more effective than the average novice are granted tenure. It's like in professional sports: No team manager would forego a future draft pick for a player whose performance is not as high as the average rookie. Today, virtually anyone willing to remain with a district for three or more years will be granted tenure, the equivalent of a long-term contract. And yet many of those teachers have measured performance below the average novice. Every time that happens, students are harmed, the status of the profession is diminished, and more effective teachers get a colleague that they will have to cover for.

At the upper end, there's been a lot of confusion about merit pay. Merit pay in schools is not about spurring on greater levels of effort. Teachers are already working pretty hard. Rather, I think the best use of merit pay is to retain young teachers who have demonstrated great promise with their performance in the classroom. Early in their career is when teachers are at greatest risk of leaving. It may be useful to grant longer-term bonuses, say, five years, to the teachers with the greatest track record of early career performance. Changing behavior is the key. Paying bonuses to someone who would have stayed anyway may be fair, but it's also costly. Paying bonuses to retain high-performing teachers who would have left can yield high returns for children. While it's impossible to know if any given teacher would leave, we know it's a greater risk early in their career, when turnover is highest. By the way, I would make these decisions on the basis of the combination of achievement gains, student surveys, and observations. I would not base it solely on value-added scores. Moreover, I think it's impor-

tant to preserve principals' discretion. After all, the measures can be misleading and the principal will know more about any given candidate. If a principal wants to override a decision and grant tenure to someone with performance below the average novice, they should be allowed to do so. However, they should be expected to notify the parents in the school that they are doing it and describe their reasons.

CW: So what have you learned from the project about what excellent instruction looks like? If we know there are differences, can you point to what some of them are?

KANE: So one of them is the questioning skill that we talked about. Another is time management. What's the pace in class? Are there five or 10 minutes in class that are just wasted handing out papers and so forth? A third is just classroom management and how successful a teacher is in establishing an orderly environment.

CW: And obviously content knowledge at some point figures in here, too.

KANE: That's the part that I think we have to make the most progress on. Right now, the classroom observation instruments that school districts are implementing are content agnostic. You could score well in terms of your questioning skills and your classroom management and your time management and be teaching incorrect stuff.

CW: This is the largest, most comprehensive study to ever look at these questions. Does it feel like it's been pretty path-breaking?

KANE: I think this is a start. I feel like for four decades we've known that there are large differences in student achievement gains in different classrooms, and for four decades we've ignored that. So we've started to pay attention to it, and we've made some suggestions about what better classroom observations and what better student surveys should look like. But hopefully, as these systems get implemented, they will then be improved, and there will then be a next generation of classroom observations that will parse the important aspects of teaching even more effectively than the ones we tested, and there'll be better student surveys and maybe there'll be even some other things. Again, at least we've gotten started.

CW: How do you see all this fitting in with what is sometimes referred to as the education wars that pit teachers unions against reform advocates, where the use of test scores to evaluate teachers is often the polarizing issue? I saw a comment from Randi Weingarten, the president of the American Federation of Teachers, around the time of the

release of your final report, that was surprisingly positive about the study, especially about the idea that it embraced using multiple measures of effective teaching. I don't know if it's Pollyannaish to think that we're coming to a point where the work you and others are doing is no longer seen as an attempt to attack or undermine teachers, but is seen as trying to boost the profession and recognize them as professionals and, ultimately, improve learning for kids.

KANE: I think that this debate has evolved dramatically in the last three or four years, and it will continue to evolve. Remember, all of the teachers that were a part of this study were volunteers, and one of the six districts we worked with was New York City. We had the support and cooperation of the United Federation of Teachers in New York, which helped us recruit teachers to be part of the study. And Randi had been the president of the UFT in New York before moving to the national office. I give them a lot of credit for that. They had been saying, look, it can't be just test scores. But they also realized that the rest of the system was completely broken, that classroom observations were not discerning. I don't mean to say they're enthusiastic about the student surveys, because there are a lot of reservations that teachers have raised about those.

But they were at least open to trying to develop some other things besides test scores, and they realized that the infrastructure just wasn't there. I think you've hit on, though, the way that this sort of large coordinated research project can help make progress in important policy debates in education. It's hardly ever by completely overturning somebody's prior belief. That happens, but it's a very rare event that, on an issue where somebody has taken a very hard position, evidence is going to be enough to push them off that. But what this kind of research project often does is identify other areas where there had not been battle lines drawn, where there's room for common ground and common understanding and discussion. And so, on classroom observations and the importance of training observers, I think there's a lot of common ground. I think the debate has become a lot more nuanced than it was four years ago, and I think it is partially because the evidence base has evolved. When people become cynical about the value of research, I think they fail to recognize that you don't have to change somebody's mind about an issue to still have an impact on their thinking, and I think we're seeing that on both sides of the education wars. It's not like there's 100 percent agreement on everything, but I think there's been progress. **CW**

TRANSFORMATIVE REDEVELOPMENT

Strategic State Policy for Gateway City Growth and Renewal



GATEWAY CITIES INNOVATION INSTITUTE

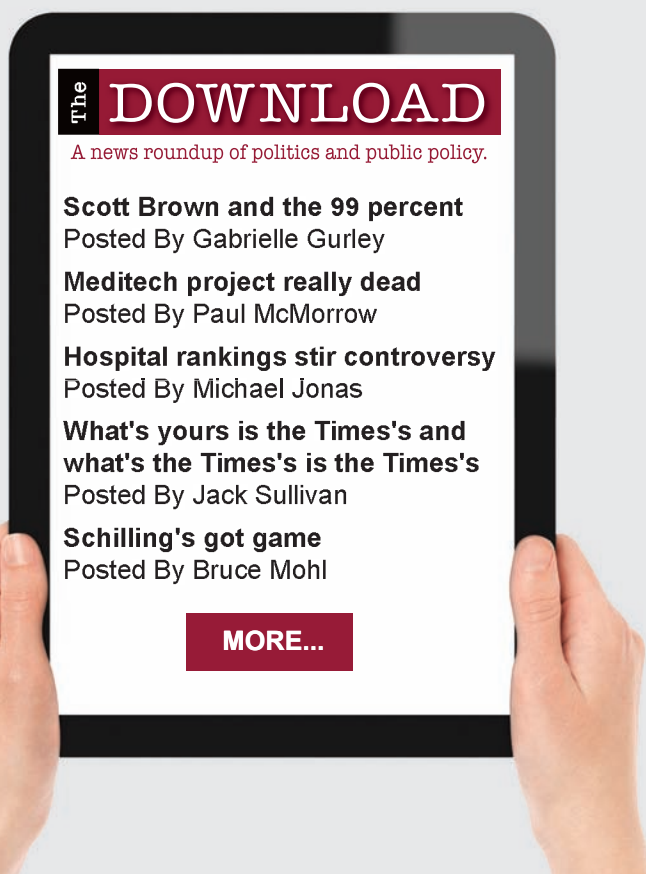
The MassINC Gateway Cities Innovation Institute is pleased to present *Transformative Redevelopment: Strategic State Policy for Gateway City Growth and Renewal*. Read the report online at www.massinc.org/research, or call 617-224-1645 to purchase a hard copy.

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Subsidize hydro

Our goal should be reducing carbon emissions, not supporting one form of renewable energy over another **BY R.J. LYMAN**

AS MASSACHUSETTS POLICYMAKERS seek to move today's economy beyond the legacy of fossil fuel combustion, we're forgetting our heritage. New England was a world-class industrial power in the early 19th century, its success built on the energy from traditional water wheels and innovative water turbines. One of the best ways to bring non-fossil fuel power to New England, our quirky home where the wind doesn't blow all that much and the sun doesn't shine all the time, is to once again tap the flow of our rivers and the fall of our waters.

New England has more than 8,000 existing, unpowered dams and our Quebecois neighbors to the north stand ready to sell us excess generation from their existing HydroQuebec turbines. The HydroQuebec power available from existing impoundments is plentiful, more than twice as much as all renewable generation in Massachusetts currently. It is also relatively cheap.

What is needed to turn the promise of these resources into the reality of less fossil fuel dependence?

First, we need to recognize what our policy goals are. Our transcendent state-level clean energy purpose should be to generate electricity without pumping as much carbon into our atmosphere. The goal is not to favor one renewable energy technology over any other; it is not to create an artificial local market for innovations originated here; and it is not to subsidize research and development. These are worthy goals, but I would not pursue them to sacrifice the opportunity to reduce greenhouse gas emissions now.

Second, we need to remember who our constituent audience is. Energy policy should be targeting the taxpayers and ratepayers of the Commonwealth and not the clean energy companies

who seek to deploy their products. As the president of one Massachusetts-based clean energy company and the board chairman of another, I strongly favor the success of these enterprises; I just don't believe it is the job of our state government to prop them up or push them forward. If there are two approaches to achieving clean energy goals, it seems prudent to adopt the more cost-effective one, passing along the savings to the citizens whose priorities and principles inform policies in the first instance.

Third, we need to realize the urgency of reducing our carbon footprint. In my view, there is a scientific consensus that climate change is occurring and that human activities are contributing to it. In addition, global physics suggests the pace of climate change is accelerating much faster than most desk-top models have projected. Assuming these truths—inconvenient as they are—require our attention, the time to act is now.

Massachusetts currently promotes renewable energy deployment through subsidies for new generation from qualifying resources. These subsidies are created by imposing on investor-owned utilities an ever-increasing obligation to buy renewably-generated energy; at present, that obligation stands at 7 percent of their peak sales, and it is scheduled to rise 1 percentage point a year to 15 percent in 2020 and keep rising thereafter. The subsidies, which take the form of renewable energy credits, provide renewable energy developers a revenue source over and above what the market would otherwise pay for their electricity generation.

Only specified types of renewable energy qualify for these credits. For example, the utilities must purchase a small portion of their renewable energy credits from solar photovoltaic projects in Massa-

chusetts. The rest may come from energy from solar, wind, ocean thermal, wave or tidal, certain fuel cells, landfill methane gas, marine or hydrokinetic, geothermal and, under specified conditions, biomass and small-scale hydro projects scattered across New England.

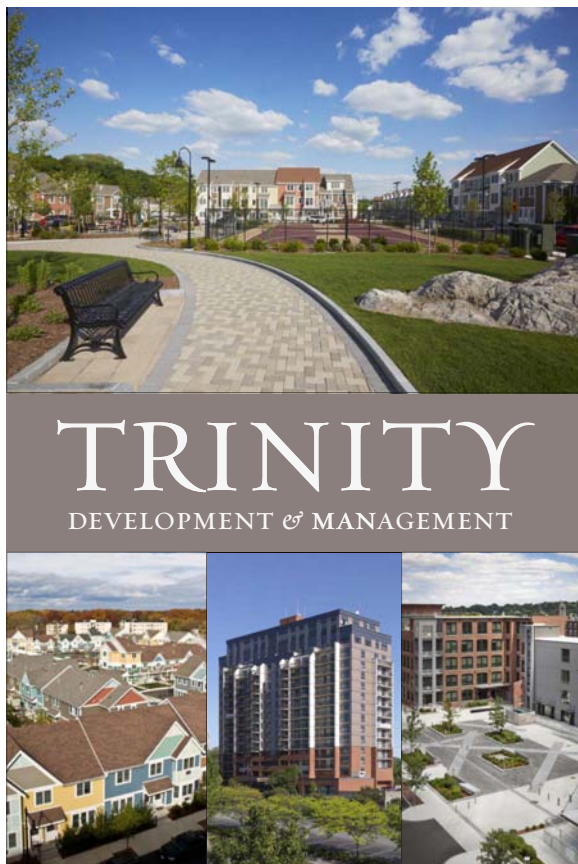
In the state's most recent report on the renewable energy credits, Massachusetts appears to be falling short of its goals. To meet those goals, Massachusetts should level the playing field to allow large-scale hydro to qualify for renewable energy credits and to align the specified conditions on small-scale hydro with those already sensibly imposed by existing environmental regulations. The current approach significantly disadvantages our region's most abundant renewable resource and impedes the Commonwealth's ability to reach the 15 percent renewables target for 2020. It also renders well-nigh impossible any further progress toward a truly fossil-fuel free future.

I fully recognize there are some who will critique my call for a leveling of the playing field. Hydropower doesn't need the subsidy, they will say, as it is a mature technology. They will note—rightly—that it will flood (pun recognized) the market for renewable energy credits, thus precluding other, more expensive technologies from receiving the resultant subsidy benefit. And, they will point out,

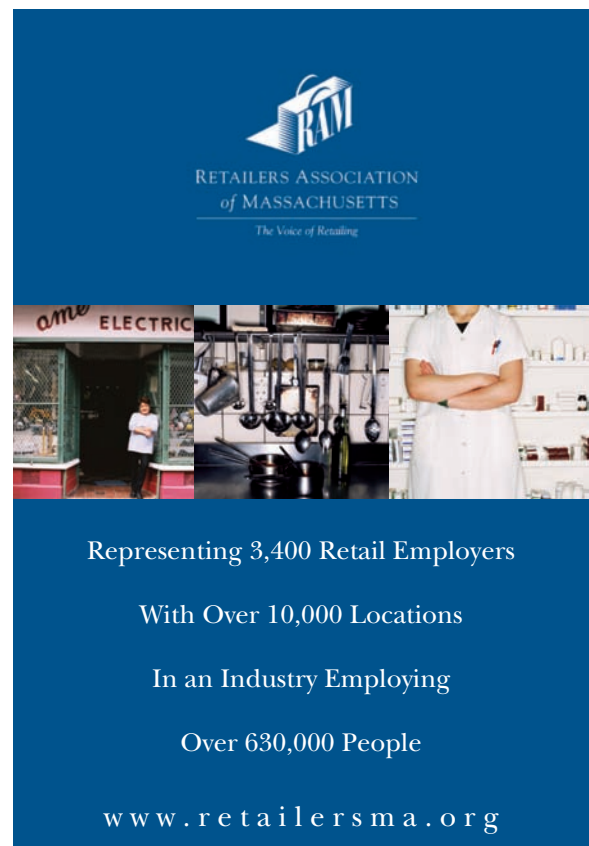
hydropower isn't the environmentally beneficial generation source its proponents (like me) claim it to be.

Let's take these arguments in turn. While there are lots of innovations being explored, especially for smaller hydro installations, they don't involve the sort of ground-breaking basic research or earth-shattering development improvements occurring for solar or other technologies. But there are challenges to installing and delivering hydropower for which renewable energy subsidies could prove useful. For large hydropower, there is the challenge of transmitting the power from remote impoundments to urban load centers. As part of a grand bargain, HydroQuebec could be required to use its subsidies to help the proponents of the so-called Northern Pass project running from Quebec to southern New Hampshire avoid the forest and habitat fragmentation that the public and advocates are rightly concerned about. Using the subsidies in this way could not only yield a better result ecologically, it could allow the kilowatt-hours of energy to be delivered sooner, if contentious hearings and prolonged litigation can be avoided or lessened.

For small hydropower, there is the challenge of repairing or rebuilding under-maintained, existing dams (at least those not deemed for ecological reasons appropriate for removal). It is worth noting that a slight majority of exist-



The image is a promotional graphic for Trinity Development & Management. It features a large photograph of a modern residential development with a paved walkway, a bench, and a playground. Below this, the text "TRINITY" is written in a large, serif font, with "DEVELOPMENT & MANAGEMENT" in a smaller, sans-serif font underneath. At the bottom, there are three smaller images: a row of colorful townhouses, a modern high-rise building, and a courtyard area with a fountain.



The image is a promotional graphic for the Retailers Association of Massachusetts. It features a blue background with the organization's logo at the top, which includes a stylized "RAM" and the text "RETAILERS ASSOCIATION of MASSACHUSETTS" and "The Voice of Retailing". Below the logo, there are three images: a storefront with a sign that says "ELECTRIC", a kitchen with a chef in a white uniform, and a person in a white uniform standing in a store. At the bottom, the text "Representing 3,400 Retail Employers", "With Over 10,000 Locations", "In an Industry Employing", and "Over 630,000 People" is displayed. The website "www.retailersma.org" is at the bottom.

ing dams in Massachusetts are publicly owned, and neither the Commonwealth nor most municipalities have the financial resources to deal with deferred maintenance. Renewable energy subsidies could rectify that situation and, in the process, add new power to the grid and address looming liability for the degrading dams.

Second, it is reasonable to assert that allowing lower-cost hydropower to access the market for renewable energy subsidies would likely overpower the ability of wind and solar (and other expensive technologies) to receive subsidies, at least in the near term. It is for this reason that many argue that hydropower, particularly large-scale hydropower, should not be subsidized. Hydro doesn't need subsidies, they say. It's cheap enough already. Yet this approach sacrifices the interests of ratepayers to solar and wind developers. Given the highly intermittent wind profile (especially onshore) and the low levels of solar insolation that occur in and near Massachusetts, hydropower will be far more cost-efficient from a ratepayer perspective than wind or solar may ever be. Like Iceland, Switzerland, and other countries with nearly zero-carbon-energy-generation mixes that reflect the resources that happen to be prevalent in their land, air, and waters, Massachusetts should not try to put the square peg of wind and solar into the round hole of its unpredictable cold, wet, and cloudy weather.

Third, new impoundments for hydropower can create their own set of climate change impacts in releases of greenhouse gases from the newly submerged areas. But none of the early and easy opportunities to increase hydropower for Massachusetts requires new impoundments. The contemplated imported energy from Quebec comes from excess, seasonally off-peak generation from existing turbines on existing dams for existing impoundments. (There is a

similar opportunity from the Maritime provinces). The contemplated in-state, small-scale hydropower simply re-powers long-dormant mill dams. It makes sense to remove some dams for local ecological and related reasons, including restoring fish runs. But it is difficult to claim that higher utilization of existing generation somehow creates incremental climate change impacts.

In sum, I worry that the conventional approach to renewable energy development constitutes the functional equivalent of trying to improve the design of the deckchairs while the Titanic sinks. I would rather focus on plugging the leak in the ship's hull rather than paying above-market rates for the deckchair designers. Moreover, the intrinsic resource characteristics of Massachusetts and its environs work against the economics of wind and solar, even as their technologies improve. I would rather wait as innovators in Massachusetts and elsewhere improve the cost-effectiveness of these technologies at the expense of ratepayers in other jurisdictions, where the cost burden is not so great as here. Once the technologies become more cost-competitive, subsidies can be adjusted then.

Finally, I start with the presumption that deploying lower-carbon generation technologies sooner is essential for combating climate change and prudent for the economy when these technologies are lower cost than other renewables. When subsidized, the technologies can provide more cost-effective power for ratepayers than certain conventional generation sources.

R.J. Lyman is president of General Compression Inc. and chair of New England Hydropower LL; he previously practiced law as an equity partner at Goodwin Procter LLP for over a decade, before which he served as assistant environmental secretary during the Weld administration. (His opinions are solely his own.)

No help needed

Hydro shouldn't replace homegrown renewables **BY PETER ROTHSTEIN**

AS RESIDENTS OF the Commonwealth of Massachusetts, we live in a state where we spend more than over \$22 billion a year on energy, about \$18 billion of which we import from outside of our region. These dollars go primarily for gas, oil, coal, and transportation fuels, sending our hard-earned money out of Massachusetts and New England instead of spending it here to create jobs and develop the regional economy.

We live in a region at the end of the traditional "pipe -

line," making us an expensive energy region and subject to price fluctuations in national and global markets. We're also a state that embraces innovation, with a strong history of civic involvement, business investment, and public sector leadership that come together to solve problems and agree on new approaches to advance our economy and improve our environment efficiently and cost-effectively. One of the most recent, successful examples of policy makers, businesses, and consumers coming together in

this way, under the leadership of Gov. Deval Patrick, is in the crafting of a robust clean energy and climate strategy for Massachusetts.

Massachusetts' strategy recognizes that there is no single answer to securing a cost-effective clean energy future for our citizens, businesses, and industry. We need to embrace an "all-of-the-above" strategy that starts with energy efficiency (the first fuel), adds distributed renewable and clean generation to a smarter, more modern grid, and complements those investments with cleaner imports. If we do this the right way, we will create thousands of new jobs, not only in the energy sector, but also in companies that are more efficient and sustainable.

So, while some are suggesting that we need to shift our focus from diversifying our energy mix and instead enter into new contracts to import large hydro from Canada that would send tens of billions of dollars out of the regional economy, including ratepayer subsidies, I respectfully disagree. Large hydro is not the answer—but it is part of the mix we need to cost-effectively put in place an electricity system that will power our economy with reliable, secure, and clean energy.

Where does hydro fit? And what are the roles of subsidies to make our energy system cleaner? To answer these questions we need to revisit our climate goals while also looking at the track record from recent years to see how we're doing, and how hydro can help, not undermine, success.

Massachusetts' policies and regulations aim to reduce the level and volatility of energy costs to consumers, as well as the environmental impacts of energy use. The Commonwealth's approach has wisely not taken a short-term, cost-only approach. Our policy framework has appropriately taken a long view to achieve a combination of important goals:

- Pursuing all cost-effective energy efficiency to reduce our energy use and costs;
- Using market mechanisms to increase competition and help drive down costs;
- Investing in renewable and clean energy development across Massachusetts and New England, making our energy system cleaner while stabilizing energy costs and creating significant in-region job growth;
- Designing incentives and standards so that new, clean energy technologies can begin to come to market at increasing scale, competing more as subsidies decline and as specific technologies become a larger part of our energy mix;
- Supporting replacement of the dirtiest generation sources with cleaner fuels by encouraging natural gas-fired power plants and imports of hydro to replace the energy from aging baseload units; and
- Across all sectors of our economy, embracing a diverse mix of solutions to reduce greenhouse gas emissions.

So how are we doing with this daunting set of goals? The evidence shows that the portfolio strategy is working better than we thought—and that there also is a place for more large hydro. Over the last five years, investments in energy efficiency have reduced energy demand, producing savings for consumers and eliminating the need to sink costs into new power plants. Average residential energy bills in Massachusetts have fallen faster than the national average, dropping from the 16th most expensive bills in 2008 to 35th in 2011.

We've brought down costs while accelerating renewable energy growth, greenhouse gas (GHG) reductions, and job growth. Investments in solar have outpaced targets, leading to an increase in Massachusetts solar generation from 3.5 megawatts in 2006 to 220 megawatts today. Clear, stable policies have helped create thousands of jobs in the Commonwealth, and convinced leading US solar companies to expand, all while helping contribute to solar cost declines of 60 percent over the last five years.

Solar, wind, and other new and rapidly developing renewable technologies would not be growing so rapidly without the renewable energy standards and credits the Commonwealth established—not to perpetually subsidize renewables in the way the federal government continues to do with fossil energy, but as a transitional approach to bring these new technologies to scale. Providing declining subsidies to distributed renewables while they grow from 2 percent of our energy to 5 percent, 10 percent, and above, is an investment in a lower-cost, cleaner-energy economy over the long term.

Given these significant successes, what is the place for large hydro in our energy mix? And should it count toward Renewable Portfolio Standard (RPS) targets?

First a quick definition: large hydro is not the repowering of the small dam that used to run a textile or paper mill in a small New England town. Those repowering and new projects are 1, 5, and 10 megawatt projects that appropriately compete against solar and wind for renewable credits today, and produce distributed power while also creating local jobs.

Large hydro is different. In the Northeast, it has been developed over decades in Canada, at project sizes in the hundreds or thousands of megawatts, enjoying significant economies of scale and producing power at low cost. New England already takes advantage of this resource. We can and should look to increase our large hydro purchases from existing projects to provide clean baseload electricity to the region.

However, large hydro does not belong in the RPS, and does not fit as a replacement for homegrown renewables. It makes little economic sense to provide renewable credits to large hydro projects. These limited subsidies are intended to help new, emerging renewables reach eco-

conomic scale, while diversifying our energy resources and creating regional jobs. Large hydro is a mature technology that doesn't need subsidies and has enough capacity to consume the entire requirement for new, utility renewable power purchases, effectively shutting solar, wind, small hydro, and other emerging clean technologies out of the Massachusetts market. Solar and wind companies would lay off workers. Companies that invested in expansion in Massachusetts on the promise of consistent policies to create increasingly competitive and cost-effective markets would have the rug pulled out from under them.

So is there a policy change that might define an increased role for large hydro? After all, the Massachusetts Global Warming Solutions Act set a goal of reducing the Commonwealth's greenhouse gas emissions 25 percent below 1990 levels by 2020, and included a key role for additional large hydro to help achieve this goal, which is broader than the 2020 RPS goal. To expand the Commonwealth's "all of the above" portfolio strategy, one approach that's been considered and should be taken up by the Patrick administration is the creation of a broader and larger "Clean Energy Standard" that includes large hydro while leaving the subset RPS intact. This would provide consistent policies for investment in efficiency and distributed renewable and clean tech-

nologies, while confirming that we should target additional large hydro in the broader clean energy mix to meet our greenhouse gas reduction goals. It would also confirm the appropriate role for emerging technology credits and regional job creation, while embracing a diverse strategy to invest in an increasingly cost-effective, clean energy system supporting jobs and a growing economy.

The answer for a cost-effective transition to cleaner energy, reduced greenhouse gases, and economic gain for ratepayers and our regional economy should include increased use of large hydro as part of the portfolio. But shutting down progress in small, distributed renewables such as wind, solar, anaerobic digestion, geothermal, biomass, small hydro, and others, which are all on pathways to becoming competitive, while shifting energy dollars that generate local jobs to dollars that leave our region, is the wrong approach. The answer is not to change course but to continue to diversify our clean energy mix while investing in our successful all-of-the-above strategy. **CW**

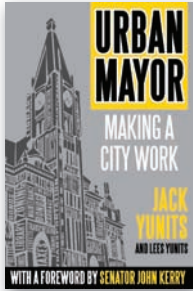
Peter Rothstein is president of the New England Clean Energy Council, a non-profit organization with hundreds of member and affiliate clean energy companies across all sectors of the region's clean energy industry.

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TUFTS  Health Plan

Gateway insights

Jack Yunits, the former mayor of Brockton, offers his recipes for success, but it would be nice to have more that could be duplicated elsewhere.



Urban Mayor—Making a City Work

By Jack Yunits with contributions from Lees Yunits
Boston, Acanthus Publishing
396 pages

REVIEWED BY MARK S. STERNMAN

THE COMMONWEALTH'S GATEWAY Cities have enormous potential, which explains why state officials, after years of neglect, are making educational and economic development investments in these municipalities to increase job growth beyond Boston. Former MassDevelopment president and CEO Bob Culver liked to talk about the “great bones” of Gateway Cities, meaning that, even though they struggle economically, they nevertheless have the critical building blocks of impressive architecture, major hospitals, and transport routes that form the foundation of prosperous communities.

The nascent literature of Gateway Cities, largely confined to shorter studies, lacks an overarching guidebook, an insider's look at the problems these communities face. That's why I looked forward to reading Jack Yunits's book. As the mayor of Brockton from 1996 to 2006, a period when the term Gateway City was not yet in vogue, Yunits has the right resume to write the right stuff.

Yet *Urban Mayor—Making a City Work* fails to deliver fully on its promise. Yunits has diluted his treatise on what makes a Gateway City like Brockton work by incorporating a concoction of family memoir and attempted scholarship. While the book documents Yunits's triumphs in Brockton, *Urban Mayor* leaves the eager reader hungry for more specific and applicable recipes that would yield success in other Gateway Cities.

The closer to Brockton Yunits gets, the better he writes on matters both small and large. For example, Yunits offers sage advice on snow plows in this super-storm age: “The quantity of the vehicles is important, but the quality of the equipment and the blade size is crucial, which is why preferred plows

are paid more.” He later helpfully notes the import of maintenance and planning, banal line items that budget writers nevertheless often overlook.

Yunits talks about admiring paintings in City Hall and having an expert analyze them. The paintings turn out to have a worth exceeding \$1 million, and Brockton ups its insurance on them. Here, Yunits nicely executes a telling anecdote that illustrates how a city can capitalize on its inherent, if occasionally obscured, advantages, a more picturesque example of the great bones of the Gateway Cities.

Yunits offers a compelling take on the disproportionate impacts of changes in the state budget on residents of higher-income municipalities as opposed to those in a poorer city like Brockton. “The Gov. Paul Cellucci tax cut meant an average \$1,600-per-household cut in Sudbury, and because the cut was not proximately related to income, a \$200 cut to a Brockton household. Meanwhile, the hit to Brockton's local aid to pay for the tax cut averaged about \$14 million annually, which...negatively impact[ed] the...delivery of services to the city,” Yunits writes. Too few elected officials, even former ones, have the courage to oppose tax cuts on these grounds for fear of being accused of inciting class warfare or offending their campaign contributors.

Under Yunits, Brockton adopted a pay-as-you-throw waste disposal program, which encourages recycling by requiring residents to pay a fee for each bag of trash they put at the curb. This green initiative, which too few communities even today have adopted, receives a moving treatment from writer Yunits in terms of the personal abuse he suffered as a result of pushing for his plan. But ex-

Mayor Yunits falls short in not offering tips on how other cities could implement such changes. In fact, Yunits later contradicts this concrete case of strong leadership in the face of widespread opposition with a dubious declaration “that good policy is only good if the public embraces it.”

Instead of mining more of these policy nuggets picked up from City Hall, *Urban Mayor* goes off course with an interesting, albeit dated, perspective on the Commonwealth. Looking at House Speakers and Senate Presidents, for instance, Yunits sees the governor as “number three on the totem pole in terms of legislative change and statewide agendas,” an assessment that Governors William Weld and Deval Patrick, among others, might dispute.

Yunits seeks to settle old scores that many others may have long forgotten or had thought decided. Take Tom Finneran. Within a dozen lines, Yunits sees the former speaker as “not dishonest,” blames Finneran’s “unmitigated confidence” as the cause of his conviction for making misleading statements under oath about redistricting, and concludes (in a new paragraph) that “some elected officials think they are above the law.” Is Yunits blaming Finneran or exonerating him? Outside of Howie Carr and Finneran’s family, who still really cares?

Yunits nicely acknowledges that while media attention

often focuses on the mayor to the exclusion of staff, strengthening a city requires the concerted efforts of a team. He characterizes his school superintendent as having “more common sense than any educator I have ever encountered,” his CFO as having “the best financial mind in Massachusetts,” and two of his city solicitors as “brilliant.” But he offers no prescriptions for finding such smart staff.

Aside from his handful of superlative staff members, Yunits has mixed feelings about public employees. Yunits seems to praise his former colleagues, calling them “the most scorned and undervalued employees in our system,” while at other points he buries them, calling out “the fear of change that is implicit in public service.”

Yunits clearly has issues with groups such as the Brockton Education Association, which represents the city’s teachers. “I recall several difficult bargaining sessions [and] one in particular [that] began so bitterly that we could not even agree on a place to meet for establishing ground rules,” he writes. Unfortunately, he does not report how he and the association got to yes except to write, “Negotiations were competitive and creative, but we found a way to make it work.” The failure to document what made the negotiations work feels even more frustrating given Brockton’s seemingly successful emphasis on literacy and writing



CiVIC sense

MassINC’s Civic Sense network is an events and programming series aimed at cultivating a community of civically-engaged young people in the Bay State. Civic Sense is an initiative of the MassINC Associate Board: A group of young professionals in the business, government, and nonprofit sectors who advise and promote the work of MassINC.

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BOOK REVIEW

across all subject areas.

The chapters conclude with contributions by Lees Yunits, Jack's wife. Lees provides many, but not all, of the unexpected insights into the burdens that an entire family must bear when a parent assumes elective office. Jack nicely sets the stage for this discussion in the first chapter by referring to himself as "the missing chair" at gatherings of loved ones because he was elsewhere working for Brockton.

We learn more from Lees about the outcome of union negotiations than we do from Jack, in particular how he resolved a sticky situation with firefighters and residency. She personalizes the tale by adding that she and her husband discussed the solution while Jack was shaving and she was bathing, details that may be too much information for some but add a nice human touch to a wonky work.

While Lees complements Jack as an author, an attentive editor would have benefitted both. In the first chapter, Jack recounts a pre-election warning: "The worst thing that could happen to you is that you might be elected!" Six pages later, Lees writes: "[T]he worst thing that can happen is you could win!" In chapter three, Jack writes of a storm, "They called it a downburst." Who are they? We learn two pages later, when Lees observes, "[T]he weathermen called the storm a 'downburst.'" In chapter 14, Jack and Lees, separately but with an identical phrase, sum up the quest to bring professional baseball to Brockton by noting that, in any case, the city would have "the best damn high school field in the country."

Jack struggles with his own record. In chapter two, he writes that he "won twenty-seven of twenty-eight precincts in the primary," but a page later he says he took them all. Chapter nine, entitled Municipal Finance, the book's longest chapter, could have used some critical pruning. Yunits includes both a footnote explaining the derivation of the phrase "cherry sheet" (a listing of state aid to municipalities on colored paper) and a short paragraph making the same point.

The three-paragraph epilogue serves as a microcosm of the strengths and shortcomings of *Urban Mayor*, with its concise list of impressive accomplishments, generalities about doing the right thing (spiced up with a pithy acronym on how style trumps substance for many elected officials who practice "GPS-government by political sensationalism"), and a concluding paragraph asserting that activism beats apathy. The failure of Jack Yunits to follow the lead of Lees Yunits and do more showing and less telling keeps *Urban Mayor* from successfully portraying how Gateway Cities can build on their great bones and grow. **CW**

Mark S. Sternman is director of marketing and communications for MassDevelopment, a sponsor of MassINC, the publisher of CommonWealth. Sternman's opinions do not necessarily represent those of his employer. (Disclosure: He has met Jack Yunits at least twice, and his employer has worked with the employer of one of Yunits's sons.)

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