

PARTNERS CEO DAVID TORCHIANA MAKES HIS CASE



Commonwealth

POLITICS, IDEAS & CIVIC LIFE IN MASSACHUSETTS



The paradox of Robert DeLeo

The affable everyman with a vise-like grip on the House he leads

commonwealthmagazine.org

SPRING 2016

\$5.00



0 03746 99374 2

A LIFETIME OF SMART FINANCIAL CHOICES IS **WITHIN REACH.**



Empowering young leaders to make smart career and financial choices starts with education. That's why we created the MassMutual FutureSmartSM Challenge, a financial education program for young leaders. In collaboration with Junior Achievement of Northern New England and the Boston Celtics, the FutureSmartSM Challenge gives students the knowledge to pursue a strong financial future. Learn more at MassMutual.com/futuresmartchallenge



We'll help you get there.®

LIFE INSURANCE + RETIREMENT/401(K) PLAN SERVICES + DISABILITY INCOME INSURANCE + LONG TERM CARE INSURANCE + ANNUITIES

MassMutual Financial Group refers to Massachusetts Mutual Life Insurance Company (MassMutual), its affiliated companies and sales representatives. Insurance products are issued by MassMutual, Springfield, MA 01111, and its subsidiaries, C.M. Life Insurance Company and MML Bay State Life Insurance Company, Enfield, CT 06082. CRN201803-179441



You have a vision. We know the terrain.

We are immersed in the state's key industries, institutions, and changing regulations. As part of your team, we put our knowledge and experience to work for you — supporting you all the way to help you overcome obstacles, move forward efficiently, and reach your goals.

Since 1933, we have been honored to work with many of the region's leading companies and nonprofits, and to help them complete ambitious projects throughout the Commonwealth and beyond. Whatever your legal or business challenge, you can rest assured that we have traveled these trails.

MINTZ LEVIN
Mintz Levin Cohn Ferris Glovsky and Popeo PC

ML
STRATEGIES

Boston | London | Los Angeles | New York | San Diego | San Francisco | Stamford | Washington | 888.908.1933 | www.mintz.com

Information contained herein may be considered attorney advertising. Prior results do not guarantee a similar outcome.



TRINITY

DEVELOPMENT & MANAGEMENT



Seniorlink offers expertise in managing care for elders and people with disabilities, and an innovative service model, Caregiver Homes, for those who need care coordination and significant help with activities of daily living.

Through Caregiver Homes, Seniorlink:

- ▶ Serves over 2,900 elders and people with disabilities in 6 states (Massachusetts, Connecticut, Indiana, Ohio, Rhode Island, Louisiana).
- ▶ Provides 3,000+ caregivers with the coaching, support, and financial assistance they need to keep care at home.
- ▶ Employs more than 300 full-time professional staff.

SENIORLINK



To learn more, visit www.seniorlink.com

CommonWealth

EDITOR Bruce Mohl

bmohl@massinc.org | 617.224.1705

EXECUTIVE EDITOR Michael Jonas

mjonas@massinc.org | 617.224.1624

SENIOR INVESTIGATIVE REPORTER Jack Sullivan

jsullivan@massinc.org | 617.224.1623

ART DIRECTOR Heather Hartshorn

CONTRIBUTING WRITERS Dave Denison,

Colman M. Herman, Phil Primack, Robert David Sullivan

WASHINGTON CORRESPONDENT Shawn Zeller

PUBLISHER Gregory Torres

gtorres@massinc.org | 617.224.1703

SPONSORSHIP, ADVERTISING & CIRCULATION Caroline Palmer

cpalmer@massinc.org | 617.224.1645

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

CommonWealth (ISSN pending) is published quarterly by the Massachusetts Institute for a New Commonwealth (MassINC), 11 Beacon St., Suite 500, Boston, MA 02108. Telephone: 617-742-6800 ext. 109, fax: 617-589-0929. Volume 21, Number 2, Spring 2016. Third Class postage paid at Holliston, MA. To subscribe to *CommonWealth*, become a Friend of MassINC for \$75 per year and receive discounts on MassINC research reports and invitations to MassINC forums and events. Postmaster: Send address changes to Circulation Director, MassINC, 11 Beacon St., Suite 500, Boston, MA 02108. Letters to the editor accepted by email at editor@massinc.org. The views expressed in this publication are those of the authors and not necessarily those of MassINC's directors, advisors, or staff. *CommonWealth* is a registered federal trademark.

MassINC is a 501(c)(3) tax-exempt charitable organization. The mission of MassINC is to develop a public agenda for Massachusetts that promotes the growth and vitality of the middle class. MassINC is a nonpartisan, evidence-based organization. MassINC's work is published for educational purposes and should not be construed as an attempt to influence any election or legislative action.

The CITIZENS' CIRCLE

The individuals who have joined the MassINC Citizens' Circle help to ensure that the independent journalism of *CommonWealth* magazine and nonpartisan research of MassINC continue to raise pressing issues in the public interest, offering a neutral table for civic engagement and public debate.

Anonymous (9)	Robert & Frances De Salvio	Mr. & Mrs. Amos B. Hostetter, Jr.	Randy Peeler
William Actmeyer	Gerard F. Doherty	Peter Howe & Holly LeCraw Howe	Finley H. Perry, Jr.
Nicholas Alexos	Roger D. Donoghue	Raymond Howell	Jenny Phillips
Tom & Marsha Alperin	Philip J. Edmundson	Tad Heuer	Diana C. Pisciotta
Carol & Howard Anderson	James & Amy Elrod	Holly & Bruce Johnstone	Michael E. Porter
Ronald M. Ansin	Thomas Engelman & Laurie Burt	Hugh Jones	R. Robert Popeo
Amy Anthony	Mark L. Erlich	Robin & Tripp Jones	Mitchell T. & Adrienne N. Rabkin
Jay Ash	Juliette Fay & Bill O'Brien	Juliette Kayyem	John R. Regier
Joseph Baerlein	Maurice & Carol Feinberg	Michael B. Keating, Esq.	Dean Richlin
Richard J. & Mary A. Barry	David Feinberg	Lori Kenschaft & Randall Smith	Thomas & Susan Riley
Robert L. Beal	Newell Flather	Julie & Mitchell Kertzman	Kenneth W. Robinson
David Begelfer	Christopher Fox & Ellen Remmer	Stephen W. Kidder & Judith Malone	Mark & Sarah Robinson
Joan & John Bok	Robert B. Fraser	Thomas Kiley	Rachel Rock & Josh Levy
Frank & Mardi Bowles	Christopher & Hilary Gabrieli	Richard L. Kobus	Fran & Charles Rodgers
Ian & Hannah Bowles	Stephanie Garrett	Edward Krapels	Paul & Alexis Scanlon
The Brennan Group, Inc.	John Gillespie & Susan Orlean	John Larivee	Helen Chin Schlichte
Stephen Burrington	Robert Gittens	Anne & Robert Larner	Karen Schwartzman & Bob Melia
Rick & Nonnie Burnes	Neal Glazier	Gloria & Allen Larson	Matt Segneri
Jeffrey & Lynda Bussgang	Lena & Ronald Goldberg	Paul Levy	Ellen Semonoff & Daniel Meltzer
Andrew J. Calamare	Ashton & Jim Goodfield	Charlotte Lindon	Robert K. Sheridan
Congressman Mike Capuano	Philip & Sandra Gordon	Stephen Lisauskas	Richard J. Snyder
Neil & Martha Chayet	Jim & Meg Gordon	Chuck & Susie Longfield	Patricia & David F. Squire
Gerald & Kate Chertavian	Mary K. Grant	Anne & Paul Marcus	Lisa Lenon-Stanton & William Stanton
Meredith & Eugene Clapp	Tom Green	Travis McCready	Mark S. Sternman
Margaret J. Clowes	Paul S. Grogan	William P. McDermott	Timothy & Susanne Sullivan
Devin Cole	Paul Guzzi	The Honorable Patricia McGovern	Ben & Kate Taylor
Community Resources for Justice	Henry L. Hall, Jr.	David McGrath	David Tibbetts
Philip & Margaret Condon	Scott Harshbarger & Judith Stephenson	Katherine S. McHugh	Josh and Ann Connolly Tolkoff
David & Victoria Croll	John Hastings	Paul & Judy Mattera	Gregory Torres & Elizabeth Pattullo
Cheryl Cronin	Martin W. Healy	Stephen Meade	Thomas Trimarco
Michael F. & Marian Cronin	Anthony & Brenda Helies	Gerry & Joanne Morrissey	Eric Turner
Stephen P. Crosby & Helen R. Strieder	E. Byron Hensley, Jr.	William S. Mosakowski	E. Denis Walsh
Bob Crowe	Harold Hestnes	Joseph Mullaney	Michael Weekes
Jay Curley	Joanne Hilferty	John E. Murphy, Jr.	David C. Weinstein
Sally Currier & Saul Pannell	Jordan Hitch	Bruce & Pam Nardella	Robert F. White
Susan Davies & Richard Talkov	Edward J. Hoff	W. Newman & M. Nienhuis	Michael J. Whouley
Thomas G. Davis	Liz & Dennis Holler	Elizabeth Nichols	Karyn Wilson
William A. Delaney	Ann-Ellen Hornidge & Edward Murphy	LZ Nunn	Peter Woolley
Gerri Denterlein		Joseph and Katherine O'Donnell	

For information on joining The Citizens' Circle, contact MassINC at (617) 742-6800.



Building Relationships. Enhancing Lives.

The MENTOR Network is a national network of local health and human services providers offering an array of quality, community-based services to adults and children with intellectual and developmental disabilities, brain and spinal cord injuries and other catastrophic injuries and illnesses, and to youth with emotional, behavioral and medically complex challenges as well as their families.



313 Congress Street, 5th Floor
Boston, MA 02210
p. 617-790-4800 | f. 617-790-4271

Visit our new website at
www.thementornetwork.com

MassINC

RESEARCH. JOURNALISM. CIVIC LIFE.

CHAIRMAN OF THE BOARD

Ann-Ellen Hornidge

BOARD OF DIRECTORS

Gregory Torres, *ex officio*
David Begelfer
Andrew Calamare
Neil Chayet
Philip Condon
Sean Curran
Geri Denterlein
Mark Erlich
Monica Escobar Lowell
Pamela Feingold
Robert Fraser
Nick Fyntrilakis
Stephanie Anderson Garrett
Lane Glenn
Thomas Green
Harold Hestnes
Tripp Jones
Juliette Kayyem
William P. McDermott
Jennifer Nassour
Eileen O'Connor
Thomas Pappas
Dean Richlin
Kenneth Robinson
Mark Robinson
Paul Scanlon
Richard Tisei
Eric Turner

HONORARY

Mitchell Kertzman,
founding chairman
John C. Rennie, *in memoriam*

ASSOCIATE BOARD

Devin Cole,
Meaghan Casey
Aaron Chalek
Stephen Chan
John Coakley
Brendan Crighton
Neal Glazier
Daisy Gomez
Amanda Hall
Tad Heuer
Emilee Hoover
LZ Nunn
Jackney Prioly
Michael Ratty
Angie Rodriguez
Drew Russo
Matthew Segneri
Liz Walczak
Aimee Ward

PRESIDENT Gregory Torres

RESEARCH DIRECTOR Ben Forman

CHIEF OPERATING OFFICER Lauren Smith Louison

DIRECTOR OF FINANCE AND OPERATIONS Caroline Palmer

DIGITAL DIRECTOR Llyr T. Johansen

DIRECTOR OF PUBLIC AFFAIRS Winthrop Roosevelt

RESEARCH FELLOW Jonathan Jones, Matthew O'Brien

INTERNS Maureen McInerney, Haley McFarland

CommonWealth magazine is printed on FSC-certified recycled paper, manufactured with an elemental chlorine free process, using soy inks and 100% certified wind-energy credits for production.





ARTICLES

- 20 | THE PARADOX OF ROBERT DELEO** The Speaker is an affable everyman with a vise-like grip on the House he leads. **BY MICHAEL JONAS**
- 30 | CARTE BLANCHE** State law puts few restrictions on how lawmakers use their campaign accounts in or out of office. **BY JACK SULLIVAN**
- 38 | WHY WHITES CONTROL LOWELL CITY GOVERNMENT** A voting system hinders the advancement of minorities and concentrates power in the heavily white Belvidere neighborhood. **BY TED SIEFER**
- 46 | TACKLING THE TIME WARP AT THE T** Gerard Polcari tries to bring the beleaguered procurement system at the MBTA up to snuff. **BY BRUCE MOHL**

VISIT WWW.COMMONWEALTHMAGAZINE.ORG

DEPARTMENTS

- 7 | EDITOR'S NOTE**
- 9 | INQUIRIES**
- 13 | ONE ON ONE** "If you've got a mouth, use it," says PR poobah George Regan. **BY BRUCE MOHL**
- 15 | STATISTICALLY SIGNIFICANT** The slump in prices at the gas pump is good for government. **BY JACK SULLIVAN**
- 17 | WASHINGTON NOTEBOOK** Most members of the Massachusetts congressional delegation want to do away with seniority. Some want to do away with Nancy Pelosi as leader. **BY SHAWN ZELLER**

DISCUSSION

- 52 | CONVERSATION** David (Torch) Torchiana, the CEO of Partners HealthCare, makes the case for why the powerful hospital system is not a problem that needs to be addressed. **BY BRUCE MOHL**
- 63 | PERSPECTIVES** It's time to radically decentralize DCF's responsibilities. **BY EDWARD M. MURPHY** What's behind the Massachusetts Health Connector's rehab. **BY JOHN MCDONOUGH** Secretary of State William Galvin's low energy on elections dampens innovation. **BY EITAN HERSH**

TWO TOP HOSPITALS. ONE GREAT CITY.



U.S. News & World Report recently recognized two Partners HealthCare hospitals as being among the very best in the nation: Mass General (ranked #2) and Brigham and Women's (ranked #9). Additionally, for excellence in specialized medicine, McLean ranked nationally for psychiatry and Spaulding Rehab for rehabilitation. Regionally, Newton-Wellesley Hospital and North Shore Medical Center each earned top marks.

It's an accomplishment resulting from an unyielding commitment to exceptional care throughout the Partners HealthCare System — from our hospitals and community health centers to the dedicated individuals who provide care to our patients and their families. As the only city in the country to have two hospitals in the nation's Top 10, it's a distinction we can all be proud of as Bostonians.



FOUNDED BY BRIGHAM AND WOMEN'S HOSPITAL
AND MASSACHUSETTS GENERAL HOSPITAL

Brigham and Women's Faulkner Hospital | Cooley Dickinson Hospital
Martha's Vineyard Hospital | McLean Hospital | Nantucket Cottage Hospital
Neighborhood Health Plan | Newton-Wellesley Hospital
North Shore Medical Center | Partners Community HealthCare, Inc.
Partners HealthCare at Home | Spaulding Rehabilitation Network

About that hot dog

THOMAS FARRAGHER OF the *Boston Globe* wrote a column recently about the struggle between hospital haves and have-nots. He likened struggling community hospitals such as Holyoke Medical Center to a push-cart vendor who sets the price of his hot dogs at 60 cents apiece even though they cost \$1 to produce. Meanwhile, Massachusetts General and Brigham and Women's hospitals sell hot dogs from shiny new food trucks and charge \$2.50 even though the bun and hot dog they are also selling costs \$1.

Farragher was part of the *Globe* Spotlight Team that reported on the discrepancy in hospital payments eight years ago. Since then, several studies by the attorney general's office and the Health Policy Commission have confirmed that the elite teaching hospitals owned by Partners HealthCare are charging far more than community hospitals for some services even though the quality of those services is no better.

The hospital pricing issue is shaping up as one of the biggest issues of the year. Regulators and lawmakers are trying to figure out what to do about the pricing discrepancy, even as the Service Employees International Union is gathering signatures for a ballot question that would compress the payment system for all hospitals, effectively redistributing wealth from the haves to the have-nots.

We've been asking for close to a year to talk to David Torchiana, the CEO of Partners, for his take on the debate. He recently agreed to sit down and make his case.

"My answer to this is very simple and it's trite, really," he says in an interview on the 11th floor of the Prudential Center. "We get paid more for deliveries and cholecystectomies [gallbladder removals] because we're supporting a burn service that's available seven days a week, 24 hours a day for the region of New England. There's a whole lot of things that go into tertiary centers that are necessary for the public good that get funded through this crazy payment system that we have."

Self-serving? Probably. But Torchiana's take is undeniably valuable information to have as the debate over hospital rates begins in earnest and we begin trying to decide how to regulate two of the most respected teaching hospitals in the nation.

Unfortunately, the speaker of the Massachusetts House didn't sit down with *CommonWealth's* Michael Jonas to discuss how the lawmaker wields power on Beacon Hill. It's a shame because an interview may have shed some light on the puzzle that is Robert DeLeo, an affable Winthrop

It's a shame DeLeo refused to comment.

rep who made his way up the political ladder to become one of the most powerful people on Beacon Hill. DeLeo portrays himself as a regular guy striving for consensus, but his actions suggest he's been bitten by the same thirst for power and control that afflicted nearly all of his predecessors.

Jack Sullivan examines two years of campaign spending by state lawmakers and comes away feeling that a good chunk of the money donated to politicians ends up going to support their lifestyles. Joan Menard is a good example. She retired from the state Senate in 2011, and since then has spent nearly \$305,000 out of her campaign account on items that have nothing to do with running for office.

Ted Siefer looks at Lowell, one of our state's Gateway Cities and home to a burgeoning Cambodian population, and asks and answers why all the local leaders are white.

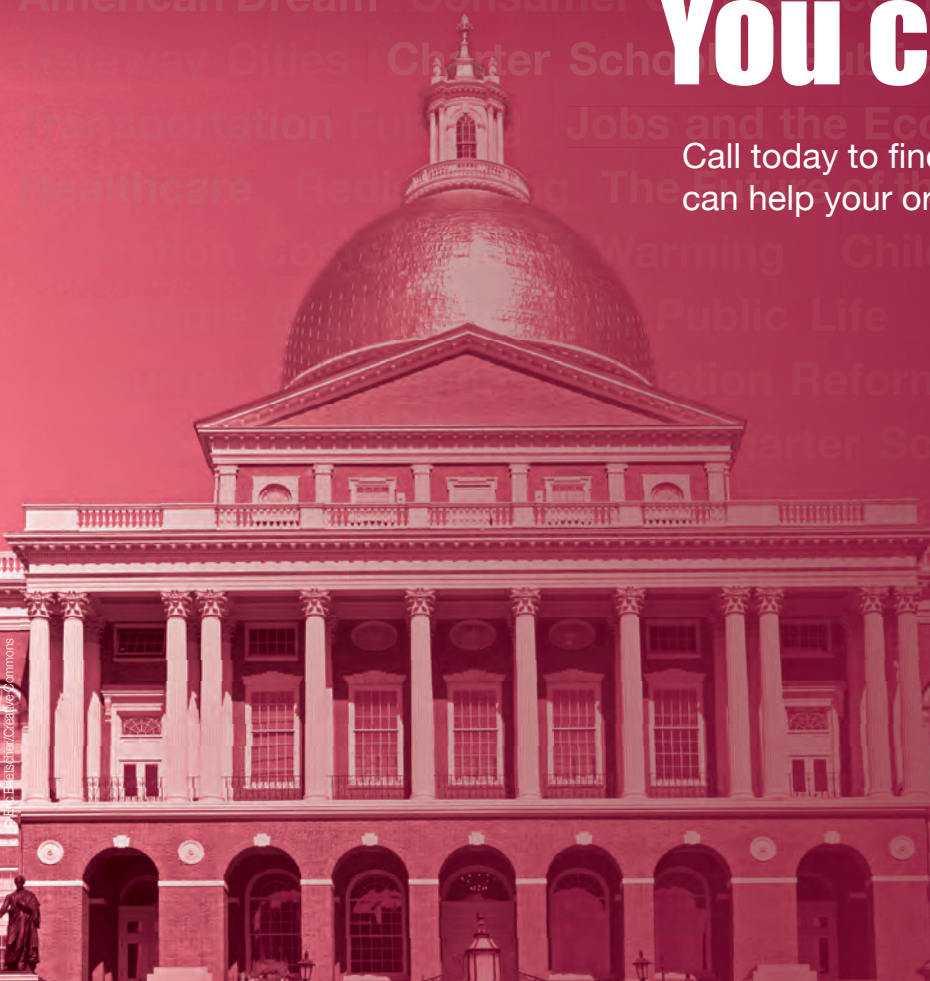
Finally, we introduce you to Gerard Polcari. Chances are you've never heard of him, but he's just one of many private sector officials being brought into the administration of Gov. Charlie Baker in a bid to shake things up. Polcari is the chief of procurement at the T, and someone who doesn't talk or act like a government official. **CW**

Bruce Mohl
BRUCE MOHL

**Leaders in both the public and private sectors
rely on The MassINC Polling Group for accurate,
unbiased results.**

You can too.

Call today to find out how we
can help your organization.



OPINION POLLING

MARKET RESEARCH

STRATEGIC CONSULTING

COMMUNICATIONS STRATEGIES



Independence. Integrity. Impact.

MassINCPolling.com

[@MassINCPolling](https://twitter.com/MassINCPolling)

(617) 224-1628

info@MassINCPolling.com

inquiries

Tea Party Ship loses \$3.6m

The Boston Tea Party Ships and Museum boosted revenue in its third year of operation, but continued to lose money, nearly \$3.6 million.

Damaged by fire in 2001, the museum commemorating the 1773 tax rebellion against the British by the Sons of Liberty reopened in 2012 with the help of an \$18 million loan from the Massachusetts Convention Center Authority. The museum had forecast net operating income of \$1.5 million to \$1.8 million a year, but so far hasn't yet been able to turn a profit.

For the year ending March 31, 2015, the museum reported revenue of \$4.4 million (up \$1 million from the previous year) and expenses of \$7.2 million. Once interest expenses were included, the museum's net loss was \$3.6 million. Financial records of the museum's for-profit owner, Historic Tours of America, are provided to the Convention Center Authority, which released them to *CommonWealth* on request.

In a January 2015 *CommonWealth* story on the museum's finances, officials said they expected another loss during the year ending March 31, 2015, before attaining profitability the following fiscal year.

Historic Tours has been operating the museum since 1993 at the Congress Street Bridge over Fort Point Channel. Historic Tours spent \$4 million of its own money rebuilding the attraction after the 2001 fire and also received a \$3 million grant from the Boston Redevelopment Authority and the \$18 million convention center loan.

► BRUCE MOHL

Out-of-network billing surprises

► JACK SULLIVAN

MARYLOU SUDDERS, the state's secretary of health and human services, was going through some paperwork for her late sister when she came across a bill from a doctor for thousands of dollars that wasn't covered by insurance.

Sudders says the bill included charges for services that would have normally been paid by her sister's insurer but weren't covered fully because they were performed by physicians who were not in the insurer's network.

"I was, frankly, taken aback by it," says Sudders. "I was able to successfully resolve those bills, but my perspective was these are not things she would have authorized. Knowing my sister as well as I did, she was just too sophisticated."

What Sudders encountered is something known in the health care industry as "surprise billing" or "balance billing." The surprise aspect is obvious; balance billing refers to patients getting stuck with the balance, or difference, between in-network and out-of-network charges. It occurs when an invoice is sent to a patient for a service provided by an out-of-network physician or hospital after the patient's insurer denies some or all of the claim. It often happens in emergency room situations, when patients don't or can't ask whether medical care is being provided by an in-network provider. But it can happen even when a patient confirms a procedure is fully covered only to find out later that an out-of-network provider, such as an anesthesiologist, was called in to assist during surgery.

MAKING MARKETS WORK. When the state's Health Policy Commission issued its 2015 cost trends report in January, the issue was barely mentioned in the 102-page document. But Sudders' story at a commission meeting about her sister nevertheless triggered an animated discussion among commission members, many of whom thought it was a very big issue. The commission determined the billing issue warranted much more scrutiny and asked staff to provide a deeper look, which was delivered to the board in early March, along with recommendations to seek legislation for patient protection.

The commission opted not to vote at the March 2 meeting and to mull the options over further, but there is clearly an appetite to enact some changes, either by asking the Legislature to pass a law or by pressuring health care providers to change their billing practices.

"If we're going to make markets work, we have to make markets work in a transparent way," says Stuart Altman, the chairman of the Health Policy Commission. "This type of billing is insidious and subtle. I think equally, if not worse, there clearly is a serious problem when you believe you are working within your prescribed network and you go to a network physician and hos-

pital and then find out some other ancillary physicians who are not [in-network] participated in the procedure. That to me is unacceptable and should not be allowed, nor should the insurance company be required to pay the bill.”

It’s hard to know how pervasive the problem is in Massachusetts because no data are available. Other states have studied the issue and enacted regulations to hold patients harmless in surprise billing situations. New York enacted a ground-breaking comprehensive law last year absolving patients of responsibility for surprise billings and requiring insurance companies to pay “reasonable” out-of-network costs. Several other states — Connecticut, New Jersey, and California — have passed measures with various levels of protection for patients and mandates on insurers and providers.

Regulators at the New York Department of Public Health reviewed more than 2,000 cases arising out of complaints from patients receiving bills for out-of-network services they never authorized. In one case, they found that a man who severed his finger in an electric saw accident went to the emergency room at a hospital that was part of his network. But, without his knowledge, the surgeon who reattached the finger was not a member of his network and the patient was billed \$83,000. In another instance, a man who had undergone surgery confirmed everyone involved was in his network. But during the operation his surgeon called for assistance from an out-of-network doctor and the patient got stuck with a bill in excess of \$7,500.

“The Department’s investigation of unexpected bills to consumers by out-of-network providers revealed unacceptable opaqueness in the health insurance market,” says the 2012 report, which was the foundation for last year’s law and the evidence Massachusetts regulators are using to push for changes here.

President Obama has proposed changes in the Affordable Care Act to address surprise billing, but those fixes are in his 2017 budget, which has little chance of being passed by Congress this year. So some states are stepping into the breach to fix the issue on an *ad hoc* basis.

Some regulators view the issue as an off-shoot of the overly complex health care billing system. Others, though, see it as an attempt by some providers to squeeze every

dollar they can out of consumers by refusing to join networks with their lower reimbursement rates.

“I think in some cases there is ill intent,” says Altman. “I don’t have a good answer. It’s very subtle. It’s very hard to figure out.”

Most consumers are not aware of the problem. Insurance policies typically require a hefty copay and deductible for emergency room services. But if the patient is admitted to the hospital for treatment, the costs are capped and covered. Or so consumers think.

Nothing in Massachusetts regulations prevents balance billing. Out-of-network physicians, especially those located out-of-state, are not bound by a contract to which they are not a party. It’s solely up to the insurer whether to cover all out-of-network charges in such cases.

“Our policy is to indemnify the member from that



“This type of billing is insidious and subtle,” says Stuart Altman, chairman of the Health Policy Commission.

balance bill,” says Matthew Day, senior vice president of network payment innovation and contract management at Blue Cross Blue Shield of Massachusetts. “It’s a policy choice we make.”

Day says the issue of surprise billing is part of the larger problem of out-of-network providers who have no cap on what they can charge. The state, he says, needs to set limits on what an out-of-network doctor or hospital can charge.

“Some of our out-of-network providers charge three times as much, five times as much as what an in-network provider will charge,” he says. “We’ve seen cases of 100 times [as much].”

Day says one way insurers such as Blue Cross limit the problem is by requiring hospitals to ensure all the doctors at their facilities are in-network. The company also negotiates contracts setting caps on what will be paid for procedures on an in-network basis only. A sticking point, he says, is when the bill comes from out-of-state, where Massachusetts regulations and contracts have no effect.

Health officials acknowledge the wider problem associated with out-of-network billing, with select specialists and emergency room physicians who refuse to sign network agreements. But officials say much of that has to be hammered out within the marketplace by payers and providers. It’s the situations where consumers have no idea they are going to be swamped with unexpected costs that they want to see regulated.

“This became very black and white for me last September, October, when I saw my sister’s bills,” says Sudders, who added she’s still unsure whether surprise billing can or should be regulated by the state. “I used to see this primarily as an insurance issue, but it’s pretty complex. It wasn’t difficult for me to have the charges dropped because I understand the system. But what about all those folks who aren’t immersed in this, the patient who gets an unexpected bill and sees no recourse but to pay it? What information did they have? What is the insurer’s obligation? This is complicated but I really look at this from the lens of consumers.”

Several hospital officials declined to comment on the issue directly, saying they have in-network contracts and anything beyond that is a matter for insurance companies to handle with individual doctors who are not under their control.

But for Altman, the health policy commission chair, there’s enough anecdotal evidence to move forward with laws and regulations to protect consumers.

“What’s the negative of passing the law?” he asks. “Why should anybody object to it? No providers have come to us and said they should be allowed to do this.”

Unpaid internships — hard work, questionable legality

► COLMAN M. HERMAN

BOSTON-BASED ARGOPOINT placed an ad on Craigslist in February seeking a marketing intern of whom a lot seems to be expected.

The ad specified nine required qualifications, including a strong academic background, excellent verbal and written communication skills, high attention to detail, strong analytical and problem-solving abilities, and demonstrated leadership experience.

The ad also listed eight responsibilities, including “research and analysis, creation and improvement of firm marketing materials, planning and execution of marketing campaigns and projects, leveraging consumer analytics, and developing reports and presentations.”

The salary being offered for this highly demanding position: \$0.

Like most of the internship ads on Craigslist, the one posted by Argopoint appears to violate minimum wage laws requiring that such positions be training-oriented and not displace any existing workers. A recent court decision appears to weaken the reach of the federal law in a few states, but Massachusetts law is more restrictive, barring virtually all unpaid internships at for-profit companies. Argopoint, a consultant to corporate legal departments, is a for-profit company.

Both the Massachusetts Department of Labor Standards and the office of Attorney General Maura Healey, which oversee the state minimum wage law, declined to comment on the legality of the unpaid Argopoint job, each one referring a reporter to the other.

But David Yamada, a professor of law and director of the New Workplace Institute at Suffolk University Law School, says it’s unlikely the Argopoint position meets the federal Labor Department’s six-part test for an exemption from the minimum wage law.

“The position’s responsibilities are significant, involving professional tasks likely beyond that of even an entry-level job,” he says. “This looks like a regular job tagged with the label of ‘intern.’”

Jason Winmill, Argopoint’s managing partner, did not respond to requests for an interview. The company’s Craigslist ad says the firm is in compliance with “DOL guidelines,” presumably a reference to the federal rules.

OFFICIALS URGE LIMITS.

Unpaid internships are becoming more and more common as companies pursue cheap, eager labor and students look for resume enhancements and access to businesses and contacts that could help them land a paying job down the road. It's a mutually beneficial system that few are willing to challenge.

Allison, a former student who did not want her real name used, took on multiple internships as a way to get her foot in the door in hot pursuit of a glamorous media job after graduation.

"But they were all unpaid, which means they didn't value my work," says the Boston native. "My parents don't have very much money, so I had to work my friggin' ass off juggling a part-time job as a waitress while doing these internships. I didn't have a free moment to myself. I walked around exhausted all the time."

Many critics of unpaid internships say they create an unlevel playing field in which students who come from well-heeled families have a distinct advantage.

"There are a lot of students who simply can't afford to work for free for such a long period of time," says Yamada, the Suffolk law professor, "because they have to make some money — to pay their bills, to pay their tuition, to pay their expenses, and to put a roof over their head. So they have to pass up valuable internship opportunities. It doesn't seem to me that asking for the minimum wage in return for entry-level performance is asking a lot."

In his 2011 book, *Intern Nation*, Ross Perlin estimates that there are 1 million to 2 million Americans working annually as interns, with as many as 50 percent either unpaid or earning less than minimum wage. Perlin points out in his book that an industry has grown up around internships, with companies charging students to help them land plum positions. A company called Dream Careers promises internships in Boston for a price of \$8,499. Dream Careers declined comment.

"Making an industry out of internships simply renders tangible a fait accompli long in the making: internships are becoming the face of privilege," Perlin says in his book.

Based on a 1947 US Supreme Court ruling, the six-point test cited by Yamada for determining whether or not interns need to be paid requires in part that the internship must be a training program that is similar to what would be available in an academic setting, the intern does not displace any regular workers, and the employer derives no immediate advantage from the intern's activities. Merely because a student receives academic credit for an internship does not by itself make the internship legal.

Massachusetts law has adopted the federal six-point test, but goes further, making the requirements even more stringent.

"According to federal law, some internships can be

unpaid even in cases when the work is for a for-profit company," says Nicholas Ortiz of Boston, who describes himself as a wage and hour lawyer. "But under Massachusetts law, with minor exceptions, only internship training programs done through an educational, charitable, or religious institution can be unpaid."

Few complain because the perceived benefits of an unpaid internship outweigh the disadvantages. But some evidence suggests a paid internship is more worthwhile than an unpaid one.

"It is a virtually indisputable fact that having an internship or co-op — especially a paid position — improves a student's chances of receiving a job offer prior to graduation," according to a 2015 study by the National Association of Colleges and Employers.

The study found that nearly three out of four students who had paid internships in the private sector got job offers before graduation compared to a little under 45 percent of their unpaid counterparts. The median starting salaries after graduation also favored the interns/co-ops who were paid, ranging from roughly \$40,000-\$50,000 for those who were paid to \$30,000-\$40,000 for their unpaid counterparts.

There's also the issue of unpaid interns doing tasks they didn't sign on for. Allison, for example, says she had to babysit her boss's daughter a few times a week and do the dishes.

**MIXED
LEGAL
RULINGS.** There have been a number of successful class-action lawsuits brought by unpaid interns, with verdicts against some big players, including television host Charlie Rose's production company, NBCUniversal, and Warner Music.

But a recent ruling involving a case against Fox Entertainment in the US Court of Appeals for the Second Circuit had a different outcome. Writing for a three-judge panel, Judge John Walker Jr. held that the Department of Labor's criteria for determining whether an intern needs to be paid are not only outdated, but not binding on federal courts. The appropriate way to assess worker status, he wrote, is to apply a "primary beneficiary test" in which the worker can be considered to be an employee only if the employer benefits more from the arrangement than the intern.

Christopher Feudo, an attorney with the Boston firm of Foley Hoag, says that the Second Circuit decision only applies to federal law and only within the Second Circuit states of New York, Connecticut, and Vermont. What really matters for Massachusetts employers, he says, is how state agencies and Massachusetts courts interpret the Massachusetts minimum wage law, which is much more stringent than its federal counterpart.

"At least for now," Feudo says, "regardless of whether the Department of Labor's six criteria are dead under federal law, its rigid test is alive and well here in Massachusetts." **CW**

George Regan

'If you've got a mouth, use it,' says the PR poobah.

BY BRUCE MOHL | PHOTOGRAPH BY FRANK CURRAN

THE SCENE: *The Union Wharf office of George Regan, the president of Regan Communications Group and long-ago press secretary to former mayor Kevin White. His dog, Brother Bailey, named after former Boston Globe columnist Steve Bailey, is up on the table in one corner and 400 pictures, most of them of Regan alongside friends and famous people, cover every inch of every wall.*

Where do you get your news? I get up around 5, take the dogs out, then I check TV and radio, the *Globe*, the *Herald*, the *Wall Street Journal*, the *New York Times*, the *New York Post*, the *Daily News*, and sometimes the *Miami Herald*.

How do you take your news, electronically or in print? I read everything in hard copies. I'm looking for potential new business. If someone's got a problem, let's go for it.

Fewer and fewer people are consuming news the way you do. Is that good or bad for someone in your business, whose job is influencing how events are covered? Internally, I go crazy. Everything is so immediate now. It's whatever you get in a headline on social media. But it could be good for us. Absolutely. The danger is if there's a bad headline, we're screwed, dead on arrival.

Your company does public relations, government relations, media training, marketing, and video production. What is it you specialize in? I'm a really good strategist. I learned that from Kevin

White. You don't really learn that at BU or Suffolk. I excel at dealing with crises and problem-solving. Restaurant openings are not really my thing.

Speaking of crisis management, you've got one on your hands with your fight with Suffolk University President Margaret McKenna. Where does that stand? It's still ongoing. We're only in the sixth inning.

Will you win? It's not about winning. It's saving the school. They made a horrible decision. Marty Meehan was their choice to lead Suffolk and three days before the announcement, UMass came roaring in the door and he took that job. The air was out of the balloon of the trustees and they really didn't have the stomach for another search. They talked to Korn Ferry, the headhunter, who said there's no one else out there. The only one that's been vetted is Margaret McKenna. So they held their noses and went with Margaret McKenna. There's a lesson in that. They paid a price and the school has paid a price.

Just when things seemed to be quieting down, your lawyer sent a demand letter to McKenna and Suffolk's executive board alleging, among other things, that the school illegally broke its contract with your firm. Was it wise to keep the dispute going? I owe that school and that woman has no right being the leader. That's why I took a very public stand. I learned that from Kevin. If you've got a mouth, use it. It gets me in trouble, too.

Did you release the demand letter to the press? No, I did not.



Did McKenna release it? I don't know this for a fact, but I'm told she released it. [Suffolk's spokesman says the school did not release the letter].

If she released the letter, what does that tell you? That she's pretty good. She gets it. She's a tough lady.

Her PR person, Greg Gatlin, used to work for you, right? Yes. Sometimes people forget where they came from. I think he thinks he came over on the Mayflower and had a window seat.

But isn't he just doing his job now that he's working for McKenna? Yeah, it's fine, but I'm a little disappointed in him. That's Greg. I don't lose any sleep over it.

You said the last time you met McKenna in person was just before Christmas at Davio's, where you and your staff presented your PR plan for the coming year to McKenna and John Nucci, the senior vice president for external affairs at Suffolk. What happened at that dinner? She basically said at that dinner, do you want to be on my team or Drew's team? [Drew is Suffolk board chairman Andrew Meyer.] She thought I was the vehicle to get rid of him. She knew that I knew Drew very well.

Why do you think she wanted Meyer gone? She wants to get rid of him because he has a strong voice, too.

How did you respond? I told her she was delusional to think we'd get involved. When you're the president by default, you have to understand that. She knew at that point where our allegiance was. She saw it as either her or him. It had nothing to do with the school. It was all about her.

Was there any followup to that meeting? I got a call from Nucci. He said Carol Street, who is McKenna's chief of staff and has a personal relationship with her, had asked him to call me and get me to revisit the Drew issue, to get him to step down from the board. I told John absolutely not, it's not going to happen.

How do you think this will end? I don't know what's going to happen. She's made a lot of enemies unnecessarily. The board really wanted this to work. They really did. I remember the day after the announcement [of McKenna's appointment], Drew called me and said the press was good, I can get back to work now. The second day she's pulling down pictures of trustees at the law school. The second day. **CW**



The 3rd Annual Massachusetts Criminal Justice Reform Coalition Policy Summit

Working Together for Results

Thank you to our sponsors

tBf The Boston
Foundation
INNOVATION. INFORMATION. IMPACT.

The Hyams
FOUNDATION

Public Welfare
FOUNDATION

The Shaw Foundation

Pump slump good for government

Lower gas prices, more driving mean more revenue for state and local officials. **BY JACK SULLIVAN**

FALLING FUEL PRICES may be wreaking havoc in oil-producing countries, but they are bringing smiles to drivers in Massachusetts and helping state and local officials keep their budgets in balance.

The price of gasoline has dropped by nearly half since mid-2012, when the average retail price hovered around \$3.59 a gallon. By March of this year, the price was creeping up, but it was still below \$1.90 a gallon. It went as low as \$1.78 in February, according to AAA.

The plunging gas prices have benefitted the state in two ways. First, gasoline and diesel costs are going down, allowing state and local officials to use the savings on fuel to plug holes elsewhere in their budgets. Second, the drop in prices has prompted more Massachusetts residents to take to the roads, providing a significant boost to the state's gas tax revenues. The decline in fuel costs and the boost in gas tax revenues yielded the state a net gain of nearly \$40 million last year, and that estimate doesn't include all state agencies. If gas prices keep dropping, the net gain could increase. Through the first seven months of the fiscal year, the state is already ahead \$99.1 million in gas tax revenues compared to last year while fuel spending is running below last year's pace.

These savings on gas have been impressive. According to the Executive Office of Administration and Finance, the state paid out \$19.4 million during fiscal year 2013 for fuel for the nearly 150 agency accounts it oversees, including the State Police. For fiscal 2015, which ended on June 30, the total gas tab at the agencies dropped by more than 22 percent to \$15.1 million. The budget for fuel in the current fiscal year is \$12.7 million. The drop in prices also factored in to Gov. Charlie Baker's mid-year 9C cuts. Baker cut \$50 million out of the budget, with nearly \$2.7 million coming from savings in fuel costs that had not been expected at the start of the year.

In 2013, the Department of Transportation

spent \$5.4 million on nearly 1.8 million gallons of fuel, not including the MBTA. Last year, the cost went down to \$4.2 million while usage increased to more than 1.9 million gallons.

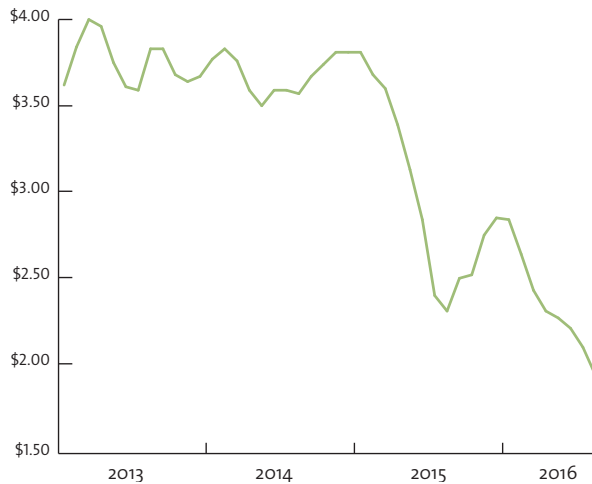
For the MBTA, because of the mix of fuels used by buses, the savings were not quite as dramatic, in part because the authority uses fuels such as propane and compressed natural gas that have not experienced dramatic price drops. The T's budget for fuel has dropped from \$25.5 million in fiscal year 2013 to \$22.9 million in fiscal 2015. Through the first seven months of the fiscal year, the agency spent \$12.2 million on fuel, including \$4.9 million on diesel fuel. The agency had budgeted more than \$18.9 million for diesel for the entire year, putting the T on track to spend half that amount.

The troubled commuter rail also got some good news on the fuel front. In fiscal 2013, the T spent more than \$39.4 million on fuel for commuter rail trains, a tab that dropped nearly 25 percent by last year to \$30.4 million. Through January, the MBTA spent just \$11.6 million of its \$40 million diesel fuel budget.

The Department of Transportation also purchased hedges on financial markets to lock in lower prices through 2018, ensuring the savings will continue. For fiscal 2016, the agency will pay \$1.85 a gallon, a price that drops in 2017 to \$1.56 and then rises to \$1.60 the following year, all 10-year lows. That cost does not include the 24-cent-per-gallon gas tax that consumers and municipalities pay but the state doesn't.

"The only real downside is if prices completely collapse to inflation-adjusted historic lows. We are committed to these prices from our state-approved vendor through the end of FY18," DOT spokeswoman Jacquelyn Goddard wrote in an email. "But we could then further lock in prices near these new lows for FY19 and beyond. It's really a great deal for the department and the Commonwealth."

RETAIL GAS PRICES IN MASSACHUSETTS SINCE THE START OF FY2013 (PER GALLON)



SOURCE: US Department of Energy Information Administration

The state has also benefited from more people driving. While lawmakers raised the gas tax by 3 cents to 24 cents a gallon in 2013, revenues showed little increase in the following months even factoring in the hike. But as retail gas prices dropped, revenues eventually picked up, suggesting people were either driving more or shifting to vehicles that consume more gasoline.

In January 2013, the first month of the tax increase, state gas tax revenues were \$47.7 million, down nearly \$3

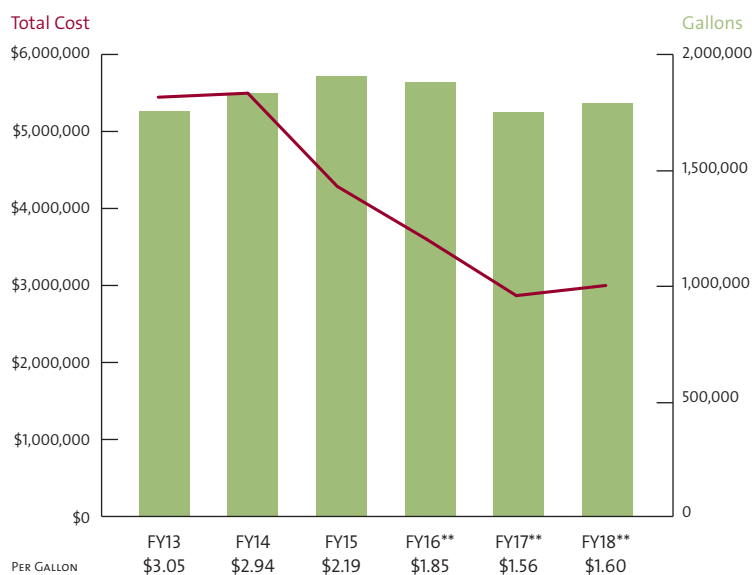
million from the same month a year before. By January this year, the state reported raking in \$60.1 million in gas taxes for the month, a spike of nearly 26 percent from the same month three years ago. For the seven months ending in January, the state collected \$398.1 million in gas tax, more than \$55 million higher than at the same point in 2013.

Since the start of 2013, the average retail price of gas in Massachusetts went from \$3.52 a gallon to \$1.98 per gallon, according to the US Department of Energy. Gas sales in gallons have also fluctuated with the cost. From July 2012 and for the next 18 months, as gas prices stayed stubbornly above \$3.50 a gallon, sales in Massachusetts dropped, from a high of nearly 7 million gallons a day on average in June 2012, to a nearly 20-year low of 5.8 million gallons a day on average in January 2014, according to federal data.

But in late 2014, prices began a slow and then dramatic decline. In response, consumption of gasoline accelerated, hitting an average of more than 7 million gallons a day in August of last year and staying around 6.6 million gallons since. "Cheaper gas prices certainly factored into that increase," says Mary McGuire, a spokeswoman for AAA.

At the local level, savings are not as large but proportionally can bring unexpected savings in all areas of government, where fuel use is often overlooked but is a key cost-driver in municipal budgets. The town of Weymouth, for instance, one of the largest in the state by area, uses about 200,000 gallons of fuel a year, giving it a savings of several hundred thousand dollars because of the price drops.

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION FUEL BUDGET*



* Excludes MBTA ** — Price locked in

SOURCE: MassDOT

Data from the Boston Police Department show a significant drop in the agency fuel budget, which fell more than 30 percent from fiscal 2013 to 2015 and is on pace in 2016 to be half what it was three years ago.

Other Boston city agencies haven't seen much savings yet, largely because usage has increased dramatically. According to Boston Mayor Marty Walsh's office, the city's spending on gasoline declined 2.7 percent from fiscal year 2013 to fiscal 2015. During that same period, consumption by most of the city's agencies, excluding police, fire, school, and the health commission, soared by 23.4 percent. Laura Oggeri, a spokeswoman for Walsh, said much of the increased use came from the need for snow melters to run nearly non-stop during last year's historic brutal winter. **CW**



Time for a change

Most in state's D.C. delegation favor doing away with congressional seniority; some want to dump Pelosi. **BY SHAWN ZELLER**

GOING INTO THE 2016 election, Republicans hold 246 seats in the House of Representatives. Democrats have 188. For Massachusetts, with its nine-member, all-Democrat delegation, this is a very bad situation and one that's unlikely to get better any time soon.

Among the nine, the angst is palpable. The minority party in the House enjoys almost no power, so if Democrats fail to make significant gains in 2016, the angst could explode into anger.

Michael Capuano, the nine-term Somerville Democrat, says that absent a major turnaround, Democrats should fire Rep. Nancy Pelosi of California, their longtime leader. He follows Stephen Lynch of South Boston, who called for Pelosi's ouster last year. Seth Moulton of Salem, who defeated incumbent Democrat John Tierney in the 2014 Democratic primary, isn't going that far, but he says party leaders should dispense with the seniority system that has forever governed who gets top committee posts. He's not alone. William Keating of Bourne, Niki Tsongas of Lowell, Katherine Clark of Melrose and Joseph P. Kennedy III of Brookline all say they are open to at least revising the rules.

Jettisoning the seniority system could be a setback, however, for two members of the delegation, Richard Neal of Springfield and Jim McGovern of Worcester. Both have waited for years for top committee posts and are on the verge, Neal at Ways and Means, McGovern at Rules. Neal figures to be the third most senior Democrat at Ways and Means next year. McGovern is already the second-ranking Democrat at Rules.

It could be an epic clash between the party's young guns and its old bulls, and it could even split the party along racial lines. Black Democrats,

many of whom have long tenures in safe districts, are among those most opposed to any change. None of the Massachusetts Democrats is black.

Capuano compares Pelosi to the fired Red Sox manager Terry Francona, who won two World Series but then lost the team, and his job. And he would go further with the house cleaning. "It's not just Nancy," he says. "The Democratic side has not given fresh blood a real opportunity since I've been here and the proof is in the pudding. Take a look at our leadership. It's all in their 70s and 80s."

Pelosi just turned 76. Her top deputy, Steny Hoyer of Maryland, turns 77 this spring. Some of the top committee leaders are truly ancient. John Conyers Jr. of Michigan, the ranking Democrat on the Judiciary Committee, turns 87 next month. Fellow Michigander Sander Levin at Ways and Means is 85. McGovern is still waiting in line behind New York's Louise Slaughter to chair the Rules Committee. Slaughter will be 87 this September.

Top Republicans are noticeably younger, led by the 46 year-old House Speaker Paul Ryan of Wisconsin.

This is a bizarre situation, given how much more appeal Democrats have with younger voters. President Obama trounced former Massachusetts Gov. Mitt Romney among those aged 18-29 in the 2012 election, 67 percent to 30 percent.

Would it be a stretch to suggest that Democrats would be wise to make better use of some of the fresh faces from Massachusetts, like the handsome grandson of Robert Kennedy or the Iraq War veteran Moulton?

To be fair, Pelosi has found a seat at the table for Clark, who is a senior whip and sits on the party's Steering and Policy Committee, which makes

committee assignments. Clark, not surprisingly, is a Pelosi defender. “I don’t think our problem is our leadership in the House,” she says. Rather, she argues, Democrats must “do a better job of communicating the real strides we’ve been able to make despite being in the minority party.”

It’s true that Democrats have helped get some things done. Last year, for instance, was surprisingly productive, in large part because Democrats were willing to take half a loaf on bills reauthorizing highway spending and federal involvement in K-12 education, among other issues. In each of those cases, the bills would have died in the House if Democrats had voted no *en bloc*.

The numbers don’t lie. The number of laws enacted last year — 115 — was 60 percent higher than in 2013 and 42 percent higher than 2011, when the Congress was divided between a Republican House and a Democratic Senate.

But taking credit for bills enacted when the other party is in charge is a hard sell. Rather, Democrats’ willingness to make deals has helped Republican leaders make a case that when they control both chambers, they can govern.

It’s a double-edged sword that the Democrats can’t avoid. After all, they are the party of government. “I want to be in the majority again, but not at any cost,” says

McGovern. “I feel, and a lot of people in my caucus feel, that we are here to actually help people.”

Even with Republicans now holding up Obama’s nominee to the Supreme Court, few expect Democrats to slow the legislative process. They’d only be blocking things that they like, such as the annual spending bills that keep the government open or bipartisan compromises on issues such as criminal sentencing.

Any cooperation is doubled-edged sword.

“It’s very unlikely the Democrats would be the main impediment” to enacting such bills, says Steven Schier, a political scientist at Carleton College in Minnesota. “I think that would be a high price to pay to stick it in the eye of Republicans.”

By contrast, when Republicans were exiled to the minority in 2009 and 2010, they stonewalled the Democrats at every turn, even on issues where there was apparent common ground. It was a political strategy. And while it didn’t help dethrone Obama, conservatives came out in force in 2010 and 2014 and took back the Congress.



Caring has to start before the claim.

We’re redefining what
a health plan can do.





Some in Massachusetts congressional delegation want to oust Rep. Nancy Pelosi as minority leader.

Republicans can get away with blocking policy, even good policy, because their base doesn't trust government. Democrats can't do that.

The Massachusetts representatives insist that they haven't lost the battle of ideas. Rather, they say they lost the last round of redistricting. That's the decennial process, tied to the US Census, in which the states redraw congressional district lines. "Look at how few moderate districts there are compared to 20 years ago," says Moulton. "They've gerrymandered the country."

Indeed, Republicans won big in the last round of redistricting. They won the 2014 House election any way you look at it, with 52 percent of the votes cast. But they control 57 percent of the seats. That says something about how the lines are drawn.

In the coming election, the prognosticators give Democrats no chance of picking up the 30 seats they need to take back the House majority. Independent political analyst Stuart Rothenberg, for instance, says only 26 Republican-held seats are even slightly vulnerable.

Capuano says Democrats, the party of good government reforms from independent redistricting commissions to tight caps on campaign fundraising, have forgotten how to play hard-nosed politics. While Republicans have played the game to win, he says, Democrats have played nice. "You tell me what is more important: Being perfectly right on every single issue or winning elections?"

And he spares no words for his frustration with the Democrats' limited electoral strategies of recent years. The prominent "war on women" message, he says, targeted at best "50 percent of America and of the 50 percent, really about 20 percent of them. That small group you're talking to is already, more than likely, voting Democrat."

None of Capuano's colleagues is as pointed. But most of them are ready for some process changes. They admit

that Republicans were wise, after seizing the House majority in 1994, to institute six-year term limits for their top committee members. The limits apply whether the Republicans hold the majority, and the chairmanships, or are in the minority, and their committee leaders are merely ranking members.

The Democrats' continued adherence to seniority rules — with some limited exceptions — "is incredibly short-sighted," says Moulton. In an era of 24 hour news coverage, it behooves the party to put its best, not its oldest, foot forward, he says. "Until we start promoting based on merit, not based on seniority, I don't think they are doing enough."

On the Republican side, the term limits helped Ryan rise. He was a Budget Committee chairman at 36 and took over Ways and Means, the powerful tax-writing panel, at 45. Most of the Republican committee chairs now are in their 50s and 60s, substantially younger than their Democratic counterparts.

"I don't want to lose good members because they feel there is no progress to be made," says Keating, who wants to dump the seniority rule.

If the Democrats do follow the Republicans, it would mean that McGovern or Neal could be denied the chairmanships they've been waiting years for. And McGovern sees the pluses and minuses. "If there are people who are doing incredible work and doing a good job, to put in an artificial limit and say your time is up may not be right," he says. Kennedy suggests that Democrats go with a hybrid approach, especially in cases such as the Intelligence Committee, where institutional knowledge is especially valuable.

If the change is seriously proposed, it will be a big debate. So will Pelosi's future, if she opts to continue on after the election. Many defend her. Kennedy, for instance, says "there is a reason why she got there and a reason she stays there." Pelosi is a skilled legislative tactician and negotiator who's exploited what little power House Democrats have to the max, most recently in securing a permanent extension of the Earned Income Tax Credit and the Child Tax Credit as part of a year-end tax bill.

She's a prolific fundraiser and adept listener, Kennedy says. "When you see how she not only leads this party but handles the day-to-day aspects of governance, you realize," he says.

But in drawing his comparison with former Red Sox manager Francona, Capuano also has a point. "We've now lost more seats in history, than in modern history, and we've had three chances to get it back. Clearly something's wrong," he says. "If we don't change what we have been doing, the results won't change." **CW**

The paradox of Robert DeLeo

The affable everyman with a vise-like grip
on the House he leads

BY MICHAEL JONAS | PHOTOGRAPHS BY MICHAEL MANNING

ROBERT DELEO CLIMBED to the rostrum of the House of Representatives one afternoon in late January for what has become a routine annual ritual, but is also a remarkable expression of the power of his office.

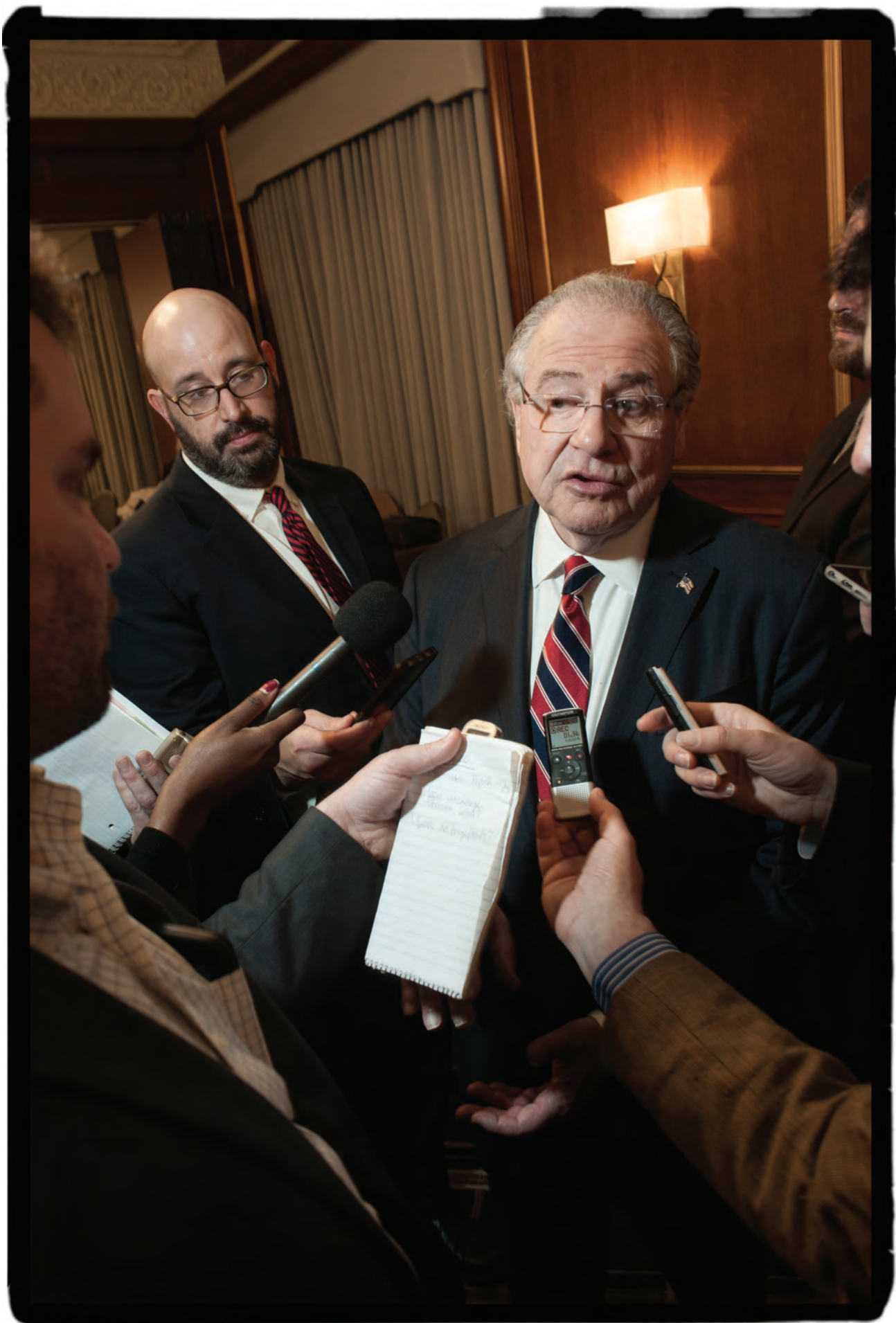
It was the seventh time DeLeo stood before the 160-member body as House Speaker to deliver an annual address on his agenda for the coming year.

He said that agenda included comprehensive energy legislation, support for charter schools and early education programs, and the development of regulations for the burgeoning ride-sharing industry. Perhaps most

significantly, he said there would be no new taxes or fees in the House budget this year, a proclamation that single-handedly foreclosed any potential for new revenue measures.

The tradition of Massachusetts House Speakers delivering their own version of the State of the Commonwealth address given by the governor started nearly 20 years ago, in 1997, when Tom Finneran began the practice.

It was an audacious move, but one that was fully in keeping with the consolidation of power in the Speaker's office under Finneran. On Beacon Hill, where things



are not always as they appear, the Speaker's address sends an unambiguous message about the power of one person to set a firm course for a body that is said to be the branch of government "closest to the people."

An amiable and low-key veteran of the House, DeLeo is known for a big heart, an aversion to conflict, and a cautious, go-slow approach to the business of law-making.

"In the House, consensus drives us," DeLeo said at the start of the speech. He invoked the term "consensus" five more times in an address that lasted just over 12 minutes. It's a word he has used often throughout his tenure.

It seems to convey a search for reasonable middle ground in order to gain broad backing on an issue. He has certainly employed that sense of the word when tackling some big issues in recent years, including gun legislation and, recently, the opioid crisis.

But "consensus" has also come to describe a way of operating in the House that scorns debate and freewheeling back and forth on issues, and doesn't easily abide dissent or disagreement. Consensus often looks like the end result of a forced march to a predetermined end, as DeLeo looks for votes among his bulky 126-member Democratic caucus to be as close to unanimous as possible.

In the process, say many House members, they have been increasingly marginalized and genuine give and take on issues has become rare.

"You need a healthy back and forth," says Rep. Cory Atkins, a Concord Democrat. "I've been here 16 years. There's been less and less of that. Debate in the caucus preceding votes about complicated bills isn't what it used to be. Power is more centralized."

Another lawmaker is more blunt. "The reality is the House leaders are making laws in the Commonwealth. The members are more spectators than participants," says the state rep who, like many of those who shared views on how the House operates, would only do so anonymously.

With an understated manner and easy laugh, the 66-year-old DeLeo seems more the avuncular everyman than imposing autocrat. He doesn't have the piercing intensity of Tom Finneran or the swagger of Charlie Flaherty, who preceded Finneran, or Sal DiMasi, who followed him.

"He's not a swashbuckling Speaker," says Peter Ubertaccio, a political science professor at Stonehill College. "I think of the flashier side of politics that Flaherty was pretty good at, or the overtly confrontational side of things that Finneran was good at — neither of those appeal to DeLeo. He's a quieter figure, not the kind to rush to the television cameras."

"From a public perspective," says Ubertaccio, "DeLeo is slower to know than his three predecessors."

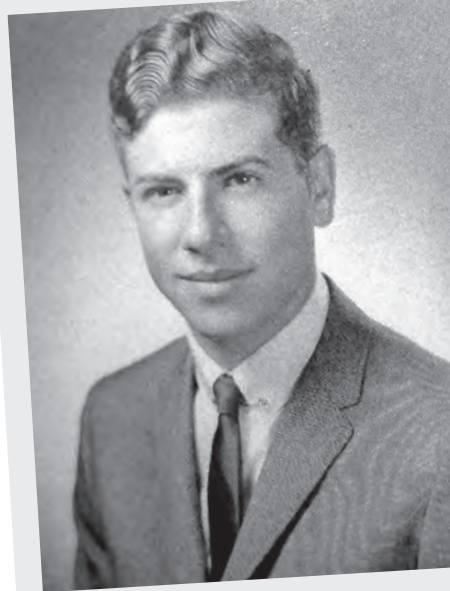
Indeed, he is. After more than seven years in power, DeLeo remains something of a paradox. He comes across as a friendly, affable leader preaching legislative consensus. But his actions are those of a man who likes power and

is not afraid to use it. He refused to sit down for an interview to discuss his tenure and his approach to one of the most powerful offices in the state. But interviews with dozens of his colleagues suggest the velvet glove DeLeo shows in public contains an iron fist.

A year ago, DeLeo's colleagues in the House dutifully tossed overboard a term-limit rule meant to be a check on unbridled leadership power. And after appearing to weather a patronage scandal in the state Probation Department that muddled but did not topple him, DeLeo seems as firmly in control as ever.

He could, in fact, be headed for a singular distinction when it comes to the wielding of power: If he's reelected as Speaker next January and serves for the full two-year cycle, DeLeo would become the longest-serving House Speaker since the American Revolution.

He may project a more modest bearing than his recent forerunners, but DeLeo seems quite comfortable these



'You need a healthy back and forth,' says Atkins. 'There's been less and less of that.'

days letting people know the worth of his words.

Five weeks after his January address to House members, DeLeo delivered his annual speech to the Greater Boston Chamber of Commerce, covering a range of issues. During a question-and-answer period after his remarks, Charlie Kravetz, the general manager at WBUR radio, asked him to elaborate on the big news he made in his speech that the House would take up legislation to reform the use of non-compete agreements by businesses in the state. This "seems to be a very big deal," said Kravetz.

Without missing a beat, and with tongue only partly in cheek, a smiling DeLeo shot back, "Hopefully, everything I said today was sort of a big deal."



First Row: MacSwain, Tickner, Zeghibe, Kearney, Fitzsimmons, Dever, Porter.
 Second Row: Day, Connolly, Brady, Micherone, DeLeo, McHugh, Terp. Third Row:
 weeney (Manager), Weinstein, Harrington, Butkus, Stone, O'Neill, Mr. Patten
 (Coach).

DeLeo's senior class picture at Boston Latin School in 1967 and the Boston Latin School baseball team.

IDENTITY POLITICS

To understand DeLeo, drop in on his hometown of Winthrop. Though it borders East Boston and sits in the shadow of Logan Airport, the community of 17,000 has much more of a small-town feel than big-city edge.

It's a place of Little League teams and an Elks Lodge. Its town center boasts a handful of unpretentious eateries. An independently-owned pharmacy is still hanging on, where 84-year-old proprietor Lloyd Lyons can recall delivering medicine to the DeLeo household when the future Speaker was a boy.

"He's an honest, straight shooter," Lyons says of DeLeo. "Always a man of his word."

DeLeo lives in the same house he and his sister grew up in: an exceedingly modest 1,200-square-foot brick ranch that sits on a small corner lot, a block and a half from Boston Harbor.

DeLeo's father Alfred was a dapper maitre d' at the Turf Club at nearby Suffolk Downs racetrack and also worked at the Statler Hotel, now the Park Plaza Hotel, in downtown Boston. His mother Anna worked in the food services department of the Winthrop public schools.

"He's very mindful of where he comes from, who he is, and his upbringing," says Dennis Kearney, who grew up East Boston and attended Boston Latin School with DeLeo.

"He doesn't carry himself like he's different or better than anyone else," says Kearney, a lobbyist who served as a state representative in the 1970s and then Suffolk County sheriff. "I think part of his appeal is when he walks in a room, he doesn't demand that it be about him."

DeLeo's inclination on most issues to seek out a comfortable middle ground fits his political views, which most describe as lunch-bucket centrist. He cares about human

services, but is leery of tax increases. He's changed with the times, supporting a current effort to extend rights for transgender individuals, though he once opposed same-sex marriage.

DeLeo represents a constituency that, by one measure, sits squarely in the middle of the state's political continuum. In the 19th Suffolk District, which includes all of Winthrop and nine precincts in Revere, Charlie Baker defeated Martha Coakley in the 2014 race for governor by 13 votes.

Kearney and DeLeo were teammates on the Boston Latin School baseball team in the 1960s. Kearney says DeLeo, who played shortstop, was "one of the smoothest infielders" of their era. They alternated batting leadoff and second in the line-up, both of them more singles hitters than power sluggers, and both with good speed on the base paths.

"To this day, Bobby says he was faster than me. I don't dispute that, because he's the Speaker," says Kearney. "He was a great teammate. He wasn't loud. He was a very, very serious baseball player, and very skilled."

DeLeo's high school class was chock-full of future political figures. It also included fellow future Speaker Tom Finneran and Larry DiCara, the class president, who went on to serve on the Boston city council.

DeLeo attended Northeastern University and Suffolk Law School after that, setting up a small legal practice in Revere. After serving a decade on the Winthrop Board of Selectmen, he was elected to the House in 1990, entering office on the heels of the state fiscal crisis of the late 1980s, the same election that brought Bill Weld into the governor's office.

In 2005, then-Speaker Sal DiMasi tapped DeLeo to

chair the powerful Ways and Means Committee, and that put DeLeo in a perfect position to capture the Speaker's post when DiMasi left four years later under a legal cloud.

At the time of his Ways and Means appointment, the *Boston Globe* called DeLeo a "little known insider popular with colleagues." He had mainly stuck to constituent services and local issues, including battling against runway expansion at Logan Airport, a perennial focus for elected officials in Winthrop and East Boston.

While Finneran and DiMasi, and Charlie Flaherty before them, all carried ambition on their sleeve, DeLeo says he did not arrive in the Legislature with any grand designs.

"I really didn't come here with any expectations in terms of where I'd be," he says, chatting briefly after his speech to the Greater Boston Chamber of Commerce.

Rep. Ellen Story, an Amherst Democrat, entered the House, like DeLeo, when Flaherty was speaker in the early 1990s. "I think with the other three speakers that I served with, as soon as they got to the House as a brand new rep, they looked around and said to themselves, 'some day, if I play my cards right, I could be in charge of this place,'" she says. "Bob DeLeo did not have that same gut instinct. He looked around and was honored to be a representative. He said, 'if I play my cards right, I might get a hockey rink for Winthrop.' And he has kept that way."

A divorced father of an adult son and daughter, DeLeo lives with his longtime girlfriend, Vicki Mucci, an administrative assistant at the Massachusetts Water Resources Authority.

His son Rob inherited a bit of the political bug, but of a wholly different kind. He is a professor at Bentley University who focuses on public policy theory. Last year, he authored his first book, *Anticipatory Policymaking: When Government Acts to Prevent Problems and Why It Is So Difficult*.

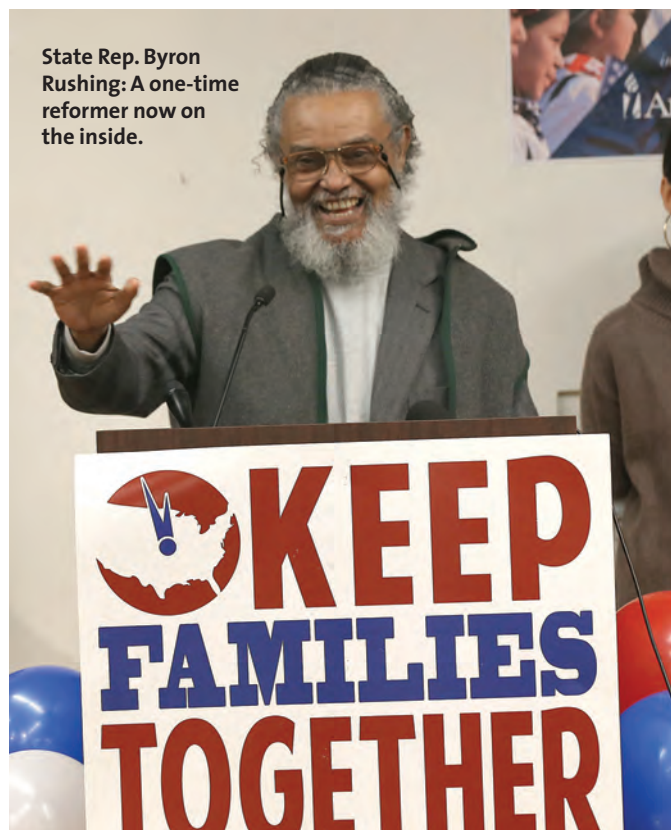
In the acknowledgements, he suggests there is a big difference between studying such issues from the ivory tower and what it takes to get things done on the ground. Calling insights he's gained from his dad "invaluable," the younger DeLeo writes, "few political scientists are lucky enough to have a father who know how politics *really* works."

HOW IT WORKS

For DeLeo the consensus seeker, politics works by brokering agreement among often divergent viewpoints. Lawmakers and lobbyists say he has an aversion to conflict and works hard to get all sides to "yes."

Nobody's idea of a brainy policy wonk, DeLeo's thoughts sometimes tumble out in a word salad that doesn't always cohere. But as with Boston's longest-serving mayor, whose elocution wasn't his strong suit, it

State Rep. Byron
Rushing: A one-time
reformer now on
the inside.



masks a keen mind for politics. DeLeo is often moved on issues by things that affect him viscerally before he gets to the drier policy points that may ultimately shape the details of legislation.

In 2014, he was the main driver of nationally-heralded gun legislation that added new background checks on gun buyers and gave local police chiefs power to seek court review of an applicant's suitability to own a rifle or shotgun. DeLeo made some changes to the bill to mollify gun rights advocates while retaining meaningful provisions to reduce gun violence. The National Rifle Association opposed the bill, but its local affiliate officially remained neutral.

DeLeo was motivated to push for the gun legislation by the 2012 shooting deaths at Sandy Hook Elementary School in Connecticut. "He saw those 20 six- and seven-year-olds and it moved him to do something," says John Rosenthal, founder of Stop Handgun Violence, who worked closely with DeLeo on the effort.

"He calls me out of the blue. I didn't know him at all, never met him before," says Rosenthal. "He chose what was right versus what was political, even against the advice of his own leadership team. And that says a lot about Bob DeLeo as a human being and a politician."

Rep. Sarah Peake, one of DeLeo's floor division leaders, says the gun bill is a good illustration of the Speaker's approach. "He really is a roll-up-your-sleeves guy who

will bring different groups together and hash it out and come up with a good piece of legislation,” she says.

In March, the state enacted groundbreaking legislation to address the opioid crisis. The bill balanced concerns from treatment advocates and health care providers worried about overly restrictive rules on opioid prescriptions.

Two years ago, DeLeo steered through a precursor bill, which increased the requirements on insurance companies for coverage of addiction treatment. He brought everyone to the table, but pushed hard for the insurance change once he made up his mind on the issue.

“The Speaker dealt with a lot of pressure from the insurance community and business community,” says Vic DiGravio, president of the Association for Behavioral Healthcare, which represents 85 organizations that provide addiction services.

Though he heard arguments from insurance leaders against the new mandates, DeLeo held fast in the face of the growing and deadly epidemic, says DiGravio, who says the Speaker told executives at one meeting, “I went to three wakes in my district last week. Whatever we’re doing is not working.”

While he’s shown a knack for brokering agreement on sticky subjects, DeLeo’s affinity for consensus has also come to mean a House where the overwhelming Democratic majority is expected to fall into line behind the leadership’s position. It doesn’t hurt in demanding

DeLeo is often moved on issues by things that affect him viscerally before he gets to the drier policy points.

such fealty that he has more than 50 leadership positions with extra pay to dole out.

His most far-reaching exercise of leadership power came in January of last year, when, after months of dismissing talk that they had any such notions, DeLeo and his top lieutenants brought forward a rule change to eliminate the eight-year term limit on the Speaker’s post.

The rule was first adopted in 1985, under reform-minded speaker George Keverian, who led the only successful toppling of a sitting speaker in recent history when he ousted Tom McGee, a gruff ex-Marine from Lynn.

DeLeo isn’t the first speaker to think better of the idea of limits on his reign. Finneran got House members to

toss term limits overboard in 2001.

But after Finneran and his successor, Sal DiMasi, both met the same fortune as Charlie Flaherty before them — convicted on federal felony charges — DeLeo brought back the eight-year term limit when he took office in 2009. He penned a *Globe* op-ed calling the move part of a series of initiatives, including ethics and campaign finance law reforms, “to restore public confidence in the government.”

By last year, he was apparently convinced that confidence had been restored. Just 11 Democrats bucked leadership and voted to retain the term-limit rule. Only one, Watertown state representative Jonathan Hecht, had the temerity to speak on the issue on the House floor. He was promptly stripped of a committee vice chairmanship.

DeLeo said his position on term limits had “evolved.”

Pam Wilmot, the longtime director of Common Cause Massachusetts, says getting rid of term limits was exactly the wrong direction to go in a Legislature that has suffered from overly centralized power and its stifling effect on debate.

“It was a big mistake,” she says. “It was an important check and balance, because speakers and Senate presidents have so much power. To have so much power concentrated in one place over a long period of time doesn’t make sense. We don’t need a speaker for life.”

The Senate has taken no such step with the eight-year term limit on its leader. In fact, Senate president Stanley Rosenberg has moved in the other direction, looking to distribute power and responsibilities more broadly among the 40-member chamber. That has allowed for sharp — and not always flattering — contrast to be drawn between the two legislative branches.

“If it could be said that Rosenberg, with his shared leadership system, runs a commune, DeLeo, as he enters his eighth year as the House leader, runs a plantation where he calls the shots,” wrote veteran *Boston Globe* reporter Frank Phillips in January of this year. Phillips said DeLeo’s firm grip was leading to “increased private grumbling over his top-down leadership and avoidance of bold moves.”

DeLeo lashed out at the “plantation” characterization in a statement issued by his office, calling the reference “an incredibly hurtful and painful analogy” that “trivializes our country’s most shameful and egregious moral failure, slavery.”

But DeLeo’s outrage was directed solely at the use of the term plantation, not the message it sought to convey. His statement said nothing about the story’s broader claim about heavily centralized power in House.

QUIET RESOLUTION

The tension between the more open approach being developed in the Senate and the traditional one that DeLeo is sticking to in the House is always present within a legislative body.

“It’s an ongoing debate,” says Ubertaccio, the Stonehill College professor. “How much can a freewheeling Legislature get done? Efficiency might dictate centralization. But that can run up against small ‘d’ democratic norms.”

In Bob DeLeo’s House, it’s efficiency that tends to carry the day.

State Rep. Byron Rushing of Boston says if the House seems to be a less freewheeling place of debate these days, it’s not because views aren’t being shared, but because of DeLeo’s preferred approach to settling differences.

“Bob believes you have to have things resolved before you get to the floor as much as possible,” says Rushing, the House assistant majority leader. “And when you have disagreements on the floor, the best way is to talk about them without debating them.”

Rushing, the third-ranking member of DeLeo’s leadership team, has long been one of the Legislature’s more vocal advocates of reform and a more inclusive, participatory process. In 2003, he led the last open challenge to a sitting House speaker when he waged a largely symbolic run against Tom Finneran, saying rank-and-file members were kept in the dark and marginalized under his rule.

In the run-up to the 2003 speaker’s election, Rushing and some of the 16 Democratic House dissidents who would cast votes for him evoked the protest of Martin Luther by posting a list of principles on the door of the House chamber demanding that members be given greater voice.

That Rushing is now a leadership insider defending the ways of the House goes a long way toward explaining DeLeo’s approach — and the docile nature of rank-and-file lawmakers, who stew privately over the top-down structure, but rarely speak out against it.

DeLeo has sought to include in his leadership team a broad cross-section of House Democrats, drawing in liberals like Rushing as well as more conservative lawmakers such as Ronald Mariano, the House majority leader.

When his predecessor, Sal DiMasi, took over as speaker in 2004, he brought back in from the cold House dissidents like Rushing who had clashed with Finneran and been banished from leadership posts and committee chairmanships. DeLeo has continued that big-tent approach. Members of his leadership team say it means a full range of views is heard when they gather each Monday in DeLeo’s office for a weekly meeting. But it also means there is no real outside pressure on leadership

among Democrats who dominate the House.

DeLeo’s preference, as Rushing outlines it, for quieter negotiation over open debate sounds reasonable enough. But it can also mean shutting down discussion on an issue before it’s even begun.

That’s what happened in January when the House took up a criminal justice reform bill. The legislation would have repealed a 27-year-old law that mandated an automatic one-to-five year suspension of the driver’s license of anyone convicted of a drug-related offense, even if it had nothing to do with operating a motor vehicle.

The statute was widely viewed as an ill-considered vestige of the overly punitive war on drugs. Critics said the law only impedes an offender’s effort to reintegrate into society after serving prison time, making it hard to land a job or care for a family — and increasing already high recidivism rates.

The Senate passed a bill to repeal the law last fall, and the House seemed poised to do the same. On the day the bill came to the floor, however, Rep. James Lyons, an Andover Republican, filed an amendment to retain a five-year license suspension for the most serious drug offenders — those convicted of trafficking anything other than marijuana.

There was plenty of opposition to the amendment among House members, but after Lyons huddled in the

DeLeo’s preference for quiet negotiation sounds reasonable, but can also mean shutting off debate before it’s started.

back of the House chamber with two key Democratic committee chairmen, word filtered through the House that leadership was supporting the amendment. The message was clear: There was to be no debate or roll call on the matter.

House members say they got mixed messages from various Democratic leaders who were working to tamp down any objections to the amendment, with some of them being told the carve-out would likely be stripped out of the bill in a House-Senate conference committee, while others were assured it would have little effect, since most traffickers serve at least five years in prison and the suspension clock begins at the time of sentencing.

The amendment was gavelled through on a voice vote without any debate or even a speech by proponents making the case for it. Asked if it is troubling that the

House agreed to the amendment with no discussion, one Democrat says, “Troubling? Of course it is. It’s horrible.”

Rep. Liz Malia, the lead House sponsor of the bill and a member of DeLeo’s leadership team as cochair of the Legislature’s Mental Health and Substance Abuse Committee, took the amendment in stride. “I wasn’t happy about it, but it was a compromise,” she says. “That’s how the sausage gets made, I guess.”

Malia and Rushing, who also opposed the idea of the special carve-out for drug traffickers, say a roll call vote on the amendment would have been sensitive for some Democrats who fear being branded soft on drug traffickers.

A chief role the Speaker plays is to “protect” House members from having to cast votes that could imperil their election chances. Compounding that calculus, say members, is the vigilance with which DeLeo protects more moderate Democrats who hold “soft” seats representing districts where they could be vulnerable to a Republican challenger.

Whether lawmakers even needed any protection in this case is unclear. At least 33 states that had similar laws have taken them off the books. And the more conservative *Boston Herald* and the liberal-leaning *Globe* both ran editorials encouraging lawmakers to treat all drug offenders the same and get rid of the penalty altogether.

With pressure from the House, the conference committee negotiators wound up retaining the amendment, with a few modifications, so the final version of the bill that came back to both branches in March — and was passed unanimously by each — maintains license suspensions for traffickers.

DeLeo’s heavy leadership hand was also present in debate last November on legislation setting the price solar power developers are paid for the electricity they feed into the regional power grid. The House Ways and Means committee did not release its bill on the matter until the day of the House vote, one day before the end of formal legislative sessions for the year. It meant lawmakers with an interest in the issue and solar advocates had virtually no time to digest a complex piece of legislation.

The bill differed sharply from a Senate version, and solar advocates saw it as a major blow to the industry. Yet House leaders pressured members to quickly pass the measure in order to see whether they might be able to negotiate a fast compromise with the Senate before the last formal session of 2015 the following day.

Lawmakers overwhelmingly obliged, passing the bill 150-2.

In the end, there was no quick agreement reached

Wherever, whenever you need
a partner to be there for you ...
Count Us In.



Harvard Pilgrim
HealthCare



DeLeo, known for a warm and genial manner, has consolidated power to the point where he could become the longest-serving House Speaker in state history.

the next day with the Senate, and the solar legislation at press time remains stalled in a House-Senate conference committee.

Since the November vote, however, there has been plenty of time to mull the potential impact of the House bill. Many cities and towns now have municipally-owned solar installations, and lawmakers have heard an earful from local officials in their districts who say the House bill, which reduces the amount of money solar developers are paid for power, would wreak havoc on local budgets.

In March, 100 state reps released a letter they sent to the three House members of the solar legislation conference committee imploring them to, among other things, maintain the higher reimbursement rate for most projects.

The lawmakers, in effect, declared their opposition to the bill they had nearly all voted in lockstep in favor of four months earlier. It left the clear impression that they had either felt pressured to vote in favor of a bill

they opposed or hadn't had time to consider the legislation and its full impact.

Cory Atkins, the Concord state rep, says the bill that was presented to members on the day of the vote had changed significantly from the direction she thought the House legislation was heading. "I was appalled," says Atkins, one of the leaders of the effort to get legislators to sign the pro-solar letter after the vote.

The legislation needed "a longer period of review by the members" says Rep. Denise Provost, a Somerville Democrat, one of the two votes against the bill.

"I think the process which the solar bill followed is a symptom of a bigger problem in the House," says one rep. "Although all of us are treated respectfully by the Speaker, we're not involved in the process, and oftentimes we're asked to blindly follow. It would be difficult to describe it as democracy."

CULTURAL HISTORY

If the House under DeLeo is a place of far less ferment and debate, a good bit of the reason is because it's been marching in that direction for more than two decades. Ever since the six-year experiment with greater

legislative democracy under George Keverian's reform leadership in the late 1980s, the House has been moving toward increased centralization, say Beacon Hill observers.

"When you become speaker, you inherit the institutional culture, and you shift it and change it only by degree and at your risk, because lots of people don't want it to change," says John McDonough, who served in the House from 1985 until 1997. "Culture," he says, can be best defined as "the way we do things around here."

"I love robust participatory, full democracy, and I think there's a huge amount of latent creativity that gets bottled up because the culture of the place is so controlling," says McDonough. But he says there are also lots of legislators who are happy to cede much of the agenda-setting and legislative details to leadership.

They are also happy to have the Speaker provide cover against potential challengers for their seats by having the House avoid tough votes, as happened with the amend-

ment on the driver's license suspension bill. Indeed, there is almost an unwritten agreement that the Speaker will protect them from tough votes and they will, in turn, hand him control of their vote on most big pieces of legislation.

That bargain seems to be working for more and more lawmakers, who are content to focus on district concerns as the top-down culture draws and retains fewer reps with a big appetite for legislation and policy.

"Half the House has been here less than five years," Atkins says of the rapid turnover that has taken place in the chamber. "So they don't know anything else. They think this is the way you do business. They don't know they were elected to be a leader and they're entitled to their opinions."

Hecht, the Watertown rep who spoke on the House floor against scrapping the speaker's term limit, says there have been times when there has been a healthy airing of proposals and debate on legislation. He cites a major 2010 education law and a 2012 measure on health care cost containment as two examples. But that kind of deliberation, he says, has become more the exception than the rule.

"Even in the seven-plus years now I've been in the House, the amount of debate has gone down," he says. "Often we have little information and little time to meaningfully prepare and meaningfully participate. The feeling that we often get is that debate is a waste of time at best, and at worst it could be viewed as an affront to leadership, instead of thinking of debate as a normal, healthy part of democracy and lawmaking."

Mariano, the House majority leader, was elected in the early 1990s, just after DeLeo entered the Legislature. "I've been here through the speakerships of Charlie Flaherty, Tom Finneran, Sal DiMasi, and now Bob DeLeo, and I have heard the same complaint under all four speakers," he says of those who say rank-and-file lawmakers are cut out of the process. "I think it's the nature of the way people view the body and their understanding of the process. I think it's human nature. You can't go in 160 directions. Someone has to make decisions, and it's the leadership, epitomized by the Speaker."

Asked about last November's handling of the solar energy bill, Rushing says, "the process is not perfect." The loyal DeLeo lieutenant is hardly calling for a Luther-like reformation as he did when he challenged a sitting speaker in 2003. But he insists that lawmakers who aren't happy with the status quo should speak up. "One of the things I say to my progressive friends is, they don't whine enough," says Rushing. "We have members who find it difficult to keep pressing the leadership."

It's not necessarily a message DeLeo is eager to spread. For him, the way things are done around here is working fine. **CW**



MEKETA INVESTMENT GROUP

Boston Miami Portland San Diego London

Since 1978, Meketa Investment Group has served our clients as independent investment fiduciaries. Today, we are a full service investment consulting and advisory firm, providing creative investment solutions, custom tailored to fit the unique circumstances of our clients. We work on both a full retainer and project basis, and all of our services are available on a discretionary or non-discretionary basis.

Our consulting and advisory services fall into two primary categories: **General Consulting and Private Markets**. We provide these services to a broad array of institutional investors & plan sponsors:

Plan Sponsors

- Taft-Hartley
- Public
- Corporate
- Non-Profit

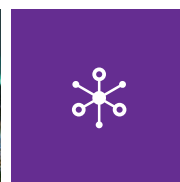
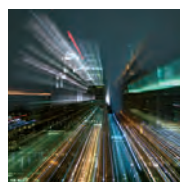
Plan Types

- Defined Benefit
- Defined Contribution
- Endowments & Foundations
- Health Plans, OPEBS & VEBAS

100 LOWDER BROOK DRIVE • SUITE 1100

WESTWOOD MA 02090

781 471 3500 • www.meketagroup.com



Intelligence turns information into insights.

Over the past 50 years, leaders have experienced a revolution in the quality and quantity of information available for making decisions. Thankfully, the technology exists to help capture and process all this data, and turn it into actual intelligence.

IBM's deep understanding of IT systems and cutting edge technologies can help you get the most out of your information, enabling you to be more proactive. Gain control of your information. Anticipate opportunities and threats. Your company is smarter than you think. A smarter business needs smarter software, systems and services.

Let's build a smarter planet.



ibm.com/ibm/responsibility

IBM, the IBM logo, ibm.com, Let's build a Smarter Planet., Smarter Planet and the planet icons are trademarks of International Business Machines Corporation, registered in many jurisdictions worldwide. Other product and service names might be trademarks of IBM or other companies. A current list of IBM trademarks is available on the Web at www.ibm.com/legal/copytrade.shtml. © IBM Corporation 2012.

P27472



Carte blanche

State law puts few restrictions on how lawmakers use their campaign accounts in or out of office

BY JACK SULLIVAN | ILLUSTRATION BY RICHARD MIA

FOR MASSACHUSETTS POLITICIANS, campaign accounts are the gifts that keep on giving. In or out of office, living or dead, there's a lot of leeway in how elected officials spend the money they raise from supporters.

From a cup of coffee to parking tickets; from Halloween costumes and decorations to tux rentals and purchases; from flowers to meals morning, noon, and night, candidates, elected officials, and retired politicians use campaign accounts to beef up their wallets and make everyday purchases. All they have to say — or even just think — is that the purchase will in some way, shape, or form benefit them politically.

Joan Menard, who last served in the Legislature in 2010, has spent more than \$300,000 in campaign money since leaving office on everything from trips and meals to a \$5,000 donation to the legal fund of a former colleague.

State Rep. Mark Cusack of Braintree has dropped nearly \$10,000 over the last two years on more than 80 visits to several Beacon Hill pubs and restaurants, listing them in his campaign reports as meetings with colleagues or staff.

Sen. Mark Montigny of New Bedford uses campaign funds to lease a Lexus, which replaced his previous campaign rental, an Infiniti.

And Rep. Paul McMurtry of Dedham, like clockwork, gets his personal car washed every month using campaign funds.

All of these campaign expenditures have an implied claim of some connection with politics, but they often appear to simply support the candidate's lifestyle. Indeed, it's sometimes difficult to draw the line between campaign and personal expenditures. There's very little oversight as to what — or when — someone can spend the money given to them while in office. The statute governing campaign expenditures is purposely vague and leaves it largely to the candidate to decide if money being spent fits the purpose of advancing his or her political fortunes.

While much debate locally and nationally has focused on the influence of big money in political campaigns, the discussion is mainly centered on the contributions flowing into the candidates' coffers. Scant attention is paid to where the money goes.

The current 198 legislators — there are two open Senate seats — spent more than \$22 million in 2014 and 2015, with 2014 being an election year. That works out to an average of more than \$110,000 per lawmaker over the two-year period, even though 55 percent of the lawmakers had no opponent in 2014 and most of the rest faced token opposition. Only three incumbents actually lost to a challenger.

While the vast majority of campaign expenditures are clear political expenses, such as lawn signs, advertising, office rent, office utilities, and voter databases, there are literally thousands of examples of money being spent that could only be indirectly considered political.

Rep. Shawn Dooley of Norfolk, the only Republican lawmaker who sat on a legislative task force reviewing the campaign finance laws in 2014, says colleagues who defend the existing system often say their contributors don't have a problem with the way political funds are spent because they keep on donating.

"I think that's disingenuous," he says. "I know when I gave contributions, I would be disappointed if I were to have later found out they used my campaign money to take their wife on a trip. When you do things like that, if someone is running a campaign against you, if I were to be running against someone, I would make sure their supporters knew and their constituents knew that was being done with the money."

SEPARATE RULES

When the Legislature enacted the first campaign finance laws in 1973, lawmakers wrote tight restrictions on the use of campaign accounts for constitutional officers, restricting expenditures only to "reasonable and necessary expenses directly related to the campaign of the candidate." Once the governor or lieutenant governor or any other constitutional officer leaves office, campaign funds are largely off-limits.

But for every other politician, especially themselves, lawmakers created a much more expansive regulation for how and when the funds can be spent. Campaigns "may receive, pay, and expend money or other things of value for the enhancement of the political future of the candidate or the principle for which the committee was organized; provided, however, that the expenditure shall not be primarily for the candidate's or any other person's personal use," says the law.

But with no definition of what constitutes enhancement or even the future, candidates and their committees are given wide latitude in deciding what's a legitimate campaign expense and what is not.

"They're taking advantage of a vaguely written, broadly defined rule that is ripe for abuse, except it's not technically abuse," says Peter Ubertaccio, a political science professor at Stonehill College and director of the school's Martin Institute for Law & Society. "It helps to perpetuate power in the political class. It gives them a source of rev-

Spending by lawmakers doesn't correlate with facing opposition in an election.

enue to use for either political or personal expenditures that most donors, and certainly most ordinary citizens, wouldn't consider appropriate."

Spending does not often correlate with opposition. Of the top 10 spenders between January 1, 2014, the last election year, and the end of December 2015, half had no opponents. Of those who had opponents, three had double-digit victories, including House Speaker Robert DeLeo, who beat back his opponent by a 72-28 margin.

The biggest spender in the Legislature by far was DeLeo, who doled out \$1.2 million during the two-year period and won his race in 2014 with 72 percent of the vote. Senate President Stanley Rosenberg, who ran for

HEY, BIG SPENDER

Top Ten legislative campaign spenders from Jan., 2014 to Dec., 2015

Name	Amount	Opposed in 2014/Margin of victory
House Speaker Robert DeLeo	\$1.2 million	Y / (72-28)
Senate President Stan Rosenberg	\$539,291	N
Sen. Eric Lesser	\$521,575	Y / (50-45-5 in a three-way race)
Rep. Brian Dempsey	\$327,811	N
Sen. Jason Lewis	\$307,583	Y / (53-46)
Rep. Nick Collins	\$263,941	N
Sen. Brian Joyce	\$259,168	N
Rep. Ronald Mariano	\$247,320	Y / (66-34)
Sen. Karen Spilka	\$238,059	N
Sen. Harriette Chandler	\$238,053	Y / (60-40)

SOURCE: Office of Campaign and Political Finance; Massachusetts Secretary of State

reelection unopposed, was the next highest spender with \$539,291 in expenditures. Both DeLeo and Rosenberg, given their positions as the leaders of the House and Senate, have broader political considerations than their own district seats.

Sen. Eric Lesser of Longmeadow, a political newcomer edged four other candidates in the 2014 Democratic primary and narrowly won his seat in the three-way final election, spent nearly \$522,000 in campaign funds over the last two years. He says he would favor public funding of campaigns. “I think, frankly, campaign finance is a mess across the board,” he says. “It’s constantly a source of frustration for people, including myself. We want our elected officials to be as representative as possible and responsible as possible and that’s a goal I share.”

Not every lawmaker spends a lot of campaign money. Rep. Byron Rushing of Boston, the House’s fourth-highest ranking leader, spent a total of \$729, all on bank fees, over the last two years. Since 2000, Rushing has faced no opposition and his campaign account balance has never exceeded \$20,000. His highest-spending total was \$5,000 in 2009, which included a \$4,500 contribution to the Committee for a Democratic House PAC; most years he spent less than \$1,000.

Trying to summarize how lawmakers spend their campaign funds is near-impossible. While there are some uniform phrases common to all campaign finance reports, officials identify most of their expenditures in their own shorthand, requiring a Herculean effort to go through the more than 70,000 line items for the last two years alone.

Campaign expenditures, such as advertising, voter databases, and office rent appear on nearly all ledgers. Many lawmakers use campaign accounts to pay for upkeep in their district offices and some have used the funds to pay staff. Rep. Cory Atkins of Concord paid \$4,750 to two family

members, Casey and Timothy Atkins, to work as consultants in 2014, and more than \$34,000 since 2008.

But there also are legislators who use the accounts for daily expenses and purchases that would not be allowed if they were held to the same standard as constitutional officers who are only allowed to use the money for direct campaign expenses.

A breakdown of the legislators’ reports indicates \$106,005 was spent on flowers, balloons, and fruit arrangements sent as gifts or condolences. The lawmakers also spent at least \$275,650 on meetings over meals, with dinner being the most popular meal of the day. That figure does not include meals for large gatherings, staff, or volunteers.

While campaign regulations allow the purchase of a vehicle for campaign use, only about 10 legislators take advantage of that, including DeLeo. Fewer than 50 legislators paid for gas for their vehicles out of their campaign accounts.

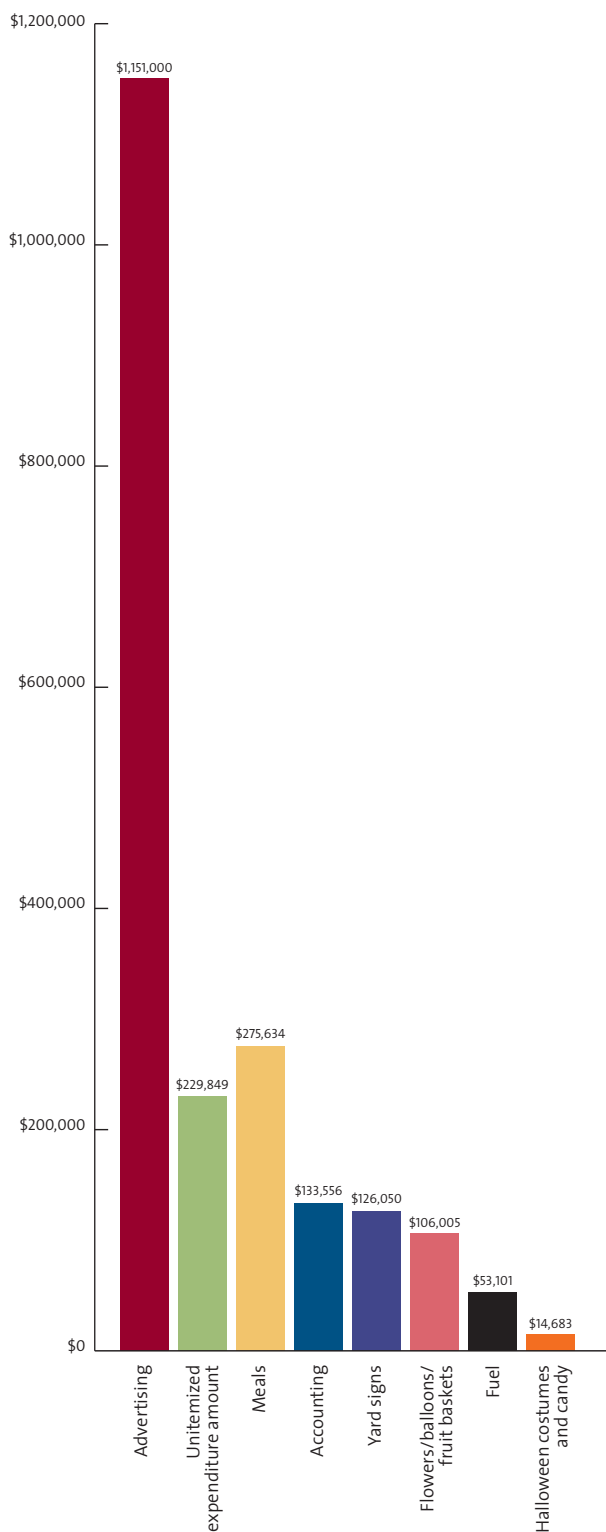
Regulations issued by the Office of Campaign and Political Finance require filers to itemize all expenditures over \$50. But what many do is take reimbursements in large sums, saying the reimbursements are for an accumulation of small receipts. According to data, legislators withdrew nearly \$230,000 in unitemized expenditures in 2014 and 2015.

Legislators were also generous to each other, making at least \$218,880 in campaign contributions to colleagues in the two-year period. It’s a case of having each other’s back, even if it’s not what donors intended, says Ubertaino.

“Most donors believe that their money is going to campaign expenses,” he says. “Even if you have a pretty broad sense of what that entails, many reasonable donors believe their contribution is going to help their choice of candidate. The intent of most donors is help people win office and I’m not sure the donor intent is being honored.”

FOLLOW THE MONEY

While not a comprehensive list, here's a selection of some items legislators spent campaign cash in 2014-2015:



SOURCE: Office of Campaign and Political Finance

CUSHIONING THE RETIREMENT BLOW

Politicians who leave office with no intention of returning can still dip into their account for expenses that occur long after they leave public life. Even if they make a public pronouncement that it's the end of the line politically, that's not the ruling factor.

"It's up to a candidate to determine whether they may run for office again in the future," says Jason Tait, the spokesman for the Office of Campaign and Political Finance. "It really is on them. If they say they have a political future, then that's the decision. It doesn't matter what they say [publicly]. They don't have to tell anyone."

Joan Menard served more than 30 years in the Legislature. From 1979 to 2000, she was a state representative and became involved in party politics, serving as chairman of the state Democratic Party for eight years. In 2000, she was elected to the Senate and moved up to become Majority Whip by the time she left.

Not long after she left office in 2011, Menard landed a vice president's position at Bristol Community College, where she earned nearly \$130,000 a year by the time she retired in 2014. Her three years at Bristol gave Menard a state pension of \$99,287 a year, according to the state Open Checkbook website, plus she earns several thousand more a year consulting for the college.

But on top of all that, Menard left office after the 2010 term with nearly \$305,000 in her campaign account. Over the next five years, she spent all but \$13,636. While the former senator made nearly \$60,000 in donations to charities and scholarships, the bulk of the money was spent on attending conferences out-of-state, gifts to aides, contributions to political allies, lunches at upscale restaurants, and excess mileage payments for her the Cadillac her campaign leased until July 2011. Among her donations was a \$5,000 contribution to former Senate president Therese Murray's legal fund last April, several months after Murray retired.

Menard, who did not return calls for comment, spent \$750 on two meetings in 2012 at the upscale Moos Restaurant on Beacon Hill. She also held her going-away party there, running up a tab of nearly \$900. Officials at the state Office of Campaign and Political Finance sent her campaign treasurer, Eduardo J. Costa, Jr., of Fall River, letters asking for explanations of what the meals were for and who attended but neither he nor Menard responded. Costa also did not return a call to *CommonWealth*.

Menard, now 80, also reported spending nearly \$10,000 on meetings and meals at other restaurants in Boston, Fall River, and elsewhere but provided little detail in her campaign finance reports on who attended or how the meetings would enhance her political future. Campaign finance officials have been warning campaign account holders they need to be more forthcoming about who they dine with but that seems to be having little impact. A search of



From left, Rep. John Scibak, Rep. Marjorie Decker, and Sen. Mark Montigny spent campaign funds on mileage reimbursements, parking tickets, and leased cars, respectively.

expenditures among legislators who list mealtime meetings shows hardly any with any detail, merely entering the receipt as “lunch /staff,” “dinner w/leg” and such.

Like Menard, there is little chance that former House speaker Thomas Finneran will get back into the political life. Finneran was forced to leave office in 2004 after his indictment on federal perjury charges, which was later pled out as obstruction to justice. While the conviction cost him his pension, there was no barrier to him spending down the nearly half-million dollars he had in his campaign bank account when he resigned. The balance now stands at just under \$1,900, mainly because Finneran used more than \$350,000 on lawyers. His expenditures also included \$10,000 in donations to Thomas M. Finneran Charities Inc., and his account continues to pay the \$345 monthly rent on a storage space in Milton.

Campaign finance spending guidelines are tighter for candidates who die with a balance in their accounts. According to the Office of Campaign and Political Finance, the campaign aides of a candidate who dies with a campaign balance must dissolve the account within a

Regulators said Sen. Brian Joyce couldn't tap his campaign funds for graduation party.

reasonable amount of time and use the money to pay outstanding liabilities; to make donations to a charity, a non-profit, or a scholarship fund; or to contribute to the state's local aid fund or the general fund of any city or town.

When longtime state representative John Binienda of Worcester died in 2014, his campaign account held nearly \$260,000, which was distributed evenly among two senior centers, a church, and Worcester State University. When state representative Michael Coppola of Foxborough died of cancer in 2005, the \$18,000 in his account was used to

pay his estate for part of the \$31,000 loan he had made to his campaign.

But other expenditures from the campaign accounts of deceased officials are questionable. The campaign account of Thomas Kennedy, the senator from Brockton, made a \$100 donation to a local politician in a neighboring town two months after he died. The campaign account of long-time state senator Charles Shannon of Winchester was allowed to pay \$1,500 for a dinner for staffers at Abe & Louie's in 2005 shortly after the politician's death and then footed the \$68 bill for dinner with some supporters more than 18 months after his death. Under campaign finance rules, funds can be used to pay for receptions for supporters after a funeral, though funeral expenses cannot be paid with campaign funds.

DRAWING THE LINE

Because campaign finance regulations are so vague governing what is considered an enhancement to a legislator's political future, violations are few and far between. Still, the Office of Campaign and Political Finance occasionally draws the line. The most recent — and one of the most notable — examples involved state Sen. Brian Joyce of Milton, who used campaign funds to pay for \$3,367 of the \$5,200 cost of his son's high school graduation party, claiming the event also helped him politically.

The Office of Campaign and Political Finance held that the \$3,367 drawn from Joyce's political account to help pay for the graduation party amounted to personal use of campaign funds. Along with a series of other campaign spending issues, mostly of a bookkeeping nature, Joyce was ordered to make a charitable donation of \$4,953 using his own personal funds. The bookkeeping problems included failure to document personal use of his campaign vehicle, which his campaign leases for more than \$700 a month, the highest lease fee paid by any legislator.

Joyce, who had just over \$45,000 in his campaign account at the end of 2015, announced that he would not be seeking reelection this fall. A federal probe examining connections between his actions as a senator and his work as a lawyer representing clients is ongoing.

State Sen. Mark Montigny, who had \$982,000 in his campaign account at the end of 2015, leases a Lexus for which he pays nearly \$500 a month. Montigny also used his account to pay for trips to Iceland, Cape Verde, and Washington state, among other locations. In December 2014, his campaign account spent \$121 for a wall decal — a vinyl, life-sized decal, usually of a sports figure — from Fathead. Montigny did not return phone calls.

State Rep. Marjorie Decker of Cambridge regularly piles up parking tickets in Cambridge and Boston, using her campaign account to pay the fines. Over the past two years, Decker has racked up more than \$1,900 in parking tickets.

“I have a bad habit of booking too many meetings at once,” says Decker, one of the few lawmakers to return calls about their campaign spending. “It’s part of the cost of doing business. It’s embarrassing.”

Decker says she gets many other parking tickets on personal errands that she pays herself, but says she checked with state regulators to make sure she could use her funds to pay the tickets as long as they were incurred in the course of enhancing her political future. She also pointed out she does not take the per diem payment lawmakers are allowed to collect when the Legislature is

in business.

State Rep. John Scibak of South Hadley does take the per diem, \$60 a session in his case because of the distance of his town from the State House. But the law allows legislators to use campaign funds to reimburse themselves for the difference between what the per diem covers and the total mileage cost under Internal Revenue Service rules. Scibak says the driving distance is 192 miles round trip between his home and the State House and the IRS allows roughly 54 cents a mile in reimbursable expense, making it a \$36-a-day difference. In January 2014, Scibak’s campaign account reimbursed him for a total of \$8,350 in mileage expenses for 2011 and 2012.

Erin O’Brien, a professor and chairman of the political science department at the University of Massachusetts Boston, is willing to give state lawmakers, who are often political novices, the benefit of the doubt on most of their campaign spending. But she says they should realize that questionable campaign expenditures don’t cast them in a flattering light.

“It looks tawdry. Regardless of whether it’s legal or not, it’s just bad politics,” she says. “It’s so low-rent and stupid, politically. This really icky behavior is allowed by the way campaign finance laws are written.”

BUILDING THE BRIDGE BETWEEN RESEARCH AND ACTION



Education

Health &
Well-being

Mid-sized
Cities

Sustainability

To learn how to partner with us:
mosakowskiinstitute@clarku.edu

**MOSAKOWSKI INSTITUTE
FOR PUBLIC ENTERPRISE**

**CLARK
UNIVERSITY**



WORCESTER • MASSACHUSETTS • USA

LITTLE WILL TO CHANGE

Legislators earn about \$60,000 a year and their salary is tied to the Consumer Price Index. But that's not their only source of income. Many committee chairmanships and vice-chairmanships come with extra pay, ranging from \$7,500 to \$25,000. Nearly half the lawmakers hold outside jobs, with nearly a quarter earning six-figure salaries.

On top of all that, each representative and senator receives a \$7,200 annual stipend for expenses but there's no requirement to spend it or account for it. In fact, many lawmakers use their campaign accounts to pay for their district office expenses and just pocket the supply stipend. Officials do not pay income tax on their campaign funds.

Democrats lead the Legislature and they also have the lead in spending, so no one should expect any changes in the campaign finance laws anytime in the near future.

A spokesman for Speaker DeLeo referred specific questions about his campaign account to the treasurer of the campaign. On the more general issue of campaign finance spending, the spokesman pointed to legislation passed in 2009 dealing with state ethics reform and campaign finance legislation in 2014.

Neither measure addresses how campaign funds are spent. The ethics reform required officials to file campaign finance reports three times a year in election years and twice in off years. The campaign finance reform legislation mostly addressed political action committees and other non-candidate entities. It did, however, double the annual contribution limit from \$500 to \$1,000 starting at the beginning of 2015, which means the size of campaign accounts will probably grow in coming years.

Former attorney general Scott Harshbarger, who also previously headed the watchdog group Common Cause, says the problem with stagnant campaign finance laws is the one-party system allows incumbents to fatten up their accounts and have access to money that foes don't.

"It's a perception issue in my view and it's a monitoring issue," he says. "They need to realize you all get tarred by the actions of a few. It's the lack of contested races that makes this an issue, makes this a problem. The number of uncontested races tends to breed this sense of entitlement and, inevitably, it starts to slide."

Harshbarger says lawmakers need to hold themselves to the same standards that they held constitutional officers to when they first wrote the law. They need to remove the vagaries and more clearly define what the money can be used for.

"People need to understand the money given to a campaign has not been given to you personally or because you're a wonderful person, but that you'll do the right thing for the people of the Commonwealth," he says. "It is not given to raise the standard of your personal life." **CW**



Global Forum

Dublin, Ireland
SEPTEMBER 2, 2016

BOSTON COLLEGE
CHIEF EXECUTIVES CLUB

CARROLL SCHOOL OF MANAGEMENT

For Your Health.

ADVOCACY FOR THE COMMONWEALTH.
HEALTH EDUCATION FOR ALL.

IN 1781, at the dawn of this nation, the 14 founding members of the Massachusetts Medical Society created a revolutionary vision: a health care system that promotes the health and welfare of all its citizens, through quality education and committed advocacy.

Today, we remain passionately committed to a health care system that works for us all.



**MASSACHUSETTS
MEDICAL SOCIETY**

Every physician matters, each patient counts.

WWW.MASSMED.ORG

Why whites control Lowell city government

A voting system hinders advancement of minorities and concentrates power in the heavily white Belvidere neighborhood

BY TED SIEFER | PHOTOGRAPHS BY MEGHAN MOORE

Lowell is most commonly associated with block upon block of old mill buildings; immigrants from Asia and the world over; and tough streets, the kind that produced famed boxer Micky Ward. What probably does not come to mind are tidy tree-lined boulevards and quiet blocks filled with exquisitely restored Victorian homes, many of them mansion-scale.

This latter image would be Belvidere, an area of Lowell that in many ways more closely resembles nearby Andover than the gritty city it overlooks to the west. Statistically, Belvidere is hardly rep-



The all-white Lowell
City Council.

representative of the city. It's 85 to 95 percent white, while many sections of the city are no more than 50 percent white; the median household income ranges from \$70,000 to \$125,000 depending on the Census tract, more than double most parts of the city. But if you want to know who controls the levers of power in Lowell, Belvidere is the place. The mayor lives in "Belvi," as do five of the other nine city councilors.

The concentration of power in this one square-mile area on the eastern edge of the city reflects a wider disconnect between Lowell's political class and the general population. In a city that is fast approaching majority-minority status — Lowell is about 40 percent minority, according to the 2010 Census — there isn't a single non-white municipal elected official on the nine-member city council or the six-member school committee.

Why has Lowell city government remained so white? A big part of the reason is its unusual electoral system, which only three other cities in Massachusetts share. Lowell has a Plan E form of government, which, as defined by the Commonwealth's city charter statute, has the central characteristics of a strong city manager and a city council made up entirely of at-large councilors. Unlike most cities, there are no ward-based seats; the winning candidates for council and school committee are, respectively, the top nine and six voter-getters, regardless of where they live in the city. The mayor, who has limited powers, is elected by the council.

So neighborhoods that have high turnout tend to have their pick of the litter. And in Belvidere, which is packed with current and retired public employees, people vote. Turnout in two of its key wards regularly exceeds 40 percent in city elections, compared to an average citywide turnout of 18 percent.

Lowell adopted Plan E back in 1943. Since then, at-large voting systems have fallen out of favor in Massachusetts and in other parts of the country, specifically because of their tendency to lead to the underrepresentation of minorities. In 1981, after a campaign by voting rights activists, Boston residents voted to end exclusive at-large voting, in favor of the current system of nine district and four at-large councilors. In the South, federal judges have ruled that entirely at-large voting schemes violate the Voting Rights Act of 1965. Ferguson, Missouri — the country's latest emblem for racial discord — is currently facing a lawsuit that seeks to end at-large voting for its school board.

The lack of diversity in Lowell goes beyond its elected offices. The police and fire departments are disproportionately white, and nearly every administrator in the school district is white, as are more than 90 percent of the district's 1,700 employees. The imbalance in the schools is especially striking considering that the student body is only 29 percent white.

The "whiteness" within Lowell city government is all the more notable given its multicultural image— two of the city's marquee events are the Lowell Folk Festival, a showcase for world music, and the Southeast Asian Water Festival. And Lowell has been held up as one of the model Gateway Cities, post-industrial municipalities with large immigrant populations that state officials have targeted for redevelopment. Indeed, state and federal funding have been key to the city's vaunted revival. The University of Massachusetts Lowell is one of the city's primary economic engines, and much of downtown is part of a US National Historical Park, a designation that has paved the way for the redevelopment of millions of square feet of once-vacant mills into museums, housing, and offices.

The peculiarity of Lowell's political institutions in this day and age is not lost on Marty Meehan, the Lowell native and former congressman who formerly ran UMass Lowell and now oversees the entire UMass system. "It's a subject I've given a lot of thought to," says Meehan. "All neighborhoods should be represented. When you have everyone elected at-large, it doesn't ensure they'll be represented."

In today's Lowell, the result is that political power has become a matter of the haves and have-nots.

ENTER THE CAMBODIANS

The Lower Highlands is only about a mile west of Belvidere, but it's a world apart, not least because of the signs in Khmer lining the dowdy strip malls and faded storefronts in its central business district. Khmer is the language of the Cambodians who began coming to Lowell in the early 1980s, refugees from the genocidal regime of the Khmer Rouge. They kept coming and today Lowell is home to the largest concentration of Cambodians in the US, with the

In Belvidere, which is packed with current and retired public employees, people vote.

majority residing in the Lower Highlands. Estimates of the community's size range up to 25,000 people, or as much as 23 percent of the city's population.

In recent years, Cambodians have begun flexing their political muscle, much as earlier waves of Irish, Greek, and French-Canadian immigrants did. The city's most celebrated political son, Paul Tsongas, was the child of a

Paul Ratha Yem says Cambodians eventually want to see a Cambodian mayor. “That would be the ultimate goal, and everybody talks about that,” he says.



Greek immigrant father who owned a dry-cleaning business. Tsongas launched his political career as a Lowell city councilor, rose to become elected to the US Senate in 1978, and sought the Democratic presidential nomination in 1992. Tsongas was instrumental in the creation of the National Historical Park, part of a lifelong mission to revive his hometown.

The Irish-Americans who once toiled in the city's mills also clambered their way into politics. In the 1880s, the image of Lowell's iconic St. Patrick's Church was added to the city seal, a not-so-subtle attempt by Irish leaders to put their stamp on the city, in the view of local historian Richard Howe Jr. Today, the city council and school committee remain well-populated with Irish, French, and Greek surnames.

But for the Cambodians of Lowell, planting their flag in local politics has proven extraordinarily difficult. In the November 2015 election for city council and school committee, there were six Cambodian candidates on the ballot, the most in the city's history. Not a single candidate won.

To be sure, Cambodians in Lowell have enjoyed a small measure of success at the ballot box. In 1999, Rithy Uong

became the first Cambodian elected to the city council, a milestone that garnered national attention. He served two terms. In 2011, a prominent local Cambodian leader, Vesna Nuon, was elected to the council, but he was unable to hold onto the seat in the next election, nor to regain it in the most recent one.

“People would like to see someone sit on the council not just for one term, but on a continuous basis, and eventually they want to see a Cambodian mayor,” says Paul Ratha Yem, one of the unsuccessful candidates in last fall's election. “That would be the ultimate goal, and everybody talks about that.”

Yem, who supports going to a combination district-based/at-large system, spoke at his real estate office, where he keeps a picture of John F. Kennedy over his desk and some campaign signs stashed in a corner.

Low turnout is commonly cited as the main reason the Asian community doesn't fare better in city elections. But while turnout is low in the Lower Highlands compared to Belvidere, it's not unusually low for municipal elections in the state. For example, it ranged from 15 to 25 percent in 2013. In Boston, by comparison, citywide turnout was below 14 percent in the last city election. For



Benjamin Opara, a businessman originally from Nigeria, ran for the school board because of the lack of nonwhite teachers and school leaders.

his part, Nuon, who was a top vote-getter in the main Lower Highlands wards in his previous elections, expects that establishing a political foothold in Lowell is going to be a slog.

“There’s still kind of an old-boys network,” Nuon says. “Maybe you have to work double-hard than someone who is more affluent and has lived a long time in Lowell.”

Lowell’s Cambodians notched another historic victory in November 2014, when Rady Mom was elected state representative. He is believed to be the first Cambodian-American state legislator in the country.

While Mom’s election was hailed as a milestone by many of Lowell’s elected leaders, it could also be taken as evidence that a more narrowly-drawn district would favor Cambodian candidates. Mom’s district includes the heart of the Cambodian community and excludes the less diverse eastern side of the city, including Belvidere.

Mom, who ran unsuccessfully for city council in 2005, also has issues with the at-large system. “Finally, for the first time, we have six candidates, and they all worked very hard,” Mom says, referring to the large number of Cambodian candidates in the most recent city election. “But what can I say when you don’t have the turnout?”

THE ‘BLOW-IN’

It isn’t only minority candidates who have a hard time getting elected in Lowell. Derek Mitchell, who moved to the city after serving in the Peace Corps in Nicaragua, ran for a city council seat in 2013. Mitchell has led several local nonprofits, and his wife is a founder of an urban community gardening program. He was in many ways an ideal representative for the young professionals and creative types that Lowell officials have sought to attract to the city.

But while Mitchell had a good showing for a “blow-in,” as he jokingly refers to himself, he still finished 12th among 18 candidates. This was despite a vigorous campaign that involved going door-to-door across the city, even to public housing projects that are *terra incognita* for most candidates.

Mitchell says making a lasting impression on voters in Lowell is a daunting task for a candidate of any ethnicity or background, especially given the scant press coverage of local government these days. How, he wonders, are residents really supposed to distinguish among several dozen candidates on a single ballot?

“They don’t have any frame of reference for who to vote for other than, ‘Oh, I went to high school with that

guy's nephew, or, oh, that person lived down the street from my grandmother," he says.

THE POLITICAL ESTABLISHMENT

It was a cold night in early January when the Donald Trump show came to Lowell, a seemingly unlikely setting given the city's Democratic reputation. Even more surprising to many locals was the presence at the speech, at UMass Lowell's Tsongas Center, of two city councilors who were photographed holding signs of support for the Republican presidential candidate.

One of them was Rita Mercier, a Democrat and born-and-bred Lowellian who is one of the city's most popular politicians. Mercier, who is known for her tell-it-like-it-is manner, insists she was mainly drawn to the event because of Trump's celebrity status, not because she endorses his controversial statements about immigrants.

"I went there because this is America. I can go wherever I want and so can you," she says. "I happen to love *The Apprentice*," she says of the reality TV show Trump hosted. "Does Donald Trump make some good points? Yeah, he does. Do I agree with everything he says? Absolutely not."

Mercier, like most elected officials in Lowell, supports the at-large system. "I don't have a problem with the way it is," she says, while acknowledging that "new immigrants may feel not represented."

City Councilor Edward Kennedy, Lowell's current mayor, sees the at-large system as intrinsic to the city's Plan E strong city manager form of government. Because the city manager serves at the pleasure of the councilors, it's important that

councilors who live outside Belvidere. Elliott couldn't even get a second to his motion.

CHANGING THE SYSTEM

Elliott's motion wasn't the first time an effort to change the election system in Lowell came to naught. In 2009, local activists put an initiative on the ballot to have the city adopt proportional representation. Under the system, which is used in Cambridge, voters get to rank their choices of candidates. In this way, those who are well-liked and have solid constituencies would likely fare better than mediocre candidates who simply have familiar names.

But Lowell voters solidly rejected the measure — not a surprising outcome, perhaps, given that a majority of residents are unlikely to vote to upend a system that has favored them.

For those bent on changing the system in Lowell, there is what might be termed the nuclear option: Getting the US Justice Department involved and even bringing a federal lawsuit under the Voting Rights Act. Section 2 of the landmark law prohibits voting schemes that "deny or abridge the right of any citizen of the United States to vote on account of race or color."

George Pillsbury, a Massachusetts-based consultant with Nonprofit Vote and a longtime voting rights advocate, says there is precedent for DOJ involvement.

"These all at-large elections have been subject to a lot of litigation under the Voting Rights Act because they were specifically used in the South to ensure all-white city councils," he says.

Federal pressure has been brought to bear against other Massachusetts cities in recent years. In 2002, Lawrence redrew its district lines in response to DOJ claims that the boundaries had been rigged against the city's large Hispanic community. (Since then, Lawrence's city council has become majority Hispanic, and the city has had two Hispanic mayors.)

Springfield, perhaps, offers a more salient example. In 2005, a coalition of civil rights groups sued the city in federal court over its all at-large electoral system. After years of resisting any changes, the city council submitted a home rule petition to the Legislature to expand the council to include eight ward and five at-large seats; the lawsuit was dropped. The council has since become considerably more diverse.

The idea of getting the Justice Department involved in Lowell has been kicked around over the years, but it has never risen to the level of bringing a formal complaint. Several observers have noted that the Cambodian community in particular doesn't want to rock the boat, and bringing in the feds would no doubt generate some serious waves in the city.

Not every incumbent on the City Council backs Lowell's at-large voting system.

they have the interests of the city as a whole in mind and not get mired in parochial concerns, he says. "It's very conducive to economic development and to reacting more quickly in some ways than other forms of municipal government," Kennedy says.

Not every incumbent backs the at-large system. At the city council meeting in late February, Councilor Rodney Elliott made a surprise motion to consider going to a combination at-large and ward-based election system. "Very clearly, there is a lack of representation coming from those particular neighborhoods, and certainly they represent more of our diverse population," says Elliott, one of the few

The Carpenters union
has provided me
opportunities that I
otherwise would not
have had.

Janet Butler, Founder & President
Federal Concrete, Hopedale, MA



The greatest partnerships
are two-way streets
where value flows in both
directions. Union carpenters
deliver exceptional value
to contractors by providing
world-class quality that

comes in on-time and on-budget. But there's one more
thing the Carpenters union provides: *business opportunity*.
Whether it's through contractor networking, access
to new projects, or the flexibility to scale as needed,
a partnership with the Carpenters union ultimately
delivers results.

The New England Regional Council of Carpenters.
It's time to build. To learn more, visit NERCC.org

Yem, the council candidate in the 2015 election, says he was concerned federal action could “tarnish the reputation” of Lowell. “I’m hoping it doesn’t have to come to that,” he says.

RACE, POLITICS, AND A STUDENT ELECTION

One of the 2015 candidates for Lowell School Committee was Benjamin Opara, a businessman originally from Nigeria whose children attended city schools. Opara first ran, unsuccessfully, for the school board in 2009. He says one of his main concerns was the lack of nonwhite teachers and school leaders. One of his kids had joked that the only staff at the high school who weren’t white were the janitors. Opara didn’t think it was very funny.

As it happened, five weeks before last year’s city election, another election thrust the issue of race — a subject that goes largely unmentioned in the local political discourse — into the spotlight. On September 29, Lowell High School held its election for student body president, and the winner was an African-American, the son of immigrants from Cameroon.

Not long after the results were announced, a group of students who had supported a white candidate exchanged angry text messages, including one that said “rule out blacks and #MakeLHSGreatAgain” — apparently a nod to Donald Trump’s campaign slogan. Another message referred to the victor and other African-American students as “niggas.”

The text messages went viral and two days later the school suspended six students who participated in the exchange. Lowell public schools Superintendent Salah Khelfaoui commended the high school leaders in a letter for acting “swiftly and decisively.”

But if administrators had hoped for a quick end to the episode, subsequent revelations would complicate their efforts.

Khelfaoui had refused to disclose the identities of the suspended students, insisting they were minors. But a local paper, *The Valley Patriot*, did some digging and discovered that the white candidate for student body president, who was also suspended for participating in the texting, was in fact 18 years old. What’s more, he was the son of a prominent school board member, Stephen Gendron, a Belvidere resident who had previously served on the city council. In addition, the newly-elected student president alleged that a high school administrator tried to get him to pose for a photo with one of the texters, to be posted online to show that the parties had reconciled.

As concerns about the handling of the incident mounted, Khelfaoui announced that an independent task force would be formed to investigate and present its findings. The task force’s report was released in late January, but it contained a level of redaction one might expect of a CIA intelligence report.

Among the withheld portions was a chronology of the texting incident and administrators' response. The publicly available portion of the report was two-and-a-half pages of recommendations primarily on the need to diversify the district staff — an issue that should not have been a revelation to the school committee and other city officials. (A motion to “promote the hiring of staff members from diverse backgrounds” had been approved by the school committee nearly two years earlier.)

The student president's parents remain dismayed by the district's response. They say they were never consulted by the task force, nor informed when the report was released.

“It makes me believe more that things like this have been happening at Lowell High, and things have been shoved under the table,” says Khien Awasom-Nkimbeng, the student's mother. “Nobody is trying to see what happened or how the school handled this. The administration failed seriously, and nobody is handling that part of it.”

The parents are working with a local attorney, who has not ruled out legal action against the district.

Khelfaoui did not respond to requests for an interview, nor did Gendron, the school board member. An attorney for the school committee, who was responsible for withholding much of the task force report, declined a public

records request to release the full report, largely citing employee privacy.

The task force report was on the agenda of the school committee at a meeting in February, but only one member spoke for more than a few minutes about it, and she expressed understanding of the need to withhold most of the report from the public.

Opara, the former school board candidate, says he has “absolutely no doubt” that the panel's response would have been very different, both to the task force report and to the larger issues around race, if there was even one minority voice on the school committee. “The discussion would be different, and the outcome would be healthier and our city would be healthier,” Opara says.

As for the recent city election, Opara again came up short in his bid for a seat on the school committee. The top vote-getter: Stephen Gendron, the father of the suspended student president candidate. He won by a far wider margin than he did in the previous election. **CW**

Ted Siefer is a New England-based journalist who has covered state and local government, among other matters, for a wide range of outlets, including Reuters, the Boston Globe and the Center for Public Integrity. He currently resides in Lowell.

Why do we invest in this community? We live here too.

At Citizens Bank we're proud to recognize those who share our commitment to investing in our communities. That's why we're proud to support MassINC.

 **Citizens Bank®**

Member FDIC. Citizens Bank is a brand name of Citizens Bank N.A. and Citizens Bank of Pennsylvania. 631161



Gerard Polcari, the MBTA's
chief of procurement.

Tackling the time warp at the T

Gerard Polcari tries to bring the authority's problem-plagued procurement system up to snuff

BY BRUCE MOHL | PHOTOGRAPHS BY MARK MORELLI

ON HIS FIRST day on the job last May as the MBTA's chief procurement officer, Gerard Polcari checked in with Transportation Secretary Stephanie Pollack and then headed straight to his office to learn everything he could about the department he was inheriting. He interviewed everyone on the staff and analyzed the authority's existing policies and procedures on procurement. After a month of study, he says, Pollack called him back to her office and asked what he had discovered.

"I told her everything was working perfectly the way it was designed — *for 1975*," says Polcari, his voice rising for emphasis. "All that was missing was a disco ball and shag carpeting. It's like the whole place

was in a time warp. Nothing had changed. It was incredible. I said to her, we have a lot of work to do.”

Procurement at the T may sound like a sleep-inducing subject, but it's actually a big deal because so much, literally, is riding on it. Procurement is not just about paper clips and pencils. Pollack estimates the T has already issued contracts for \$1 billion worth of buses and Green, Red, and Orange line cars. She says the T's new five-year capital plan will pump hundreds of millions of more dollars into new vehicles. How these procurements are executed will determine a lot about how well the T operates five to 10 years from now.

The track record on past procurements hasn't been good. Green Line cars are sent out for refurbishing and they come back with problems that need to be repaired. Locomotives are ordered for the commuter rail and when they are delivered they are steered straight for the repair shop. A new commuter rail operator gets hired and the company loses \$28 million in the first year. Anxiety is also growing about the Chinese company building the new Red and Orange line cars because the company significantly underbid the competition and is new to the US market.

Polcari shakes his head, saying he has heard about the horror stories from the past. He doesn't want to talk about the past. He wants to move forward.

“We have to start from scratch,” he says. “We cannot worry about what happened or didn't happen. We have to start with a blank slate and start over. That means attitude, approach, everything has to be new. We not only have to make a business transformation, we have to make a cultural shift at the same time. And then we have to make it stick for the long term.”

Polcari is one of a number of managers showing up in state government, plucked from the private sector by Gov. Charlie Baker. Polcari, 57, worked directly under Baker at Harvard Pilgrim Health Care and he worked in an agency overseen by the state office of administration and finance when Baker ran it in the 1990s.

Impatient for change, Polcari is a private sector guy who doesn't talk or act like a typical government official. He talks about transforming the T's procurement office from an organization that thinks two-dimensionally to one that thinks three-dimensionally, which is his shorthand for the difference between an agency that simply buys widgets and one that performs strategic sourcing. He is dismissive of the T's old procurement office, which went by the name of materials management. “They were just doing clerk work,” he says, adding that the procurement office under him must be a full partner in the way the T does business.

When Baker administration officials approached Polcari about taking the \$155,000-a-year post, he was running his own consulting firm, specializing in procurements

for health care and information technology. Polcari says he is learning on the job about signal systems and rail cars, but he says the absence of a transportation background doesn't deter him.

“Procurement is procurement,” he says. “The key is how you work the process. You want to buy the right thing at the right time for the right price. You could be buying a house, trains, planes, automobiles. It doesn't matter. You just have to know how to buy. You also have to know how to negotiate and logistically deliver things. I love to negotiate.”

PROCUREMENT MARCHING ORDERS

The 49-page action plan of Baker's special MBTA panel embraced reform and revenue, focused on addressing structural problems at the T, and offered a blueprint for turning the agency around. Among the nine key findings, a “flawed contracting process” was listed as No. 8.

The special panel said procurement and contract management at the T were inefficient and decentralized, with even small projects held back by redundant internal processes. The report was critical of state laws restricting privatization and limiting contracting options and said key service contracts, particularly the commuter rail contract, required stronger hands-on management. The

Project procurements are often delayed, may include legal challenges, and can end in suboptimal products.

report encouraged the pursuit of “best value,” as opposed to lowest price, for bid evaluation and contract awards. One sentence in the report seemed to sum up the panel's assessment: “Project procurements are often delayed, may include legal challenges, and can end in suboptimal products.”

To illustrate the problem, the panel created a timeline for the procurement of Red and Orange line cars. It showed 194 cars in the two fleets due for retirement during the 10-year period between 1994 and 2004. The procurement process for replacing those retiring cars, however, didn't begin until 2008 and wasn't completed until six years later in 2014. New cars are now scheduled to begin arriving toward the end of 2019 and be fully in use by 2022, approximately 18 to 28 years after the sched-



"I love to negotiate," says Gerard Polcari, the T's chief of procurement

uled retirement dates of the old cars.

The T also experienced a procurement nightmare with its commuter rail locomotives and coaches. The 75 coaches, costing \$190 million, were ordered in 2008 from Hyundai Rotem USA and scheduled for delivery by the end of 2012. The coaches began trickling into the T during the spring of 2013, but many of the cars had to be shipped to repair facilities to have a host of mechanical, engineering, and software problems addressed.

The 40 commuter rail locomotives purchased from Motive Power Inc., of Boise, Idaho, for \$222 million arrived at the end of 2014, but nearly all of them ended up in repair shops to replace a bearing inside the engine. Most of the locomotives did not come into service until the end of 2015.

In each case, T officials initially dealt with reports of problems by dismissing or minimizing them. Joe Pesaturo, a T spokesman, told the *Boston Globe* that "railroad coaches are not like new autos that a buyer drives off the lot."

Union officials say similar problems are surfacing on a \$121 million contract with Alstom for the overhaul of very old Green Line cars. The officials say the vehicles are returning from the overhaul with brake and steering problems, and being sent to the Riverside repair facility to be addressed. "Everything we send out, it comes back and we have issues with it," says one official.

Pesaturo, the T spokesman, says Alstom is overhauling selective systems on the Green Line cars to improve their

reliability. He says the cars were already 27 years old when the contract with Alstom was negotiated. "There are some items, out of the contract's work scope, that have required repairs," he says in an email. "There are other items that are discovered during the testing/return-to-service phase that need adjustments/replacement. All of these items fall within the scope of the contract and are handled through the Green Line and submitted to Alstom for warranty reimbursement."

James O'Leary, a transportation official with deep knowledge of the MBTA, says it's frustrating that new vehicles, or old vehicles sent out for repair, return with defects, some of them major. His advice: "Don't deliver a vehicle until it's ready. I don't want to buy a new car and have to take it back to the shop every 60 days."

O'Leary says the authority often fails to tap internal expertise in developing procurements and relies too much on consultants to make sure contractors live up to their commitments. O'Leary served as general manager of the MBTA from 1981 to 1989 and headed Massachusetts Bay Commuter Railroad, the private company hired to provide commuter rail service from 2003 to 2014. MBTA lost the commuter rail contract to Keolis Commuter Services in mid-2014.

When the T began looking for companies to build new commuter rail locomotives and coaches, O'Leary says, MBTA was not consulted. "We were told you're not to be involved," he says. "I said, wait a minute, our people operate those trains, we maintain those trains. The fact that we were not more engaged in the design of those vehicles was absurd."

O'Leary says the contract with South Korea-based Hyundai Rotem to build new commuter rail coaches came at a time when a no-travel policy was in effect at the T. "So senior management at the T, as I understand it, never went to Korea to fully do their due diligence. How shortsighted is that?" he asks.

O'Leary, whose firm Alternate Concepts Inc. manages rail service in several cities, echoes the concerns of the special MBTA panel, saying the agency too often picks the lowest bidder on a project rather than the best bidder. "There's this belief they can more easily defend the low bidder to the board and customers than trying to make a decision on what offers the best value," he says.

The T went with the low bidders on the \$566.6 million contract for new Orange and Red line cars and the \$2.7 billion contract to run the commuter rail service. CNR MA, a subsidiary of a Chinese company that is the world's largest manufacturer of rail cars, bid 21 percent lower than its next-closest competitor on the Red and Orange line contract. Keolis won the commuter rail contract with a bid that was 6 percent lower than the one submitted by its only rival, O'Leary's MBTA.

Keolis lost more than \$29 million in its first year of operation, prompting Transportation Secretary Pollack to say the company “failed to understand the full extent of the costs associated with meeting their contractual obligations.”

Pollack says the problem with T procurement has not been picking low bidders. “If we write the specifications correctly to get the vehicles we need and if we run the procurement correctly and, more importantly, if we manage the contracts afterward correctly, we should be able to get vehicles that come in on time, on budget, and work when we put them in service,” she says. “That has been a problem for the T and we are taking a very aggressive approach to the new Red and Orange line car order.”

Pollack says the problems with the commuter rail locomotives are a good example of what she’s talking about. “The problem that caused us to delay putting them into service was a ball bearing that did not meet contract specifications that had been installed years before the delivery date,” she says. “That tells me that had we been doing the right quality assurance all along, step by step, we should have been able to catch that sooner and not waited until they were delivered and then said, hey, this ball bearing very deep in the engine doesn’t meet the contract specifications.”

‘NOTHING GETS PAID UNLESS I SAY SO’

Polcari didn’t participate in the selection of the Chinese company building the T’s Red and Orange line cars, but he says he is aggressively managing the contract now. He has tech consultants on site in China and a coordinator at the T working full-time on the project. Polcari is also heavily involved, personally, visiting the plant in Manchuria and meeting with the company’s management regularly.

“We’re all over them and I just keep on coming,” he says. “Nothing gets paid unless I say so. I have to sign off on every payment.”

Polcari says he is trying to bring order to the procurement chaos at the T by importing the “taxonomy,” or procurement infrastructure, used by the Metropolitan Transportation Authority in New York City. He is also requiring every T official to follow more standardized bidding procedures. Instead of everyone doing their own thing, he wants his office to work collaboratively with the rest of the agency on purchases.

“We have to become business partners,” he says of the procurement office. “In the old days, materials did what it was told. It never thought. It was very two-dimensional — you ask for this, you get that. Now everything has to have a business case behind it. We have to convince people there

TRANSFORMATIVE REDEVELOPMENT

Strategic State Policy for Gateway City Growth and Renewal



GATEWAY CITIES INNOVATION INSTITUTE

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

are better ways and show them they work.”

He says there has been resistance to his more standardized approach, but he thinks people are coming to see the benefits. His office worked with the T’s human resources department to hire a private company to administer leaves under the Family and Medical Leave Act, an area the transit authority was having difficulty controlling. He says the request for proposals for a new administrator would have taken five months if human resources had done the procurement on its own. But, working through his office, Polcari says it took only a month. “They realized, holy smokes, this really works,” he says.

By trying to bring order and consistency to the procurement process, Polcari says he isn’t trying to stifle innovation. On a procurement last year for a federally mandated system to automatically keep commuter rail trains on the right routes at appropriate (and safe) distances from each other, the T ran into a wall financially. It didn’t have the money to start the project and wouldn’t have the money under a federal loan program until mid-2017, which would have meant the project would not be done in time to meet federal deadlines.

Polcari got a meeting with the Italian vendor, Ansaldo STS, and asked if the company would be willing to give

the T what amounted to a zero-interest, \$47 million bridge loan so the project could start quickly. By the time the Ansaldo loan comes due, Polcari expects to secure enough federal funding to pay off the Ansaldo debt and finance the rest of the project. He says the approach put Ansaldo to work immediately, saved the T \$4 million in interest, and demonstrated to his stunned negotiating team that creativity can pay big dividends.

“We can’t follow conventional wisdom,” he says. “You have to think outside the box.”

In that vein, Polcari is talking with officials at the MTA in New York about “cooperative purchasing” of non-core items such as office supplies.

“The MTA is the mother of all transit authorities in the United States,” Polcari says. “There is so much that we can share back and forth, but nobody shares. To share you have to have the same database. We’re moving toward that because there’s power in that. If you save 10 cents on a pencil, and if you buy 200,000 pencils a year, that’s a lot of money.”

Polcari says getting procurement right at the T is essential to the agency’s future. “If we don’t get a part to operations, that means a bus doesn’t get out or a rail car doesn’t get out,” he says. “We cannot afford to fail. Otherwise, operations goes right in the tank.” **CW**

Become a **CommonWealth** underwriter
and reach over 12,000 opinion leaders
with your organization's message.



For more information about sponsorship and advertising in *CommonWealth*
contact Caroline Palmer at cpalmer@massinc.org



The Partners pitch

Despite numerous reports to the contrary, CEO David Torchiana says his hospital system isn't the problem

PHOTOGRAPHS BY FRANK CURRAN

DAVID TORCHIANA, THE CEO of Partners HealthCare, speaks very softly for a man who is 6-feet-6, weighs north of 200 pounds, and goes by the nickname of Torch. He is sitting one morning in early March at a table in an 11th floor conference room at the Prudential Center, where the corporate offices of Partners are located. He answers questions about himself in short, clipped sentences, but goes on at length when defending the hospital system he oversees. He has a stack of 24 charts in front of him containing the data that he uses to make the case that Partners is not Massachusetts health care's Public Enemy No. 1.

Partners' two flagship hospitals — Massachusetts General and Brigham and Women's — are regarded as among the best health care institutions in the world, but they are under attack for commanding

hefty premiums for care that study after study has shown is no different in quality from what most other hospitals provide at lower cost.

The Partners price differential is slowly emerging as a major political issue. Attorney General Maura Healey, who like her predecessor has documented a huge gap between prices at Partners hospitals and others in the industry, late last year called the Massachusetts health care market dysfunctional and said the state should consider some form of intervention.

The Health Policy Commission, created to monitor health care costs by a 2012 law, says the price gap between Partners and its competitors is driving up health care spending across the state because more and more patients are gravitating to Partners hospitals.

As policymakers try to figure out what to do, the Service Employees International Union is taking the issue to voters. The union is pushing a November ballot question that attempts to address the pricing disparity by unleashing Robin Hood on Massachusetts health care. The question would bar licensed commercial health insurers from paying any hospital more than 20 percent above or 10 percent below the “carrier-specific average relative price” for a service. If approved by voters, the question would take close to \$450 million from the hospital rich (Mass General and the Brigham) and redistribute that money to the hospital poor (nearly every other hospital in the state).

Over the course of 90 minutes, Torchiana patiently goes through his charts, making the case that the ballot question is a terrible way to make public policy and that it won’t solve the problem it seeks to address. He acknowledges Partners hospitals charge more than their competitors for some services, but says they lose money on 60 percent of what they do. Finally, he says health care spending in Massachusetts is not as out-of-whack as we think. He even suggests, given the state’s income level, we’re getting a pretty good deal.

It’s a long, drawn-out argument, and one that will probably have to be boiled down to 30-second snippets if the ballot question fight turns into political Armageddon. That obviously bothers Torchiana. “It’s really hard to talk about this complex stuff without boiling it down to things that are really simplistic,” he says.

The 61-year-old Torchiana has been in his current position for a little over a year, and still isn’t well known publicly. He was born in Evanston, Illinois, to parents who were both educators. He attended Yale, graduating in 1976, and then spent a year at Cambridge University in England before heading on to Harvard Medical School. He did his residency at Mass General, joined the hospital’s surgery department in 1989, and became chief of cardiac surgery in 1998. It was there he became a mentor and close friend to Ralph de la Torre, who now runs Steward Health Care,

which is supporting the SEIU ballot question. After a stint running the Mass General physicians group, Torchiana was hired as Partners CEO in February 2015.

Torchiana likes to read, as many as three books a week, everything from serious works to trashy thrillers. He’s reading Nate Silver’s *The Signal and the Noise* at the time we chat. His parents didn’t keep a TV in their home, but he does. Still, he says, he personally watches little other than Patriots and Red Sox games.

At the time Torchiana moved into the top spot at Partners, the company was on the defensive, viewed as something of a bully. Its push to acquire South Shore Hospital, opposed by Healey, was shot down by Superior Court Judge Janet Sanders, who worried the acquisition “would cement Partners’ already strong position in the health care market and give it the ability, because of this market muscle, to exact higher prices from insurers for the services its providers render.”

Torchiana has quietly been working to rehabilitate Partners’ image. He is talking — and listening — to folks in town and on Beacon Hill. He says he knows Gov. Charlie Baker from their years serving together on Jobs for Massachusetts, a civic group that meets with government leaders on a monthly basis. Baker was there representing Harvard Pilgrim and Torchiana was there representing Partners. Torchiana says he has met probably half a dozen times with Healey. He says he’s held meetings with other political leaders as well.

We’re the largest
private employer in
Mass. so they’re as
interested in us as
we are in them.

“I know most of them,” he says. “We’re the largest private employer in Massachusetts [the Partners hospital system employs 68,000 workers], so they’re as interested in us as we are in them.”

He indicates he approaches most of the problems facing Partners the same way he did as a practicing surgeon. I ask about the surgeon stereotype, that they have a reputation for cutting first and asking questions later.

“I guess I’d put it a little bit differently,” he says. “One of the keys to working as a clinician generally is that you have to gather information about the patient and the patient’s circumstance. Lots of times, the different pieces of information don’t add up perfectly. In many circumstances, you have the luxury of time to wait and let the course of the illness define it. In other circumstances, you



don't and you have to act with ambiguous information. And that's the part of surgery that differentiates it from other fields. For a good surgeon, the skill is not in the hands, it's in the head."

— BRUCE MOHL

COMMONWEALTH: When Gary Gottlieb stepped down as CEO a year ago to go work at a nonprofit known for its health care work in Haiti and elsewhere, what kind of executive was the Partners board looking for as a replacement?

DAVID TORCHIANA: I think they were looking for someone who understood the external environment and had credibility within the organization.

CW: What do you mean by external environment?

TORCHIANA: Well, there's a lot changing around us. I don't know anyone that really understands it, but there are relative levels of understanding. In particular, there's the implications of health reform and the changes in the payment system that are going to impact us. I've been

following that very closely for a long time. It's been a major interest of mine, as would be the case with any leader in health care.

CW: There's also the ballot question being pushed by 1199SEIU, which would set the rates hospitals are paid by commercial insurers. The wording of the question would require no hospital be paid more than 20 percent above or 10 percent below the carrier-specific average relative price for the service. Why does Partners oppose it?

TORCHIANA: First of all, it's bad policy. It's not the way to solve the problem it's purportedly addressing. Secondly, we would have to oppose it because it's so profoundly threatening to us.

CW: How threatening is it?

TORCHIANA: Of the \$467 million to be extracted in rates, \$450 million of it comes from Partners. About 66 percent of our hospitals' expense base is in salaries and people. If you divide \$450 million by two-thirds, you get \$300 million, which works out to somewhere around 3,000 FTEs. It's sup-

posed to be implemented on January 15, 2017. If it happens, we'll have to go through a pretty massive reduction in workforce.

CW: I assume you're assembling a political team to address this?

TORCHIANA: We have a political team. We are talking a lot about this, but the Massachusetts Hospital Association is going to take the lead on the ballot question. The MHA is unanimously opposed to it.

CW: So you plan to let the MHA take the lead in opposing the ballot question, even though nearly all of its members stand to benefit from it?

TORCHIANA: I certainly hope the MHA remains united on this. It is obviously tricky for the MHA to unify against a bill that is aimed at one of its members and potentially stands to benefit more of its members. But I think what's holding the leadership together is the principle that this is not a good way to make health policy. Moreover, if you

look at the way the money gets redistributed, it's being painted as a redistribution that rescues distressed hospitals. But in fact the way the distribution happens under the formula is the money gets broadly distributed to all hospitals. So it really doesn't accomplish the objective.

CW: What about Steward Health Care, which is headed by Ralph de la Torre? Steward isn't a member of the Massachusetts Hospital Association and it's supporting the ballot question, which would steer more than \$21 million its way.

TORCHIANA: Ralph and I are friends. We often don't agree on business. We certainly don't agree on this.

CW: I take it you haven't been able to convince him otherwise?

TORCHIANA: Oh, no. I have no illusions that I'll be able to do that.

CW: How much money are you prepared to spend fighting the ballot question?

TORCHIANA: It's something short of \$450 million, but yes, we will spend on this if we have to. I hope we don't. Talk about wasted expenditures on health care. It's not a constructive place to be burning through millions of dollars.

CW: Some people say Partners has an effective monopoly in Massachusetts. What do you say to that?

TORCHIANA: Unless you really get into gerrymandering the geography or service areas of hospitals, it's very difficult to make an argument that Partners has anything approaching monopolistic market power based on the number of patients we care for, the number of doctors we have, and the number of facilities we operate. We're somewhere between 20 and 25 percent of the relevant marketplace. We've actually declined. Our community network is about 20 percent smaller than it was five years ago. We intentionally reshaped ourselves with the intent of doing some acquisitions. The acquisitions, as you know, didn't materialize. So we ended up down.

CW: The courts shot down your merger with South Shore and effectively put your acquisition of Hallmark Health System on hold. Any change there?

TORCHIANA: We still believe it's the right plan but we believe there's little to no chance of it being approved. So they're in the process of seeking other relationships. My hope is at the conclusion of that they'll feel like the relationship they've had with us the last 20 years is the best

thing available. We'll build on that and hopefully wait for some time in the future, when maybe some of the policy thinking changes.

CW: In the meantime, you plan to expand abroad, right?

TORCHIANA: We have flat population in this state. We're not able to create any new network or community access under the regulatory environment as it stands. We're going to look beyond the state's borders and the country as a whole. Obviously, this is not a novel strategy. Every other medical center and health system in the country and even

Ralph de la Torre
and I are friends. We
often don't agree on
business. We certainly
don't agree on this.

the planet is trying to do the same thing. We'll do it. We haven't really put much time and energy into it in the past, but we will do so increasingly. The basic idea is that a relatively small ratio of augmented distant business can make up for the loss of local business and for the stagnation in local payment rates.

CW: What do you see as the big challenges facing Partners?

TORCHIANA: We're a national brand. We are the preeminent academic organization for life sciences research in the country. We have very substantial and strong clinical programs at our two flagship hospitals [Massachusetts General and Brigham and Women's in Boston]. We have a superb specialty hospital in behavioral health [McLean Hospital in Belmont]. We have a superb specialty hospital in rehab [Spaulding Rehabilitation Hospital in Charlestown]. And we've built a community network to basically consolidate the pieces together that give us a certain base in this region. We face all the same challenges that every academic health system faces nationally, and then we face some additional ones by virtue of the unique threats in Massachusetts.

CW: Before you go on, can you connect the dots for me between life sciences and Partners hospitals?

TORCHIANA: [He picks up a chart.] I like to call this the slide Teddy [Sen. Edward M. Kennedy] never let us show in Washington. These are National Institutes of Health grants. This is Massachusetts [pointing to tallest bar in graph] and we're double the next strongest state, which

is Maryland, where John Hopkins is located. If you look at institutions around the country, the Brigham and the MGH are right around Nos. 13 and 15 over recent years. Added together, Partners is No. 1 in terms of NIH grants. Those grants have generated 113 Partners startups in the region, 200 in the world. And this chart shows the impact in Boston. Boston life sciences companies valued at more than \$100 million have tripled over the last 10 years. No other city is moving at anything like that rate. Larry Summers describes Boston as being to the modern evolution of science as Florence was to the Renaissance. He believes this is the world's epicenter for very dramatic changes in life sciences which will have very profound impact on human health over the next 10 to 20 years.

CW: Tell me how you see the national picture.

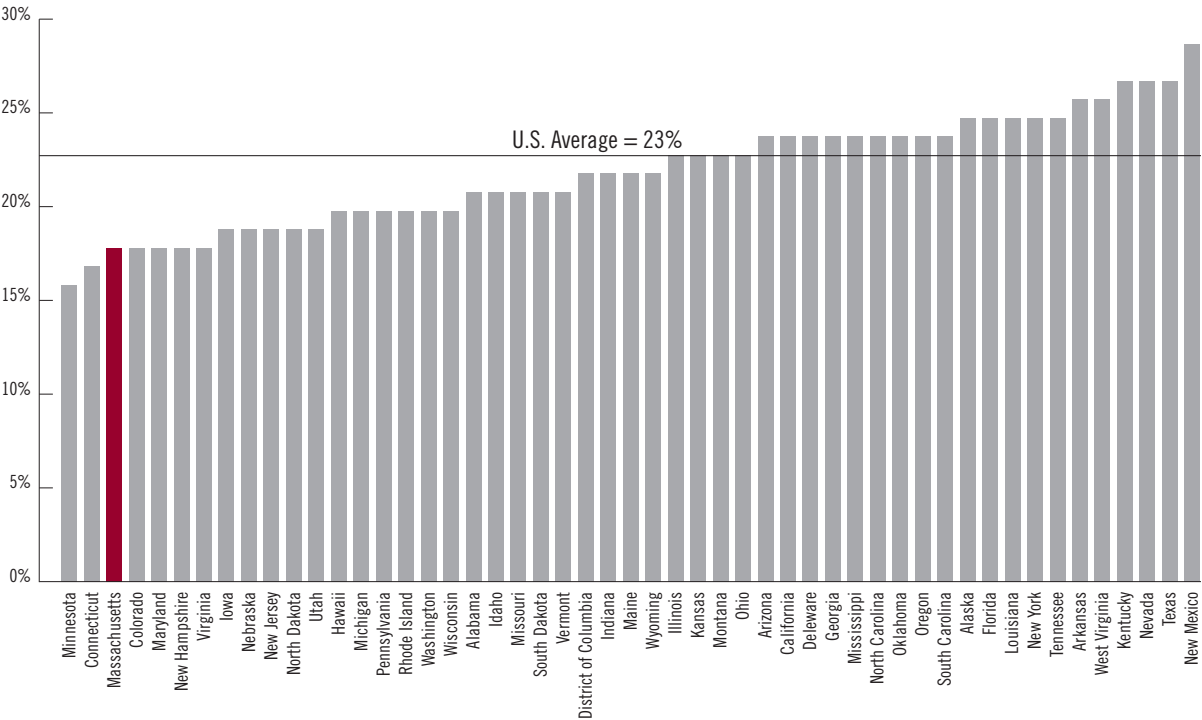
TORCHIANA: The traditional story on US health care is that it's more costly than the rest of the world and it is pretty mediocre on the results that it delivers on an aggregate population basis. Clearly, the system is very much a hybrid, a mixture of profit, not-for-profit, government, private-payer employer, and out-of-pocket. It's a real jumble the way that it's organized. But there's a couple things that I think cut through the confusion. The first is that we're

on pretty much the same cost trajectory as the rest of the world. If you talk to ministers or hospital leaders in other countries, they're all trying to grapple with the same thing. It's a universal problem. The second thing is that we fund much more of our health care system out of the employer-based insurance system and less of it from government. If you think of us as being 50 to 75 percent more costly than the Western mean, then a big piece of that is cost shifting to the employer-based system. Basically, underpayments by government are placed on the back of the employer-based system to balance the equation.

CW: Why is the US such an anomaly internationally?

TORCHIANA: We have the lowest rate of taxation in the western world and we spend far, far less of our taxes on social welfare. Because we spend so little on social welfare, a lot of the burden that would normally land on social programs in the rest of the world lands on health care in this country, which is one of the root things that contributes to the cost of health care. But the most interesting part of it is the aggregate health care outcomes that we talk about – life expectancy, infant mortality, etc. – they're much more highly correlated with social spending than they are with health care spending. We have this very

MASSACHUSETTS RANKS LOW IN FAMILY PREMIUMS AS A PERCENT OF HOUSEHOLD INCOME



SOURCE: State Trends in the Cost of Employer Health Insurance Coverage 2003-2013, Commonwealth Fund, 2015.

fragmented system, we have very high costs, and we have a strong aversion to taxation. It's not easy to find a way out of this. It's actually miraculous that the Affordable Care Act got passed because of all these conflicting powers and the very strongly embedded status quo.

CW: What do you see going on in Massachusetts?

TORCHIANA: You've got the US, which is the most costly in the world for health care, and you've got Massachusetts, the most costly in the US. An example would be hospitals, where per capita costs are 50 percent higher than the rest of the country. But when you break that down, Massachusetts hospital costs are a little bit unique relative to the rest of the country. The payment differential results from a combination of a higher geographic payment adjustment to Massachusetts hospitals, the much higher percentage of research dollars going to Massachusetts hospitals (8 of the top 14 in the country), our relatively higher number of training programs and residents, and payments associated with out-of-state patients. All of these things are assets to the state. When you add them all up, our differential is about 8 percent – the 50 percent falls to 8 percent. And then if you look at that as a function of the cost of living in Massachusetts, it absolutely flips. If you index this against income in the state, we're actually in the bottom 10 percent of the country in terms of health care costs relative to the income of the state. When you think about that, we have this extraordinary health care system. We have terrific hospitals, we have great quality outcomes, we have the best access in the country, and we have this incredible life sciences juggernaut. We're actually getting all of it at a relatively low cost in terms of affordability.

CW: What does that chart in your hand show?

TORCHIANA: When you take family premiums, which in the commercial market are probably 90 percent of health care premiums, and you index them against income, we're 49 out of 51. This includes the District of Columbia. We have consistently been between 43 and 49 over the last 10 years. We're near the bottom, not near the top.

CW: What does this other chart show?

TORCHIANA: This is the cost trend over the last 10 years: Massachusetts versus the US. Massachusetts is actually on more of a declining trend than the rest of the US. There was a bump in 2014, but the question is, is it a blip or is it real? At least provider costs didn't go up above the benchmark that year. The costs that went up were Medicaid and specialty pharmacy. This chart is from the most recent

Health Policy Commission cost-trends report. Since 2011, health care spending has grown relatively slowly in Massachusetts and the percentage of family income spent on health care has declined slightly to 22 percent. And it's growing more slowly than the rest of the country. This chart is pretty amazing. The percent of residents in Massachusetts paying more than 10 percent of income out-of-pocket — this is the measure of impact on individuals — is the lowest in the US.

CW: You seem to be saying health care is a good deal in Massachusetts relative to personal incomes here.

TORCHIANA: One of my unfortunate moments last year was being cited in a headline saying health care is very affordable in Massachusetts. This was the data I was citing, but my comment became a headline and it became a business quote of the year. I've been sort of casting

We have a terrific
health system in MA
at a relative lesser
cost than in the
rest of the country.

around trying to put that into context and the best I've come up with is that Marco Rubio seems like he's the nicest guy in the Republican primary. That does not mean I think Marco Rubio is a nice guy. It means I think he's the nicest guy of the Republican frontrunners. I don't think Massachusetts health care is very affordable at the level of the individual. I think it's relatively affordable compared to national markers and I think we have a lot to show for that. I would actually say we have a terrific health system in Massachusetts at a lesser cost than health care in the rest of the country. The challenge is, at the end, that health care costs too much. It costs too much in this country. It costs too much in Western Europe. It's a very challenging trend, particularly in this country.

CW: Why particularly in this country?

TORCHIANA: Government health-care spending crowds out other discretionary spending, including teachers and cops and local aid and all of that stuff. Which is why legislators at every level, not just state government, are trying to find ways of putting a lid on this. For employers, health care spending reduces their global competitiveness because they've got to keep funding health care increases every year, while their competitors in other countries

don't. So it's really a paradox in that we're seen as the most costly of the states and obviously Partners is seen as a costly component of Massachusetts, but in reality the national problem is really miscast and Massachusetts is doing reasonably well. But health care costs remain a serious issue. It's really about what do you do that's constructive and logical to manage health care costs as opposed to trying to specify that you've got one particular organization at the root of it.

CW: Yet most policymakers — the attorney general, the Health Policy Commission — feel the price differential paid to Partners hospitals is a big problem. A recent report by the Health Policy Commission said research by multiple state agencies over the last six years has documented a wide variation in hospital and physician prices that is not tied to measureable differences in quality, complexity, or other common measures of value. The report said the unwarranted price variations, combined with the large market share of higher-priced hospitals, is a major contributor to rising health care costs. The report included as evidence a slide showing the cost of delivering a baby at various hospitals, and Mass. General and the Brigham were the most expensive.

TORCHIANA: That slide has been around for 10 years. This is not a new creation of the Health Policy Commission. My answer to this is very simple and it's trite, really. We get paid more for deliveries and cholecystectomies [gall-bladder removals] because we're supporting a burn service that's available seven days a week, 24 hours a day for the region of New England. There's a whole lot of things that go into tertiary centers that are necessary for the public good that get funded through this crazy payment system that we have.

CW: What's crazy about the payment system?

TORCHIANA: We lose money on 60 percent of what we do and we actually generate a margin on 40 percent of what we do. In aggregate, hopefully, we break even or have a 1 or 2 percent margin at the end of the year. The things that we get overpaid on allow us to do the things that we get underpaid on. You get underpaid in two categories. One is the payer source: The government payers tend to pay less. The second is what the actual condition is that's being treated. Certain conditions tend to pay better than others, and there really is no rhyme or reason to it. The system is almost random in terms of what generates a



The Commercial Real Estate Development Association

NAIOP is the leading organization for developers, owners,
and commercial real estate professionals.

If you're in commercial real estate, you belong in NAIOP.

www.naiopma.org

NAIOP
MASSACHUSETTS

Mixed Use Retail Office Multifamily Industrial Lab Institutional

margin and what doesn't. Of course, all the focus is on the things for which we get paid more. There is little focus on the things that are underpaid.

CW: The Health Policy Commission said quality is the same between hospitals. Is quality all the same?

TORCHIANA: When we were trying to acquire South Shore Hospital, all of a sudden all quality was not the same. In the report that rejects the merger, the HPC said both Partners and South Shore Hospital are better than average in quality so there's no quality argument for allowing South Shore to join us, which is a little odd. We're better when it's good to resist an acquisition but we're not better when our prices are being looked at.

CW: How do you measure quality?

TORCHIANA: The strength that we have is that patients want to come to our hospitals. There's actually a statistic that measures this. It's called willingness to recommend. When you discharge patients from the hospital, the law requires that they receive a survey. One of the final questions basically says, would you be willing to recommend

this hospital to a friend or loved one? Mass General and the Brigham have two of the highest ratings in the country. That's why the hospitals are successful, because people get good care and they want to come back. Whatever leverage we have is because of the loyalty of the population that we serve.

CW: In our last issue, Stuart Altman, the chair of the Health Policy Commission, said a CAT scan or an MRI would cost more at a Partners hospital than at a community hospital [see "Health care watchdog," Winter 2016].

TORCHIANA: MRIs are one of the things we get paid with a margin to help fund psychiatry and pediatrics. So that's correct. If you just attack the things that get paid at an amount greater than cost, then we're left with the things that get paid at an amount less than cost. We would love to be able to even out the rates so that everything had a small margin associated with it. That's not possible to do when you have the system that exists.

CW: A lot of policymakers think something needs to be done about the cost differential between hospitals. You don't, but do you think anything should be done?



#OurHorsesHelpHeal

Our Mission: Expand and enrich the personal, emotional and physical abilities of all those we serve by partnering with our horses and the environment.

We serve...

- Children & Adults with Disabilities
- Veterans
- Youth At Risk
- Survivors of Human Trafficking
- Bereavement Groups
- Individuals going through Physical Rehabilitation

Our Clients: Only pay 25% of the total cost -we subsidize the remaining 75%

Donate Today!



www.windrushfarm.org tel: 978-682-7855 479 Lacy St. N. Andover, MA 01845

THIS AD GENEROUSLY DONATED BY THE MENTOR NETWORK.

PARTNERS AT A GLANCE

Operating revenue	\$11.7 billion
Operating income	\$106 million
Employees	68,000
Torchiana salary	\$2 million

SOURCE: Partners HealthCare, 12 months ending Sept. 30, 2015

TORCHIANA: You could say, and I would not argue, that this is such a muddled situation and the attention on this is so intense that somebody ought to step in and regulate this in a much more sensible way. The problem with that is that it's not clear in doing that that you actually end up with a better result at the end of the day. Most of the other Western economies that are grappling with the same problems in health care costs have a significant problem with access that we are relatively free of in this country. Most of them have a very strong secondary layer of care that is layered on to the top, which is really only for people who can afford to pay for it. We are, I think, going to end up with something like that in the long run because that's the premise that underlies consumer-driven health care. When you put prices out there and you give people incremental out-of-pocket expenses, essentially you're dividing the population into people who can afford to pay more and people who can't. It does limit health care cost growth, but it's not progressive from a social standpoint. It's regressive.

CW: What could be done?

TORCHIANA: Literally the best way to do it is to put a lid on it and say no more money is going in. There's a belief that a significant amount of health care expenditures are wasted, spent on things that don't improve health. The Health Policy Commission says it's between 21

and 39 percent. If there's that much of an opportunity, if you put a lid on it, people should figure out a way to spend money more effectively. That's the basic idea behind a statewide price cap. Give people a chance to figure out how to do this better.

CW: How about managed care, the notion that you give health care providers a fixed sum to provide care and let them manage within that budget? Is that working?

TORCHIANA: That's what we did under a federal demonstration project targeting the 10 to 15 percent of the population that consumes two-thirds to three-quarters of health care costs. This is people with mostly chronic illnesses. If you try to manage this the way health care is currently funded, you have people with eight diseases go



MASSBAR
ASSOCIATION

**The Preeminent Voice of the Legal Profession, Proud to
Make Access to Justice a Priority in the Commonwealth.**



(From left) Trial Court Chief Justice Paula M. Carey, MBA Chief Legal Counsel and Chief Operating Officer Martin W. Healy, and House Speaker Robert A. DeLeo at the MBA's 2015 Bench-Bar Symposium

www.MassBar.org



Residential Options

Adults with Disabilities or Brain Injury

Seven Hills NeuroCare's Residential Options support adults with disabilities and/or brain injury in dignified, community residential homes, and in various shared living arrangements:

- Adult Family Care
- Shared Living
- Group Homes
- Individual Supports

Providing the highest quality care and a place to call home is the hallmark of service at Seven Hills. To learn more, call 508.983.1323 or visit www.sevenhills.org.



81 Hope Avenue, Worcester, MA 01603 • 508.983.1323 • www.sevenhills.org

see eight specialists. And they come back every month or two and the specialists try to coordinate things. We know it doesn't work particularly well. If you can remove that obstacle, and say here's some money in advance, manage these people proactively and then the amount of money spent goes down, we'll give you half the money saved and the government will keep the other half. We did that for high complexity Medicare patients, average age 75, 20 percent mortality per year. We saved \$3 for every dollar spent. People say fee for service is a bad way to pay for medicine because it encourages people to do more stuff. It's much more complicated than that. When we did this program, we were two years into it and the patients were costing more than before we started the program. That makes sense because we put in case managers, pharmacists, and all that other stuff. We were pretty terrified because if we didn't save any money, the government wasn't going to let us keep it and we were going to have to pay it back. Then, starting around 18 to 24 months, the cost started to fall. It takes time for medical practice to change and it takes time for interventions in chronic illness to have an impact. These programs are going to take awhile. I actually think these things can work. We're putting a huge amount of investment and effort into it. I hope they work. If they don't, my tenure won't be very long.

CW: To avoid a ballot fight, would you support some sort of legislative solution and what would it be?

TORCHIANA: I think the current system is moving. It's moving slowly. There's some interesting data that came out of the Health Policy Commission hearings that didn't make it into the headlines. Two of the three major payers said they thought the price differentials were diminishing. We've seen a significant diminution in our commercial volume from outside of the Partners system. The payment system is tightening up on the movement of patients and the choice patients have in all of these things. I think the market is having the effect that Chapter 224 [the 2012 law creating the Health Policy Commission and setting a cap on health spending increases] outlined for it. Maybe I'm being a little paranoid, but there's a sense, at least among our competitors, that they've got the wind at their back, they've got momentum, and they should keep pushing for more and more political solutions as opposed to awaiting market solutions. But I think the market solutions are actually having an impact on us and having an impact on the price differential. I would point out that there's not a health care marketplace in the country that doesn't have price differentials. There's no difference whatsoever between what we have in Massachusetts and what we have in the rest of the country. Again, [in relative health care costs] we're 49th out of 51. What are we trying to fix? **CW**

Building Community-Wide Social and Emotional Support Systems in Massachusetts Gateway Cities: Assessing Progress from the Perspective of Local Educators



MassINC
COMMISSION ON INNOVATION

UMASS
DONAHUE
INSTITUTE

MassINC is pleased to present *Building Community-Wide Social and Emotional Support Systems*. Join us at www.massinc.org to

download the report, learn about upcoming events, and follow our progress as we work together with our partners to move another pressing policy issue to the forefront of public debate.



Radically decentralize DCF's responsibilities

The child welfare agency needs to be embedded in the communities it serves.

BY EDWARD M. MURPHY

THE MASSACHUSETTS ORGANIZATION responsible for running the state's child welfare system has had four different names over a period of 40 years, which is not a sign of success. Each change was prompted by widespread concern with the way the agency did its work. Extensive media coverage of terrible incidents involving vulnerable children despoiled the organization's reputation to the point where a name change seemed a necessary part of any rehabilitation.

The Department of Children and Families is again in the spotlight because of well-documented disasters over the past several years. Gov. Charlie Baker and his team are working to restore the agency's credibility by adding resources, strengthening management, tightening procedures, and improving training. To its credit, the administration has not proposed changing the name. By dint of significant effort by people of good will, we can hope that things will improve at DCF.

At the same time, there is no guarantee that improvements will endure. On multiple occasions over many decades, the agency has been the focus of major rehabilitative efforts. Each depressingly similar chapter begins with optimism that the organization can get better at protecting vulnerable children but, after a few years, the familiar pattern reemerges: children die, bureaucratic bumbling appears to have contributed, newspapers editorialize, the commissioner is fired.

We cannot expect a different result unless child protective services are comprehensively restructured. The task requires a fundamental rethinking of how the system is organized and how the statutory mission to protect vulnerable children is discharged. DCF's responsibilities should be radically decentralized so that the power of intervention, the

access to services, the money for operations, and the responsibility of governance are lodged close to the communities where the children and their families live. The past half century has shown that a hierarchical statewide bureaucracy will not success-



fully sustain the intensely local relationships necessary to discover, analyze, monitor, and mitigate the risks associated with abusive situations. Even competent and dedicated people, trapped in the wrong organizational structure, cannot consistently succeed in such a demanding task.

In organizational design, as in architecture, form follows function. The job of preventing, detecting, or responding to child abuse requires an organization that is fully embedded in the community where the problem exists. Close relationships between the child protection agency and key elements of the community are essential to create the flow of information needed to monitor families at risk. Many of the well-publicized tragedies have shown that superficial connections to police, schools, and health care professionals are not enough. Informal trusting relationships with official and unofficial participants in community life are essential to create a reliable picture of the forces at work in the world of an at-risk child. But the Commonwealth has never sought to implement a structure fitted to this purpose, preferring to rely on the standard hierarchical form of a state department.

The organizational form of state agencies began to emerge early in the 20th century as an outgrowth of the Progressive movement. The thinking was that government departments should learn from the "scientific management" of the successful industrial

organizations that had developed over the previous decades. Those organizations were mostly manufacturing enterprises where the work of the large number of lower-level employees was tightly controlled by smaller layers above them. Reformers argued that similarly designed public organizations run by professional managers would have more efficiency, less corruption, and less patronage. The pyramid structure in state agencies eventually became so standard that today it is hard to imagine alternatives.

In recent decades, many business organizations have moved away from standard hierarchical arrangements. The emergence of the service economy has required flatter structures that support the business objective by pushing power down. A service orientation means an emphasis on communication and collaboration that is inconsistent with pyramid structures. One scholar of organizational theory wrote that layered bureaucracies cannot compete today because they have “trained incapacity” resulting from “over-conformity.” Jack Welch, the iconoclastic GE boss, put the problem more directly when he said that hierarchical organizations are places where “everyone has their face towards the CEO and their ass towards the customer.”

It is revealing to review policy documents prepared in connection with Massachusetts’s child welfare crises over the past 40 years. Each time some voices called for more dramatic change than was instituted. In the early 1970s, public officials and child advocates prepared a “Plan to Reorganize and Decentralize Child Welfare.” They issued a report saying that “decentralization...provides a structure that will make possible the total community involvement of public and private agencies and interests.”

A few years later the Committee on Children and Youth issued a detailed call for reorganization, proposing to divide the state into small districts of between 75,000 and 200,000 people. Each district would have a “children’s service center” with responsibility for “all programs operated for children in its area” so that “the responsibility for the delivery of services is close to the children in need.” The decentralization theme appeared often but, as the statutes were revised over the years, authority remained centralized with predictable results.

Perhaps the best public sector analogy for what needs to happen in child welfare is what has happened over the past generation in community policing. Policy makers came to understand that highly visible police officers focused on building relationships in the communities they serve were much more effective in crime control and prevention. Large-scale implementation of the community policing model required fundamental changes in the organization, management, and culture of police departments. Patrol officers, previously interchangeable cogs at the bottom of the hierarchy, became important decision-makers in managing community relationships and solving problems.

Supervisors learned to support street officers and to rely on their judgement. These changes had enormous positive impact in many communities.

Decades of experience and research offer important lessons about how to design a child welfare system. Helping children at risk requires a decentralized approach with effective control over day-to-day decisions lodged in the community. Accepting those lessons is difficult for policy makers accustomed to traditional models of governmental organization. Authentic decentralization requires abolishing the hierarchical pyramid and breaking the direct line of control between the top and the bottom. This may even mean that the statewide organization overseeing child welfare should not be the same organization that delivers services at the local level.

A structure tailored to the mission of child protection would call for the following:

- Dividing the state into several dozen coherent districts, each small enough so that a capable staff can intimately know the community’s social structures, needs, and resources;

- Designating in each district a local entity, governed by a qualified community board, as the child protection agency;

- Vesting authority in the designated agency sufficient to discharge its responsibility and providing state funding using a demographic-driven formula;

- Empowering a smaller state-level department to designate the local agencies, disperse funds, set quality and governance standards, and manage information systems essential for monitoring outcome performance;

- Withdrawing funding or, ultimately, replacing the local agency if it fails to perform.

There are many more details to consider, but the goal is to create a true community-facing organization that has the authority and resources to do the job. Effective child protection needs organizational stability and enduring local relationships that qualified professionals can use in the service of their mission.

The work of protecting children at-risk is brutally complex and there is no guarantee against mistakes. A new approach will dispense with the faux accountability of a hierarchical bureaucracy and will focus on creating and sustaining a network of people and services closely surrounding the children who need them. It will at least allow us to make new mistakes rather than repeat the old ones from which we have thus far failed to learn. **CW**

Edward M. Murphy worked in state government from 1979-1995, serving as the commissioner of the Division of Youth Services, commissioner of the Department of Mental Health, and executive director of the Health and Educational Facilities Authority. He recently retired as CEO and chairman of one of the country’s largest providers of services to people with disabilities.

Behind the Connector's rehab

Strong management and a relentless customer focus brought the state's health insurance exchange website back from the brink. **BY JOHN E. MCDONOUGH**

AT 11:59 PM on October 31, 2015, about 20 nervous state officials and contractors hunched around computer terminals in a non-descript office in the Charles F. Hurley Building near Beacon Hill. Among them was Louis Gutierrez, executive director of the Massachusetts Health Connector, appointed the previous February by newly inaugurated Gov. Charlie Baker. The launch of the third open enrollment since the 2013 implementation of the federal Affordable Care Act (ACA) was less than a minute away with lots on the line. Would months of hard preparation avoid another website calamity that could jeopardize health insurance for hundreds of thousands of Massachusetts residents?

As the website opened at midnight and kept humming without a hitch throughout the night and following days, sighs of relief were heard across the Commonwealth as a major governmental embarrassment was averted. By early February 2016, 201,000 state residents had successfully enrolled in plans for 2016, including 36,000 new members. Today, the Connector is a marquee success for the still-youngish Baker administration — an ironic twist for a Republican governor who was never a fan of the ACA, Barack Obama's marquee presidential achievement.

How did the Connector go from the Hurricane Katrina of Massachusetts state government to the Baker administration's bright light? Many pieces came together, including a strong new governing and management team, smart strategic choices, relentless customer focus and, surprisingly, sticking with and completing the post-catastrophe course charted in early 2014 by Gov. Deval Patrick's administration.

THE EXCEPTIONAL CHILD

The Connector, a governmental health insurance marketplace created by the 2006 Massachusetts Universal Health Care Law (aka RomneyCare) and reinvented via the ACA (aka ObamaCare) demonstrated to the nation between 2007 and 2010 that a state could reform and expand its market

for individual health insurance by enabling consumers to make apples to apples comparisons and buy coverage in a user-friendly, web-based environment. Combined with premium subsidies for lower-income residents and a mandate on individuals, Massachusetts showed that a viable, bipartisan path to near-universal coverage could be successfully legislated and implemented.

In truth, only about 11 percent — or 46,000 — of enrollees in the early Connector days bought non-subsidized "Commonwealth Choice" coverage online; the rest got subsidized



coverage that required personal assistance from live agents. Still, the state's march toward near-universal coverage through the Connector won widespread applause, including the 2009 Innovations in American Government Award from Harvard's Kennedy School of Government.

Massachusetts reform, including the Connector, became the prototype for the ACA's coverage provisions that created new private health insurance options, including subsidies for income eligible households, an individual mandate, and a network of federal and state web-based "connectors" or "exchanges" or, later, "marketplaces." With the ACA's 2010 passage, Massachusetts Connector officials saw the opportunity to establish the Cadillac of exchanges with unsurpassed consumer benefits and other innovations. Under the new ACA model, everybody qualifying for coverage, whether Medicaid (MassHealth) or private insurance (subsidized or non-subsidized), would enroll through a "one-door" seamless website experience with integrated eligibility (IE).

THE CHILD STUMBLES

Ambitions jumped far ahead of technical capacity, timelines, and expertise. In October 2013, the new federal website built to serve 37 states crashed on day one, triggering a treacherous and humiliating episode in the ACA's tumultuous



COLLEGE STUDENTS

Interested in
public policy,
communications,
or journalism?

MassINC and *CommonWealth* magazine are now accepting applications for interns.

E-mail your resumé to
Anne Middle at
amiddle@massinc.org

implementation. For three months, the nation watched the Obama administration struggle to build a functional web-site so millions of Americans seeking to purchase individual health insurance could do so — a threshold achieved in late December. Less noticed until January 2014 was the accompanying collapse of state-sponsored websites in Oregon, Vermont, Minnesota, Maryland — and Massachusetts.

Massachusetts's failure hurt the most. The state that had demonstrated the viability of a web-based insurance marketplace became immobilized, as consumers couldn't enroll, even after hours or days or weeks of trying. Policyholders with serious health conditions could not document coverage to medical providers. Many paid premiums and watched the system eat their dollars and not document coverage or payment. In early 2014, desperate state officials began shunting up to 310,000 applicants into temporary and free Medicaid coverage — once overwhelmed state employees could process hand-produced applications.

Kate Segel, an enrollment manager at the advocacy group Health Care for All, remembers frantic attempts to reach Connector officials. "What's going on, we asked? 'We'll get back to you,' they said. They hid from the public, from providers, and everyone the extent of the problems," she says. "We had people with urgent medical needs coming to us every day and we could not get eligibilities out of the system."

ONE STEP AT A TIME

In February 2014, an exasperated Patrick sought outside help, recruiting Sarah Iselin, a Massachusetts Blue Cross Blue Shield official, as his temporary czarina to drive critical decisions. The first was basic: whether to continue a state exchange at all, or euthanize the Connector and use the "federally facilitated marketplace" (FFM) run by the US Centers for Medicare and Medicaid Services. Fully 37 states had opted for FFM — why not Massachusetts?

The answer involves something called "the wrap," a crucial variation between the Massachusetts reform effort and the federal ACA. When Massachusetts launched its coverage program in 2007, it set enrollee premiums and cost-sharing at affordable levels based on each enrollee's income, backed up by research on what families could afford to pay. Those affordability levels helped Massachusetts lower its uninsurance rate to under 3 percent, an unheard of level in US history. It turns out, the Massachusetts premium rates are far more affordable than the ACA ones that became operative in early 2014, and which were set to meet tighter politically-driven budget targets more than affordability standards.

Had Massachusetts shut the Connector, the state would have had no choice but to adopt the ACA's far less affordable subsidy schedule, something stakeholders,

including business groups and insurers, hoped to avoid. That meant that the Connector had to be fixed to save the more generous “wraparound” subsidies that were financed primarily with dedicated state revenues (e.g., tobacco taxes and penalties from individuals who do not obtain health insurance). In January 2015, the new Baker administration reaffirmed the Patrick administration’s

decision to preserve the wrap.

The wrap decision was a key turning point. The next was to jettison CGI, the original firm hired to build the website that had been involved in the federal and multiple state website debacles. The administration hired hCentive, a Virginia-based software developer that makes cloud-based products for health insurers and states, to develop

IT’S A WRAP – MASSACHUSETTS VS. ACA AFFORDABILITY STANDARDS

Income relative to US Federal Poverty Line (Maximum income for family of 3)	Massachusetts Required Enrollee Contributions as % of Income	ACA-Federal Required Enrollee Contributions as % of Income
100% (\$20,090)	0	2.01
150% (\$30,135)	0	4.02
200% (\$40,180)	2.9	6.3
250% (\$50,225)	4.2	8.1
300% (\$60,270)	5.0	9.56
350% (\$70,315)	7.4	9.56
400% (\$80,360)	7.6	9.56
OVER 400%	8.13	No CAP

Source: Urban Institute 2015 and MA Connector Authority, 2016



The one Authority you can trust to be on your side when it comes to paying for college.

As the Commonwealth’s college financing authority, MEFA provides financial education to families on how to plan, save, and pay for college. We also established the U.Fund and the U.Plan, the two Massachusetts college savings plans, and have offered low-cost financing options to families for over 30 years.

Learn more at mefa.org or by calling (800) 449-MEFA (6332).



mefa® **LOANS** **UFUND**® **UPLAN**® **REFI** **your plan**™
for the future

a new website. They also hired Optum, a UnitedHealth subsidiary, for project management. Iselin and her successor, Maydad Cohen, worked with Connector executive director Jean Yang and her staff to pull the project together. (Iselin now works for Optum and Cohen works for hCentive.)

Another decision was to continue developing an integrated eligibility (IE) system so that enrollees, whether seeking MassHealth or private insurance (subsidized or not), could enroll through the same virtual door. IE's complexity was a major cause of the 2013 calamity; states that successfully launched their websites in late 2013, such as Connecticut and Kentucky, never attempted IE. The Massachusetts team chose to stick with it. Today, the Connector's IE system is an asset for consumers and, increasingly, the envy of other states.

Though the Connector's problems were far from over, corners were turned in 2014. I asked Louis Gutierrez, the Connector's new executive director, assuming early 2014 was 0 and the best feasible system was 100, where would he peg the Connector in January 2015 when he took over, and where in early 2016. His answer: "45" for early 2015 and "85" for today.

THE BAKER TEAM TAKES OVER

It was Steve Kadish, Gov. Baker's chief of staff and a former colleague of Gutierrez, who reached out and asked if he would become the Connector's executive director. The Baker administration knew the Connector needed new leadership. "We were facing a house on fire," Kadish recalls. "Literally, hundreds of people every day were calling the governor's office in rage." Gutierrez had worked as Baker's chief information officer at Harvard Pilgrim Health Care after its near bankruptcy in 2000 and had served as Massachusetts' chief information officer in the 1990s. He knew government, technology, rescues, and Charlie Baker. A determined "no drama" professional, he attracted a string of quality talent, including Vicki Coates as chief operating officer, and Patricia Wada as special assistant to the governor for project delivery.

Changes also affected the Connector's board of directors. Prior to 2015, the state's secretary of health and human services never held a seat on the Connector's board, exacerbating tensions with its all-important partner, MassHealth. Baker appointed new HHS Secretary Marylou Sudders to chair the board and, from day one, she observed strained relations between the agencies and focused on fixing it. "It was sobering when we realized the severe impact the failure of the Connector had on MassHealth," she says. "We reframed the Connector's No. 1 goal to be customer service — it sounds simplistic,

but this had not been central. We built up the call center and the telephone system and set up new open enrollment centers across the state."

Coates, a health systems operations expert, describes a "relentless focus" on three things — improving member experience, attacking problems and not people, and using metrics to measure progress. In the first half of 2015, the team addressed systemic pain points that most hurt consumers; the second half was ensuring smooth open enrollment scheduled to start November 1. They performed massive system testing starting in July to avoid November surprises. The metrics shine: abandoned calls dropped from 131,792 in the 2014-15 open enrollment to 5,072 in 2015-16; the rate of dissatisfied callers dropped from 45 percent to 20 percent between January 2015 and 2016; of the 14,710 enrollees who used the Connector walk-in centers, 99 percent left satisfied or very satisfied.

From Sudders and Gutierrez on down, the Connector team recognizes that the system is far from perfect and needs substantial improvements. The website lacks credible provider search capability. Non-English speakers can't use the English-only website. Paying premiums online is clumsy and slow. Much work remains to be done.

But while the Baker administration still struggles to get the MBTA, the Department of Children and Families, and other troubled agencies on track, the Connector, with a \$230 million projected budget for FY2017, stands out as Governor Fix-It's prominent success.

As the operational issues begin to settle, the state can start to resume its role as a national policy innovator. Already Massachusetts, along with Hawaii, is one of the first two states to seek an ACA waiver that permits states to vary from some of the federal law's stricter insurance rule requirements. Though small ball, it may open a pathway for more substantive future policy ideas to improve both Massachusetts reform and the ACA. Ironically, if

The Connector is Baker's prominent success.

the ACA survives its final life-or-death challenge in the November federal election, Charlie Baker may turn out to be one of the leaders who helps to redefine the future of the law.

In the meantime, it's no small achievement that Massachusetts residents who need coverage can again feel confident buying their health insurance through the Connector at www.masshealthconnector.org. **CW**

John E. McDonough teaches at the Harvard TH Chan School of Public Health.

Galvin's low energy dampens innovation

Secretary of State's elections division runs smoothly, but change comes very slowly, if at all. **BY EITAN HERSH**

SINCE THE FLORIDA election debacle in 2000, the United States has seen dramatic developments in the administration of elections. States are modernizing and innovating so much that the act of voting in 2016 would be almost unrecognizable to a voter from the 1990s. But not in Massachusetts. Here in the Commonwealth, where innovation is typically a point of pride, voters from the 1990s would feel right at home today.

The state's failure to keep up with the times stems from a leadership vacuum. This vacuum is especially pertinent now, because in November, for the first time, state law will allow voters to cast early ballots — a mode of voting already available in most states and already utilized by 25 to 30 percent of American voters on a regular basis. However, because of the lethargy that characterizes the state election authority, we are at risk of a botched implementation of the

law; few voters may be able to take advantage of the opportunity to vote early. Even in this one small area in which legislation has already been passed that would help catch Massachusetts up with the rest of the country, leadership is



effectively working to preserve the status quo, not by openly opposing reform, but just by being — in the words of Donald Trump — very low energy.

Secretary of State William Galvin has been the state's election overseer for more than 20 years. In spite of periodic complaints about his use of Machiavellian tactics, Galvin has cultivated a reputation of competence in the election office. Under his watch, the state has seen few dramatic problems at the polls that threaten the integrity

Help support
CommonWealthmagazine.org
and reach an audience
that gets politics and policy
online, everyday.



Place an ad on *CommonWealth* magazine's online news site.

For more information contact
Bruce Mohl at bmohl@massinc.org

CommonWealth
POLITICS, IDEAS & CIVIC LIFE IN MASSACHUSETTS

HEADLINES FROM ACROSS THE STATE.

ANALYSIS TO MAKE sense OF IT.

The

DOWN LOAD

A news roundup
of politics and
public policy

FREE to sign up!

Contact: Bruce Mohl at
bmohl@massinc.org

of our election system.

But when one looks around the country and sees how other states have worked to make voting easier for citizens and more efficient for administrators, it is clear that Galvin's reputation for competence is undeserved. That's not because he is actively delinquent in his duties, but because he just does not do very much. After two decades in office, Galvin has made little effort to use his position to advance an agenda for reform. Just look at other states to see how far we have fallen behind.

Connecticut, New Hampshire, Vermont, and Maine now have Election Day registration, as do a number of other states across the country. Election Day registration has been one of the most successful election reforms in recent years, allowing eligible citizens to vote even if they had not registered ahead of time. The reform is popular, inexpensive, and it increases voter participation. Election Day registration is especially useful for renters and young adults — people who move frequently and must re-register to vote after each move.

In the past, when Election Day registration has come up in state legislation, Galvin officially supported it, but spent his time raising objections and concerns rather than helping to draft a good law and advocating for its passage. As *Boston Globe* columnist Adrian Walker wrote back in 2008, Galvin's tepid support for Election Day registration contributed to the bill's failure that year. "The real issue here...[is] inertia," wrote Walker. "There just isn't any sense of urgency about voting issues." Galvin's concerns about Election Day registration have continued. Just last year, Galvin suggested the reform leads to voter fraud, despite the fact that the experience in other states provides little support for such a concern. Raising objections rather than finding solutions has contributed to the lack of an Election Day registration law in the state.

Another popular reform that has proven to increase voting in other states, particularly among low-participation citizens, is Election Day vote centers. In this reform, which has gained traction in Colorado, Indiana, Texas, and several other states, voters are allowed to cast ballots in any of several locations throughout their municipality. Suppose you live in Dorchester and work downtown. With vote centers, you would be able to vote on a lunch break downtown, or at a convenient location on the way to your kid's school, or anywhere else in the city, rather than only in the small precinct location to which you are now assigned. By allowing citizens to vote at more locations during the middle of the day, vote centers reduce lines at the polls throughout the city. They are also extremely popular with voters, increase turnout, and can lead to major cost savings for municipal governments.

The most popular election reform throughout the country is probably early voting. Most states now have

some form of early voting. Early voting has actually not been shown to increase overall participation, but it is quite appealing to voters. Voters seem to like the added flexibility. Older citizens particularly take advantage of early voting opportunities. For those who might be put off from voting by uninviting weather on Election Day, or who are traveling midweek for business, early voting offers the chance to vote on a different day of the week.

In 2014, former governor Deval Patrick signed an election reform bill that requires municipalities to offer early voting to citizens for 10 days ahead of Election Day. At a minimum, cities and towns are required to open up their clerk's office to those wishing to cast early ballots. But municipalities are also permitted to open multiple locations and extend hours to evenings and weekends.

The early voting law has the potential to create real problems in November. The law was poorly written and risks being poorly implemented. For example, a new law like this should not be rolled out in a presidential election year, when voter participation is at its highest. As other states' experiences suggest, early voting should be piloted in a lower turnout setting. The secretary of state ought to have been intimately engaged in the drafting of the law so that this mistake would not have been made.

In implementing the law, there must also be active involvement of the state election office. Without it, most cities and towns will do the bare minimum to comply with the law. They will keep their clerk's office open during regular business hours. A few savvy voters might show up and cast an early ballot. But everyday citizens will not even realize they could have voted early. The status quo will prevail.

For the reform to really succeed, cities and towns need to open multiple polling locations, offer evening and weekend hours, and advertise that they're doing so. A coalition of civic organizations led by Common Cause is trying to lobby municipal governments to go above and beyond the state's minimum requirements so that citizens can actually take advantage of the new law.

But implementing early voting in this more serious way actually requires dealing with a number of complexities. If municipalities decide to make available multiple early voting locations, they will need to make sure that the right ballot gets to the right voter, that the ballots are tabulated properly, and that the voting lists are kept up-to-date so that voters are not able to vote multiple times in multiple locations or on multiple days.

Implementing early voting — and any other election modernization reform — requires actively dealing with complexities like these, complexities that local election administrators do not always have the bandwidth to address. They are often risk averse, and lack funding and time to adeptly improve elections from how they have always been done in the past.

**LEARN
WHAT THE
INSIDERS
KNOW.**

**GET THE
BACK
STORY.**

CommonWealth
**BACK
STORY**

FREE to sign up!

Contact: Bruce Mohl at
bmohl@massinc.org

With Massachusetts's decentralized town governments, state leadership is essential. The one office that has the resources and is charged to make election administration a priority is Galvin's elections division. On issues big and small, Galvin's counterparts in other states have been vocal advocates for modernizing election systems. They have promoted early voting and same-day registration.

In a recent book profiling the work of state secretaries, law professor Jocelyn Benson describes a secretary of state who pores over results each year to find the communities with low turnout. The official then actively studies the circumstances in those places to find ways to do better next time. Benson also profiles election officials who launch statewide campaigns to make sure high school graduates are registered to vote, who advocate for ex-felons to have their voting rights reinstated, who promote and honor voting by celebrating citizens who have showed up to vote for many consecutive elections. In this book about state election officers, no accomplishment of Galvin is mentioned.

Without the secretary of state taking an active leadership role with early voting, the likely result for Massachusetts will be that few citizens will participate in early voting and that the opportunity to vote early will vary dramatically by jurisdiction. A few municipalities are planning to give voters

the chance to vote on weekends or in convenient early-voting locations. In those cities and towns, voters will get to see what voting looks like in the rest of the country. But in most places, the status quo will prevail. What's worse, confusion about the law could potentially lead to problems at the polls. This is all thanks in part to the sleepy leadership of Galvin.

The *Boston Globe's* endorsement of Galvin for his 2014 re-election bid said, apparently without intended irony, that "his tenure has been marked by smooth management of elections and the implementation of policies making voting easier for residents of the Commonwealth, such as the distribution of ballots in languages other than English."

Printing non-English ballots is a fine reform (a reform which, incidentally, Galvin opposed), but that's still a mighty short list of accomplishments for a 20-year tenure in office. I am not sure the bar could possibly be set any lower. The Commonwealth needs a secretary of state who can be a true champion of our democracy's most sacred duty and right. **CW**

Eitan Hersh is assistant professor of political science at Yale University and author of Hacking the Electorate. His expertise is in American politics, election administration, and information technology. He lives in Brookline.

RESEARCH + JOURNALISM + CIVIC LIFE = IMPACT

Become a part of the equation.
Support MassINC and *CommonWealth*.

For more information contact Lauren Louison at llouison@massinc.org

Thank you for joining the brainstorm!

IDEAS UMass Boston is driven by innovation. So for our October 28 conference, we took a page out of our own playbook and changed our format.

IDEAS featured six individual presenters and a panel focused on diversity in innovation.

Presenters at the conference included

- A natural skin care guru encouraging people to spray their skin with bacteria
- A scientist squeezing cells to cure cancer
- A judge handling nonviolent drug offenses with treatment rather than jail time

View all speaker presentations on our YouTube channel by visiting www.umb.edu/ideas.

**Join us again on October 26
for IDEAS UMass Boston 2016.**

Big Ideas, Locally Grown

SPONSORS



MEDIA PARTNERS



MassINC

RESEARCH. JOURNALISM. CIVIC LIFE.

11 Beacon Street, Suite 500
Boston, MA 02108

Address Service Requested

PRESORTED
STANDARD
U.S. POSTAGE
PAID
ABERDEEN, SD
PERMIT NO. 200

Visit MassINC online at www.massinc.org

RESEARCH + JOURNALISM + CIVIC LIFE = IMPACT

MassINC thanks the many institutions and corporations whose annual sponsorship makes *CommonWealth* possible.

CHAIRMAN'S CIRCLE SPONSORS

The Barr Foundation
The Boston Foundation
MassMutual Financial Group
Nellie Mae Education Foundation
Public Welfare Foundation

LEAD SPONSORS

Beacon Health Strategies
Irene E. & George A. Davis Foundation
Eastern Bank
Gardiner Howland Shaw Foundation
Hyams Foundation
John S. and James L. Knight Foundation
Massachusetts Teachers Association
Metropolitan Area Planning Council
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
Theodore Edson Parker Foundation

MAJOR SPONSORS

Citizens Bank
Foley Hoag LLP
Harvard Pilgrim Health Care
IBM
Massachusetts Bar Association
Massachusetts Educational Financing Authority
Massachusetts Medical Society
Meketa Investment Group
The MENTOR Network
NAIOP Massachusetts
New England Regional Council of Carpenters
Partners HealthCare
Trinity Financial
Tufts Health Plan

CONTRIBUTING SPONSORS

Clark University's Mosakowski Institute for Public Enterprise
The Chief Executives' Club of Boston
Google
Northeastern University
Public Consulting Group
Seniorlink

For more information on joining the sponsorship program call MassINC at 617.742.6800.