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Menino's long ride

Can the mayor pedal fast enough to stay ahead of the pack?



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Bialecki's statewide zoning push
Ben Franklin was right
Do charters really measure up?

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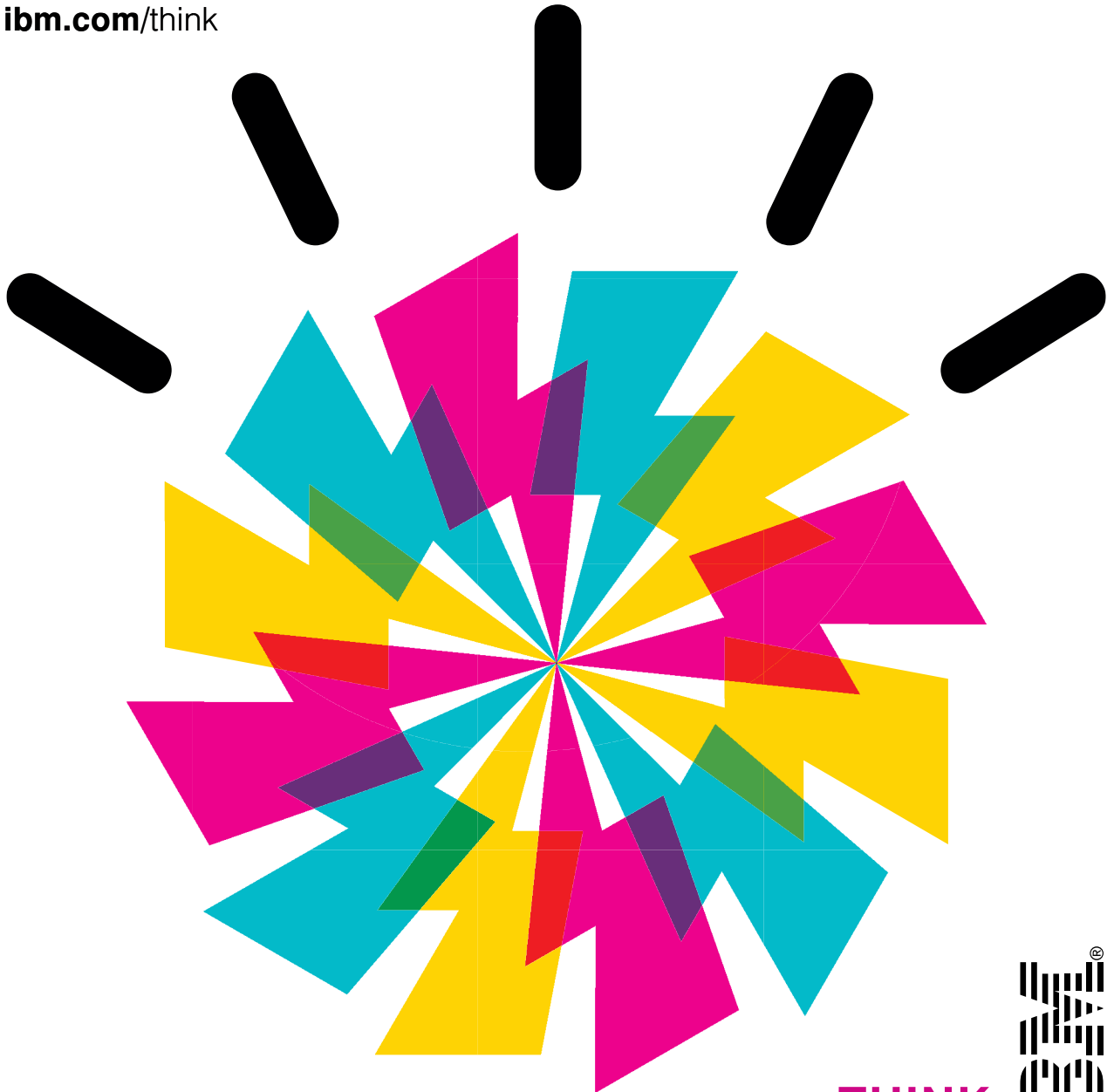
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THINK



SPECIAL ED STORY WAS A REHASH OF BLAME GAME

After closely reviewing your cover story regarding special education in Massachusetts (“Spending Spiral,” *CW*, Spring ’09), I was dismayed to find that it was a rehash of old, tired, and unfounded arguments and contained misleading information and unfair characterizations. It was not the more thoughtful reporting and offering of real solutions that *CommonWealth* magazine typically provides.

Much of the article focused on private special education schools and yet MAAPS, the state organization representing private special education and closely involved in special needs issues and policy for over 20 years, was not brought into the reporting. Had MAAPS been consulted, it would have pointed out that valid comparisons of private special education school expenditures to those in other states—which the article relies on for key findings—are not possible because

most other states rely on state-operated, not private, schools for the disabled. Therefore, various information and calculations presented were flawed.

The piece also portrayed parents as opportunistic abusers of the special education appeal process without providing any facts. It failed to report that 95 percent of the 160,000-plus education plans written annually are approved by parents, and less than 1 percent of them go to appeal. Of those, on average, parents win only 20 percent of the decisions.

Further, concerning rising special education costs, the article did not shed light on the fact that because of advances in neonatal medicine, premature and low-birth infants are surviving at far higher rates. This has resulted in an increase in the number of disabled children enrolled in early intervention services. From 1992 to 2007, enrollments rose from 5,787 to 25,897, an increase of 348 percent.

CORRECTION: A paragraph in “Spending Spiral” inaccurately portrays some of the changes the Legislature made in the special education law in 2000. Services such as speech and occupational therapies have consistently been available to special education students as an aid to help them in their learning. A legislative change in the law, included in the fiscal 2001 budget, broadened the definition of special education so that students who required speech and occupational therapies but who would not have been determined to have a learning disability under the old standard became eligible to receive Individual Education Plans, thus broadening the eligibility criteria for special education. That is also the context in which Marcia Mittnacht, state special education director, commented on the changes. She was not classifying the services as unnecessary; rather, she was making an observation about the fact that qualification for services expanded under the legislative changes in ways many other states did not allow.

NOTE: For more feedback on “Spending Spiral,” visit the online version of the story and the accompanying readers’ forum. Go to www.massinc.org, click on the magazine cover, and then click “Back Issues.”



Special education has an enormous, positive impact on families and our state. By providing children with disabilities with critically needed education and treatment, we give them opportunity for hope and achievement, and they can become productive members of society and our economy.

It is regrettable that *CommonWealth* squandered an opportunity to identify real problems and offer solutions. We have wasted enough time on the blame game, and it is time to start working on ways to prevent the heartache of disabilities and provide adequate funding for special education.

James V. Major
Executive Director
Massachusetts Association of
766 Approved Private Schools
Wakefield

AUTISM BILL DOES NOT ERASE SCHOOL SERVICES

I am writing to respond to a statement in your recent article on special education that referred to proposed legislation requiring health insurance plans to replace schools in covering many of the treatments for autism. There is a proposed bill, ARICA, requiring health insurers to cover treatments for autism (which are largely

excluded from most plans), but this is specifically not intended to replace services provided by schools.

IDEA, the legislation that governs special education, is not affected by this legislation. Private insurance coverage, whether for services delivered in the classroom or outside, does not diminish a school system's obligation to provide a "free and appropriate education." There are provisions in IDEA addressing this, and ARICA includes language that specifically protects against loss of services mandated by law under an Individual Family Service Plan, an Individualized Education Plan, or an Individualized Service Plan.

The reality is that with legislation requiring private insurers to cover treatments for autism, individuals diagnosed with autism would receive appropriate treatments that are currently inaccessible to most today.

Research has shown that effective treatment can significantly improve the functioning of many people with autism. Studies of young children who receive early intensive behavioral interventions, which would be covered under ARICA, have shown dramatic improvements—and a large percentage could subsequently go on to attend regular education classes and grow up to become taxpaying citizens.

While insurance coverage for autism treatments won't replace school requirements, it will result in many more children with autism entering school needing less or, in some cases, no additional services. It will also help alleviate some of the costs to towns that experience a disproportionate influx of families with special needs students. We believe there will be a substantial savings over the long term, and a substantial benefit to society overall, as individuals affected by

autism receive appropriate treatment and are able to realize their maximum potential.

*Amy Weinstock
Chair, Insurance Committee
Advocates for Autism in
Massachusetts
Waltham*

BLUE CROSS MADE FALSE COMPARISONS WITH GIC

John Coughlin, writing on behalf of Blue Cross Blue Shield, for many years the health plan of choice for many municipalities, seems intent on preserving that business by trashing the Group Insurance Commission, which is now an option for communities looking for ways to stem the tide of double-digit rate increases in their premiums. His Perspective piece ("One Size Doesn't Fit All") asserts that the GIC's purchasing power is a fiction,

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and that the only way the GIC cost increases have consistently been lower is by cost-shifting to employees.

First of all, Blue Cross may be larger than the GIC, but that is a false comparison. Blue Cross is not a purchaser. They are an insurance company and should be comparing themselves to other insurance companies. The GIC's better record is a function of a strong negotiating posture, constant monitoring of performance, adoption of innovative programs to provide better quality as well as cost savings, and, yes, trying to keep a fair and reasonable balance between rising costs and employee share. [We do not engage in] constant and heedless cost-shifting.

I cannot end without picking up on one sentence in Mr. Coughlin's article. He says that the GIC option wouldn't work for municipalities with "employees who tend to file fewer claims." Blue Cross as well as its competitors could all look good if they only had to insure people who "tend to file few claims." But that's not what insurance is for. What you want is a carrier that sticks with you when illness forces you to file many claims. The municipalities of the Commonwealth deserve no less.

Dolores L. Mitchell
Executive Director
Group Insurance Commission
Boston

A BUILT-IN BIAS TO PRESERVE THE STATUS QUO

I can't figure out why MassINC allowed Blue Cross Blue Shield (BCBSMA) to basically write itself an advertisement in *CommonWealth*. Surely we can do better. BCBSMA is an esteemed insurer, to be sure. But as the insurer for many municipalities, it has done comparatively little to help them control costs and to offer them compelling value. It obviously has a built-in bias to keep the status quo, and they should not be the authors of a

piece regarding whether municipalities should pool their purchasing power behind the GIC. Yes, there are pros and cons, but let's not have them solely debated by an organization that is inherently biased.

Note: The author, now working on projects around health care innovation in California, worked as a benefits consultant to several Massachusetts communities (and the Massachusetts Municipal Association) as recently as 2005.

Garen Corbett
Newton

FILM TAX CREDIT ALSO GENERATES JOBS IN TV

Thank you for Alison Lobron's thoughtful Conversation with Hollywood producer Lynda Obst ("On the Set"). Still, an important aspect of the Massachusetts film tax credit was not addressed in the article. It's the impact on television producers, such as Powderhouse. The credit has enabled us to triple in size, and we now employ 104 producers, writers, directors, graphics artists, and support staff. These are full-time, long-term jobs with benefits, all in the Boston area. We have been able to invest in new equipment that will allow us to keep growing. And we've rented out three times the office space we occupied just two years ago.

Powderhouse now produces four prime-time nonfiction series for national cable networks including Discovery, Science, Animal Planet, and the History Channel. We also do work for National Geographic Channel, PBS, and others, and we've opened our first Internet TV channel, www.shoetube.tv. The tax credit

has enabled us to stay in the state, and we want to stay here.

We anticipate continued growth, and not just because of the tax credit. The "Massachusetts advantage" is not simply the credit; it's also the presence of all the talented young graduates in the TV and film programs in our universities and colleges. If we can keep providing good entry-level jobs to these folks, we can strengthen the TV industry in the state. Also, the subject matter of many of our stories—the research being done at our universities, the work of high-tech entrepreneurs—is often here in Massachusetts.

Perhaps *CommonWealth* might explore this lesser-known part of the film/TV tax credit story. Powderhouse is an example of the way the credit is supposed to work.

Tug Yourgrau
President
Powderhouse
Somerville

SOMETIMES GOOD NEWS IS JUST GOOD NEWS

Sometimes the glass is half full. Yes, Massachusetts's population gains (see "End of an Exodus," State of the States) could be attributable to a sinking economy, including a poor housing market and rising gas prices, but there could be another reason: It's a good, progressive, tolerant place to live. It's just a thought.

MassINC for years has been the pure voice of gloom and sometimes doom. You are going to make yourself ill. Cheer up.

Jim Miara
Needham

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"Blue Cross has definitely kept our teachers in the classroom!"

John Siever Principal, Plymouth South Middle School

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Disclosure is the best policy

IT WAS GRATIFYING to see the Legislature pass tax credit transparency legislation as part of the state budget, but it was disappointing that lawmakers opted for the “lite” version.

The legislation, originally filed by Gov. Deval Patrick and a direct outgrowth of reporting by *CommonWealth* last spring, summer, and fall, should start to shed some light on the economic payoff from the more than \$1 billion in tax credits the state issues each year. Each agency dispensing tax credits must now provide information on the amount of credits issued and the number of jobs created, broken down by hours and pay.

That’s a huge step forward. Right now there’s no way to tell what kind of bang we’re getting for our tax credit bucks. Many agencies dispensing tax credits don’t release any information about who is getting them, let alone any analysis of how they help the state’s economy.

Unfortunately, lawmakers adopted a Senate version of the transparency legislation that would shield the names of individual tax credit recipients from public disclosure. Only aggregate information would be released to the public.

When he signed the budget into law, Patrick sent the section back to the Legislature, asking them to restore his original language requiring the identification of tax credit recipients. “These refundable or transferable tax credit programs are no different from other state grant programs, where the recipient’s identity has always been a public record,” Patrick wrote. At press time, the Legislature had taken no action on his request.

Sen. Karen Spilka of Framingham sought to withhold the names because she says she heard from several business officials that disclosing the names of tax credit recipients could have a “chilling effect” and dampen enthusiasm for doing business in Massachusetts. Jim Klocke, executive vice president of the Greater Boston Chamber of Commerce, says companies told him the information gleaned from such disclosures could be used by competitors. Nicholas Paleologos, the head of the Massachusetts Film Office, says the disclosure requirement would have been perceived as a negative by film makers tapping the state’s

25 percent film tax credit. “If we’re really about trying to figure out whether this works or doesn’t work, we can do it with the aggregate data,” he says.

Ultimately, these are unconvincing arguments. It’s unlikely any business would be placed at a competitive disadvantage by having to disclose it received tax credits, particularly since most tax credits are issued after—not before—a development project is completed. Company-specific data would guard against fraud and allow us to see hidden winners. The film tax credit was designed to lure film and television producers from out of state, but it also benefits producers who were here already shooting TV shows, including WGBH-TV. It’s hard to measure those benefits with aggregate data.

All too often the mindset in Massachusetts is to declare government information off limits. Whether it’s lawmakers debating bills behind closed doors or state officials battling a public records request, the tendency is to view public disclosure as a negative rather than a positive.

For this issue, *CommonWealth* reporter Jack Sullivan runs up against this mentality at the MBTA as he investigates the financial and safety implications of defective concrete railroad ties. A public records request for information was met with a bill for \$1,500, most of which would have gone to a T employee who would compile and copy the documents at a cost of \$65 an hour. *CommonWealth* is appealing the charge.

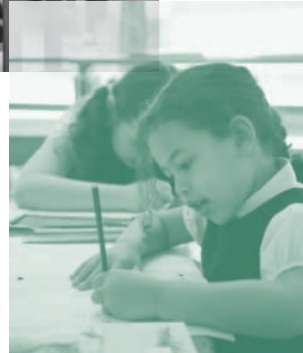
For our cover story on Boston Mayor Thomas Menino, I wanted to know whether the city’s two municipal golf courses were making or losing money. A simple question, but financial information on the golf courses wasn’t readily available anywhere, and the Menino administration’s insistence that the courses were making money didn’t match up with other available records.

By contrast, Brookline posts all of the financial information about its municipal golf course in one place on its website. A few clicks and you can see how it’s doing. It’s a good example to follow. Public information leads to good public policy.

Bruce Mohl
BRUCE MOHL

Incomplete Grade:

Massachusetts Education Reform at 15



DID YOU KNOW THAT:

- Without education reform, the achievement gap would be wider than it is today
- There has been a dramatic growth in the share of low-income student in some school districts
- The disparities in spending per student have been reduced following the Massachusetts Education Reform Act

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Bad hand for Lottery poker

Amid much fanfare and looking to cash in on the then-growing poker craze, the Massachusetts Lottery introduced its \$10 Texas Hold 'Em instant ticket with a \$10 million grand prize to be given away at a Texas Hold 'Em-style poker tournament.

That was in March 2005. More than 430 entrants with seats at the table are still waiting for the tournament to be held.

"I think they should call the game and split the money," says Sharlene Cellini, 43, a Weymouth mother of two who is number 63 on the tournament list. "I just think it's crazy."

The tournament will not be held until 560 entrants are chosen. People who submit a winning ticket for a merchandise prize pack worth \$500 are entered into a drawing. One entrant is chosen out of every 123 submitted.

Lottery officials say there are still 11 million tickets left. At the rate they are currently selling, it will take about 100 weeks to run out of them; the tournament would be held one year after that point, or more than seven years after the contest began.

Some entrants have moved—and some have even died—since winning entry into the tournament. Nicholas Zeogas, who was the second person to win a spot, in May 2005, says he was initially told the tournament would be held in about a year.

"I talked to some girl there and said, 'What would happen if I died?'" says the 75-year-old Wollaston resident. "They said, 'You won't need the money, then.' Can you imagine that?"

► JACK SULLIVAN

Towns seek more power to curb health care costs

► BY STEPHANIE ULLMANN

THE STATE OF Massachusetts, facing a multibillion-dollar budget gap, plans to cut \$86 million from its health insurance spending this fiscal year by unilaterally raising the percentage of premiums paid by state employees.

Municipalities, under similar financial duress, are relatively paralyzed. They have to negotiate any health benefit reductions with their unions, a time-intensive and often costly process. Municipal leaders say they should have the same power the state has.

"We're being held hostage," says Saugus town manager Andrew Bisignani, referring to the town's unions. "The unions have way too much power as far as this issue goes."

Saugus is one of 17 towns and cities that have joined the state's health insurance pool, which negotiates coverage for state and some local employees and is managed by an 18-member committee called the Group Insurance Commission. Saugus saved money by joining the GIC, but Bisignani is still frustrated with the pay raise he had to give the town's teachers so that they would give their assent. "I'm satisfied with it, but I think the plan is

still—in today's market—I still think it's too generous," he says.

UNIONS ARE WARY OF THE MMA'S PLAN.

Lowell's chief financial officer, Tom Moses, complains that even the smallest adjustments in plan design are challenging or impossible under the current system. "We can't raise the co-pay from five bucks to 10 bucks without negotiating it," he says.

With health insurance costs rising as fast as 20 percent annually in Lowell and at similar rates in countless other municipalities, disproportionate spending on health insurance will continue to erode crucial services until municipalities cut costs.

Standard cost-cutting procedures include lowering premiums through raising employees' out-of-pocket payments and instituting tiered networks that charge employees more for less-cost-effective care. Increasing out-of-pocket expenses is controversial because it tends to discourage preventive care, but municipal officials say they have to do something because they are paying too much.

"[Unions] are trying to maintain a system for themselves that has proven to be too costly, and the longer they hold out, the more that elastic band is going to snap back at them when we reach a breaking point," Massachusetts Municipal Association executive director Geoffrey Beckwith says.

In what Beckwith calls an "exceedingly modest" proposal, the Massachusetts Municipal Association proposes that municipalities be allowed to use



impact bargaining to negotiate with unions. In impact bargaining, municipalities and unions sit down and discuss the impact that changes in plan design would have on municipal employees. Under the MMA's proposal, plan changes greater than those in comparable GIC plans would be subject to full collective bargaining, as would the percentage of premiums paid by employees.

"That keeps a lot of collective bargaining in place," Beckwith says.

Not enough, says Massachusetts Teachers Association president Anne Wass. According to Wass, many unions have traditionally accepted lower salaries in exchange for better health insurance (an argument Beckwith calls a "myth"). In these municipalities, removing health insurance from full collective bargaining would be doubly injurious, Wass says.

Quincy Firefighters Union president Ernie Arienti shares Wass's concern. "We have given up in the past to maintain what we have," he says. "So now it's a double jeopardy."

Legislators continue to look for a middle ground between the demands of management and their unions. In 2007, the state gave municipalities the right to join the GIC, an invitation they hoped would offer relief to

towns and cities plagued by the soaring cost of health insurance. But only 17 towns and cities joined, in part because the law required municipalities to secure the approval of 70 percent of their union employees.

The most recent legislative proposal uses GIC savings as a measuring stick while pressuring municipalities and unions to work together on a local level. The initiative, part of a larger bill filed by the state's Special Commission on Municipal Relief, gives municipalities and unions a timetable for cutting costs. Municipalities opting not to join the GIC would have 90 days to negotiate a plan with their unions that achieves savings equal to a benchmark based on GIC figures. If they failed to come to an agreement, a mediator would intervene to determine an appropriate plan. Municipal governments that reject the mediator's plan would lose state aid.

State Sen. Stanley Rosenberg of Northampton, who co-chairs the special commission, says its proposal "seeks to find the balance between the interests of employees and management."

But municipal leaders aren't having it. "The real solution comes in empowering cities and towns," Beckwith says.

In a June 3 letter to legislators, the MMA also takes issue with the proposal's binding mediation provision and "totally unworkable" dollar benchmark system. Beckwith calls the special commission's proposal "purely political."

"The Legislature and the governor are inclined to try to accommodate the wishes of the unions—except when it's going to cost them money," Beckwith says. "This is not a political issue. This is an issue of policy where reform is needed."

'NOW IT'S A DOUBLE JEOPARDY.'

Rosenberg disagrees. "We consulted with everybody," he says. "We negotiated for literally months. And it was really clear that management has only one answer to the question—put all the control in [their] hands."

The MMA proposal is unfair to unions, Rosenberg says. Whereas the special commission's proposal punishes both sides for failure to come to an agreement (no one wants a mediator), the MMA's plan leaves management with the ultimate power to implement changes anyway.

"It's not a balanced approach," Rosenberg says. "Nobody plans to negotiate in bad faith, but they put proposals

on the table that aren't real and aren't fair. Communities are under enormous stress."

Wass says the MTA would support the special commission's proposal with a few amendments, such as the mandatory inclusion of retirees in bargaining coalitions and the freedom to create more-generous health reimbursement accounts than are currently outlined in the proposal.

"Everyone's aware of the fact that health care is high," Wass says. "But we also can't use this time of crisis to wipe out people's rights."

GIC executive director Dolores Mitchell knows health insurance is a "budget buster," but she is somewhat of an agnostic when it comes to the current debate between municipalities and the state. She says the real issue is the delivery system. Health insurance is too expensive because health care is too expensive, she says, and no amount of "raising premiums, raising co-pays, raising deductibles, and instituting care management programs" will "slow the curve."

A new Special Commission on the Healthcare Payment System, of which Mitchell is a member, hopes to do just that—slow the curve through statewide reforms that address quality, cost, and transparency.

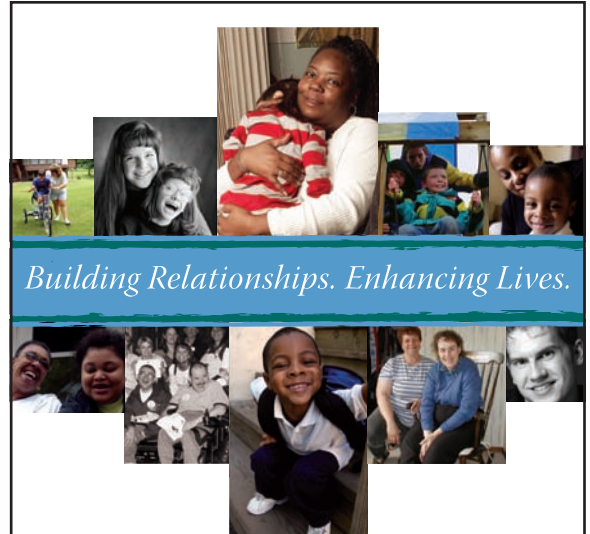
Of the comparative merits of the Special Commission's proposal, the MMA's proposal, and her own GIC, Mitchell says, "Maybe there are three roads to heaven."

Boston health inspectors ease up on eatery grades

► BY STEPHANIE ULLMANN

THE CITY OF Boston is doing away with failing grades for most of the restaurants that don't measure up on health inspections.

Thomas Goodfellow, assistant commissioner of the health division within the city's Inspectional Services Department, says the damning word "fail" will be applied only to the relatively few restaurants that have their licenses suspended because of violations that pose imminent danger to the public health. Restaurants that receive fewer than three minor violations will receive a passing grade, while those cited for more extensive or severe violations will be classified as "reinspection required." As of



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press time, Inspectional Services had not yet implemented these changes.

Failing grades at restaurants, even some of the city’s finest, have been fairly common. More than two-thirds of the establishments on *Boston* magazine’s list of the 50 best restaurants in Boston have failed at least one health inspection since January 2008. (See examples on the chart below.) The list includes some of the city’s swankiest dining venues, such as Mistral on Columbus Avenue, where entrees run upward of \$40, and L’Espalier on Boylston Street, where the three-course prix fixe meal goes for \$82.

“You’ve got an exception and certainly not the rule,” L’Espalier spokesperson Loring Barnes says of the restaurant’s failing inspection in February 2009. L’Espalier failed that inspection with five “foodborne illness risk factor critical violations,” the most severe of all violations. Those violations ranged from improper handling of ready-to-eat foods to staff observed not washing their hands after wiping their noses and faces.

Under the city’s new grading system, none of *Boston* magazine’s top 50 restaurants would have received failing grades, since their licenses were not suspended.

Goodfellow says the change was needed because the old pass/fail grading system was too broad. Some restaurants failed for a string of relatively minor offenses, while

others failed for more serious violations that nevertheless did not result in a license suspension. Goodfellow says giving failing grades to restaurants that don’t have their licenses suspended is “misleading to the public.”

The grades given to Union Bar and Grille on Washington Street and Troquet on Boylston, both on *Boston* magazine’s list, illustrate Goodfellow’s point. Inspectional Services failed both restaurants on June 4, despite violations of very different severity.

Union Bar and Grille rang up a three-page-long list of 19 citations—four of them “critical violations” and two of those four listed as “foodborne illness risk factors.” The violations ranged from a dead mouse and rodent droppings to butter stored 40 degrees warmer than health code regulations.

Troquet, meanwhile, had six one-star violations. One-star violations are minor and do not pose a serious threat to public health. Troquet’s violations ranged from a faulty door in the restroom to items stored in a rear stairwell.

Under the new system there would still be no grade distinction between Union Bar and Grille’s performance and Troquet’s.

“This just seems to mask the problem,” says Edgar

‘FAIL IS
A STRONG
WORD.’

RESTAURANT NAME	TOTAL INSPECTIONS	FAILED INSPECTIONS	FAIL DATES	SAMPLE CRITICAL VIOLATIONS
UNION BAR AND GRILLE 1357 Washington Street	1	1	6/09	Dead mouse, rodent droppings, dirty ice machine, improper cold handling.
O YA 9 East Street	1	1	6/09	No frozen fish verification letter on file from vendor.
PIGALLE 75 Charles Street South	1	1	6/09	Dishwashers not sanitizing properly.
BOSTON HARBOR HOTEL 70 Rowes Wharf	2	2	4/09, 9/08	Raw food (beef) stored over cooked vegetables, unclean contact surfaces.
L'ESPALIER 774 Boylston Street	3	2	2/09, 10/08	Cross-contamination, inadequate handwashing, unhygienic practices.
MISTRAL 223 Columbus Avenue	4	3	12/08, 9/08, 3/08	Inadequate rinse temp., inadequate handwashing. (Mistral's most recent violations were minor.)
VIA MATTIA 79 Park Plaza	4	3	11/08, 6/08, 2/08	No employee illness policy, improper sanitizer levels.
AVILA 1 Charles Street South	4	2	8/08, 3/08	Improper cooling, inadequate dishwasher temperature, improper sanitizer levels.
TORO 1704 Washington Street	4	4	5/09, 11/08, 5/08 (2)	No gloves for ready-to-eat food. (Toro's most recent violations were minor.)

Source: Inspectional Services Department, city of Boston.

Dworsky, founder of ConsumerWorld.org and a former state consumer protection official. "It seems like what is really needed is some type of gradation besides pass and fail to distinguish between the minor violations and the ones that have major health and safety issues."

Troquet manager Chris Campbell says he has no real problem with the "f" word. "Fail is a strong word, but it's also something that has to be taken seriously. And if I can go to my employees and say, 'We failed this,' they have to get to the bottom of it and really fix it."

Officials at Union Bar & Grille declined to comment.

Massachusetts Restaurant Association CEO Peter Christie says he is very happy that ISD is doing away with its failing grade. "I had written to Commissioner Goodfellow on that very issue," he says. "There's such a big difference between 'fail' and having found something that needs attention. When you use words like fail, that can have economic consequences."

To obtain more information about city restaurant inspections, go to the Online Services page at www.cityofboston.gov.

Hub youth work to bring civics class back to public schools

► BY GABRIELLE GURLEY

IT'S CIVIC ENGAGEMENT at its finest. Like most students, Boston youth organizer Katherine Garcia, 16, had never designed a curriculum for a high school course. Roy Karp, executive director of Boston-based Civic Education Project, had never recruited students to work on one. But Garcia and five other young people joined forces with Karp and others beginning last summer to create the first high school civics course offered in the Boston Public Schools since the system dropped what was a required subject in the 1970s.

The pilot course is the product of a six-year "Campaign for Civics" led by youth organizers of the Hyde Square Task Force in Jamaica Plain. They launched the push for a high school civics course after Maria Padilla, one of the youth organizers, wrote an op-ed for the *Boston Globe* in 2003. Concerned about violence in her neighborhood, she argued that if people were more knowledgeable about government and voted more often, politicians would "take people in my neighborhood seriously."

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Dental plans should be as individualized as the people they protect.



The new course helps students learn about the political system so they can better understand how that world relates to them. “People know they have a government, but they really don’t know why,” says Garcia. “So [the class] just teaches them how they can be involved in the government.”

The grassroots campaign for the course became a hands-on exercise in civics participation, gaining momentum when the young people testified before the Boston City Council two years ago. The group also lobbied Mayor Thomas Menino, Boston Public Schools Superintendent Carol Johnson, and members of the Boston School Committee.

The unusual gambit by the youth organizers didn’t stop there. They demanded and won a seat at the table, selecting the curriculum writers and participating in the curriculum writing process. English High School and Madison Park Technical Vocational High School offered the year-long course last year. Another Course to College, a preparatory public high school in Brighton, will add the class this fall, and other Boston public schools have expressed interest.

Teens Leading the Way, a Lowell-based statewide youth coalition, is also exploring the creation of new civics curriculum that could be implemented statewide. Their pilot campaign, building off the Hyde Square Task Force model, focuses on schools in Everett, Haverhill, Holyoke, Lowell, and Worcester.

CIVICS NEED NOT BE DRY.

Why the resurgence of interest in civics education? That depends on how you define civics, says Robby Chisholm, a Boston Public Schools history and social studies senior program director who also worked on the project. According to Chisholm, students often see civics as a dry study of the structure and function of government, rather than as a tool they can use to spark change in the world around them.

For now, the class, “Civics for Boston Youth: Power, Rights and Community Change,” is an elective course for juniors and seniors. Although Boston does require eighth-graders to take a civics class, the youth organizers would like to see it become a graduation requirement for all high school students.

American history and civics instruction are required subjects in Massachusetts elementary and high schools, but teachers usually integrate civics into US history and social studies classes. (About 25 percent of questions on the MCAS history tests cover civics.) As a result, Karp says, there’s “no wiggle room” left to cover civics well in an “already packed” curriculum.

“My sense is it is not being done in the US history

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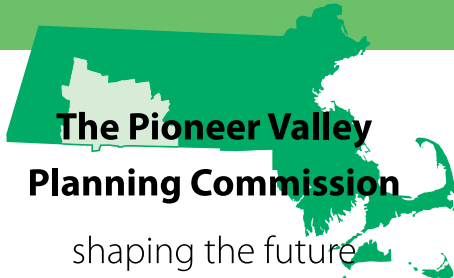
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classes,” says Karp, who grappled with the US history curriculum during a brief stint as substitute teacher at Haverhill High School. “If you are you’re going to give kids a robust experience in American government,” he adds. “You really do need a separate course.”

There is no information available on how many school districts teach stand-alone civics courses. (The state Department of Elementary and Secondary Education is in the process of compiling course-level data.) Although there are several bills pending in the Legislature that would make the completion of a high school civics course a statewide graduation requirement, the state’s budget crisis alone makes that unlikely in the near future. However, local school districts can choose to institute their own high school graduation requirements.

Garcia, a junior at West Roxbury High School’s Brook Farm Business and Service Career Academy, says the hardest part of working with the curriculum developers was wrestling with how much emphasis to give to history topics like the founding of the American political system. To keep their peers engaged, Garcia says, the youth organizers wanted to focus on 21st-century politics and current events.

The writers pushed back, explaining that to understand current events requires a basic foundation in government and history. Being youth organizers, “they were not shrinking violets,” says Karp.

The group compromised by introducing history subjects early on in the academic year. Discussions about social movements such as building a family community center near the Jackson Square MBTA station and controversial issues like radical Islam and the 2005 terrorist attacks in London come later on. They also explore the rights and responsibilities of individuals in American society and the court system.

“Adolescents in general are very concerned with fairness and their rights,” says Chisholm of the Boston Public Schools. Supreme Court cases involving freedom of speech and search-and-seizure issues in schools really engage them, he added. Near the end of the course, students work on ideas for developing outreach and action plans for community campaigns.

Already Chisholm has seen an impact. He chalks up some of that to the excitement about the Barack Obama presidency. On election night, about 20 to 30 English High civics students watched the returns with teachers at the headquarters of City Year, the citizen service organization.

“In my experience, kids don’t show up on a weeknight to do that,” Chisholm says. **CW**

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*"How much cutting
is really going on?"*

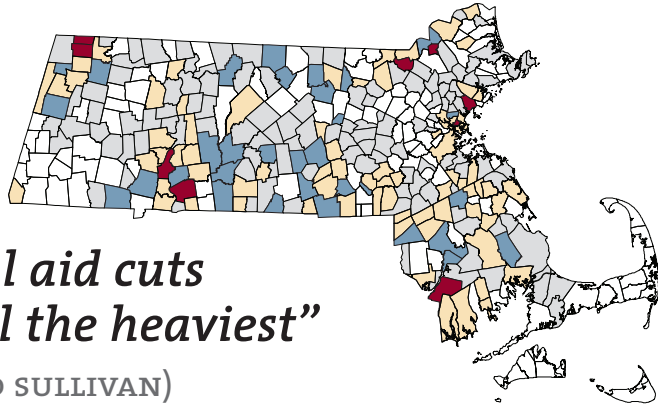
(BRUCE MOHL)

*"Ka-ching:
Delay pads
DiMasi's
pension"*

(JACK SULLIVAN)

*"Money for nothing: Still
dire straits at the MBTA"*

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*"Where local aid cuts
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STATISTICALLY SIGNIFICANT

BY ROBERT DAVID SULLIVAN

FOLLOW THE MONEY TO BEACON HILL

Legislative elections nearly always go to the candidate with more money, and the candidate with more money is almost always an incumbent. That's the upshot of the 71-page report released in June by the state's Office of Campaign & Political Finance. According to the report, legislative candidates spent \$12.46 million last year, which was an increase of \$64,295 from two years before—even though the number of candidates on primary and general election ballots across the state dropped from 339 to 311. (This was the lowest number since 1990, when the office started keeping records.) The OCPF calculated that 98 percent of the incumbent legislators seeking re-election last year are back in office.

In the Senate, winning candidates spent an average of \$88,827, even though 68 percent of them faced no opponent in the primary or general election; losing candidates spent an average of \$43,897. On the House side, winners spent an average of \$40,233, even though 60 percent of them were unopposed in the primary and general election; losers spent an average of \$19,029.

Twelve members of the 200-member Legislature can say they won office despite being outspent by their opponents, including two members of the Senate (Sonia Chang-Diaz and Susan Fargo). Half of the victorious underdogs were women, even though women make up only about one-quarter of the state Legislature overall.

JOB SPRAWL REVERSES IN BOSTON, ACCELERATES IN SPRINGFIELD

Commute times may be maxing out in Greater Boston. *Job Sprawl Revisited*, a Brookings Institution report released this spring, looked at the geographic distribution of jobs in 98 metro areas, dividing the jobs into three categories: within 3 miles of the center city's downtown, 3 to 10 miles from downtown, and 10 to 35 miles from downtown. Between 1998 and 2006, the percentage of the Boston area's jobs that lay in the outermost circle dipped from 48.6 to 47.9, while the percentage in the middle circle rose from 21.9 to 24.2. This was contrary to the shift at the national level, where the percentage of jobs in "outer ring" communities continued to rise, from 42.5 percent to 45.1 percent.

But at the other end of the state, Springfield still seems to be in the early stages of job sprawl. Over the same eight-year period, the percentage of Springfield area jobs more than 10 miles from the city center went up 6.2 points, to 32.4 percent.

The share of jobs in urban cores fell in 95 of the 98 areas in the study (Milwaukee was the largest city to buck the trend), suggesting that even if people are moving back downtown, employers aren't necessarily following them.



COUNT YOUR TWO-BUCK DUCKS

People complain about the taxes on what's in their garages, but did you realize that farm animals are also under the thumb of the Department of Revenue? For fiscal year 2009, the DOR has determined the value of certain critters, for excise tax purposes, as follows:

One chicken, duck, or goose is valued at \$2, or the equivalent of one subway ride on the MBTA. One mule or sheep is valued at \$100, or 50 cents more than a hunting license for "big game" in Massachusetts. And one llama is \$800, or the equivalent of the combined fines for misusing a handicap parking plate (\$500) and driving on the Massachusetts Turnpike at 90 miles per hour (\$300).

NEW HOMEOWNERS IN MASS. STICK TOGETHER

Things are cozier for buyers of new homes in Massachusetts than in the rest of the US. According to the Census Department, 52.4 percent of the permits for new housing units in the first third of this year went to units in multifamily buildings; the comparable figure nationally is only 29.1 percent.

During the first third of this year, permits for new homes in Massachusetts dropped by 30.6 percent compared with the same period in 2008. But that was not as bad as the 48.2 percent drop at the national level—and last year already logged the lowest number of new homes since 1959.

LOOK IN YOUR TREADMILL'S REARVIEW MIRROR

Has Massachusetts smashed into an exercise wall? According to the Centers for Disease Control and Prevention's latest survey data (from 2007), 51.4 percent of adults in Massachusetts regularly engage in "moderate physical activity." That's higher than the national rate of 49.2 percent. But the Bay State figure is exactly the same as it was in 2001, whereas the national figure is up from 46.1 percent.



SAVE MONEY: GO OUT TO DINNER, BUT DON'T DRESS UP

Restaurants seem to be a relative bargain in the Boston area, according to the federal government's Consumer Price Index for May, which measures costs against the same month in 2008. "Food away from home" was up 3.1 percent, while "food at home" was 3.3 percent costlier. That's the opposite of the national trend, in which restaurant food cost 4.2 percent more than it did a year ago and groceries were only 1.5 percent higher.

Overall, the cost of living was down 1.5 percent in Boston (compared with a drop of 1.3 percent nationally). The decline was mostly due to a sharp drop in the price of energy (down 33.6 percent). But the cost of medical care continued to rise—by 5.9 percent, considerably higher than the 3.2 percent increase nationally. And it's almost as expensive to look good as to feel good: The price of clothing went up by 5.2 percent in the Boston area while it rose by only 0.8 percent nationally.

IF ONLY WE'D INVENTED THE SPORK...

Most of the talk of new jobs in Massachusetts has to do with biotech, renewable energy, and other New Economy industries concentrated in the Boston area, but a new book reminds us that the western part of the state has a history as a manufacturing powerhouse. *Metal Fatigue: The Demise of Metalworking in the Connecticut River Valley*, by UMass–Lowell professor Robert Forrant, includes these nuggets:

- In 1860, 49 percent of the nation's cutlery was manufactured in Franklin County.
- In 1920, one plant in Springfield produced "50 percent of the electrical starter parts required by the US vehicle industry and employed 3,000 workers."
- In the late 1920s, the average weekly manufacturing wage in Springfield was \$25.42, one of the highest in the state (far better than Lowell's \$19.13).

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Logged in

BY ROBERT DAVID SULLIVAN

THE CENSUS BUREAU reported in June that the number of Americans over the age of 3 living in households with Internet access inched past the two-thirds mark, to 67.1 percent, as of November 2007. But as the map below shows, regional differences persisted: In New Hampshire, having access to the Web was almost as common as having a car, but in Mississippi barely half the population could log online in their own homes. (Massachusetts ranked third overall, behind New Hampshire and Alaska.)

In general, Internet access tracks closely with educational attainment, as measured by the number of residents in a state with college degrees (Massachusetts is first in that category, at 37.9 percent), but there are a few exceptions. Alaska, Maine, and Wisconsin have above-average Internet access despite lower-than-average shares of college grads. New York, which ranks 9th in education attainment, is a middling 28th in Internet access.

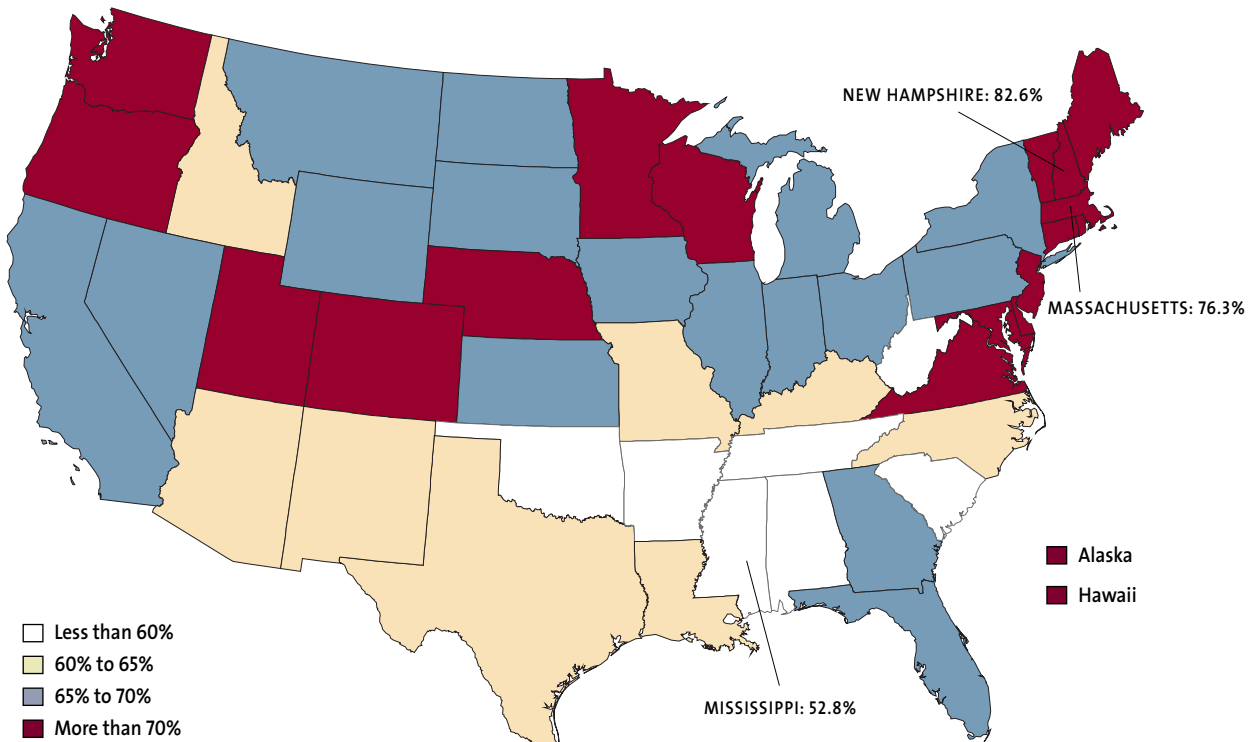
Though its data is not broken down by state, the Pew Research Center's Internet and American Life Project has

more recent information on who's online. Its December 2008 survey found that Internet use ranged from 41 percent among adults over 65 to a near-universal 87 percent among those aged 18 to 29. Adults from households making more than \$75,000 a year had a 94 percent net participation rate, far above the 57 percent in households making less than \$30,000.

There was no discernible gender gap (75 percent of women and 73 percent of men were Internet users), but racial differences persist: 77 percent of non-Hispanic whites were online, versus 64 percent of African-Americans and 58 percent of Hispanics. And despite the Internet's potential to eliminate geographic isolation, it is used by only 63 percent of rural residents, compared with 71 percent of city dwellers and 74 percent of suburbanites.

The Pew Center delivered more news about the Internet in May, and it wasn't good for newspapers. It found that on any given day, 9 percent of people online visited classified ad sites, up from only 4 percent in 2005. **CW**

PERCENTAGE OF CITIZENS LIVING IN HOMES WITH INTERNET ACCESS, 2007



Source: US Census Bureau (www.census.gov/population/www/socdemo/computer/2007.html).

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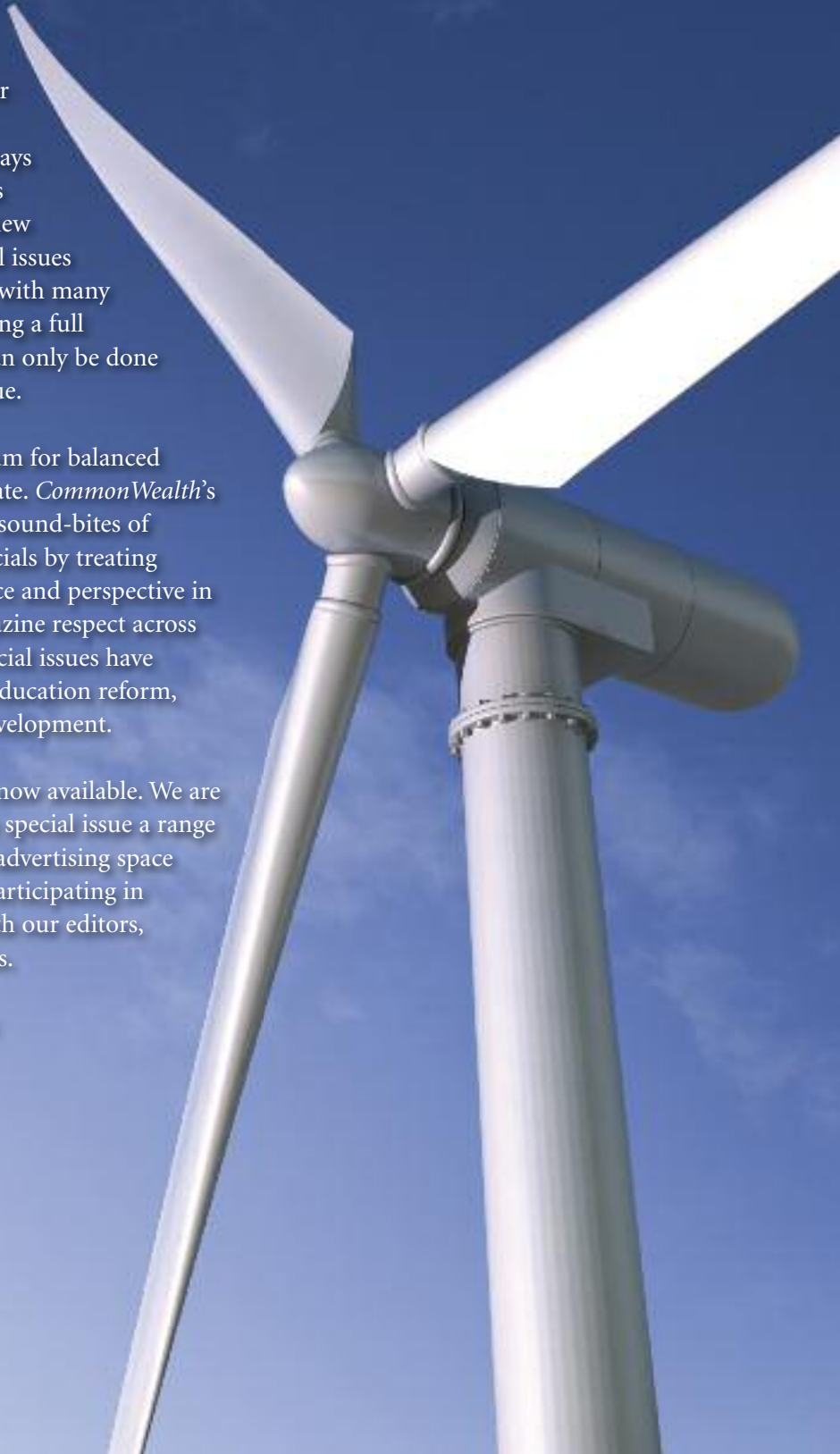
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Untouchable turf

BY ROBERT DAVID SULLIVAN

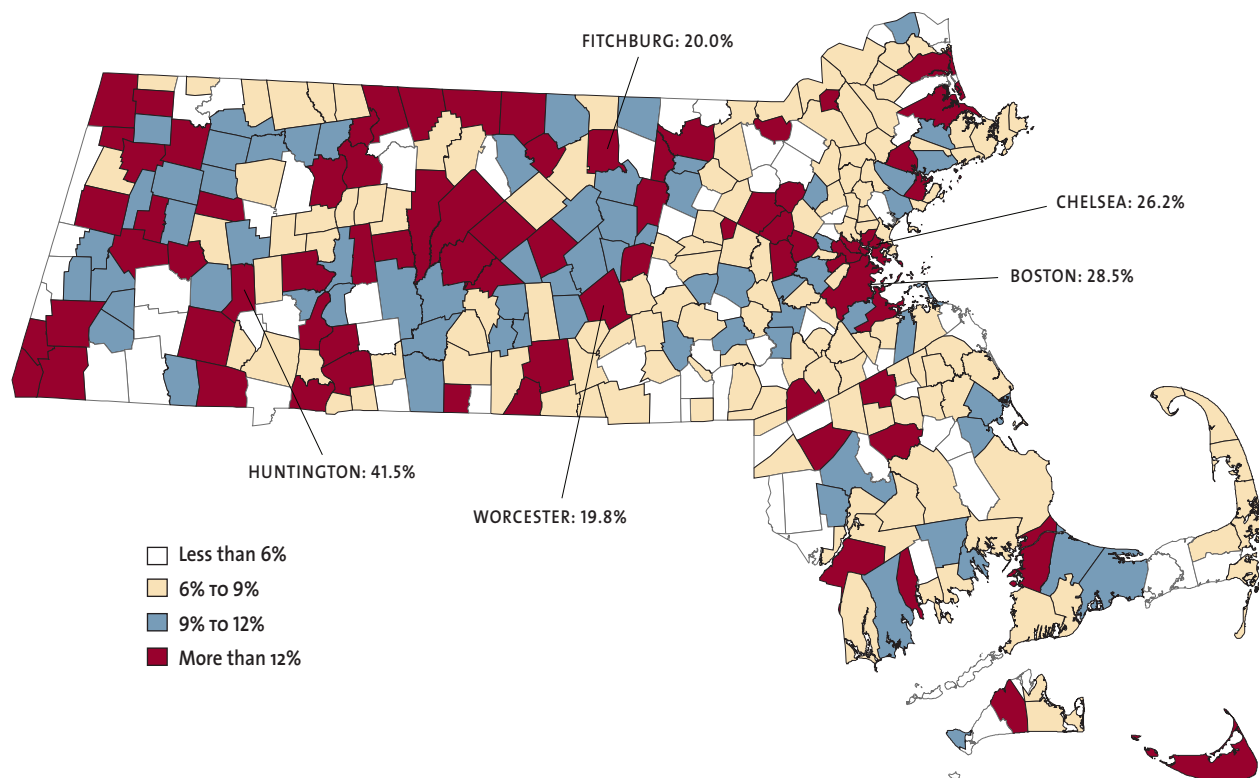
YOU KNOW THAT municipal governments are in dire financial straits when they start looking to tax-exempt properties—schools, hospitals, and other nonprofit institutions—for new revenue. Many colleges and universities make voluntary payments in lieu of taxes (known as PILOT agreements) to their host communities, but that doesn’t always satisfy local officials. Remarks about how much colleges benefit from municipal services have been a staple at Worcester City Council meetings this year; it can’t be a coincidence that Worcester Polytechnic Institute, long a PILOT holdout, announced in May that it would begin shelling out \$270,000 a year for its tax-exempt property.

According to the Department of Revenue, 12.3 percent of the state’s total property value is off the tax rolls, and as the map below indicates, it’s concentrated in larger cities and also in western towns with parks and other tax-exempt land owned by the state—and the state also disburses PILOT funds to these communities, though not as much as they would like. Ten of the 11 “Gateway Cities” have a

higher-than-average share of tax-exempt land, led by Fitchburg at 20 percent. Aside from the municipal government itself, the biggest holder of tax-exempt land in that city is the 227-acre Fitchburg State College. Schools, churches, and museums, in contrast to the many factories and retail establishments that have abandoned the mill towns, tend to stay where they’re first built.

Boston, not surprisingly given its academic and cultural footprint, has a higher percentage of tax-exempt land than any other city in Massachusetts: 28 percent of estimated property value, or 53 percent of the city’s total acreage. Boston reports PILOT revenue of \$31.4 million for fiscal year 2008, with almost half (\$15.6 million) from Massport. Under the current voluntary system, universities, hospitals, and other nonprofits pay the city 25 percent of what they would owe if not for their tax-exempt status. But the PILOT Task Force, formed by Mayor Tom Menino this past winter, is looking to “restructure” that formula (presumably upward) “to account for current conditions.” **CW**

VALUE OF TAX-EXEMPT LAND, AS PERCENTAGE OF TOTAL LAND VALUES, FY09



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

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A new prescription

Washington wants universal health care coverage — but not the Massachusetts plan **BY SHAWN ZELLER**

BEFORE THE YEAR is out, Congress and the Obama administration will try to do for the entire nation what only one state, Massachusetts, has been able to do for its residents: pass a law that attempts universal health insurance coverage.

On its face, the Bay State's success—more than 430,000 newly insured residents since the 2006 plan's adoption and an overall uninsured rate of less than 3 percent—would seem to fulfill nicely Supreme Court Justice Louis Brandeis's vision of the states as “laboratories of democracy” that develop best practices for the national government to emulate.

But few expect Congress to go the Bay State route on health care this summer, chiefly because of the political calculus that led Massachusetts lawmakers and the Romney administration to take an insure-first, worry-about-cost-later approach. Even as that decision was in some ways the genius of Massachusetts's plan—enabling a deal to be made—partisans on both sides in Washington say it simply won't fly when Congress takes on federal reform. Massachusetts has only begun to wrangle with the cost issue, three years after its law went into effect. But given the trillions of dollars at stake in any federal overhaul, Washington health care experts warn that federal legislation should deal both with coverage levels and cost from the outset.

At a Harvard forum this spring, Robert Reichbauer, a former director of the nonpartisan Congressional Budget Office, was asked for the most important lesson federal policymakers might take from the Massachusetts plan. He couldn't help but joke: “Undertake reform when the economy [is] terribly strong, and don't pay for it.” With more seriousness, he added, “There's limited applicability of this lesson at the federal level,” with the economy in shambles and Congress facing a

trillion-dollar federal deficit this year.

Neither President Barack Obama nor Massachusetts Sen. Ted Kennedy—whose views will figure prominently in the coming debate—has indicated any intent of ignoring cost. Indeed, they've focused on the cost issue before laying out strategies for expanding coverage, the opposite of Massachusetts's approach. Obama, for example, says that adopting new technologies to reduce medical errors, pressuring drug makers to cut costs for people on Medicaid, and slashing Medicare payments to private health insurance companies and hospitals can save billions.

Kennedy wants to cut costs by offering doctors incentives to focus on quality of treatment over quantity, and on preventative medicine.

Even then, everyone expects the overhaul to be expensive. In his 2010 budget proposal, Obama requested \$634 billion to cover the upfront costs of setting up a new health care system. But advocates for universal coverage say Obama and Kennedy must wring savings out of private insurers before sending more business their way. “If you're putting money into the system and insurers are going to be better off as a result of additional government funding, isn't that the time to secure, in return, steps toward cost containment?” asks Diane Archer, co-director of the health project at the Institute for America's Future, a liberal-leaning advocacy group in Washington. Archer says Massachusetts lawmakers missed a golden opportunity when they decided to let that opportunity pass. (See “Cost Unconscious,” *CW*, Summer 2007.)

Architects of the Massachusetts plan defend the state's decision. “We did not hold the uninsured hostage to first reforming the payment system and making it efficient,” says Jon Kingsdale, executive director of the Commonwealth Health Insur-

ance Connector Authority, a state body charged with negotiating insurance rates on behalf of individuals.

Kingsdale believes that the moral imperative of maintaining the state's progress toward universal coverage will make insurers, doctors, hospitals, and politicians more willing to negotiate cost solutions. But, he admits, it hasn't happened yet.

And costs are skyrocketing. Massachusetts will spend 42 percent more on health care in 2009 — nearly an additional \$600 million — than the state did in 2006, and state officials acknowledge that the rising costs will prove unsustainable if new cost controls aren't imposed.

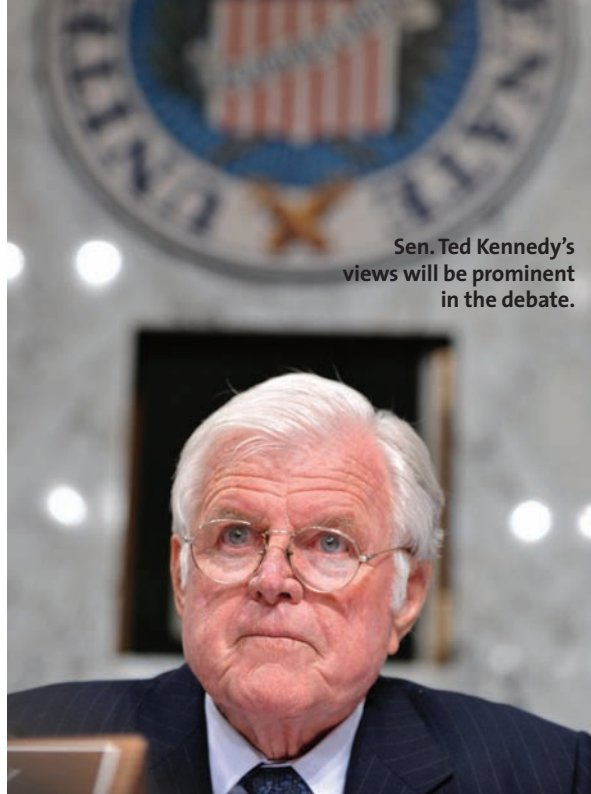
At the same time, federal lawmakers' insistence on dealing with the cost issue on the front end presents a potential Catch-22. Political fights will be far more intense than they were in Massachusetts — delaying or even forestalling a deal since neither conservatives nor liberals are likely to ever agree on what cost containment measures should be adopted.

MASSACHUSETTS'S HEALTH CARE reform resulted from a fortuitous, and unlikely, coming together of political objectives. A Republican governor, Mitt Romney, wanted to make a mark before embarking on a presidential bid, and a Democratic legislature, encouraged by Kennedy, saw a chance to achieve a longtime progressive goal. "It's not at all clear that such a situation does, or can, exist in Washington," says Reischauer.

In other words, expect a partisan battle that will either kill the dream of federal reform yet again or result in a plan far more partisan than the one in Massachusetts. At the center of the divide is the idea — endorsed by Obama and many congressional Democrats, including Kennedy — of creating a government-run health insurance plan that would provide competition to private insurers on both quality and price.

Republicans have pledged to stonewall any government-run plan, which many of them see as a stalking horse for a single-payer health system. But universal coverage advocates insist that cost containment is impossible without a public plan, and Democrats say they'll use controversial procedural tactics to prevent a filibuster, if necessary, in order to create such a plan.

"The market is broken, and there is no competition among health insurers that's meaningful, except in driving prices up," Archer says. The public plan could be funded with a new payroll tax, and individuals would pay for coverage on a sliding price scale based on their incomes, she says, eliminating the heavy burden now faced in Massachusetts by families with incomes just above the



Sen. Ted Kennedy's views will be prominent in the debate.

subsidized levels.

But Republicans liken the idea to socialized medicine, and private insurers, who can marshal considerable lobbying firepower in Washington, say it's a dead letter. They'd prefer a Massachusetts-style system and have promised to cease their current practice of denying individual coverage to people with pre-existing conditions if Congress were to require that everyone buy insurance.

Kingsdale argues that even with a public insurance option, the federal plan will owe a debt to Massachusetts if it includes a penalty for those without insurance. A federal bill may also include other parts of the Bay State plan, such as sliding-scale subsidies for people in low-

Republicans fear a single-payer health plan.

income brackets or a health insurance exchange that allows individuals who buy their own coverage to enjoy the same tax benefits as people who get their coverage from their employer.

Many moderate Democrats believe the Massachusetts approaches are the way to go. The Bay State plan "remains a seminal political and policy achievement, and the federal debate is focused on many elements that were also found in Massachusetts," says David Kendall, senior fellow for health policy at Third Way, a moderate Democratic think tank.

But Kingsdale and Kendall can't count on the same type of bipartisanship that Romney and Kennedy achieved in Massachusetts. While many Republicans were early endorsers of the Bay State plan, citing it as a good example of state policy experimentation, they aren't likely to push

Washington to go that route precisely because they prefer that states take the lead on reform. “We learn a lot of things from state experiments, and not always that they are perfect. It’s better to encourage states to take what Massachusetts has done and refine it more,” says Stuart Butler, a vice president of the conservative Heritage Foundation think tank, in Washington, who advised Romney during the Massachusetts health care debate.

And many Democrats insist the Massachusetts system is a non-starter because it is too burdensome for the middle class. Massachusetts brought down its uninsured rate by subsidizing insurance for individuals and families with incomes up to three times the federal poverty level (\$32,490 for an individual; \$66,150 for a family of four). But the state also requires all residents with incomes above 300 percent of the federal poverty level to obtain health coverage, with fines of \$1,068 this year for those who don’t. By contrast, employers who fail to provide coverage to their workers pay only a \$295-per-worker assessment.

In February, even before the health care debate in Congress had begun, the Leadership Conference for Guaranteed Healthcare—which is affiliated with the AFL-CIO, the country’s largest union organization—held a forum on Capitol Hill in which it condemned the individual

mandate as overly burdensome.

A month later, Archer released a report arguing that Massachusetts’s plan was no model for federal reform, since it guaranteed neither quality insurance coverage nor reasonable premiums. The idea that the quality of insurance would vary widely among participants, as it does in Massachusetts, is anathema to many liberals. “To require people to buy costly coverage that may not protect them from financial risk is not the solution,” Archer says.

And while Kingsdale argues that his office ensures that all participating plans provide a baseline of care, even he admits that the costs to middle-income families can be enormous. When one spectator at last spring’s Harvard forum complained that he and his wife paid \$13,000 a year for their insurance, Kingsdale admitted that was “an incredibly high amount” and “outrageously expensive.”

That’s not the type of universal coverage advocates want from Washington, according to Nathan Newman, interim executive director of the Progressive States Network, a New York City-based group that lobbies state legislators to expand health-care coverage. “It’s sort of a fake way to get to universal coverage,” he says of the Massachusetts universal mandate. “It takes what should be a universal right and makes it a universal burden.” **CW**

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Free labor market

Ban on non-compete contracts promoted as a way to foster innovation

BY ALISON LOBRON

WHEN CAROLINE HUANG remembers her first job out of graduate school, tension creeps into her soft-spoken voice even now, almost 20 years later.

The speech recognition scientist went to work for a Massachusetts software company in 1991, and inside two years, she was eager to move. “It was very stressful,” says Huang, of Belmont, who is now 48. “It got to a point where I didn’t feel I was getting much out of it, and thought I could advance my career better by being somewhere else.”

Twenty-somethings often job-hop, but Huang couldn’t—at least not without leaving the field in which she’d just earned a Ph.D. She had signed a “covenant not to compete,” which prohibited her from working for any other speech-recognition companies or starting her own company for a full year after leaving her post. Employers typically use non-compete agreements so that workers can’t take proprietary information to competitors, or use it to launch competing ventures themselves. Huang felt trapped. She couldn’t work elsewhere in her highly specialized field and didn’t want to keep working where she was.

She went ahead and quit her job, and a few months later, she found lower-paying work with a small start-up in another field. Two years after that, she found her way back into speech recognition, but she now wonders how that time away affected her career trajectory. “Those two years—did they slow me down for the rest of my career?” she muses.

That’s the kind of question that can keep even the happiest, sanest of people up at night, and it’s the reason Huang’s state representative, William Brownsberger (D-Belmont), has filed a bill to prohibit the use of non-compete contracts in Massachusetts. “There’s a great many people who are severely disadvantaged by these non-competes,” says Brownsberger, who is in his second term on Beacon Hill and also works as an attorney.

But the issue is bigger than a given individual’s career path. Brownsberger and the bill’s other supporters raise a hypothetical question similar to Huang’s, only with implications for the state’s

whole economy: How many start-ups were never created in Massachusetts because the would-be founders were tied to existing companies by non-competes? How many went to California instead, since non-compete agreements are unenforceable there? And—most tantalizing of all—if Massachusetts gets rid of these contracts, could we finally see our high-tech sector trounce Silicon Valley’s, erasing all our 20-year-old insecurities about the demise of Route 128?

ADVANTAGE: SILICON VALLEY

Ah, Silicon Valley. The phrase conjures up the image of energetic upstarts inventing Google between games of foosball. Since the 1960s, there’s been a technology rivalry between the Bay State and Bay Area that’s not unlike the baseball enmity between Boston and New York. In both cases, we care more about the competition than our rivals do because we see ourselves as the underdog.

In her influential 1994 book, *Regional Advantage: Culture and Competition in Silicon Valley and Route 128*, AnnaLee Saxenian hypothesizes that California’s anti-authority, free-wheeling culture allowed it to dominate Massachusetts in the early days of the computer age. Employees changed jobs more, swapped ideas with each other more, and started more new companies in the Bay Area. But Massachusetts companies tended to be more hierarchal, with little cross-pollination of ideas. Mobility led to innovation, Saxenian argues, so Silicon Valley spawned Hewlett-Packard and Intel—which in turn spawned other start-ups—while our own employers, like Digital Equipment Corp., failed to keep up with changing technology and went bust.

Twenty years later, some entrepreneurs and venture capitalists have latched onto non-competes, and Brownsberger’s bill, as a way to make the Massachusetts entrepreneurial climate as open and mobility-friendly as they perceive California’s to be. Opening up a business culture is no easy task in a state where clinging to the same pair of

jeans for 25 years is a point of Yankee pride. We are never going to be San Francisco—not without a weather transplant (and possibly electroshock therapy). But evidence suggests that getting rid of non-compete agreements, and publicizing the change, would be a good start in fostering entrepreneurship—not to mention giving everyone from software developers to hairdressers more control over their own destinies.

Non-compete agreements sound more feudal than capitalistic, implying a culture of worker loyalty and employer benevolence that seems out of whack in an era when college-educated Americans hold an average of 11 different jobs between the ages of 18 and 42, according to the Bureau of Labor Statistics. “People don’t necessarily understand the agreements,” Brownsberger says. “Then months or years later, they find themselves out of a job and unable to look for another in their field. That includes situations where they might have been fired.”

The agreements are legal in most of the US, though there is great variety in what different states allow, and the extent to which courts enforce the contracts. Under Massachusetts law, certain groups—such as doctors, lawyers, and broadcasters—cannot be asked to sign them, but the agreements are applicable to most professions. Western states tend to restrict their use more than Eastern states do, says Michael Garrison, a business professor at the University of St. Thomas in Minnesota. “There seems to be a sort of underlying cultural reason for it,” he says. “I think in the West, there is this notion about individualism. The West has a sort of libertarian streak that doesn’t exist in the East.” The two states with the strongest laws against non-compete agreements, Garrison says, are North Dakota and California. (New Hampshire, despite its “Live Free or Die” ethos, has no such prohibition.)

Non-compete agreements frequently end up in court when a high-level employee moves to a competitor. Some cases—like the Microsoft executive who decamped to Google—involve the courts and laws of multiple states. (“It’s a quagmire,” Garrison says of overlapping jurisdiction, but he believes those account for a very small percentage of non-compete agreements.) Still, high-level employees are usually the lucky ones, more likely to be offered compensation in exchange for agreeing to a non-compete agreement. Fashion designer (and Gloucester resident) Sigrid Olsen is waiting for a two-year non-compete to expire, but she’s being paid her same salary to sit on the sidelines. Nonetheless, the arrangement rankles.

“When you’re in the forefront of an industry, two years off can be devastating,” says Olsen.

It’s not just high-flying software executives or fashion designers who end up in court. Maria Petti owns a Bridgewater hair salon called Exhale. In 2006, she hired a new hairdresser who turned out to have signed a non-

compete agreement at her old job, promising not to work within a five-mile radius of her former salon, and Exhale fell within that limit. Petti says the agreements are common in her industry because owners don’t want customers to follow a departing stylist to a nearby salon. Instead, they want patrons to stay with the salon and choose a new stylist. But Petti—who eventually settled the case out of court—doesn’t require her own employees to sign non-compete agreements. “I feel they violate the consumer’s right to spend their money where they



Massachusetts tends to be hierarchal, as opposed to mobility-friendly California.

choose. If they’re happy with our salon, they see another stylist. If they want the stylist, they follow the stylist,” she says. “It’s like saying that if you buy pizza from me and my chef leaves, you can’t go to the new restaurant. It’s unfair to the consumer.”

LOST OPPORTUNITIES

It’s hard to gauge how many Massachusetts residents sign non-compete agreements or what percentage end up in court, though those who study the issue believe most agreements are either obeyed or broken without any legal consequences. A common experience may be that of a 29-year-old software consultant named John, who asked that his last name not be used because he’s job-hunting. John moved to Boston upon finishing college, and after he landed his first job as a software consultant he was asked to sign a contract promising not to work for a competing firm for a year. “I was like ‘well, that sucks,’ but I wanted a job,” says John. “I was young and just out of school.” He signed it, even though it offered him no compensation if he had to sit on the sidelines for a year, and he didn’t fully understand which jobs or companies it covered.

Like Caroline Huang, John got itchy after a few years, but wasn’t sure what he was allowed to do. He says he didn’t want to ask human resources for fear they’d see him as a guy with one foot out the door. (“They’re people

you want to avoid unless you have a question about health insurance,” he explains.) So he stayed, not very happily, until he went back to graduate school. Now a little older and wiser, John suspects he probably could have ignored that non-compete agreement, and that he was too low-level to pose a particular threat to his employer. But—and this is a key issue for opponents of non-compete agreements who believe they hurt the state’s entrepreneurial environment—he didn’t know for sure. He was young, and a little scared, so he stayed too long in a job that had gotten stale.

“Non-competes are like high blood pressure. It’s a silent killer,” says Paul Maeder, a venture capitalist with Highland Capital Partners in Lexington. Maeder has been in the VC business for 25 years and says that “every couple of months” he gets interested in funding a start-up, only to discover that the founder is bound to an existing company by a non-compete agreement. That puts the would-be entrepreneur at risk of lawsuit, so Maeder won’t fund the venture.

“That’s 150 companies in Massachusetts that didn’t happen,” he says. “Some of them might never have gotten off the ground, but if even 20 of those were big successes, they’d have given rise to others.”

Maeder’s firm also has offices in Silicon Valley where, he thinks, companies have a head start developing energy-efficient and environmentally-friendly technologies (sometimes called “clean-tech”). “In California, people develop some new market or product, and take it to one level,” he says. “Then, someone goes to the CEO and says, ‘Hey, I’ve got a great idea about how to take it to the next level.’ The CEO says ‘Oy. It’s a lot of work. Why bother.’ So the guy leaves and starts another company.”

In Massachusetts, Maeder says, the same employee will go to the employer, get turned down, and then be unable to start her own outfit. “We have experts and rock stars at a company, and they can’t take it to the next step,” says Maeder, who estimates that his firm now pumps “five to six” times as much capital into Silicon Valley as it does into Massachusetts.

“They’re taking clean-tech from us,” he sighs. “They already took the personal computer from us.”

A NECESSARY EVIL?

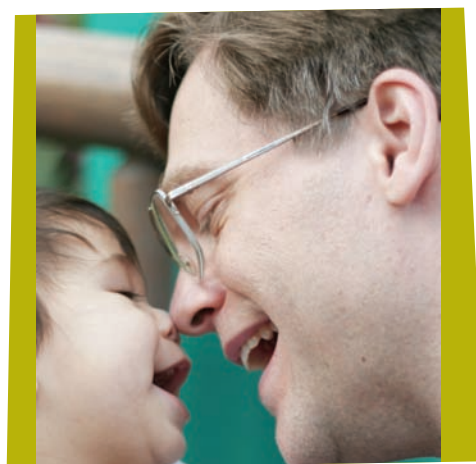
Not all venture capitalists share Maeder’s feelings, and even those who do often insist that any venture they fund use non-compete agreements for its future employees.

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— Thacher Kent, Western Massachusetts Labor Action



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Still, it's hard to find any companies who will go on record as actually liking the agreements. Several large technology employers, like IBM, declined to speak on the topic. Kenneth Bello, a Boston attorney, thinks they are a necessary evil in high-tech. "An employer can spend millions and millions on research development, then have individuals who have knowledge and who have been involved with the jewels of the company go to a competitor," he says. So many employers use them because they can, and because other employers do—even though some confess to personal qualms about limiting their workers' options.

"It's a rat's nest," says Emily Green, who has been on both sides of this issue in California and in Massachusetts. Green is the chief executive officer of Yankee Group, a Boston-based research firm. Yet 30 years ago she was a young technology employee in Los Angeles who wanted to establish her own company. Her employer threatened

It's hard to find any companies who will go on the record as actually liking the agreements.

to stop her, but when Green talked to a lawyer, she learned that she had every right to compete against her former firm.

Fast forward to the present: Green now asks future employees to sign non-compete agreements. "We wrestle with how to ensure that we don't foster businesses that end up competing with us," she says. "It's probably two-faced of me to acknowledge that as an employee I benefited from California's position, and now I'm in the position of asking employees to sign them."

Green is in that position partly because the agreements are legal here, she says. As long as her competition uses non-compete agreements, she will use them. She knows other state laws prevent employees from stealing trade secrets or soliciting Yankee Group clients, but says, "It's just easier to say that if I hire you and you leave us, I don't want you to work for my major competitors for a while." She adds that her firm "generally" doesn't enforce them if an employee is fired or laid off.

Green, who is part of an effort to organize the technology sector's legislative priorities, is open to the possibility of getting rid of non-compete agreements for everyone, though she's not convinced that such a change would spur significant new investment or entrepreneurship in the Commonwealth. "I think it's a red herring," she says. She suspects Silicon Valley's dominance has as

much to do with greater risk-taking among venture capitalists there and lack of access to broadband in parts of Massachusetts.

BALANCE OF POWER

Prohibiting non-compete agreements may not prompt cataclysmic change here, but it could cause the beginnings of a cultural and economic shift. Garrison, the University of St. Thomas professor, says he thinks Brownsberger's bill could help the state's economy. "The empirical work on this is not conclusive, but there's a strong indication that in high tech, [non-competes] stifle innovation and stifle the economy," Garrison says.

Lee Fleming and Matt Marx, a professor and doctoral student, respectively, at Harvard Business School, have found that the absence of non-compete agreements does indeed foster more mobility among employees, which is what is believed to have led to the collaborative spirit of Silicon Valley. "Many people see Silicon Valley as successful because it's a very free labor market," says Marx. "Whereas for a single company, it might be to their advantage for people not to leave, it might be to the benefit of the economy in general for people not to be trapped."

Still, any change to the state's laws would need to come along with some serious publicity. Marx says many people in both states are unaware of the laws; Californians are sometimes asked to sign non-compete agreements since employers assume many workers don't know the agreements are unenforceable. The experience of Caroline Huang and John, the software consultant, show the psychological effect of these agreements, so the right to work elsewhere doesn't matter if people don't know they have it. But with the right communications tools, a change in the law could lead to something else that's especially good for the young and the laid-off in this state: a better balance of power in the relationship between employer and worker.

Matt Marx, the Harvard graduate student, formerly worked as a technology manager in both California and Massachusetts, and he says the difference between the two states was pronounced. "In Boston, I could pretty much count on people being around as my employees because our company had locked everyone up for two years with non-competes," he says. "You didn't have to worry about people leaving. In California, I knew I didn't own any of these people. Someone once came to me and said, 'You know, it's been fun, but I think I want to go somewhere more stable than a start-up.' And all I could say was, 'What can I do to keep you?'"

"That led me to be a better manager," he says. **CW**



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Menino's long ride

The mayor of Boston runs for an unprecedented fifth term. The question facing voters is whether the city still needs a father figure or whether it's time for a new generation to take over.

BY ALISON LOBRON AND BRUCE MOHL

PHOTOGRAPHS BY MARK OSTOW

On a Wednesday morning in May,

Boston Mayor Thomas Menino throws a neighborhood party in a small South End park. It's a sparkling, lilac-scented day, the kind that makes Bostonians feel good about the decision not to decamp to one of those Southwestern cities with great weather and \$100,000 homes. Everyone is smiling—at the sun, at the toddlers scooting around the jungle gym, at the City Hall workers serving up free Dunkin' Donuts coffee and pastries. Women with strollers mingle with retirees and youth workers. Neighbors talk about planting radishes.

As the mayor steps out of his black Chevy Tahoe, in the first of many stops that day, he causes only a slight stir in most of the park's corners. One woman wants a picture of him with her

babies. A man with a shock of white hair buttonholes him to discuss efforts to spruce up an overgrown city park. “Oh, yeah,” says Menino. “You wrote me a letter.”

“You got that?” The man looks surprised.

“Yeah. We’re working on it,” Menino replies.

But many residents don’t react at all to the mayor’s appearance. He waits for people to approach him, cracks a few jokes, and presses a college student from Pittsburgh to promise him she’ll stay in Boston after graduation. He gives out flowers and some free pastries—grumbling as he does so about his own difficulty digesting them—and talks to a young mother about her child’s nut allergy.

Like a good chaperone, Menino blends into the party rather than being the life of it. He is not someone who naturally commands center stage. Yet for Menino, Boston is a moving stage; he attends multiple events on most days, shaking hundreds of hands. Politically, he is some-

one who grinds it out day after day, more a steward of the city than a visionary. Indeed, he insists “vision” is overrated, that “visionaries don’t get the job done.”

His speeches tend to blend complacency and purpose: Life in Boston is good, he tells us, and he will work to make it even better. He does not exhort city residents to be different than they are, he doesn’t subject them to the social experiments of the 1970s, and he isn’t using them to launch a bid for higher office.

According to Boston College historian Thomas O’Connor, an expert on Boston politics in the 20th century, Menino’s pragmatic knack for encouraging Bostonians without criticizing them was a potent winning formula in 1993, when the wounds of busing, racial discord, and

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1993-2008

Three voices for change



MICHAEL FLAHERTY, 40, a member of the Boston City Council since 2000, was born in South Boston and now lives there with his wife and four children. He is a graduate of Boston College High School, Boston College, and Boston University School of Law. After two years as an assistant Suffolk County district attorney, he went into private practice and is now a partner at Adler Pollock & Sheehan.

For Flaherty, government transparency is a high priority, as are the city’s schools. He favors lifting the cap on charter schools and says the *Boston Globe* series in June on the city’s abysmal school sports programs was shocking. “It’s a disgrace,” he says, giving the mayor a grade of “D” on the schools.



SAM YOON, 39, is a two-term Boston city councilor from Dorchester. Born in Korea, Yoon grew up in Pennsylvania and graduated from Princeton University and the Harvard Kennedy School of Government. He worked as a public school teacher and an affordable-housing developer before running for office in 2005. He and his wife, Tina, have two children in the Boston public schools.

In his campaign, Yoon has focused on promoting greater transparency and efficiency in city government. He favors replacing the mayoral-appointed school committee with one that has some elected members: “I want a school committee member to look me in the face and say, ‘I don’t report to you.’”



KEVIN MCCREA, 42, lives in the South End and is a founder and owner of Wabash Construction. Born in Boston, he grew up in Massachusetts, Ohio, Vermont, and Indiana, and graduated from Wabash College. A former professional motorcycle racer and Habitat for Humanity volunteer, McCrea is married to a clinical psychologist.

McCrea says his goal is to bring “honest, transparent government” to City Hall. He favors abolishing the Boston Redevelopment Authority and bringing people into city government who would view their job as a public service rather than a life career choice. “There is no predictability in the city, and there is no openness or accountability,” he says.

social engineering were still raw. "All the neighborhoods wanted was peace and quiet," says O'Connor. "We didn't want anyone controversial or Harvard liberals or financiers. We just wanted to be left alone. In walks Menino. He's one of us. He's not a flaming liberal. He's not going to rock the boat. He's just a good guy, a good Joe."

'HE'S ONE OF US. HE'S NOT A FLAMING LIBERAL. HE'S NOT GOING TO ROCK THE BOAT. HE'S JUST A GOOD GUY.'

Menino, O'Connor suggests, went on to become a kind of father figure to the city—one who makes residents feel loved and protected, and like they're good enough the way they are. A recent *Boston Globe* poll indicated that 57 percent of Boston adults (or more than 250,000 people, if the poll is accurate) have met the mayor personally, and 72 percent approve of the way he does the job.

As the 66-year-old Menino runs for an unprecedented fifth term against three challengers—City Councilors Michael Flaherty and Sam Yoon and South End business-

man Kevin McCrea—the race will largely be a referendum on his 16 years in office. The mayor says that those years have been good for Boston and the future will be even better. His challengers, all close to the age of 40, say the city has done well under Menino but could do better with someone new. The question facing every Boston voter is whether the city still needs a father figure or whether it's time for a new generation to take over.

MIDDLE-OF-THE-ROAD MENINO

Once considered the unlikely of politicians, Menino is now Boston's longest-serving mayor. Almost 15 percent of today's Bostonians were not yet born on July 12, 1993—the day Ray Flynn resigned to become US ambassador to the Vatican and Menino, then City Council president, replaced him. He's served under three presidents and five governors, through flush years and lean ones, through September 11, the Democratic National Convention, the end of the Red Sox curse, the dawn of the Internet age, the start of gay marriage, and the embrace of all things "green." It's been a long ride for the mayor, and he's not ready for it to end.

With his somewhat garbled speech and late-in-life

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bachelor's degree, Menino is a surprising leader for a city riddled with MBAs, PhDs, and high-tech wizards. But he's managed to turn his education and speaking limitations into advantages. Voters can relate to him. Bigwigs aren't threatened by him; if anything, they underestimate him.

Menino can be, at once, confident and unassuming, relaxed and prickly, boastful and self-effacing. Although fond of saying that he isn't a "fancy talker," he is actually quite skilled at manipulating conversations onto safe ground. Ask him about the giant hole in the ground at Downtown Crossing and you may find yourself listening to his thoughts on ways to improve local nonprofits. Driving past Boston Medical Center, which was created during his first term, he points and announces, "I did that." But when a reporter comments on the hospital's Menino Pavilion, the mayor makes a shooing motion with his hands: "I hate it. I don't like having my name on stuff." Yet the man who purports to hate having his name on things has his name on a great many things. It is hard to find a parks department sign or a city employee's T-shirt or a page of the city of Boston's website that doesn't say MENI-

NO in two or three places.

Much has changed in Boston during Menino's 16 years in office. Race relations have improved markedly on his watch. The schools have made gains by some measures but not by others. Crime, particularly gang violence, remains a concern, but national crime statistics indicate Boston is in the middle of the pack among cities its size.

THE MAN WHO PURPORTS TO HATE HAVING HIS NAME ON THINGS HAS HIS NAME ON A GREAT MANY THINGS.

Development has slowed due to the recession—note the big crater in Downtown Crossing—but buildings continue to go up. The South Boston Waterfront, the city's newest frontier, is beginning to take shape, while the Rose Fitzgerald Kennedy Greenway, a once-in-a-lifetime gift to the city from the Big Dig, struggles to find an identity. (See

Finances of city golf courses murky BY BRUCE MOHL

Boston Mayor Thomas Menino takes great pride in his management of the city's two municipal golf courses, the George Wright in Hyde Park and the William J. Devine course in Franklin Park. He says the courses are popular with golfers, in great shape, and turning a profit.

But when pressed about the profits, the mayor hedges and says the courses are at least breaking even. Yet tax records and reports filed by an independent auditor indicate the courses are actually losing significant amounts of money, as much as \$422,565 in one year. The exact amount of losses is unclear because the financial records of the golf courses are largely hidden from public view, and those that do exist contradict each other. City officials themselves don't seem to have a clear financial picture of the golf courses.

"It's somewhat intentionally murky," says Jeff Conley, executive director of the Boston Finance Commission, a city watchdog. "Clearly, they're not making money, and there's no real reason why they shouldn't be making money."

The city took over management of George Wright in 2004 and one year later

brought the Franklin Park course under its control. The courses previously were leased to private operators, who paid the city a total of \$850,000 during the last year of their leases.

Menino took over day-to-day operation of both courses after becoming embroiled in a messy legal dispute with one of the private operators, Doug Johnson. Johnson had sought to renew his lease at the George Wright course and win the lease at the Franklin Park club, but both times the city went with another company even though Johnson had submitted the highest monetary bids. Claiming he was rejected because he refused to kowtow to the mayor's golfing cronies, Johnson sued. The city and Johnson have been in court ever since (Johnson won one jury verdict but only minimal damages), a bitter legal dispute that prompted Menino to take over operation of the courses himself.

The mayor dismisses Johnson's criticisms with a wave of his hand. "The course was poorly managed, plain and simple," Menino says of George Wright. "Today, we have city employees running it. It's in better shape now. It's making money."

As evidence, city officials cite *Golfweek* magazine, which recently ranked George Wright 14th among the top 50 municipal golf courses in the country.

Officials with the city's Parks and Recreation Department also say the courses returned an operating profit of \$542,000 in 2007 and \$200,900 in 2008. But they said that once capital and other costs are included, the city is probably breaking even. City officials didn't provide a complete accounting for the courses.

Antonia Pollak, the department's commissioner, says the courses are recreational assets and turning a profit is not the city's top priority. "We're not a for-profit business," she says. "We're in the recreation business."

Many other municipalities that own golf courses report financial results as part of their budget process. Brookline lists all the financials for its Putterham Meadows course on its website, including how much aid the town provides to the course each year and how much money the course pays back to the town.

Information on Boston's courses is hidden from public view. The revenue from



the courses flows through a nonprofit charity set up by the city called the Fund for Parks and Recreation. City officials say the fund pays all of the expenses of the golf courses, even reimbursing the city for the salaries of the two golf pros who are on the city payroll. The pro at George Wright makes \$90,000 a year, and the pro at the Franklin Park course earns \$82,000. City officials said other employees work on a contract basis and are paid by the fund.

Yet none of the golf course expenses or reimbursements to the city are listed on the federal tax filings of the Fund for Parks and Recreation. Asked why the information was not disclosed, city officials said it was included in a separate tax return that covers only the golf courses. The separate return, called a 990T, is required for any business owned by a charity that is unrelated to the charity's core function. An Internal Revenue Service spokesperson said charities have to pay taxes on these unrelated businesses if they turn a profit.

Nonprofits aren't required to release their 990T forms until next year, but city officials promised they would release the tax returns of the golf courses for the last

five years. Despite repeated requests, at press time city officials had released only one filing for the year ending June 30, 2008.

That filing indicates the courses generated revenue of nearly \$2.2 million and expenses of more than \$2.6 million, for a loss of \$422,565. The filing vaguely describes the expenses of the golf courses, including \$1.4 million for contractual services, \$367,000 for "other golf course expenses," and \$323,000 for supplies. No reimbursement payments to the city are identified.

Separate audited financial statements filed with the state attorney general by the Fund for Parks and Recreation also indicate the courses lost money in fiscal 2008, but not the same amount listed in the tax return. The records show golf course revenues of \$2.5 million and expenses of \$2.8 million for a net loss of \$272,000. The statement indicates the courses owed the city \$93,000 for improvements paid for by the city. The financial statements also indicate money is transferred in and out of golf course accounts regularly.

Jerry Carchedi, finance director for the city's parks and recreation department, couldn't explain why his internal calcula-

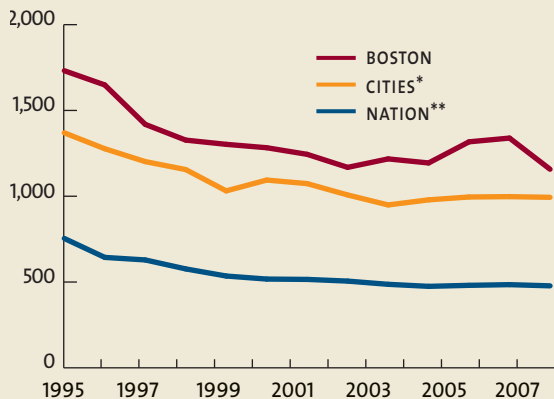
tions showed the golf courses generating an operating profit while the tax and charity filings indicate they are losing money. He indicated it was difficult to compile correct financial numbers, but estimated his figures were "95 percent accurate."

The apparent financial losses at the golf courses are occurring even as more golfers are playing them and the city is charging higher fees. City records show the number of golf rounds played at the two courses has increased 40 percent since 2005, while fees have increased 19 percent for residents playing 18 holes and 23 percent for nonresidents. Residents currently pay \$31 and nonresidents \$37.

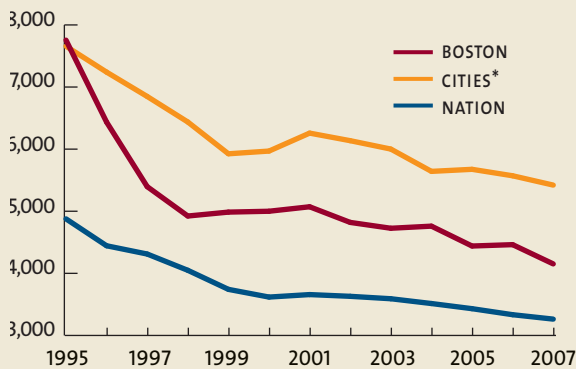
Conley says there is no question the city is losing money on the golf courses. If anything, he says, city officials minimize the losses because they don't account for all the financial support the city provides the courses. He says the courses are in good shape physically, but they should also be in good shape financially.

"You should be able to provide a reasonable golf experience for people and make money," he says. "We always felt you could do both."

VIOLENT CRIMES PER 100,000 RESIDENTS, 1995-2007



PROPERTY CRIMES PER 100,000 RESIDENTS, 1995-2007



Boston's violent crime rate is higher than in comparable cities due to its high rate of aggravated assaults. Its rates for homicides and robberies are relatively low. Crime data does not include data from colleges with their own police forces.

COPS ON THE STREET

Year	BOSTON		CITIES*
	Officers	Rate/1,000	Rate/1,000
1995	2,093	3.8	3.1
1996	2,218	4.0	3.1
1997	2,244	4.0	3.1
1998	2,140	3.8	4.1
1999	2,252	4.0	3.2
2000	2,189	3.8	3.1
2001	2,130	3.6	3.0
2002	2,143	3.6	2.9
2003	2,053	3.5	2.7
2004	2,036	3.5	2.8
2005	2,075	3.7	2.8
2006	2,056	3.7	2.8
2007	2,170	3.7	2.8

Source: FBI annual Uniform Crime Reports

* Cities with populations of 500,000 to 999,999, including Boston. The number of cities varies from year to year because of population fluctuations.

** Does not include the terrorist attacks on Sept. 11, 2001.

"Plush Park," CW, Fall '08.)

Faced with a \$95 million reduction in state aid, the mayor cut spending this year by \$26.3 million and plans to lay off 67 police officers and 74 teachers. Yet, overall, the city's finances are sound. Menino previously socked away \$121 million in a reserve account and plans to use a third of it to forestall more cuts in this year's budget. And after seven years of lobbying on Beacon Hill, lawmakers finally granted cities and towns the authority to assess new taxes on meals and more taxes on hotel stays, powers that will benefit Boston the most.

The city's unusually resilient economic base of health care, education, financial services, and tourism has played a role in making the mayor look good. During the past 16 years, those sectors have helped generate a steady stream of tax dollars that Menino has plowed into the neighborhoods, the schools, and public safety—as well as the paychecks of the politically powerful unions that teach children, fight fires, and walk the beat. He has been able to bolster city services and keep property taxes relatively low for residents by sending the bulk of Boston's tax levy to business and commercial firms whose leaders often live elsewhere.

During Menino's tenure as mayor, city spending has outpaced inflation. The Boston-area Consumer Price Index rose nearly 54 percent between 1993 and 2009. Spending by the city during that period increased 86 percent, rising from \$1.3 billion to \$2.4 billion, according to the Boston Municipal Research Bureau. Some of the biggest increases in city spending were for fire protection (243 percent) and schools (116 percent). City paychecks have grown dramatically under Menino for police officers, firefighters, and teachers. The average teacher salary in Boston is \$71,123, according to 2006-07 state data.

The cost of employee health insurance has grown 204 percent to \$264 million, with the mayor only recently pressing the city's unions to pay 15 percent of the cost of their HMO insurance coverage instead of 10 percent. Nationally, the average employee share is 27 percent, and in Massachusetts it's 25 percent, according to 2007 data from the Massachusetts Health Connector.

While Menino has ramped up spending, Bostonians have shouldered relatively little of the cost. In fiscal year 2009, the city's residential property accounted for 64 percent of total assessed value but only 36 percent of actual taxes paid. By contrast, commercial property accounted for 31 percent of total assessed value, but 55 percent of the actual taxes paid. Boston residents pay a pittance compared to their neighbors: the average single family tax bill in Boston is \$2,762, compared to \$10,064 in Brookline, \$8,043 in Newton, \$4,375 in Quincy, and \$5,720 in Cambridge.

The city's financial workings make it a comfortable

11%

**BOSTON
RECYCLING RATE,
2007**

place for a mayor who fashions himself an urban mechanic, tinkering under the city's hood. But Menino has at times hopped into the driver's seat and taken off in unexpected directions. In 2005, he took over management of the city's two golf courses to keep them out of the hands of a private contractor who was suing the city and bad-mouthing the mayor. In 2006, he floated the idea of selling the current City Hall and moving his office to the South Boston waterfront. That same year he called for developers to build a signature 1,000-foot building at the site of a rundown city garage in Winthrop Square. More recently he hired a city bike czar and ordered the Boston Redevelopment Authority to invest \$1 million in a business networking website called Boston World Partnerships.

Some of these initiatives, like biking and the networking website, are still trying to gain traction. The golf courses are in good shape, but the city doesn't have a handle on their finances (see sidebar). The rest of the initiatives have either died or fizzled.

Thomas Birmingham, the attorney and former Senate president who occasionally serves as a mediator during city labor negotiations, says Menino is often out in front on issues, specifically mentioning gay rights. "He's often ahead of the curve on things that, to look at him, you wouldn't expect him to be in the vanguard," he says.

MENINO IS OUT FRONT ON SOME ISSUES, BUT HE'S OFTEN MORE COMFORTABLE WITH INCREMENTAL CHANGE.

But Menino can also be incredibly cautious, someone comfortable with study commissions and incremental change. His approach to recycling is a useful case study: During most of his time in office, Menino made minimal effort to reduce the city's solid waste stream. While other towns used trash bag fees and other incentives to spur residents to recycle, Menino did little more than hand out recycling bins. According to 2007 state data, the most recent available, Boston's recycling rate was 11 percent, one of the lowest levels in the state. A year ago the city launched a pilot program to see if allowing residents to place plastic and paper items in one container rather than separating them would boost recycling. Recycling increased 50 percent, so city officials are rolling the program out citywide at an expected savings of \$1 million a year. Now, in the midst of Menino's reelection bid, city officials are sending out how-to recycling brochures to



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every household with a letter from the mayor proclaiming Boston as “one of the greenest cities in the nation.”

The mayor also been late to the game on the Rose Fitzgerald Kennedy Greenway. The Greenway represents the biggest physical change in Boston over the last 16 years, yet Menino, like many state and local politicians, spent years keeping it at arm’s length for fear of getting stuck with the upkeep tab. Only now, after the Greenway is up and running under the direction of a private conservancy, is the mayor’s administration studying what kind of development belongs along the park. He insists he could not have done the planning any earlier. “We didn’t know what was going to happen, or how it was going to shape up,” he says.

Neil Sullivan, a key Flynn advisor now at the helm of the Boston Private Industry Council, says Menino honed his approach to governance during his years on the City Council. According to Sullivan, Menino became the “inevitable swing vote on every issue” — never staking out a position until he had talked to everyone and heard every side. “When you’ve mastered the skill of holding down the middle and only moving to the majority, you always win,” says Sullivan. “If you’re the last vote, you’re always on the winning side.”

TOUGH ROAD FOR CHALLENGERS

Time is winding down before the September preliminary election that will narrow the mayoral field from four to two candidates. Menino, with \$1.3 million in his campaign account, is a fundraising machine, while his opponents struggle to gain name recognition and money in a town where no one wants to cross the mayor. McCrea, with just over \$4,000 in his campaign account, is the

‘THINGS MAY BE OK. SOME SAY THEY’RE GOOD. BUT GOOD IS NOT GOOD ENOUGH.’

entertaining long shot of the race. The South Korean-born Yoon is the idealistic outsider, the only challenger who wasn’t born in Boston. He has \$190,000 in his account. Flaherty, whose Irish Catholic profile is more similar to mayors from Boston’s past, has nearly \$550,000 in his account.

All three candidates say that it’s time for a change. (Flaherty, in fact, says the words “it’s time” five times in a 45-minute interview.) They also share the same twofold dilemma: one, things aren’t all that bad under Menino,

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Measuring Menino

Below are benchmark numbers for some of the changes that have occurred during Boston Mayor Thomas Menino's 16 years in office. During that period, inflation in the Boston area grew at a 54 percent rate, while spending on schools, fire, and employee health insurance, as well as most city salaries, grew faster.

	1993	2009
Boston's population	550,938	608,352*
Property tax revenue	\$590.7m	\$1.4B
State aid	\$333.1m	\$610m
Total city revenues	\$1.3B	\$2.4B
Residential tax rate per \$1000 assessed value	\$12.88	\$10.63
Commercial tax rate per \$1000 assessed value	\$39.99	\$27.11
Residential property tax exemption	\$364.14	\$1,375.36
Average single family property tax bill	\$1,404	\$2,762
School spending	\$350m	\$755m
Police spending	\$127.5m	\$161.6m
Fire spending	\$83m	\$284.9m
Employee health insurance	\$86.9m	\$264.3m
Public school enrollment	60,032	56,367
Black student percentage	48%	39%
Non-Hispanic white student percentage	19%	14.8%
Hispanic student percentage	23.3%	37.4%
City employees	14,382	16,445
Mayor's salary	\$100,000	\$169,750
Teacher base salary (with master's, 8th step)	\$45,534	\$78,994
Firefighter salary (three years of experience)	\$39,484	\$63,045
Police officer salary (three years of experience)	\$44,279	\$71,415
Parking fine revenues	\$47.7m	\$71m

* 2007 data

Source information: Population information from Massachusetts Department of Revenue, based on US Census data, most recent census data is 2007; revenue and spending data from City of Boston financial statements and Budget Office, prepared by Boston Municipal Research Bureau; tax rates, residential property tax exemption, and average single family tax bill from City of Boston, Assessor's Department; schools data from Boston Public Schools, prepared by Boston Municipal Research Bureau; Union salary data from city labor contracts

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and two, when the mayor finds himself on shaky ground on an issue, like whether more charter schools are needed in Boston, he simply changes his position.

Flaherty has tackled the dilemma head-on with his "good/better" campaign, which features "good" products like Walkmans and cordless phones juxtaposed with "better" products like iPods and iPhones. Ultimately, Flaherty portrays Menino as good and himself as better. "Things may be OK. Some may say they're good," he says in an interview. "But good is not good enough in 2009."

McCrea agrees. "It's not that we're Detroit," he says. "The reason I'm running is not what the city is. It's what the city could have been through a bunch of missed opportunities. Good things have happened, but I'd suggest that a lot of the good things that have happened are the same things that happened in a lot of metropolitan areas. It's a nationwide trend, people moving back into cities for economic reasons, green reasons. The mayor has been the beneficiary of that nationwide trend."

Yoon echoes his rivals. "The overarching rationale is not that the city hasn't seen progress in the last 16 years," he says. "It has had some progress, just like every major urban area in the country. It's just that he's been there too long and while our country at this moment is undergoing incredible transformation, we don't have a mayor that believes in transformation. What I've seen in City Hall is just politics that is really devoid of ideas and fresh thinking. There's real wasted potential."

'WHAT I'VE SEEN IN CITY HALL IS POLITICS DEVOID OF IDEAS AND FRESH THINKING.'

All three candidates want greater transparency in city government. Yoon and McCrea think Menino has been too generous with the city's unions. "Every major contract, he's had opportunities to enact reforms that eliminate waste, fraud, and abuse, but he hasn't," says Yoon. Adds McCrea: "What the mayor has done is buy a vast army of union workers who are loyal to him." Flaherty, who has been endorsed by several Boston unions, including the firefighters, is less critical of the unions and says reform can be accomplished by working with them.

Flaherty blames the mayor and the Boston Redevelopment Authority for delaying a lot of development projects when the economy was strong that now can't get off the ground with the economy so weak. "There's a lot of stalled development right now because we mismanaged it during the good times," Flaherty says.

He worries that may be happening again with developer Donald Chiofaro, who built International Place and now wants to build a skyscraper at the site of the Harbor

Garage next to the aquarium. Flaherty isn't saying what he would do with Chiofaro's proposal, but he says a mayor needs to be willing to sit down with developers and work out disagreements. He calls Chiofaro "another guy that can't get a call back" from the mayor.

Menino himself is cagey on Chiofaro's project. He says Chiofaro isn't working to address the concerns of the surrounding neighborhood. He also says the proposal is going through the same approval process at the BRA as any other project, but then, seconds later, says the project won't be built as originally planned, with two towers casting shadows on the Greenway. "It's not my responsibility to make a developer a gazillionaire. No, I have a responsibility to the taxpayers of Boston to try to develop the city, and one of the things I think we've done is continue the European look of Boston better than most cities. That's important. We have progress, but controlled progress."

Chiofaro, who at one point sent city officials a picture of himself dressed as a tin man with a tin ear, issued a statement saying he and the mayor share a common heritage, a love of the city, and a commitment to its future. "I have tremendous respect for the job he has done so consistently well over the last 16 years and I think he will come to appreciate the jobs and significant benefits our project

will deliver," he says.

Yoon and McCrea both say development in Boston is driven by insiders for the benefit of insiders, and that they would do away with the BRA entirely. "What we have is a complete laissez-faire approach that says the loudest people, those with the most specialized private interests, get to the table," Yoon says. "There's no process in Boston," McCrea adds. "The only process is: Does the mayor want it?"

TAKING CHARGE OF THE SCHOOLS

In his 1996 State of the City address, Menino said he wanted to be judged, and judged harshly, by the performance of the Boston Public schools.

On Menino's watch, the district launched pilot schools and carved old behemoths like Dorchester High School into small academies. But perhaps the biggest change was the introduction of the Massachusetts Comprehensive Assessment System tests, which all students in the state must now pass to graduate from high school. Since Menino's tenure as mayor coincided precisely with statewide education reform—he entered office the same year the Education Reform Act passed—it is not easy to parcel out responsibility for progress, or lack thereof, in

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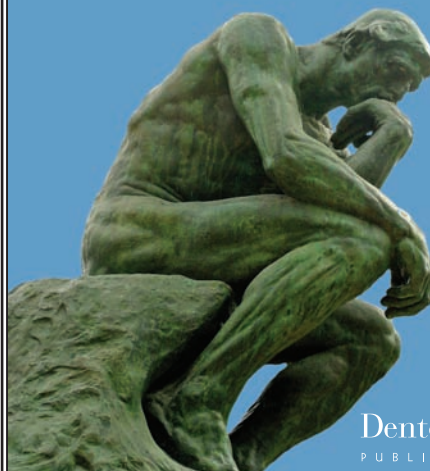
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Boston's schools.

But the mayor has had far more opportunity to influence the schools than his predecessors. Eighteen months before he entered office, Boston switched from an elected to an appointed school committee, giving the mayor new control over, and new accountability for, the Boston Public Schools. Perhaps his greatest legacy is the leadership stability he has given the schools. Nationwide, the average tenure of an urban school superintendent is 3.5 years, but Menino has had only three superintendents during his time in office, with Thomas Payzant holding the post for 11 years from 1995 to 2006.

"I'd never been offered a five-year contract," says Payzant, who had been the superintendent in San Diego, Oklahoma City, and Eugene, Oregon, before coming to Boston. "That told me Boston was serious and knew it wasn't going to be a one- or two-year turnaround. They were in it for the long haul."

MCAS, the state's yardstick for student achievement, indicates Boston students have gained ground on their counterparts at other schools. In 2001, 60 percent of Boston 10th-graders passed the English Language Arts test and 53 percent passed the math test, well below the statewide averages of 82 percent for English and 75 percent for math. By 2008, Boston's passing rate had risen to 91 percent in English and 84 percent in math, just below the statewide averages of 96 percent in English and 91 percent in math. Boston students were less successful in catching up to state averages for "proficient" and "advanced" levels on the tests, lagging 20 percentage points behind for the two categories combined.

In 2006, the Boston Public Schools received the Broad Prize for Urban Education for the best overall performance and improvement among large urban US school districts. Urban districts are often compared because they have the most difficult students to educate. In Boston, for example, three-quarters of the students are low-income, 38 percent don't speak English as their first language, and nearly 20 percent have a cognitive or physical disability.

But despite its comparative success, the Boston Public Schools remain troubled. In 2008, Boston failed to attain adequate yearly progress as the federal government defines it under the No Child Left Behind law. It was the third time in eight years the city's schools have failed to reach the federal accountability goal.

Dropout rates have stagnated, hovering around 20 percent. A high percentage of those students who do graduate go on to college, but many of them never get a degree. Of the 2,964 who did graduate in 2000, according to research by the Northeastern University Center for Labor Market Studies, only one-fifth of them earned a two- or four-year college degree within seven years.

A *Boston Globe* series in June revealed that the school

department was spending less than \$4 million on its sports programs, less than a half percent of its total budget and far below state and national averages. The *Globe* reported that relatively few students were participating in sports, in part because the school system didn't have enough teams, coaches, trainers, and even uniforms.

The mayoral challengers say these deficiencies mean the school system is broken and needs new leadership. "To call it an incrementalist approach almost gives it too much credit. It's almost as if it's incrementalist by default, by the mayor's lack of courage," Yoon says. "We should have world-class public schools that aren't just ranked against other urban counterparts. When you talk 'urban ed,' you know that's code for second class."

Flaherty says it's a disgrace that more Boston students are not graduating from college. He has three children in the Boston Public Schools, and thinks too many people with school-age kids are leaving the city because of the schools. He gives the mayor a grade of "D" for his handling of the schools.

Menino isn't satisfied with the schools either. "We've done a decent job but we can do better," he says. In June, with the campaign heating up, he said he would launch a nonprofit charitable foundation to support school sports,

voiced support for merit pay for teachers, and backed more non-union charter schools. It was a stunning about-face for a mayor who had long stood side by side with the Boston Teachers Union against more charters.

The mayor says he was frustrated with the teachers union's resistance to change and wants to be at the front of the line for a chunk of the \$5 billion coming from the Obama administration for education reform. "To do that, I may have to do some things the union doesn't like," he says.

Flaherty and Yoon both support the expansion of charters, a potent issue with the parents of the approximately 11,000 Boston children on waiting lists for the schools. Richard Stutman, president of the Boston Teachers Union, says he sees only one explanation for Menino's charter school conversion. "I have to attribute it to the politics of the moment," he says.

Indeed, when Menino talks about education, he sounds more like one of his challengers than a 16-year incumbent. "If we want to bring this school system to the next level, we have to do things a little bit differently," he says. "The status quo must go." **CW**

CommonWealth reporter Jack Sullivan contributed to this report.

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Back tracking

The cash-strapped T hits another rough patch, as defective concrete ties pose safety risks

BY JACK SULLIVAN

PHOTOGRAPHS BY MEGHAN MOORE

Stephen Wiles leaves his New Bedford home at about 6:15 each weekday morning to drive to Middleborough to catch the commuter train to Boston. He's been riding the rail five days a week for about five years, so he knows the route and its bumps and sways well. Lately, he's noticed some jarring patches on the stretch near the Middleborough-Bridgewater town line.



"It's quite rough," says Wiles, one of the 10,000 riders on the MBTA's Old Colony lines every day. "One evening in particular it was quite bumpy."

That section of track is where the six-car commuter train runs at 70 miles per hour over hundreds of concrete railroad ties that are breaking, crumbling, and disintegrating. It is one of numerous areas along the MBTA's southernmost rail lines that have been built or rebuilt using concrete instead of wooden ties to support the tracks. The concrete ties were supposed to last 50 years, but many are falling apart after less than 10.

The evidence of deterioration is easy to spot. Fasteners intended to keep the rails anchored to the railroad ties are detached from the ties, and pieces of broken concrete lie next to the track in spots. In some areas, ties are split in half. All along the track line, numerous ties in varying stages of distress have been marked by inspectors with bright green, yellow, or white paint—a color-coded triage system for workmen handling repairs or monitoring the tracks for further deterioration.

Looking down on the Old Colony line from a bridge on Plymouth Street in Middleborough, one can see painted ties stretch about a half-mile in either direction. Between some of the broken concrete ties, maintenance workers have installed new wooden ties to stabilize the track until the T can begin the process of removing and replacing the damaged cement ones.

MBTA officials say they have identified defects in about 4,000 concrete ties on the two Old Colony commuter rail lines to Boston and on the Providence-to-Boston line, but they admit the problem could affect as many as 150,000 ties, equal to more than 56 miles of track. The cost of repairing the ties is unclear, but projections using numbers from similar projects elsewhere yield an estimate that could run as high as \$100 million. It's money the debt-ridden MBTA doesn't have.

The concrete ties are under warranty, but the company that manufactured them, Rocla Concrete Tie of Denver, has told state officials it will file for bankruptcy if the state tries to make it pay. "We have an issue with the company refusing to come forward," said James Aloisi, the state's secretary of transportation. "If we could go after someone, we would go after the company, but I'm not sure we can." Rocla officials did not return calls for comment.

MBTA officials have been tightlipped about what they plan to do. MBTA chief Daniel Grabauskas twice begged off when asked by a reporter at public events about the concrete tie problem. *CommonWealth's* efforts to obtain public records on the concrete tie situation have been unsuccessful. T spokesman Joe Pesaturo, after months of stonewalling, finally responded to emailed questions and

said the MBTA's commuter rail tracks are safe.

"Absolutely," he said. "Inspections take place on a regular basis to monitor the tracks' integrity."

But the problem is so new that the regulatory framework for spotting problems with concrete ties is not in place yet. The federal government has few inspection and safety standards specifically for concrete ties on many classes of tracks, although it is expanding them. The Federal Railroad Administration's accident database indicates that defective ties are responsible for a growing number of train derailments, but the database doesn't distinguish between concrete and wooden ties. The FRA also doesn't investigate the root causes of individual derailments unless they result in a fatality, a serious injury, or cause major property damage.

The limited evidence available suggests defective con-

The cost of repairing the defective ties is unclear, but projections run as high as \$100 million.

crete ties are becoming a safety issue. Concrete ties, which have been in use since the 1960s, had a surge in installations in the late 1980s and early 1990s. According to the FRA, there have been 227 derailments caused by defective or missing ties since 1991. Between 1975, when records started being kept, and 1990, there were no derailments caused by defective or missing ties.

In Massachusetts, there have been no derailments due specifically to defective or missing ties since 1991, but there have been a handful of derailments caused by defective ties that had triggered a slight widening of the tracks. It is unclear whether concrete ties were involved. Concrete ties are in limited use in Massachusetts. Amtrak and freight lines have used them on some lines in Massachusetts since the late '80s, but the T's usage is confined to the Old Colony and Greenbush lines. The North Shore and western commuter lines do not ride over concrete ties.

One derailment that can be traced to defective concrete ties occurred in Washington state in 2005. An investigation by the National Transportation Safety Board found that a train traveling at 60 miles per hour in Skamania County derailed on a 40-foot stretch of track that had 19 defective concrete ties. The ties were cracked and worn, causing the fasteners that bind the track to the tie to give way. As the train rolled over the ties, one of the rails started to bend and move outward by just over an inch, causing the train to come off the track. No one was



A southbound Old Colony train speeds through a crossing at Titicut Street in Bridgewater, where scores of defective concrete ties are beginning to crack and crumble.



Bottom right, looking south from a bridge at Plymouth Street in Middleborough: Wooden ties are used to shore up sections of track where deteriorating concrete ties could create problems for trains, which travel up to 70 miles per hour on the straightaway. The green, yellow, and white paint on the ties indicate those that need to be replaced or monitored. Bottom left: New concrete ties await installation at a staging area in South Bridgewater. In the background are scores of wooden ties ready to be placed in problem areas until the broken concrete ties can be removed and replaced. Top left: A close-up photo shows dozens of consecutive ties, painted to mark them as defective, in various stages of distress. There are cracks, breaks, and detached chunks of concrete.

killed, but 14 of the 30 injured passengers were hospitalized. The NTSB has posted an animated re-creation of the accident on its website (www.nts.gov).

“Contributing to the accident was the Federal Railroad Administration’s failure to provide adequate track safety standards for concrete cross-ties,” the NTSB wrote in the “Probable Cause” section of its post-accident report.

Brad Winter, the New England region’s general chairman for the Brotherhood of Maintenance of Way Employees, whose members inspect and maintain the rails, said the problem is very real. “If you get enough of them [defective ties] in a row, you get wide gauge,” he says. “Five or six in a row, especially on a curve, you could possibly put a train on the ground [derailment], if the gauge got wide enough.”

CONCRETE VS. WOOD

Railroads have increasingly used concrete ties over the past 30 years for economic reasons. Concrete ties cost

nearly twice as much to buy and install as wooden timber ties, but they are supposed to last 50 years instead of wood’s 25 years. Their relative strength also means a mile of track can be laid with fewer ties than would be required with wooden ones.

But problems with concrete ties have surfaced periodically when manufacturers failed to mix the concrete to local specifications. A concrete mix that might be suited for a dry climate like Arizona isn’t appropriate for the warm, moist climate of Florida or the freezing and thawing cycles found in northern parts of the country.

“The concrete cracks as it shrinks, with the water penetrating into the concrete and freezing there during freeze conditions and then thawing,” resulting in a change in the consistency and structure of the concrete, says Oral Buyukozturk of MIT’s Center for Transportation and Logistics, who was part of a team that studied the use of concrete ties several years ago and urged a mixture of preventive chemicals and reinforcements for concrete tie use.

A study released earlier this year by the railroad engi-

In Washington state, a train derailed on a 40-foot stretch of track with 19 defective concrete ties.



neering program at the University of Illinois found that some of the major railroad systems in the United States and Canada are abandoning concrete.

“Due to their relatively higher initial costs, concrete ties are only economical in applications where they last longer and require less maintenance than wood ties,” the study’s authors found. “A primary concern is that concrete ties have unresolved performance problems that shorten their service life and require unplanned maintenance.”

Problems first surfaced with defective concrete ties in the late 1980s, when Lone Star Industries of Greenwich, Connecticut, sold to Northeast railroad companies ties that within relatively few years began deteriorating. The ties were made at the company’s now-defunct Massachusetts subsidiary, San-Vel Industries in Littleton, and they soon cracked, crumbled, split, and broke. Rail systems, including the MBTA, sued Lone Star in federal court but only recovered replacement ties and had to cover the cost of installation themselves. San-Vel went bankrupt.

Rocla is now facing many of the same problems that Lone Star faced. As many as 600,000 ties—the equivalent of more than 225 miles of track—made and bought in the mid- to late 1990s at its Delaware plant have been identified as potentially defective because of a problem in the mix used to make the ties, which weigh about 800

pounds each and were supposed to withstand the harsh and ever-changing elements of the North.

“They thought they had the problem [with climate] solved, but it came back again,” says Winter, who began as a maintenance worker on the rails in 1975. “Something happens in the batch of concrete that makes the ties deteriorate.”

A concrete mix that might be suited for a dry climate in Arizona may not work well in Northern states.

The vast majority of the defective ties are in the Northeast rail corridor, where freezing and thawing cycles coupled with moisture have exposed the flaws. Amtrak and New York’s Metropolitan Transit Authority, which runs the Long Island Railroad and other commuter routes, have been forced to close down tracks and spend hundreds of millions of dollars replacing the bad ties. Nearly a third of the defective ties, including 80,000 in New England, are slated to be replaced along the tracks that carry, among others, Amtrak’s high-speed Acela trains from Boston to Washington.

"It's been a debacle," says P.C. Chaput, president of the Brotherhood of Locomotive Engineers and Trainmen Local 57 in Charlestown.

Rocla's concrete ties were sold with a 25-year warranty, but that's just on the ties themselves and not the cost to install new ones. Rocla, after initially denying culpability, has negotiated confidential settlements with New York's commuter rail companies and Amtrak, but the settlements don't begin to cover the total cost.

The Metropolitan Transit Authority, which oversees the Metro-North and Long Island railroads, told New York legislators the cost to remove and replace the defective ties will be \$125 million, even after Rocla supplies new ones.

Margie Anders, a spokeswoman for Metro-North, said the terms of the settlement have been sealed, but Rocla has agreed to provide replacements for all of the ties in question, whether they failed or not. "We have 200,000 ties that are being replaced with only about 50 percent being defective," Anders says.

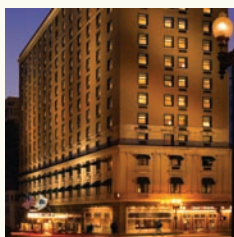
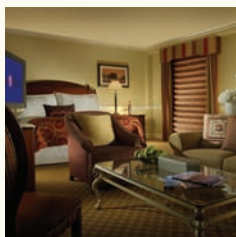
Cliff Cole, Amtrak's spokesman, said the rail line has spent \$60 million so far to replace more than 76,000 crumbling ties. He said another 100,000 are slated for removal and replacement. The work has been ongoing for

two years, and Cole says it will be five more years before all the defective ties are replaced. In March, Amtrak said it would use \$50 million in federal stimulus money from the Obama administration—intended for high-speed rail expansion—to replace 80,000 "deteriorating" ties in New England.

Rick Inclima, the national safety director for the Maintenance of Way workers in Washington, DC, and a member of a government concrete-tie task force, says the longer-life claim of concrete appears to have been a sales pitch. "The promise of concrete has always been, 'well, they last 50 years,'" Inclima says. "It's pretty obvious maybe that's been oversold a bit."

A QUESTION OF SAFETY

The nagging question about the defective concrete ties is whether or not they are safe. Railroad after railroad has said they are, even as they rush to replace them and, in some instances, abandon or avoid their use. But there is growing evidence that the standards for evaluating the safety of concrete ties are inadequate—and that the ties themselves may pose a greater safety concern than previously thought if they are not properly made or installed.



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One problem with both the Rocla ties and the defective ones in the Lone Star suit in the early 1990s is that not each tie is tested individually, and deterioration cannot be determined until several changes of the season, long after the ties are installed and trains barrel across them daily.

The Federal Railroad Administration has few standards for inspecting and guaranteeing the safety of concrete ties on most commuter rail tracks. Most inspectors are forced to apply the standards for wooden ties to the cement ones, despite the differences in strength, rigidity, and materials.

In the 2005 Washington derailment, federal investigators found that inspectors identified problems in the concrete ties in four separate inspections following reports of “rough riding,” including one just two days before the accident. But these problems were never reported because there was no violation of existing regulations and no reporting category to cover whether the condition is reported and fixed in a timely manner.

“The Safety Board is concerned about the lack of Federal requirements to help inspectors identify when

concrete crossties . . . have deteriorated to unsafe levels,” NTSB chairman Mark V. Rosenker wrote in 2006 to Federal Railroad Administration officials following the investigation of the Washington derailment. “The serious nature of this accident highlights the need for the FRA to ensure adequate safety standards exist for concrete crossties in all track structures.”

Following the NTSB investigation, the FRA set up a

The FRA still has few separate standards for inspecting concrete ties, rather than wooden ones.

task force to come up with new regulations for concrete ties. In part, they have called for automatic inspections, new safety standards, and mandatory reporting of defects. After two years of meetings, the task force issued its draft regulations in May, but they are not expected to be implemented until at least June of next year.

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A DIFFERENT RESPONSE

MBTA officials insist they are doing everything by the book, but the agency doesn't appear to be dealing with the issue in the same way as other systems that have grappled with the same problem. While other public rail agencies have ordered trains to slow down while going over defective concrete ties and even closed some lines down for repairs, the T is insisting that the problem is not widespread, that commuters are safe, and that repairs can be made without service interruptions.

But T officials are also warding off inquiries into the problem. A public records request for information on the original contract, warranty information from Rocla, the extent of the problem, and the cost to replace the faulty ties was met with a bill for \$1,500 for the records, including a charge of \$65 per hour for 23 hours—the equivalent of \$135,200 in annual salary—for an unidentified T employee to compile and copy the public documents. That is being appealed.

Not only has MBTA chief Grabauskas fended off questions, including at a recent graduation ceremony at South Station for new locomotive engineers, officials at Massachusetts Bay Commuter Rail, the for-profit company that operates the commuter lines, have not returned calls for comment. T spokesman Pesaturo said there's been no need to make the public aware of the problem. "Our customers haven't asked about it," he says.

But a lawsuit filed in federal court in 2006 by New York's Metro-North Commuter Railroad and Long Island Railroad says that strikingly similar and unexpected failure of the ties on their lines placed their operations and their passengers in danger.

"[T]he railroads have observed that a significant number of the Rocla ties are undergoing varying rates of failure, ranging from hairline cracks to extensive 'mapped' cracking to severe deterioration, where the tie is actually falling to pieces," according to the since-settled lawsuit. "The condition of the ties in general has been found to be progressive, in that apparently normal ties are seen to develop cracking, and ties already evidencing cracking have subsequently failed. The defective ties are creating major safety and operational concerns for the railroads."

The New York and New Jersey railroads shut down lines temporarily and instituted schedule changes in order to speed up replacement. Anders, the Metro-North spokeswoman, said part of the reason for shutting down sections of the rail to replace the ties is economic—that is, to be able to use a tie-laying machine for long stretches at a time, to have workers fixing the rails during regular business hours on straight time rather than on overtime for nights and weekends, and to avoid having to slow down trains riding over rough areas.

"It's not efficient to spot replace them," Anders says.

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“By hand would be three times as expensive.”

But that may be what the MBTA is forced to do. Unlike the other rail lines, most of the T’s commuter lines are single track, which means there are no alternative routes if they have to shut down the tracks. The T also does not own a tie-laying machine. So far, all the concrete tie repair work on the T’s rails has been done late at night and on weekends.

Winter, of the Maintenance of Way Employees union, said his members have been “busy all the time, changing on overtime over the weekend.” He added: “It’s usually half a dozen ties at a time.”

It costs about \$660,000 a mile to install concrete ties, compared with about \$308,000 per mile for wooden ties, according to industry figures. With 150,000 potentially defective ties, that’s nearly 60 miles of track, with an estimated cost of nearly \$40 million. Add in the cost of removing the broken ties, as well as Anders’ estimate of the cost increasing by three times to do it by hand, and the price tag for the T, its customers, and the state’s taxpayers could exceed \$100 million.

Another consequence of riding over broken rails is the potential effect on the train’s speed, and in, turn, commuters’ willingness to take the train. Federal regulations require “slow orders”—which would reduce an Old Colony train’s speed from the maximum 70 miles per hour to 45 miles per hour—to be put in place when, depending on the track classification, a certain number of consecutive ties show deterioration; wide gauge measurements begin to appear; or a number of other unsafe conditions are apparent to inspectors. In some cases, tracks have to be shut down in order to replace defective sections.

But T officials said they have had to issue few slow orders regarding the concrete ties. “There have been a few isolated speed restrictions in the past to maintain compliance with MBTA maintenance standards while crews addressed any tie issues,” Pesaturo wrote in an email after initially denying that there were any slow orders on MBTA lines due to defective railroad ties. “These restrictions were removed as soon as the tie conditions were addressed.”

Some engineers may be implementing their own slow orders. One engineer on the commuter rail’s southern runs, who asked not to be identified, said he throttles back through some of the rougher stretches. “I do that, I do that a lot,” he says, “but the goal is to be on time.”

Engineers who are at the throttles say they see the concrete tie problems increasing on Old Colony every day. “The ride is not as smooth as it should be,” says George Newman, an engineer on the Kingston to Boston line and an official with the engineers’ union. “There’s definitely a need for tie replacement, but I don’t think it’s unsafe.”

After a pause, he adds, “But I don’t have the details.” **CW**



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Getting to yes

After months of talks,
municipal officials and
real estate developers have agreed
to disagree on zoning reform.
What comes next could hinge
on the man in the middle,
Greg Bialecki.

BY GABRIELLE GURLEY
PHOTOGRAPHS BY CONNOR GLEASON



Greg Bialecki, the state's secretary of housing and economic development, testifies on Beacon Hill.

Plan ahead, people! That's the mantra Greg Bialecki, the state's secretary of housing and economic development, drums into his audiences when he goes on the road to talk about zoning reform. For nearly two years, he's crisscrossed the state telling local officials that they're not doing enough to plan where homes, schools, shops, and industrial plants get built—a lack of coordination that is hindering the state's ability to attract jobs, build

affordable homes, and keep residents from fleeing to more affordable climes.

“There hasn’t been a lot of thought and planning as to where things are going,” the secretary says. “So the experience of people all over Massachusetts has been [that] what gets built seems almost random to them.”

Bialecki wants to modernize the Bay State’s notoriously obtuse, decades-old planning and zoning statutes. He wants zoning and planning frameworks to be consistent from one town to the next, as opposed to the hodgepodge of rules that exists now.

His vision of smart growth across Massachusetts is what planners, housing advocates, and environmentalists have dreamed about for years. Doug Foy, the secretary of commonwealth development in the Romney administration, tried to accomplish it with a series of initiatives focused on both smart-growth districts and expedited permitting for large commercial projects. But those opt-in measures gained limited support at the local level even though financial incentives were offered to communities that signed up.

Bialecki is aiming higher by going after statewide zoning reform, but, like Foy, he’s using a carrot-and-stick approach with municipalities. His zoning and planning proposal would do away with zoning laws that municipalities dislike, but only if they adopt smart-growth goals like building new housing close to public transit, preserving open space, and curbing sprawl. His proposal would give developers a more transparent construction and permitting process, but they’d lose some of the zoning laws that they’ve used in the past to sidestep local permitting hurdles.

There’s something for everyone in Bialecki’s proposal, but no one has embraced it wholeheartedly. That’s what happens when the conversation turns to state interests versus local control. Many municipal officials see zoning reform as shorthand for Beacon Hill micromanagement in one of the few areas where they have the upper hand—controlling what gets built where in their communities. And most real estate developers are reluctant to give up zoning shortcuts they’ve come to rely on for a process they’re uncertain about.

Rarely does a cabinet secretary invest so much personal energy in any single issue, much less one that flies so far below the radar. Bialecki could have assigned one of his lieutenants to take up the zoning reform banner after he was named secretary of housing and economic development earlier this year. But instead he has soldiered on, reaching out to local officials and developers in what many observers say is a quixotic quest.

With more than 20 years of work on permitting and construction on large urban real estate projects, Bialecki is arguably the smartest person in the room when it comes down to the finer points of zoning. He’s banking on his personal involvement and understanding of the stakeholders’ concerns to move the needle forward. He says he’s convinced reshaping land use patterns through zoning is the way to change how Massachusetts residents live. Plus, he loves all the details. “I am a geek,” he says, “But I’m not doing planning and zoning for the fun of playing around with it.”

THE ART OF THE DEAL

Bialecki says that frequently what people want to know about him when they meet to talk about land use issues is whether he is pro-development or pro-environment. “I always hated that,” he says, calling it a “false choice.”

His background encompasses both. Bialecki rose to prominence among the movers and shakers in the complex, high-stakes world of urban real estate develop-

Bialecki wants to update the Bay State’s planning and zoning laws, saying that people see the development process as ‘almost random.’

ment by working on signature projects like Fan Pier on the South Boston waterfront and later NorthPoint, a controversial East Cambridge mixed-use project. (The NorthPoint project prompted the Legislature to exempt filled tidelands from certain environmental regulations—though Bialecki was not involved in crafting the bill.)

He also specialized in environmental law, working with land conservation groups like the Trustees of Reservations. After seeing one too many empty parks in new downtown developments, he thought a draw like farmers’ markets could attract more people. In 2001, he formally organized the Boston Public Market Association and helped it secure its Dewey Square venue near South Station, its nonprofit status, and its early funding. (Bialecki still sits on the board of directors.)

Born three months before John Kennedy became president, Bialecki and his younger sister Carolyn grew up in North Haven, Connecticut. When he moved to Massachusetts to attend Harvard University, he was impressed by the state’s “great open spaces” and struck by the con-



**Susan Bernstein,
Framingham Planning
Board member and
Bialecki's shadow**

trasts between his home state's urban areas like New Haven, Hartford, and Bridgeport and the Bay State's "great cities," singling out Boston, Worcester, and Lowell as places with "a lot" of character and energy.

He and his wife, Mary Herlihy, an obstetrician and gynecologist at the UMass Memorial Medical Center, have four children. The oldest ones, Andrew and Alison, are college graduates, Timothy is a college student, and the youngest, Lindsay, is a pre-schooler. He leans into the tape recorder. "Same wife," he chuckles. "I want that in there!" The Newton couple recently celebrated their 26th wedding anniversary with a trip to Italy.

When he graduated from Harvard Law School in 1985, Bialecki joined Hill & Barlow. When Deval Patrick arrived at the now-defunct Boston law firm in the mid-1980s, Bialecki and a team of attorneys were representing a Louisiana death row inmate, Thomas Lee Ward. Convicted of the murder of his stepfather-in-law, Ward had been sentenced to die by lethal injection. Bialecki was "feeling his way through" the case, so he approached Patrick, who had worked on capital punishment cases for the NAACP Legal Defense Fund. Patrick joined the team for a period and the two men got to know each other on trips to Louisiana.

Bialecki and his colleagues worked with the death

row inmate for nine years until Ward was put to death in 1995 after 12 stays of execution. "If you try to figure out who is condemned to death and who is not, it's very difficult to come up with any rational, consistent explanations," he says. "It depends on the quality of your lawyer that day [and] whether the jury connected with you as a human being."

After Patrick left to join the Clinton administration, the two kept in touch. When Patrick launched his campaign for governor, Bialecki served as co-chairman of his urban development policy committee. At the invitation of Daniel O'Connell, Patrick's first secretary of housing and economic development, Bialecki signed on as the state permitting ombudsman and general counsel. He was quickly promoted to undersecretary of business development and, when O'Connell resigned earlier this year, Bialecki took over the top post. Patrick declined a request for an interview for this article. In a brief statement, he called Bialecki the "most qualified person" to lead the development office.

Asked how his management style differs from his predecessor, Bialecki is stumped. "Dan O'Connell," he finally says, "along with 99 percent of the rest of the human race, would not have spent nearly as much time as I did on zoning."

PLANNING MAKES PERFECT

In Massachusetts, 351 quirky sets of regulations allow cities and towns to do their own thing, project by project, with little regard to their neighbors, the state, or even their own future interests. "We don't have respect for rules in Massachusetts," Bialecki said at one public forum. "Sometimes the answer is, 'Come in Tuesday night and we'll see what we can do.'"

The deal-making mentality stems largely from budgetary concerns. Some communities shun multi-family housing and starter homes in favor of expensive single-family homes on large lots, a trade-off that nets the community more property tax revenue and fewer families using local schools and consuming municipal services. Yet the push for bigger homes on bigger lots tends to fuel high housing prices and prevent the construction of middle-class homes that would keep young professionals and families from leaving the state.

The failure to plan ahead and zone accordingly can also push longtime residents of modest means out of communities. Salem Mayor Kimberley Driscoll, a former

municipal planner and real estate and commercial development attorney, says that when a condominium conversion boom hit Salem in the late 1980s, tenants in multi-family homes were pushed out. The city has not updated its zoning regulations to protect tenants by preserving affordable units in condo conversions.

Quirky regulations allow 351 cities and towns to do their own thing, with little regard to their neighbors.

The lack of long-range planning contributes to sprawl in a state that isn't experiencing much population growth. The Worcester-Fitchburg-Leominster area has the ninth lowest residential housing density of 83 metropolitan regions in the country, according to Smart Growth America, a national nonprofit coalition that advocates for better community planning.

But most important, there are provisions in the zoning

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statute adopted in 1954 that are so arcane that they provoke laughter outside Massachusetts. For example, the “approval not required” provision (known as ANR), which is hated by municipalities, streamlines the local approval process for developers seeking to build on parcels along existing roads. Projects on these types of parcels are not considered subdivisions under Bay State zoning law—even though such parcels are considered subdivisions everywhere else in the country and are, therefore, subject to stricter zoning standards.

Another provision allows a community’s existing zoning regulations to be frozen in place on a particular parcel for eight years once a developer files an initial plan. It’s the longest hold time in the country. Developers say they need to protect their financial investment from fluctuations in the economy and the housing market; communities argue that it hampers their ability to plan out future zoning changes.

Under the proposed Land Use Partnership Act, supported by the Patrick administration, ANR and the grandfathering regulations would be eliminated in those communities that develop a land use plan and pass zoning regulations that conform to it. A community’s regional planning authority would have to evaluate local plans and certify that they mesh with the state’s smart-growth targets in areas like housing and open space protection. But most important, a community would have to commit to “prompt and predictable” permitting of residential districts zoned for higher levels of density. The administration forecasts that about 35 additional communities would opt in every year.

(The proposal would not apply to Boston. The Legislature exempted Boston from the state’s zoning laws in 1956 and created a process specific to the city.)

Only a handful of zoning changes would apply to all municipalities statewide under the administration’s proposal. Communities would be able to regulate the maximum floor area of houses, which they cannot do now. That change would allow officials to control tear-downs and the construction of McMansions, a concern for the older, more affluent Boston suburbs, the Berkshires, Cape Cod, Nantucket, and Martha’s Vineyard. Other provisions would allow municipalities to adopt zoning regulations by a majority vote of the city or town council or town meeting instead of the current two-thirds vote. Cities and towns could also charge impact fees to developers to defray the cost of public services, like water and sewer connections, for new projects.

The administration’s land use plan was developed by the Zoning Reform Task Force, a group that Bialecki personally assembled and has chaired since the fall of 2007. There are nearly 40 groups represented on the task force, everyone from real estate developers and state and

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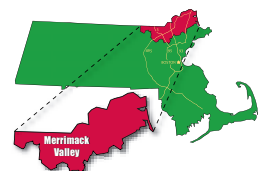
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regional government officials to environmental and housing advocates.

Benjamin Fierro III, the attorney for the Home Builders Association of Massachusetts, gives a thumbs-up to Bialecki for getting people who usually don't talk to each other together in the same room. "I think he sat up nights and weekends going beyond the call of duty drafting documents for the group to consider," Fierro says.

Bialecki admits that the opt-in framework of the administration's proposal is a political compromise, but he says it's a necessary one. He says a mandated statewide regime, especially one that requires increased housing density, won't fly.

"I would bet you my house that there are communities that wouldn't do it in five years," he told the zoning task force in June. "If compelled to do density, there will be outright civil disobedience."

CHOICE OBJECTIONS

A rainy May afternoon found Bialecki in Needham making his pitch for zoning reform at a forum arranged by the Metropolitan Area Planning Council, the Greater Boston regional planning agency. As he talked about his plans, Mary Pratt, a former Hopkinton selectman, started whispering and fidgeting in her front row seat. Finally, she could take it no more.

"Now you are poking the communities in the eye," she said, loud enough to turn heads in the large, wood-paneled room.

Later, she is emphatic. "Maybe I'm a true New Englander," she says. "I personally think that towns should have a right to do what they want to do."

Opposition to what is shaping up to be a smart-growth-by-zoning approach is pouring in from all sides. Fierro has called the legislation "a victim of too grand an ambition." He says too many of the state's goals have overwhelmed the process. Reading from the preamble of the Land Use Partnership Act, he ticks off the revitalization of city and town centers, the construction and rehabilitation of homes near jobs and transportation, and the reduction of greenhouse gases and consumption of fossil fuels, to name a few. "I don't believe zoning can solve all the ills of our society," he says.

Donna Jacobs, former director of the MetroWest Growth Management Committee who now manages her own planning firm, Cornerstone Community Planning, says Bialecki "really aggravated people" with his presumption that communities don't plan ahead. She says most MetroWest communities have full-time planners. About 200 communities have some type of planning position, most of them full-time, according to the Executive

Office of Housing and Economic Development. But smaller communities rely largely on volunteers.

Joel Russell, a Northampton land use attorney and planning consultant, calls the land use proposal clever but unworkable. “Just finding a middle ground between satisfying development interests and giving municipalities slightly more control over their future, which appears to be Greg’s strategy, is not really going to solve the problems,” he says.

Chapter 40B, the anti-snob zoning law, is also nipping

in a housing development for residents earning less than 80 percent of the area median income. Bialecki knows that lingering tensions over the affordable housing law could hijack this last best chance for zoning reform anytime soon. “I told the task force early on that I wasn’t prepared to consider [changes to 40B],” he says. “Once we open that door, that’s all anyone would talk about.”

But Sen. James Eldridge, the Acton Democrat who co-chairs the Joint Committee on Municipalities and Regional Government, where the administration’s bill is pending, says he is open to including revisions to 40B in any zoning reform proposal. “All options are on the table,” he says. His counterpart in the House, Rep. Paul Donato, a Medford Democrat, however, wouldn’t go that far, instead saying that he would refer any 40B revisions to another committee.

If Bialecki has a shadow on zoning reform, it’s Susan Bernstein. Bernstein, a longtime Framingham Planning Board member, has worked on zoning reform for over a decade and helped craft an alternative legislative proposal, called the Community Planning Act II, or CPA II. The act is a more top-down

Finding a middle ground between developers and municipalities ‘is not going to solve the problems.’

at the edges of zoning reform. In communities where less than 10 percent of housing units are affordable, Chapter 40B allows developers to bypass local zoning regulations as long as they set aside a percentage of affordable units



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Bialecki testifies before the Legislature's Joint Committee on Municipalities and Regional Government. Sen. James Eldridge of Acton is at far right.

approach which would apply to all communities across the state. It would eliminate ANR and other zoning provisions considered onerous by communities. CPA II would require communities to come up with land use plans and zoning regulations that are “not inconsistent” with each other. Developers oppose the bill, and it has never made it out of any legislative committee.

At a June meeting of the secretary’s task force in Boston, Bernstein urged Bialecki to think about working on a third bill that would plot a course between the opt-in scenario he favors and a broader statewide regime. “Is it better to have 35 communities doing a high standard [of zoning and planning] and others not?” she asked. Bialecki said no. If communities can build “only single family homes on two-acre lots and still get [ANR], that is unacceptable to me,” he said.

Bernstein tried again. “Can we do something less draconian?”

Bialecki throws up his hands. “Make me an offer! Many of the people in this room don’t want to make a deal; they want to go to the Legislature to see if they can get a better deal.” He added, “I’m not going to negotiate against myself.”

R.J. Lyman, an attorney at Goodwin Procter, says Bialecki is a brave man for trying to tackle such a mammoth task. “It’s one thing to stand at a cocktail party and

spout out your ideas; it’s another thing to go out there and see if you can make them work,” he says.

Bialecki is matter-of-fact about the lack of consensus, realizing that there is no bill that would produce meaningful reform that everyone can agree on. The compromise developed by his hand-picked task force sent its proposal to Beacon Hill without an endorsement, an ominous sign. But even if the Legislature can see a third

Bialecki is matter-of-fact: There is no bill that would produce meaningful reform that everyone can agree on.

way through this impasse, the burning question is whether municipalities and developers will embrace it or go back to business-as-usual wheeling and dealing over development projects.

As the storm clouds gather, Bialecki remains optimistic that he can carry the day. “I think the fundamental reason that we have a good chance of success, that’s different from prior efforts, is that we’re thinking about balancing all of the interests and concerns in a genuine way.” **CW**

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— *The Boston Globe*, November 10, 2008

"Brigham and Women's Hospital, in a first-of-its-kind medical trial has performed...a safer, less traumatic operation to help address the nation's obesity epidemic."

— *The Boston Globe*, June 28, 2008

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— *The Boston Globe*, July 3, 2008

"Researchers have pinpointed 32 genes linked to Crohn's disease...That is the biggest reported catch for any disease...said Mark Daly of Massachusetts General Hospital...the study's senior author"

— *The Boston Globe*, July 7, 2008

1846 First public demonstration of ether use during surgery

— *Massachusetts General Hospital*

1883 First use in North America of antiseptic during childbirth to protect mothers and newborns from deadly infections

— *Brigham and Women's Hospital*

1896 First use of X-ray image for diagnosis in U.S.

— *Massachusetts General Hospital*

1929 First use of iron lung to save polio victim

— *Brigham and Women's Hospital*

1954 First successful human organ transplant

— *Brigham and Women's Hospital*



1962 First successful surgical reattachment of severed limb

— *Massachusetts General Hospital*

1984 First heart transplant performed in New England

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1993 Discovery of genes responsible for Huntington's disease and inherited ALS

— *Massachusetts General Hospital*

2003 Development of CRP test to predict risk of heart attack and stroke

— *Brigham and Women's Hospital*

2005 First use of new type of laser surgery to treat vocal injuries

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Ben Franklin was right

Social historian Barbara Dafoe Whitehead
says a return to 18th-century thrift is the
answer to 21st-century economic woes

To Benjamin Franklin, the concept of thrift represented a forward-looking way of life in the New World. Franklin believed that by harnessing its twin virtues of industry and frugality, which he regarded as cornerstones of the American promise of opportunity, his fellow citizens could realize their full potential, achieve financial security, and pursue happiness in a way that hadn't been possible under the rigid social order they left behind in Europe.

His views resonated through two centuries of the American experience, with the formation of credit unions in the early 1900s, savings bank programs in elementary schools, and even a National Thrift Week, which was officially observed until the 1960s. But Franklin's idea of thrift fell

PHOTOGRAPHS BY FRANK CURRAN

on hard times in recent years, regarded as a fusty throwback in an era of easy credit and leveraged excess, where consumer borrowing and spending, not earnest saving and denial, were marketed as the road to fulfillment.

Barbara Dafoe Whitehead says it's time to reclaim a prominent role for thrift. In the wake of an economic meltdown driven by reckless lending, borrowing, and investment schemes, she may be right. But the longtime social critic, known primarily for her writing on family structure and divorce, was sounding the call well before the recent economic collapse. Whitehead was the main author of a report issued a year ago—and several years in the making—by an eclectic mix of US thinkers and organizations that is sharply critical of financial institutions that are “dragging many American consumers into dissavings and over-indebtedness.”

The report, *For a New Thrift: Confronting the Debt Culture*, a project of the New York-based Institute for American Values in conjunction with several national policy organizations concerned with economic inequality and family financial health, says we have become a two-tiered society when it comes to personal finances. There are investment options and savings plans aplenty for higher-wage earners, but lower-wage earners, who often have no access to 401(k) plans or other employment-based savings, are increasingly serviced by a hodgepodge of highly profitable “anti-thrift” institutions, including payday lenders, high-interest subprime credit cards, and check-cashing outlets. The report has particularly harsh

The idea of thrift fell on hard times, regarded as a fusty throwback in an era of easy credit and leveraged excess.

words for the public-sector promotion of anti-thrift practices through state lotteries and casinos. Forty-two states plus the District of Columbia are now funding public services by, in Whitehead's words, “actively encouraging gambling—a belief in luck rather than industry and fru-



gality—and targeting people in the lower half of the income distribution.”

Though economists say increased consumer spending is needed to pull the economy out of the recession, that is a tough sell to Americans who are already way over their heads in debt.

If Franklin preached a philosophy of frugality and careful management of resources, borrow and spend has become the ethos of our time. Revenue from payday lending (which Massachusetts and 12 other states forbid) has gone from \$810 million in 1998 to \$28 billion in 2006. Meanwhile, deregulation measures and favorable court rulings in the late 1970s and early 1980s have been a bonanza for credit card companies, which have increasingly targeted lower-income Americans with marginal credit history, who often pay only their minimum balance, if that, ensuring hefty profits from interest charges and late fees. (In a twist that George Orwell would appreciate, cardholders who pay the full balance each month

are known in the industry as “deadbeats.”) The number of US households in the lowest-income quartile with credit cards jumped from 29 percent in 1989 to 43 percent by 2000, and overall credit card debt nearly tripled from \$238 billion in 1989 to \$692 billion in 2001, and reached nearly \$1 trillion by 2007.

The rising debt load is by no means entirely the result of improvident spending. Higher education costs are rising so rapidly, for example, that student loan balances—considered to be “good debt” because there is a financial return on this borrowing over time—are becoming unsustainable for many Americans. The report says four out of 10 recent college graduates cite outstanding student debt as a reason for not pursuing graduate school.

The *New Thrift* report was followed this June by a book of essays, which Whitehead co-edited, called *Franklin's Thrift: The Lost History of an American Virtue*. Along with the history it tells, the book, like last year's report, calls for action to combat today's “debt culture,” including stronger regulation of the credit card industry and other anti-thrift institutions, and greater promotion of pro-thrift institutions and savings plans. The biggest impact, say Whitehead and her colleagues, might come from a renewed embrace of the values underpinning Franklin's creed, and that may already be happening as Americans come to terms with a suddenly changed economic reality. But Whitehead says big, government-led public campaigns similar to those that have helped drive down smoking rates and increase seatbelt use will be crucial if we are to steer the nation back onto the right path.

Whitehead is perhaps best known as the author of “Dan Quayle Was Right,” a provocative 1993 cover story in the *Atlantic Monthly*, which argued that the steep increase in single-parent households, from more women having children on their own and from divorce, was harmful to children. (The title was a reference to criticism offered by the then-vice president of the scripting of the television character Murphy Brown into single motherhood.) Whitehead's work on family issues—to say nothing of the *Atlantic* title that joined her in common cause with the right-leaning Quayle—seems to carry more than a whiff of the heavy moralizing associated with the conservative movement. But the 64-year-old Whitehead is a lifelong Democratic voter, who says her focus on family issues is driven by the same interest as her new work on thrift: the shaky economic state of America's middle class.

Whitehead, who co-directed the National Marriage Project at Rutgers University for 10 years, now runs the John Templeton Center for Thrift and Generosity at the Institute of American Values. I spoke with her in early June at her home in Amherst. What follows is an edited transcript of our conversation.

—MICHAEL JONAS

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COMMONWEALTH: You write that “the American culture of thrift is at best on institutional life support and replaced by what amounts to industrial-scale loan sharking.” Those are strong words. What do you mean by that?

WHITEHEAD: Beginning in the 1970s and ’80s, we saw this dramatic change in the financial landscape and a growing cleavage between, let’s say, the institutions that serve the upper half and those that are targeted to the lower half of the income distribution ladder. I was impressed by the rapidity with which these institutions had arisen at the lower end, and how different they were from those that were more familiar to people who were older and educated—and who sort of took it for granted that there would be institutions where one would save and invest. These new institutions really do the opposite thing. They are a legal form of loan sharking that drags people into debt with business plans [intended] to keep them there.

CW: You say this has led to a two-tier financial system: an “investor class” of high-earners who save money and have retirement accounts, and what you call the “lottery class,” those who rely on payday lenders and check cashing outlets and who play state lotteries, hoping against long odds that good luck might put them on stable financial footing. But the lines between those in the investor class and lottery class, are they maybe a little too simple? Because there are plenty of people who are in the investor class who find themselves—

WHITEHEAD: In trouble?

CW: —swamped by debt and overleveraged. A *New York Times* writer who covers these issues and earns \$120,000 a year recently wrote a piece for the *Times Magazine* describing how he ended up on the brink of foreclosure and how he was —

WHITEHEAD: Victimized or stupid.

CW: Right.

WHITEHEAD: I think he confesses to both. Well, in retrospect, perhaps you could say that the distinction is too sharply drawn, because it’s true that the investor class is hardly doing well at this moment. But it remains the case that for many people who are in the upper half—with college degrees, professional skills—they have access to the kinds of supportive investment and savings instruments that people who earn less money, are less well-educated, and have been struggling for a long time just simply do not have access to. So that when we rebound, I think that there will still be many people who never recover

because they’ve been in debt all along. I think, in general, the economic cleavage still remains.

CW: We see all sorts of statistics showing that Americans are swimming in debt. Is this the result of irresponsibility or a degeneration of values? Rampant consumerism or the consequence of financial institutions aggressively lending money and extending credit beyond the ability of people to keep up?

WHITEHEAD: Well, it’s a little bit of all those things. People have a responsibility to use their resources wisely, and Americans have a long history of being wasteful with respect to their resources. Then there’s this kind of competing tendency to be thrifty and save. That’s sort of a standard pattern that waxes and wanes over time. But we are now in a consumer culture, which began in the early 20th century and has accelerated over time, so everybody is vulnerable to the appeals to get more, buy more, use more, throw away more. The new development that really

‘The credit card industry was the great innovator in this “how to get people in debt and keep them there” trend.’

has changed or intensified some of our debt problems and failure to be thrifty and save is this change in the regulatory climate in the country—the lifting of usury caps beginning in the ’80s, which we describe in the report, and the way that the credit card companies changed their business plan in order to target people who could pay [only the] minimum balance.

CW: There’s been a lot of attention paid to the subprime mortgage meltdown and the foreclosure crisis. But the credit card industry seems to have really laid the groundwork or formed the model for extending credit to people way beyond their ability to pay it back.

WHITEHEAD: The credit card industry was the great innovator in this “how to get people into debt and keep them there” trend. It was highly profitable. Once plastic became sort of the coin of the realm, literally, it changed not only the psychology of consumption but the way people consume, so that you could buy a lot more than you could afford.

CW: You’ve written that, historically, being in over your head or carrying a lot of debt had a stigma attached to it.

Was there a need to kind of recalibrate the way that people saw themselves or saw others in order for the new debt culture to flourish?

WHITEHEAD: With these new institutions, there were marketing plans and institutional cultures that reduced the social stigma people traditionally have carried with a lot of debt. Even as we recovered in the post–World War II period and that generation began to acquire refrigerators and tract houses and some of the consumer goods, the fear of debt remained very strong, and it was both personal and social. What the anti-thrift institutions did was work very hard to say, “It’s normal. It’s okay. Everybody should be leveraged a little bit. All you have to do is pay the minimum balance.” So the barriers to acquiring a lot of personal consumer debt steadily went down. The inhibition that people felt about overspending was gradually eroded, institutionally and culturally.

CW: You wrote the chapter on Franklin in the book that you co-edited. I was struck by what a central figure he is in the conception of this idea of thrift, or at least the American conception of it. Not only that, but you connect that very much to what we think of as the American Dream. You write that Franklin is really the author of the American Dream in the same way that Jefferson is the author of the Declaration of Independence and Madison, the Constitution.

WHITEHEAD: The first thing that was quite clear to me was that his notion of thrift was much broader and more philosophically grounded than a 21st-century American might think when hearing about thrift. For us, thrift really conjures up rather distasteful images of, you know, Scrooges and penny-pinchers and people who were stingy and dour and not fun to be around—an unattractive feature of capitalism, I think, for many people. Thrift was a 19th-century virtue that most people thought we’d gone beyond.

CW: And that conception has it all wrong?

WHITEHEAD: It has it all wrong. Franklin didn’t use the word “thrift” ever, really. He referred to “industry and frugality.” Those were the two big cornerstones of what I would call, really, his social philosophy as much as an economic philosophy. It was entirely connected to his vision of what American society should and could be. For Franklin, it was a society made up almost entirely of working people from the “middling classes.” “Middle class” wasn’t really a phrase that came into vogue until later. The middling folk were the people that Franklin came from himself, very much part of the New England world that

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he knew, and really what represented his vision of how this new land could be a very different kind of society than the Old World in Europe.

CW: This was very much tied, in his view, to the emerging American promise of social mobility, this concept of the American Dream?

WHITEHEAD: Exactly. We think of the founders' contribution as having to do with political freedom, but there was this whole conception of economic freedom and the promise that if people did work hard and used their resources productively and wisely, they could be liberated from some of the onerous burdens that were imposed on people who were poor.

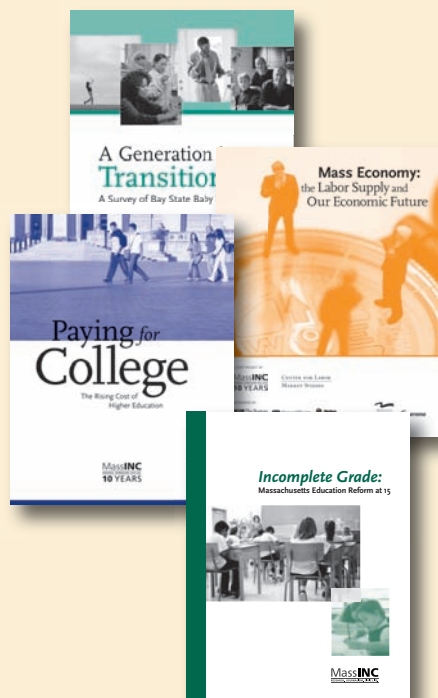
CW: When you talk about his vision of thrift as a liberating way of life, there's an irony there, since, as you say, we've come to view thrift as a very constricting sort of philosophy of self-deprivation. Franklin didn't view industry and frugality as virtues for their own ends but as a means toward having the wherewithal or the freedom from worries about the next meal to engage in higher-level pursuits. We seem to have that turned upside down because

we now equate pleasure and enjoying oneself with—

WHITEHEAD: Spending and consumption. What we think today is the exact opposite of what Franklin proposed as a good life. Franklin exemplified it to a high degree. He was a man who enjoyed his pleasures and his luxuries—good wines with dinner and things like that. Franklin believed that if you work like a dog, you can eventually live like a gentleman. Thrift also is connected to the notion of social “thriving,” which means that everybody should be able to do well and those who *do* do well have an obligation to help others do the same. Everybody's familiar with Franklin founding libraries and societies where people could self-educate. He also had a fund that I mentioned [in the book] for people to borrow money for productive purposes.

CW: In the earlier part of this century, this idea of thrift and some of the institutions that really supported it were alive and well in the country. What was it in the Progressive Era that developed and was so supportive of that?

WHITEHEAD: One of the things about looking at the history of thrift and anti-thrift institutions is there's sort of this depressing pattern of repeating history. In the 1910s



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and 1920s, as we shifted from a farm and factory society to one that was more urban and industrialized and relied more on individual wages, people needed to be able to get credit. They were renters in cities, and so just as now we have seen the rise of payday lending and other institutions that are designed to get people in debt and keep them there for profit, so too, in the early part of the Progressive Era, we saw the rise of loan sharking—something called chattel lending, where lenders offered money based on your household goods. And installment buying came in at that period of time, too, so there was this idea of consumer credit.

Progressive reformers decided they would change the institutional culture in two ways. One was to actually create a personal consumer lending business by raising the interest rate that banks could charge on small, unsecured consumer loans. Up until that time banks were reluctant to give people small loans because it was a big hassle and there were limits on their interest. It was just not profitable. These new loans were profitable for the banks but charged far lower interest than the loan sharks. The other was the development of a new institution called the credit union, which began in New England. They were nonprofit, they were member-owned, and the whole purpose was to create—mainly for workers—an ownership stake in an institution where they could both save and lend to each other. The credit union movement was financed and began in Massachusetts. Edward Filene, the department store baron, saw these models in Europe and imported them.

CW: The democratization of credit seems like it's a social good—people being able to finance things.

WHITEHEAD: The democratization of credit was a very good thing and still is.

CW: So where's the rub?

WHITEHEAD: Where it begins to break down is when it becomes the producer of huge, unsupportable debt burdens for people. And secondly, when the democratization of credit is used for consumer goods that would fall into the category of what I would call "bad debt." Debt can be a very good thing. It helps people. Economists tell us it smoothes out consumption over a lifetime, so young people can go into debt for college education or their first home, or even for a car that will get them to work. And that's actually beneficial.

CW: There's sort of a return on that debt.

WHITEHEAD: There's a return on that down the road. The problem comes when democratization of credit begins to

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CONVERSATION

lead to the propagation of over-indebtedness for large numbers of Americans, including students who now carry—in some cases—really unsupportable levels of debt that will keep them struggling for a decade or more after they leave school. I think we’ve crossed the boundary between good and bad debt.

CW: You and your colleagues were working on this well before the big economic collapse. One thing that you say is that thrift has generally had a hard time getting traction as an idea during booms. Now, obviously, the good times have come to an end, so—

WHITEHEAD: There’s a reappraisal of thrift going on. We began four or five years ago, very much pre-meltdown. It was during the boom years and everybody thought this was the nuttiest idea they had ever heard of. “You’re looking at what? Thrift?!” I told one colleague what I was working on and he had one word for it: “Weird.” He just thought it was strange and antiquarian at such a time.

CW: The book describes how there was even an official National Thrift Week from the early part of the 20th century until the 1960s. And schools had regular savings programs to instill these ideas and practices in kids.

WHITEHEAD: I actually manned a little sixth-grade school savings bank myself.

CW: Is that right?

WHITEHEAD: Franklin Elementary School [in Appleton, Wisconsin].

CW: Of all places. So that is where it all started.

WHITEHEAD: [Laughs] Yeah, maybe. This is a character virtue or value—people practice thrift—but that value had been institutionalized in some very key institutions throughout American history that have now kind of gone by the wayside. They were essential to building a strong, broad, and thriving middle class in the mid-20th century. Much of my interest in this project—and in most everything I have ever done, including my earlier life doing family work—was the sources of inequality. What are they? How are they affecting our effort to see ourselves as the middle-class society?

CW: So you see this emergence of the anti-thrift sector as a threat to both people in the middle class and—

WHITEHEAD: To those who aspire to the middle class. I dived a little bit into the history of middle class begin-

ning in the 18th century. Especially in the 19th and 20th centuries, it was partly the growth of institutions that were targeted to help build a base of economic security under the middle class. It was labor unions, of course; it was long-lasting marriages; it was savings banks and building-and-loans, as in *It's a Wonderful Life*; it was life insurance programs for working people; the GI Bill; defined benefit pension programs, which are now a thing of the past. Absent public and private institutions that support them, the middle class is a lot shakier and more vulnerable than many middle-class people themselves even believe. I've been interested in the erosion of those public and private institutions that have helped people climb into the middle class and then helped those who were in there stay there. So in the broadest possible way, I think this is part of that story, not the whole story.

CW: So a lot of the debt that we hear about, related to medical costs and other things, it's certainly not all due to profligate spending.

WHITEHEAD: No, it's not. The safety net is weakening.

CW: The book talks about the idea of so-called opt-out sav-

ings plans, in which the default is that employees will have a small percentage of their salary directed into a savings or investment account unless they take action to opt out of this. Libertarians would say, "Oh, that's very paternalistic. People make their own beds and they lie in them."

WHITEHEAD: We know through anecdotal evidence and reporting that a lot of people just did crazy things, partly because the incentives were there to do them and the obstacles to not doing them were lowered. My thought about the importance of governmental regulation and institutional guidance is that if you want a lot of people to do the right thing, you really can't just expect people to straighten up and fly right. The numbers don't work out. Some people will, because they have that internal fortitude and discipline, but if you want more people to thrive, then you've got to give them incentives and opportunities and a pathway to do what will be easier for them than just gritting their teeth. We also have to re-regulate a lot of the financial institutions and re-regulate them with an eye to bringing people in, to democratizing not just credit but also saving and investing. Because if we really are in a regime now where we're not going to bring back defined benefit pensions and we're not going to bring



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Project by Maryann Thompson Architects; Photograph © Chuck Choi

back labor unions in a big way and people are more on their own, then we have to find ways to democratize the whole enterprise of saving and investing.

CW: What do you make of some of the recent federal moves to rein in the more reckless forms of lending and extending of credit?

WHITEHEAD: It's good that we're beginning to look at private student loans and changing the rules governing them. Some of the credit card legislation, I think, restricts the use of the marketing of credit cards to students on campus. We have to be careful, too, to be sure that we don't only worry about college students, though, because there are a large number—a majority—of young people who don't go to college. Young people may take this as an important early life lesson, and surely they will not be able to go out and buy houses the way people did just five or six years ago. So there will be a kind of necessary discipline that is imposed both by the changing regulatory climate and by the experience. My prediction is there will be a change and it will be in the direction of greater thrift, prudence, and conservation of resources, which is part of the thrift ethic.

CW: You mention conservation of resources. Is it helpful to the thrift effort that everything now happening in the economy is taking place at the same time as all the attention to environmental issues and climate change?

WHITEHEAD: Conservation and wise use of resources is sort of the operative definition—the big definition—of thrift. And so it is very much part of how environmental-

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financial institutions
should 'democratize
the whole enterprise of
saving and investing.'**

ists saw themselves as thrifty people. Their whole ethic was conserving and reusing and not wasting and seeing things as not to be thrown away, trying to renew the resources. The whole parks-and-recreation ethos and Teddy Roosevelt—all that grew out of the thrift movement in

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the Progressive Era and in the '20s. So it connects with "green" very much. Change comes in part through social movements, and the environmental or conservation movement or green movement is the biggest thrift movement currently under way. So that, I think, has great potential.

CW: What do you think is the potential for a public campaign around thrift? You've written that we should be pursuing that, just as we've been able to drive down smoking rates and drunk driving, and increase seat belt use through those sorts of campaigns. Is that really practical?

WHITEHEAD: Well, historical evidence is pretty clear that if you want to mobilize the society to do something patriotic and good and beneficial for the community, it *really* helps to have big public campaigns to say, "This is important and good." We have to believe that this is a patriotic thing to do. The case for thrift historically has been made over and over again in our history in light of new conditions, so it isn't just pulling the same old dusty nostrums out of some treasure chest. That, in a sense, is what we are trying to do. People are receptive to the idea of changing their ways, thinking seriously about savings, and building a nest egg in a way that they weren't in 2006 and 2007, when we were diligently making our case for thrift. The word "thrift" is not a bad word anymore. It's come back into common usage. The consumer culture's picked up on thrift. They're not dumb. They know that you can market thrift as well as you can market, you know, extravagance. So that's a beginning. I think in some ways there has also been such a massive failure that I think people are looking for a different way to lead their lives. Maybe it would be okay not to give our kids everything. Maybe birthday parties could just be birthday parties again instead of these extravaganzas where you spend a lot of money. This could be a moment in time, but Obama himself has told people that the era of free spending and extravagance is over and we're not going to go back to it for a very long time.

CW: What's at stake for the country?

WHITEHEAD: We can't be a hugely overextended, over-indebted country and continue to do well and especially sponsor the next generation into good, thriving, successful, prosperous lives. Our children and grandchildren are not on a great pathway right now, and they're going to face difficulties all along the life course because of what's happened right now, and so I think we should focus on young people to the degree that we can help them to make it. We have to have a sustainable middle class. That's what I come down to. And we can't live the way we've lived over the past 20 years and have a self-sustaining and broad middle class. **CW**



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No magic bullet

Charters don't necessarily outperform other schools

BY EDWARD MOSCOVITCH

GOV. PATRICK, THE *Boston Globe*, MassINC, the Boston Foundation, the business community, and President Obama are all supporting charter schools as a key step toward school improvement, but a careful look at the data suggests that these schools offer no magic bullet for school improvement.

In general, charter schools (and Boston pilot schools) perform no better—and no worse—than other schools, although there is a cluster of Boston middle school charters with very impressive results.

These conclusions are based on an analysis of MCAS scores, averaged across three years ('06 to '08) to avoid one-year anomalies. Only the charts for English are shown here, but the same analysis was performed for math, with quite similar results.

Charter or no, the major factor determining student performance is demographics. Specifically, African-American and Hispanic students, low-income students, and students with limited English proficiency (LEP) score lower than other students. These factors work separately—all else equal, an African-American student in poverty will score lower than a white student in poverty and lower than an African-American student not in poverty. Any comparison of charter schools with other schools must therefore take student demographics into account.

CHART 1 SHOWS performance for elementary schools, with Boston charter schools shown in green, other charters in orange, Boston pilot schools in lavender, and all other schools in blue. Each circle represents one school; the size of the circle is proportional to the size of the school, and every elementary school in the state is included.

Student performance is shown by vertical posi-

tion (the higher the circle for each school, the better its score). The measure of performance—"net percent pass"—is the percent of students proficient (a score of 240 or higher) minus the percent failing (less than 220). Student demographics are shown by the horizontal position (the farther to the right, the greater the percent of minority, low-income, and/or LEP students). The "disadvantage



percentage" is the sum of the minority, poverty, and LEP totals, where each student can be counted more than once. An all-minority, all-poor school where half the students don't speak English would be at 250 percent.

The curve flows from upper left to lower right, reflecting the fact that the greater the disadvantage percentage, the lower the school's score. To my mind, the most successful schools are not those with the highest absolute MCAS scores, but rather those that are the farthest above the trend line (shown in light blue). That is, they are the ones that have most outperformed schools with similar demographics. High performers in the upper right—schools that have done the best with disadvantaged populations—are of particular interest, and I've therefore identified them.

There's simply no evidence that charter elementary schools outperform other schools; most of the charter schools are very close to the trend line, and only one is any significant distance above.

The three strongest elementary schools in the state are all regular schools in Springfield: the Talmadge, the Glenwood, and the Washington. I ran a similar analysis five years ago, and the Talmadge and the Glenwood showed up then as well. These schools have outperformed their demo-

CHART 1: NET PASS ENGLISH, BY SCHOOL - GRADES 3-5, 2006-2008
by District Stress Percent, Charter & Pilot Schools Highlighted

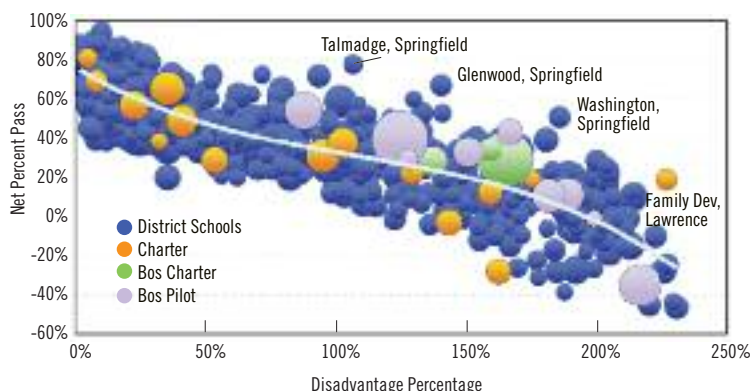


CHART 2: NET PASS ENGLISH, BY SCHOOL - GRADES 6-8, 2006-2008
by District Stress Percent, Charter & Pilot Schools Highlighted

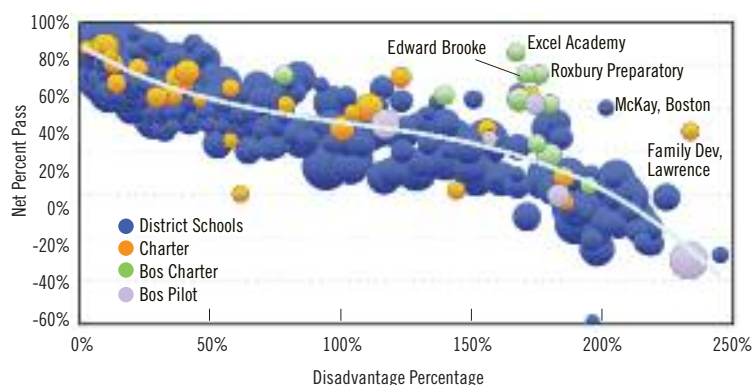
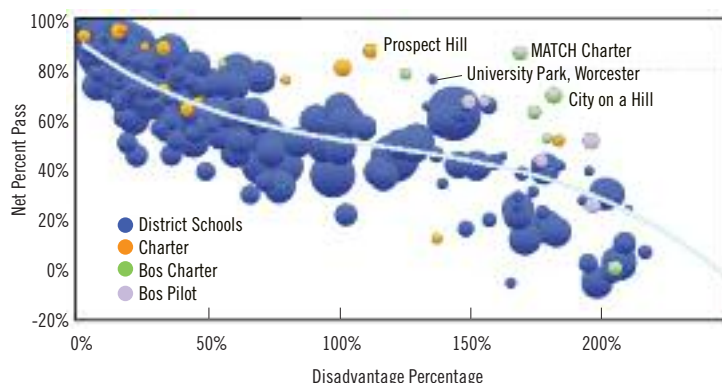


CHART 3: NET PASS ENGLISH, BY SCHOOL - GRADE 10, 2006-2008
by District Stress Percent, Charter & Pilot Schools Highlighted



planning time for teachers and moving LEP students into regular classrooms as quickly as possible.

Middle school performance is shown in Chart 2, omitting exam schools such as Boston Latin. Again, the vast majority of charter schools are close to the trend line. However, there's a cluster of high-performing, high-poverty charter schools, including Excel Academy, Edward Brooke, and Roxbury Prep in Boston and the Family Development in Lawrence. Although the math chart is not shown here, these same three charter schools, along with Boston Prep and the KIPP Academy in Lynn, are even farther above the trend line in math. These charter schools are well ahead of virtually all non-charter schools.

As with middle schools, most charter high schools are close to the trend line (Chart 3). A few charters—and virtually no regular high schools—are well above the trend. But they're tiny—the largest of these high-scoring charters tested only 29 10th-graders in 2008. Fully 96 percent of all high school students in the state are in larger schools than this; the average high school tested 79 students.

Most charter schools—elementary, middle, and high school—are on or very close to the trend line; that is, their performance is roughly similar to that of regular schools with similar demographics. Simply attaining charter status is no guarantee of success. Indeed, those three Springfield elementary schools succeed year after year without charter status, without merit pay, and without change to the union contract. Clearly, factors other than union rules, new governance, and pay incentives are critical for success; such factors include the use of data, helping teachers improve their teaching, strong leadership, and research-based pedagogy. In my own experience, strong leadership from the central office—something charter status eliminates—makes it easier for a school to improve itself.

graphics by a wide margin, and have done so consistently over a very long period of time. I've visited these schools; their results are no accident. They reflect very strong leadership by their principals and such steps as ample common

IF THESE OTHER factors are the keys to success, what reason (other than ideology) is there for pushing so hard for more charters and taking on the bruising (and unnecessary) fights with unions, administrators, and

community opponents?

Charter or not, successful elementary schools will need to work on pedagogy and leadership. Why not proceed directly there and skip past the battle over charter status?

The cluster of successful Boston middle school charters illustrates the useful role that a few highly successful charters can play in developing promising new approaches. What pedagogy and leadership style sets them apart from all the less successful middle schools (charter and otherwise)? Only one or two non-charter middle schools even come close to their results. Is there something about the independence and flexibility of charter status that is a necessary condition for their success?

It would also be worth knowing why the successful charter high schools do so well, and whether their techniques would work in a larger school. But until someone starts a full-size charter high school and demonstrates success, it's not clear that charter status is a workable answer to the dilemma of achieving high school improvement.

There's enormous political, administrative, and financial cost involved in establishing a charter school. As charter status is no guarantee of ultimate success, wouldn't those resources be better spent dealing directly with the issues of pedagogy, leadership, expectations, and teacher development that are ultimately what determines

It's worth knowing whether charter techniques would work in larger schools.

whether any school—charter or not—is successful? I hope this data will spark a more pragmatic look at charter schools and at the broader question of what it takes to help low-income and minority youngsters perform at high levels. **CW**

Edward Moscovitch is president of Cape Ann Economics and chairman of the Bay State Reading Institute. These charts are taken from a forthcoming study for Mass Partners, a coalition of Massachusetts teachers' unions, principals, parents, superintendents, and school committees.

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There's no reason to give Verizon its special interest legislation

BY JOSEPH CURTATONE

IT'S AN ISSUE that has received only limited media attention, so it may come as a surprise to most Massachusetts residents that a single telecommunications corporation—Verizon—has slipped a special interest bill (S1531) into the current legislative session. But it's true. As state and local governments struggle to cope with a perilous fiscal crisis, Verizon and its backers on Beacon Hill have decided this is the perfect moment to seek legislative help in boosting profits for the telecommunications giant's FiOS television, phone, and Internet service. Their strategy is to undermine the current cable licensing system in ways that would reduce the ability of cities and towns to negotiate on behalf of their residents.

Like its 2007 predecessor (S1975), which stalled in the wake of withering protests from local elected officials and community access television groups, the current bill is written by and for a single company. All by itself, that fact should set off alarm bells. We are all accustomed to entire industries pleading their cases on Beacon Hill, but a single company? That's really putting the "special" in "special interest." As if that weren't enough, the "problems" this legislation purports to "solve" simply don't exist.

Verizon claims that it doesn't have sufficient access to the state's local cable markets and that it needs to knock down artificial barriers. But if that's the case, how has Verizon been able to obtain a license in every one of the 96 communities it has approached—with, at least for now, the lone exception of Hull? And why have dozens of communities that have rolled out the welcome mat for FiOS been snubbed by Verizon? (Somerville, where I have been mayor since 2004, is one of 48 Massachusetts municipalities that, back in June 2007, actually signed a joint letter welcoming Verizon as a potential provider and offering the company an expedited license negotiation process. Verizon never replied in writing, although they have since asked for, and received, licenses in 11 of the signatory communities.)

Still, Verizon says that there is something wrong with the current system and that it needs to be changed in order to "open up" competition and

provide more choices (and, by implication, lower prices) to consumers. The company argues, and has apparently convinced some lawmakers, that it should be given further incentives to provide more broadband installations in Massachusetts. Not content with the tax breaks currently built into telecommunications law (telecom companies haven't paid local property taxes on many of their holdings since 1913), Verizon wants to put a 90-day limit on local negotiations and then force communities to take whatever offer is on the table at the end of that period.



The proposed legislation wouldn't benefit consumers, who would have no added protections, and it would benefit other cable providers only after their current licenses expire. In the meantime, it would give Verizon a window in which, with only the most general limits, it could write its own ticket, setting minimal levels of support for local public access, educational, and government channels (PEG in the parlance of cable license agreements). It would also free Verizon to cherry-pick individual neighborhoods, where installation costs may be lower or residents may be wealthier, while bypassing the requirement to serve an entire municipality. You can't blame Verizon for trying. What business wouldn't like to have a legally mandated leg up on the competition?

HERE IN SOMERVILLE, we have a proud tradition of support for cable competition and for a robust public access television community. Somerville was the first community in the country to open its cable market to multiple entrants, and Somerville is home to the nation's first independent, nonprofit community access television corporation. We pride ourselves on providing a level playing field for multiple entrants and ensuring that our residents have as much choice as possible in cable television suppliers.

Of course, we do have a few straightforward

conditions for granting new cable licenses. We require cable companies to serve the entire community; we don't want to allow providers to pick and choose among our residents. We expect providers to share equitably in the cost of supporting PEG funding, both on the capital equipment and operating sides. And we insist that cable providers compete on a level playing field—that no single company have an unfair advantage over its rivals.

Those are the conditions that Verizon is trying to evade. In 2007, they sought to evade them by creating a permanent, one-size-fits-all, statewide license that just happened to get rid of these pesky requirements. That effort failed. Now they've returned with legislation that has the license stay at the local level but takes all the bargaining power away from the communities. If this bill passes, it won't matter what cities and towns try to negotiate on behalf of their schools, their libraries, and their public access channels. If Verizon doesn't like the terms, they will just stall until the 90-day limit is reached and then impose their own deal.

Now, FiOS is supposed to be a really impressive technology. Friends who live in towns that have FiOS tell me

it's got impressive speed and clarity. (None of those friends live in Boston or Cambridge; like Somerville, those cities can't seem to interest Verizon in submitting a proposal.) I honestly hope that FiOS becomes available throughout the state. I would be delighted to see Verizon

If this bill passes, Verizon can stall and impose their own terms on municipalities.

show some interest in Somerville. How can Verizon know at this point that we would drive too hard a bargain or take too long to come to terms? They haven't even tried us.

But if the price for FiOS is giving up the ability of local communities to negotiate cable licenses, then I, and Somerville, will take a pass. I oppose this unnecessary and self-serving legislation. And, as chairman of the Massachusetts Municipal Association's Telecommunications Taskforce, I can confirm that the MMA will oppose this bill as well. **CW**

Joseph Curtatone is the mayor of Somerville.



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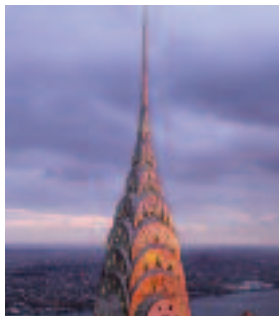
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Time saver

Utah sees energy savings and a happier workforce with a four-day workweek BY JAMIE NAGLE AND MIKE HANSEN

IN 2008, THE state of Utah was facing a number of compelling issues. Utility costs were rising, but there was no funding available to retrofit public buildings. Our government workforce was showing a demographic imbalance, with the state finding it difficult to attract employees just beginning their careers. State agencies wanted to provide better service, but they didn't have any new resources. And urban parts of the state were suffering declining air quality.

Utah's four-day workweek initiative ("Working 4 Utah") was implemented to address these four different, yet interrelated, areas of energy usage, workforce makeup, customer service, and environmental quality. Roughly 24,000 state employees in 23 agencies were told to take Fridays off and work four 10-hour days instead of five eight-hour days. State police, public universities, the state court system, prisons, and other critical services were exempted from the pilot program.

Cities and counties across the US have shifted to a four-day workweek, but Utah's initiative was the first of its type and scale, and it complements other efforts designed to meet the state's goal of increasing energy efficiency by 20 percent by 2015.

The state consulted with professor Lori Wadsworth at Brigham Young University's Institute of Public Management, whose research on work schedules indicated that employees would be heavily impacted by the change. She advised us to communicate clearly and frequently with employees, and to work with them to resolve issues around work/life balance, holidays, scheduling conflicts, and workday fatigue.

She cautioned that employee performance generally improves with a four-day workweek, but said it's difficult to quantify unless the employer can measure productivity before and after the change. Fortunately, she credited Utah with being one of the few states that effectively measures productivity of both program output

and mission outcomes.

Our four-day workweek pilot program, implemented in August 2008, reached its halfway point in February 2009. Early findings indicate that the initiative is making a positive impact generally.

AT THE BEGINNING of the study, each state agency was asked to provide the governor's office with an inventory of structures that would be affected by the change in operating hours. The total number approached 1,000, but it was evident that the vast majority of employees were located in about 100 of them. We focused on those buildings because many of the less-populated ones (e.g., fuel islands for fleet vehicles) consumed very little energy.

Early data indicate that half of the 100 buildings are achieving 10 percent to 20 percent energy usage reductions, and energy savings overall should improve with an employee awareness campaign that began in May. (The buildings that are not showing notable savings typically have older mechanical controls that can't be modified easily.) There has also been an unexpected reduction of \$203,177 in the cost of custodial service contracts this year.

State employees have generally responded positively to the change. Approximately 70 percent of affected employees say they prefer the 4/10 schedule. Employee turnover rates have decreased by about 10 percent since last year. Surprisingly, cumulative leave usage and overtime across agencies in the executive branch is down approximately 9 percent.

By having employees commute to work four days a week instead of five, we estimate that gasoline consumption by state employees has been cut by 744,000 gallons. We also estimate greenhouse emissions will drop by 12,652 metric tons over the course of a full year, the equivalent of taking 2,300 cars off the road.

In general, state taxpayers seem to appreciate state agencies that stay open later. State agencies report no decrease in their productivity measurements, and customer service survey results are





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PERSPECTIVES

similar to what they were in the time periods prior to the initiative. Wait times at the Division of Motor Vehicles have improved, the utilization of Utah.gov Web services continues to increase, and the number of calls to the Working 4 Utah hotline has decreased substantially.

From a high-level perspective, the success of the alternative workweek initiative is always going to be difficult to quantify. For example, energy consumption depends heavily on weather patterns. Demand for public sector employment always increases during an economic downturn. And it is difficult to accurately assess the public's opinion of how the state provides services when almost 900 of those services are available online.

We know state officials from around the country are watching to see how our experiment works. The state will continue to monitor the performance of this initiative and present its findings to the governor later this year. A formal decision will be made at that time on whether to make the experiment permanent. **CW**

Jamie Nagle is the workforce engagement specialist for the state of Utah, and Mike Hansen (pictured) is the director of strategy and management initiatives in the governor's office.



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Seeking to serve

“ALL I WANTED to do was help kids write college essays,” Julie, a 24-year-old friend, told me. “It should have been easy. But I called a few different places that do college prep stuff for kids who can’t afford to hire a tutor, and none of them could figure out how to use me.”

Julie is, in many ways, a dream volunteer. Enthusiastic and public-spirited, she has a college degree, a job that doesn’t ask very much of her, and plenty of free time. Yet despite all that, and despite a clear sense of how and where she wants to pitch in, she isn’t doing any community service—perhaps in part because the brand of service she’s interested in isn’t the one that’s currently “in.”

Due to the 2009 Kennedy Serve America Act, and the success of programs like Teach for America, we increasingly use the term “service” to mean: Drop out of your “real life” for a year or two to build organic gardens in Newark or homes in Guatemala. What’s less sexy, yet more manageable for many, is the kind of sustainable volunteer opportunity Julie was looking for, a few hours a week integrated into the rest of her schedule.

In theory, she has plenty of options. The state government’s website, www.mass.gov, lists 297 agencies requesting help in Massachusetts. A search on www.idealists.org turned up 318 in Boston alone. But there are two big obstacles keeping Julie on the sidelines.

The first has to do with the fool’s gold nature of the Internet. Whether we’re hunting for a new house, a job, a girlfriend, or a service opportunity, the possibilities appear endless. Who hasn’t experienced that Google-euphoria of discovering that what you want not only exists, but exists in glorious abundance? Then you realize that 80 percent of the links are broken, or that the person was posting because they *might* need volunteers (or a new sofa, or a boyfriend) down the road, and why not post now, since it’s free? Meanwhile, the ones that really need and know how to use volunteers are too overwhelmed with responses to get back to you. Even as the Web facilitates tenuous connections, the meaningful ones often remain elusive.

THE MORE COMPLEX and specific problem is the number of organizations with overlapping missions that aren’t coordinating their efforts. “Boston has more nonprofits than people,” Boston Mayor Thomas Menino quipped at a recent Back Bay Association breakfast. “And,” he told me

later, “none of them will talk to each other.”

According to a 2008 Boston Foundation report, Massachusetts has 36,748 nonprofits, and most are small-scale operations; over 85 percent reported income under \$250,000 in 2007. Sandy Martin, who coordinates the South End/Lower Roxbury Youth Workers’ Alliance, believes the funding structure is at the heart of the problem: “Usually, the agencies need to raise all their money every year,” she says, “so it makes them feel like they’re in competition with each other. Each agency is focused on its own health and trying to balance its health against its mission. Of course, everyone who cares about youth should work together, but it doesn’t always work that way.”

Given the number of small agencies operating on a

Volunteers are out there, but “real world” assignments are elusive.

shoestring—and putting the bulk of their limited resources into direct services and fundraising—it isn’t surprising that they can’t always call potential volunteers back or determine how best to use them. Here’s what I suspect happens. Someone like Julie thinks, “Hey, I could do this better. I should start my own agency to tutor inner-city kids.” The next thing she knows, she’s trying to organize an annual gala and learn accounting. While she wants volunteers, the job of “volunteer coordinator” feels less essential than “development coordinator,” and since she can’t afford to hire both, she opts for development. So all those disappointed would-be volunteers get a brilliant idea. They think, “Hey, I could do this better...”

Or, sadder and probably more common, they give up. After all, it is easy not to volunteer. Last fall, I looked into tutoring opportunities, smugly assuming that as a former high school teacher, I’d be snapped up in a second. When I contacted three organizations, my first message vanished into the ether; the second outfit wasn’t accepting new volunteers; and the third got back to me to say my email had been forwarded to the correct contact person and I should be hearing from someone shortly. I never did.

So I put my energy elsewhere for the time being. And here I remain, with nine years of teaching experience and—despite the frustration—a continued willingness to give it away for a few hours each week.

Let me know if you can use me. **CW**

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¹*Boston Business Journal*, Sept. 5, 2008. CRN201011-113718

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