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A Mackinac Center Report

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# Keeping Michigan on Track: A Blueprint for a Freer, More Prosperous State

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The Staff and Board of Scholars  
of the Mackinac Center for Public Policy

**Specific Recommendations for Improving Education, Reforming  
Labor Law, and Enhancing Economic Growth and Prosperity**

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FOR PUBLIC POLICY

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**Mackinac Center for Public Policy**  
140 West Main Street  
P.O. Box 568  
Midland, Michigan 48640  
(989) 631-0900 • Fax (989) 631-0964  
[www.mackinac.org](http://www.mackinac.org) • [mcpp@mackinac.org](mailto:mcpp@mackinac.org)

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Labor Law, and Enhancing Economic Growth and Prosperity**

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## Table of Contents

Executive Summary .....	1
Introduction .....	3
I. Strengthening Property Rights Protection .....	5
II. Improving Environmental Protection .....	8
III. Encouraging Telecommunications Technology .....	12
IV. Reforming Labor Law to Protect Worker Rights .....	14
V. Improving Education for Michigan Children .....	26
VI. Spurring Economic Growth and Development .....	38
VII. Enhancing the Transportation Infrastructure .....	56
VIII. Miscellaneous Recommendations .....	59
Conclusion .....	63
Acknowledgments .....	63
Endnotes .....	63

# Keeping Michigan on Track: A Blueprint for a Freer, More Prosperous State

## Executive Summary

Until last year, when an economic slowdown deteriorated into a full-blown recession, Michigan was widely acknowledged to be in a position that seemed impossible barely a decade earlier. The Great Lakes State was enjoying record low rates of unemployment, a thriving economy, growing educational opportunities, and a sense of accomplishment and high spirits. After years of a “Rust Belt” reputation, Michigan was riding high on its favorable image as a hospitable place to raise a family and start a business.

But even before this recession, all was not perfect. Many Michigan families still struggled with high tax bills and poor schools. A much-improved environment could still use a boost from regulatory and other reforms. Michigan is definitely better off today than it was a short decade ago, but much can yet be done to make it even better. Schools can improve, taxes can be lowered, workers can assume greater control over their paychecks, and government can get smarter at the same time that it gets less intrusive.

New legislative opportunities will soon come with this year’s elections for the Michigan House, Senate, and governorship. In this report, the Mackinac Center for Public Policy offers dozens of specific ideas for the Legislature and the governor—current officeholders as well as those who will take office in January 2003—to consider in crafting state policy for the next term and beyond.

The report is divided into eight sections: Strengthening Property Rights Protection, Improving Environmental Protection, Encouraging Telecommunications Technology, Reforming Labor Law to Protect Worker Rights, Improving Education for Michigan Children, Spurring Economic Growth and Development, and Enhancing the Transportation Infrastructure, plus a miscellaneous section at the end. The recommendations do not represent the final word, but rather a starting point for positive public policy change. The Mackinac Center for Public Policy will continue in the coming months to elaborate on these proposals and suggest others for a better, freer, and more prosperous Michigan for all citizens.

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# Keeping Michigan on Track: A Blueprint for a Freer, More Prosperous State

## Introduction

Until last year, when an economic slowdown deteriorated into a full-blown recession, Michigan was widely acknowledged to be in a position that seemed impossible barely a decade earlier. The Great Lakes State was enjoying record low rates of unemployment, a thriving economy, growing educational opportunities, and a sense of accomplishment and high spirits. After years of a “Rust Belt” reputation, Michigan was riding high on its favorable image as a hospitable place to raise a family and start a business.

But even before this recession, all was not perfect. Many Michigan families still struggled with high tax bills and poor schools. A much-improved environment could still use a boost from regulatory and other reforms. Michigan is definitely better off today than it was a short decade ago, but much can yet be done to make it even better. Schools can improve, taxes can be lowered, workers can assume greater control over their paychecks, and government can get smarter at the same time that it gets less intrusive.

New legislative opportunities will soon come with major changes in the House, Senate, and governorship. How those responsibilities are met will tell us whether the voters elected statesmen or just another batch of politicians. The kind of leadership we at the Mackinac Center for Public Policy hope to see from Lansing in 2002 and beyond is defined by adherence to the principle enunciated by Thomas Jefferson in his first inaugural address with these words:

. . . a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government . . . .

In accordance with this Jeffersonian principle, the Legislature and the governor should evaluate each item in the state budget, asking 10 key questions:

- Does the item weaken communities by assuming a responsibility best left to private families, charities, or firms?
- Does the item duplicate what other state agencies or the federal government are doing in that area?
- Does the item primarily benefit a single favored constituency or region rather than the state as a whole?

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- Are direct users or beneficiaries of the service paying a reasonable amount of the cost?
- Does the item create or expand an “entitlement” that cannot be reasonably withdrawn if necessary or advisable in the future?
- Has the item received significantly more money in recent years but not used that money in the most effective way?
- Has the item been funded in the past by deceptive or inappropriate legislative or executive actions?
- Does the item use taxpayer funds for political advocacy or to discriminate against racial or ethnic groups?
- Does the item discourage self-help and personal independence unnecessarily or encourage reliance upon government?
- Does the item yield benefits commensurate with costs?

In evaluating the larger picture—the proper role of state and local government and the measures necessary to improve the quality of life and enhance the liberties of Michigan citizens—the Legislature and the governor should ask what government must do or not do in key areas to

- strengthen control over schools by the most “local” entity of all—Michigan parents;
- assure that neither businesses nor unions take unfair advantage of workers;
- strengthen the viability, independence, and responsibility of the family unit;
- lighten the burden imposed upon citizens by the cost of government; and
- ensure that every act of state and local government in Michigan adheres to the highest principles of sound economics, good government, and proper constitutional authority.

In the sections that follow, the Mackinac Center for Public Policy offers 77 specific ideas for the new Legislature and the governor to act upon. The recommendations in this report represent not the final word, but rather a starting point for positive public policy change. The Mackinac Center for Public Policy will continue in the coming months to elaborate on these proposals and suggest others for a better Michigan.

## I. Strengthening Property Rights Protection

America's Founding Fathers recognized the essential link between property rights and individual liberty when they drafted the Constitution of the United States and incorporated numerous measures intended to enshrine the protection of those rights. Michigan's constitution likewise provides for a considerable degree of property rights protection. However, court interpretations and various laws and regulations have undermined these all-important rights. The following recommendations will help to rectify the current deplorable situation and make Michigan a leader in citizens' rights to own and use their property.

### 1. Restrict governmental "takings" of private property.

Both the U.S. and Michigan constitutions call for "just compensation" when private property is taken by government for public use. But court interpretations of various laws and regulations have seriously undermined this principle. Property owners are usually awarded compensation by the courts only if the government prohibits *all* economically viable use of the entire parcel of property. Furthermore, the standard for what constitutes "public use" has been significantly weakened to allow the taking of private property for economic development.

The systematic violation of property rights must be halted by requiring fair compensation whenever the value of private property is diminished in whole or in part by governmental action. Takings must further be strictly limited to true public uses. In a study entitled "Reforming the Law of Takings in Michigan," the Mackinac Center for Public Policy proposed specific actions to achieve these objectives through executive order, statute, or constitutional amendment.

*For further information, please see [www.mackinac.org/11](http://www.mackinac.org/11).*

### 2. Require a property rights impact assessment for all major regulations.

An executive order issued by Gov. John Engler in 1995 requires new regulations to undergo cost-benefit analysis. This forces regulators to more carefully consider the rationality of proposed rules. The impact of regulation on private property should likewise be analyzed to ensure that government actions do not constitute an unwarranted taking of private property.

### 3. Limit state land holdings.

Some 20 percent of Michigan's total land area—or about 8.1 million acres—is now "owned" and managed by federal, state, and local governments, and the amount is growing. The continued acquisition of land strains government's abilities to properly maintain public property while also stifling the growth of Michigan's private recreation and natural resources industries. This year alone, for example, officials overseeing the Natural Resources Trust

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Fund have targeted land acquisitions and other projects totaling \$37 million. This ongoing land grab artificially inflates property prices beyond the means of many private buyers, and few entrepreneurs can compete against state-subsidized recreation facilities.

To limit the growth of government land holdings, the Legislature should require that new land acquisitions by the Departments of Natural Resources, Management and Budget and Transportation be offset by the sale of other publicly held property. A policy of “no net loss of private property” would help to ensure that state government prioritizes its purchases and provides better stewardship of public lands.

#### **4. Reform asset forfeiture laws.**

In a single recent year in Michigan, law enforcement agents applied so-called asset forfeiture laws in nearly 10,000 cases to seize more than \$14 million in private property, including homes, cars, and cash. In many instances, no charges were ever filed against the property owners, and no finding of guilt was ever determined in a court of law. In civil forfeiture cases, law enforcement officials need do little more than meet a low threshold of evidence indicating that the property in question was involved in a crime. The actual owner of the property may not even be aware of the alleged crime before the government seizes his property. Most police agencies profit from at least some of the forfeiture proceeds, raising conflict-of-interest concerns.

Congressman John Conyers notes that forfeiture law is intended to empower police to confiscate the property of major lawbreakers, but in actual fact it “mostly ensnares the modest homes, cars, and hard-earned cash of ordinary, law-abiding people.” He has secured approval for some changes in federal forfeiture law, but more needs to be done.

Lawmakers must reform both state and federal forfeiture laws with three objectives in mind:

- End the twin practices of allowing law enforcement agencies to profit from the sale of the assets they seize and paying informants to help build forfeiture cases;
- Require government to prove that property is directly connected to illegal activity before it can be seized (and the amount of property seized must be proportionate to the crime committed by its owner);
- Strengthen language in forfeiture statutes to ensure that property owners who have not participated in, or acquiesced to, a crime committed with their property are not punished by forfeiture.

Other important recommendations for reform of asset forfeiture laws are contained in the Mackinac Center for Public Policy study, *Reforming Property Forfeiture Laws to Protect Citizens’ Rights*.

***For further information, please see [www.mackinac.org/792](http://www.mackinac.org/792).***

## 5. Reform eminent domain.

Starting in the 1950s, courts have given legislatures carte blanche to expand beyond any reasonable limits the scope of eminent domain property takings. Our Founding Fathers made provisions for condemning property for limited *public use*, which was understood to mean things like roads and bridges. But new laws have gradually expanded “public use” to mean “public purpose.”

Sadly, Michigan has been a leader in this erosion of the right to own property, the 1981 *Poletown Neighborhood Council v. City of Detroit* case being a milestone. Such court decisions have opened the door for abuse, corruption, and the destruction of property rights. The potential for politically connected developers and self-serving politicians to abuse the process is almost unlimited. And politicians are getting bolder. Earlier this year the Michigan Legislature passed HB 4028, which explicitly authorizes municipalities to transfer to a developer property declared “blighted” under highly subjective definitions. In 1999, former Detroit Mayor Dennis Archer elicited howls of protest when he used eminent domain to benefit casino operators.

“Property owners are protected, because they receive fair market value,” say defenders of eminent domain. But they are *not* protected, and here’s why: Imagine an owner has held on to his Detroit property near the river for 30 years, hoping that some day its value would rise. Now this potential is being recognized by others, to the point where developers are weighing options. When one of these makes a low-ball offer, the owner wisely refuses to sell. But if a developer has a cozy relationship with city officials, he can use eminent domain laws to avoid the expense of voluntary market transactions. He gets the city to condemn the property on the basis of the “public interest” in a development, and to transfer it to himself. The owner is forced to sell for an amount based on past sales of comparable property, which ignores the turnaround value. This after he has hung on and paid high property taxes for 30 years.

The solution is to return the law to the traditional definition of “public use” in eminent domain cases, ending the unfair practice of taking property from one private citizen for the profit of another. Regardless of the purpose of the taking, business property owners should be compensated based on the value of the property’s current location as well as local “good will” and other intangibles. Current law requires compensation for the real property value only.

*For further information, please see [www.mackinac.org/4046](http://www.mackinac.org/4046).*

## 6. Revise historic preservation laws.

In 1970, the Michigan Legislature passed Public Act 169, a law that permits local governments to regulate changes to property in designated “historic districts.” Some municipalities subsequently created historic district commissions with sweeping powers to restrict what types of changes property owners can make to their homes or businesses.

At a city council meeting in Midland, several historic district residents chronicled how costly, time-consuming, and intimidating it was to apply for a “Certificate of

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Appropriateness” from the historic district commission (HDC) for home improvements. The HDC is not obligated to advise or assist property owners, and makes no attempt to do so. The burden is on the owner to prove that any proposed improvement is historically accurate, even if no historic evidence exists. Decisions by the commission are often perceived as arbitrary, arrogant, petty, and even vindictive. People who were once amicable neighbors spy on one another, reporting presumed violations to the HDC. Similar experiences are occurring in other parts of Michigan as well. After Owosso created a historic district commission by ordinance, for example, citizens petitioned for a public vote on the issue. The ordinance was subsequently defeated by a 70-percent margin.

The best defense against erosion of historic value is to convince property owners that it is in their best interests to preserve the historic significance of their homes. This does not require the force of government.

The beautiful city of Marshall in south-central Michigan is proof that preservation is possible without government intervention. Marshall’s famous historic district is the product of voluntary cooperation among property owners, many of whom rejected a recent attempt to impose a commission-based district under PA 169. It’s time for the Legislature to revisit the 1970 law to make the preservation of historic private property a voluntary, educational project rather than a political, coercive one.

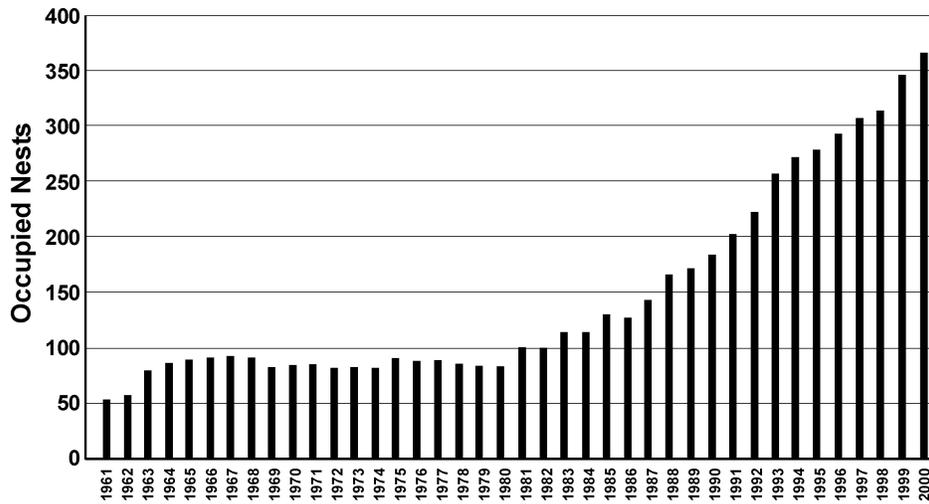
*For further information, please see [www.mackinac.org/4091](http://www.mackinac.org/4091) and [www.mackinac.org/pubs/comments/3861](http://www.mackinac.org/pubs/comments/3861).*

## II. Improving Environmental Protection

*Michigan is blessed with an abundance of natural resources, and the state’s environmental quality has vastly improved in the past three decades. All areas of the state are currently in compliance with national ambient air quality standards, and Great Lakes wildlife is thriving, indicating healthier waters. The bald eagle population, for example, increased from just 50 nests in 1961 to 366 in 2000 (see Chart 1, next page).<sup>1</sup> Wild trout stocks have likewise rebounded: Hatchery lake trout comprise less than 20 percent of the trout population in Lake Superior, for example.<sup>2</sup> Forestland, too, is flourishing, now covering 44 percent of the state. The rate of wetland loss, meanwhile, is in decline.*

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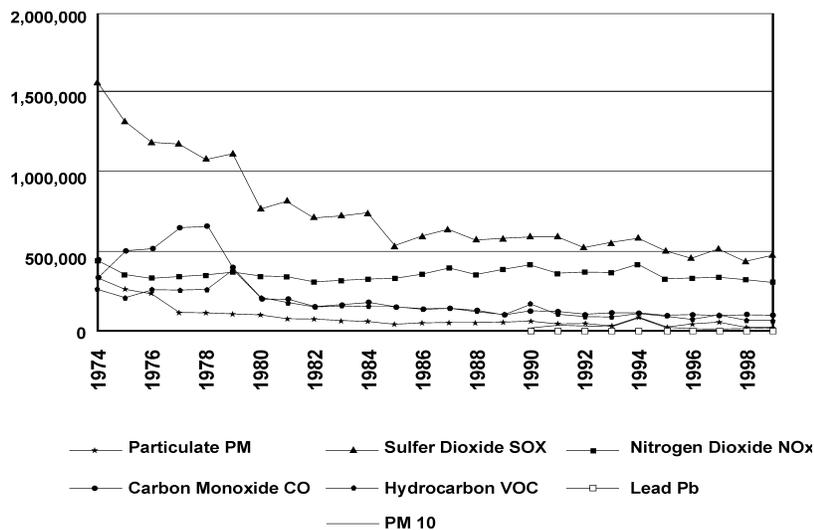
**Chart 1 – Occupied Bald Eagle Nests in Michigan, 1961-2000**



Source: Department of Environmental Quality, "State of Michigan's Environment 2001," November 2001

Smokestacks and tailpipes no longer constitute the gravest environmental threats. Billions of dollars invested in new technologies have dramatically reduced industrial emissions (see Chart 2, below). Indeed, it is proof of our environmental progress that the regulatory focus has largely shifted to more marginal sources of pollution, such as stormwater runoff and dry-cleaning exhaust. More than releases of PCBs, DDT, or lead, the biggest challenges include "natural" phenomenon such as the "invasion" by non-native species of the lakes and inland waters.

**Chart 2 – Pollution Emission Inventory Trend, 1974-1999 (in Tons)**



Source: Department of Environmental Quality, "State of Michigan's Environment 2001," November 2001

*Washington has long dictated the lion's share of environmental regulation. And while laws such as the Clean Water Act and Clean Air Act have produced results, the costs to the economy, property rights, and state sovereignty have been colossal. In his book "Clearing the Air: The Real Story of the War on Air Pollution," author Indur M. Goklany documents that air quality had been improving prior to federalization—and probably would have continued to improve regardless of costly mandates from Washington. But states like Michigan do have an important role to play as laboratories for more effective environmental policy. This means relying less on the command-and-control regulatory regime that stifles innovation and increases bureaucratic costs in favor of flexible, incentive-based policies that yield greater benefit for every dollar spent.*

***More rational environmental regulation likely would result if major regulations were required by law to undergo legislative scrutiny and win approval before taking effect.***

#### **7. Require legislative approval of major environmental regulations.**

Environmental concerns understandably rank high among Michigan citizens, and elected officials are, therefore, loath to be perceived as anti-environmental. But voters also are pragmatic, recognizing the flaws inherent in the radical policy prescriptions advocated by many in the green lobby. In juggling these various interests, lawmakers often enact vague environmental statutes that effectively delegate to regulatory agencies an enormous amount of discretionary power. But such regulatory agencies have every incentive to promulgate the most costly and complex rules. (Exacerbating matters is the fact that courts have long deferred to the presumed expertise of agencies such as Michigan's Department of Environmental Quality, even in the absence of statutory authority.) More rational regulation likely would result if major regulations were required by law to undergo legislative scrutiny and win approval before taking effect. Not only would such a requirement restore accountability to the Legislature, it would force the executive branch to prioritize its rulemaking by slowing the proliferation of new regulations.

#### **8. Privatize conservation of public lands.**

In their report "Progressive Environmentalism: A Pro-Human, Pro-Science, Pro-Free Enterprise Agenda for Change," authors Richard L. Stroup and John C. Goodman describe the dramatic improvements in water quality achieved in England and Scotland after private groups secured from the government exclusive fishing rights in public waterways. Voluntary associations such as the Anglers' Cooperative in England fiercely protect their waters to preserve fishing stocks. But as Stroup and Goodman note, "In this country, virtually all state governments have disallowed private ownership of stream flows on the theory that government should hold these rights in 'public trust.' As a result, public streams are often subject to over fishing and pollution." In the interest of improving the condition of inland lakes and streams, the Legislature should authorize a pilot project involving privatization of fishing rights.

#### **9. Neutralize government advantages in enforcement actions.**

Regulators routinely exercise the option of filing enforcement actions in Ingham County, the seat of state government, rather than the jurisdiction where the alleged violation occurs. This choice of venue poses a disadvantage to citizens because of the increased costs

associated with a case being tried far from the defendant's home or business. Moreover, government is shielded from the true costs of enforcement actions and, therefore, is not fully accountable for the number and types of cases adjudicated. Legislation is needed to require that regulatory enforcement actions be filed in the jurisdiction where the alleged violation occurs, unless the defendant agrees otherwise.

**10. Eliminate incentives for “urban sprawl” and reform policies that induce urban flight.**

Continued development and the destruction of wildlife habitat often are cited as threats to the environment. Consequently, a slew of legislative proposals to limit land use are pending in the Legislature, while counties and municipalities across the state are enacting ordinances to restrict development. Yet there is little objective evidence that Michigan is facing a “sprawl” crisis: Less than 10 percent of the state is urbanized, and long-term trends show no dramatic changes in land use.

The Mackinac Center for Public Policy study, “‘Urban Sprawl’ and the Michigan Landscape: A Market-Oriented Approach,” analyzes decades of statistics on urbanization and land use in Michigan to offer five key recommendations for rational land use policy:

- a) Tax policies should be fair and uniform across the board so as to minimize tax-triggered flight.
- b) Siting and other regulatory permitting should be streamlined to reduce the cost of doing business in Michigan and to encourage wealth creation and investment in all businesses and industries, including agriculture.
- c) Full or “marginal” cost-pricing for public services and infrastructure should be implemented to avoid indirect subsidization of “urban sprawl”;
- d) Land use programs should emphasize flexibility and voluntary participation.
- e) Property rights must be protected to preserve liberty and rationalize markets and planning.

In addition, the redevelopment of core cities would be enhanced were local governments to expedite deed clearance on tax-reverted and abandoned properties by contracting with private experts to clear the backlog and with real estate agencies to return the properties to private ownership.

*For further information, please see [www.mackinac.org/763](http://www.mackinac.org/763), [www.mackinac.org/3684](http://www.mackinac.org/3684), and [www.mackinac.org/3401](http://www.mackinac.org/3401).*

**11. Allow judicial review of all environmental enforcement actions.**

Several of Michigan's principal environmental statutes prohibit citizens from seeking judicial review of enforcement decisions dictated by the Department of

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Environmental Quality (DEQ). Regulators have justified their unchecked power by claiming that litigation would delay clean-ups and other remediation orders, thereby endangering public health and the environment. In fact, however, a great many DEQ cases go unresolved for years at a time. And absent the check on its enforcement powers, the agency is insulated from accountability. Establishing the right to judicial review would inject discipline into environmental regulation.

## **12. Eliminate Michigan's Civilian Conservation Corps.**

Modeled on Depression-era public works programs, Michigan's Civilian Conservation Corps (CCC) employs some 200 young adults each year for state park maintenance. The majority of recruits are also fed and housed by the state, making program costs per corps member more than \$17,700—more than double the amount of per pupil spending in Michigan. Participants who log 1,700 hours also become eligible for a federal education grant of \$4,725 (or \$2,362 for 900 hours of service). Enrollment suspends all payments due on outstanding student loans, while accrued interest is covered in full by taxpayers. Thus, Michigan families who may be struggling with their own college costs are subsidizing the eligibility of others for federal tuition assistance.

The CCC program enables the Department of Natural Resources (DNR) to avoid some of the budget discipline that otherwise requires government agencies to prioritize spending. If the DNR cannot properly fulfill its stewardship obligations absent a corps of federally subsidized workers, perhaps some of the state's vast land holdings ought to be returned to private ownership. Grappling with the prospect of budget shortfalls, Michigan cannot afford the luxury of such a costly make-work program.

## **III. Encouraging Telecommunications Technology**

*Economic growth in Michigan will depend, in part, on the continued evolution of advanced telecommunications and technology. Technological innovation also will provide citizens enormous power and convenience. There is broad agreement that a competitive market is the best means of increasing the availability and affordability of new products and services. That goal, unfortunately, has been thwarted by continued federal and state regulation that has actually secured the market position of reigning monopolies. And the market uncertainty created by unending disputes over regulatory minutiae inhibits investment by potential competitors.*

## **13. Repeal the Michigan Telecommunications Act.**

The Michigan Telecommunications Act has hindered market development, thereby depriving consumers of the lower costs and higher quality services that competition typically yields. An analysis by BBK Ltd.'s Anderson Economic Group concluded that Michigan's telecommunications law "increases government power, and reduces that of consumers. This increased regulation takes the form of mandated services, fixed prices, regulation of commercial speech, barriers to entry, and new government powers." The Legislature should

repeal the price controls and service mandates in the MTA as well as curb the powers of the Public Service Commission to regulate telecommunications.

**14. Prohibit government entry into telecommunications service markets.**

Several municipalities in Michigan have launched cable and high-speed Internet services in direct competition with privately owned firms. But government should not be allowed to exploit its tax and regulatory advantages to undermine the private sector. Lawmakers should enact legislation that expressly prohibits state and local government from owning or operating any telecommunications service.

**15. End discriminatory tax treatment of investment in telecommunications infrastructure.**

Under current law, telecommunications property is taxed based on intangible assets such as the income it generates. Most other personal property in Michigan is taxed based on the depreciated value of the tangible asset. This discriminatory tax treatment is a major barrier to private investment in Michigan's telecommunications infrastructure and should be ended.

**16. Resist the imposition of sales taxes on Internet transactions.**

The U.S. Supreme Court has ruled that state and local governments cannot force out-of-state retailers to collect sales taxes because this would interfere with interstate commerce. States and localities may only require companies with a "substantial physical presence" or "nexus" in their state to collect sales taxes. That's as it should be.

But some public officials are eager to cash in on the growth of catalog and online sales. Gov. Engler, for example, strongly supports a National Governors' Association (NGA) proposal called the "Streamlined Sales Tax" that would effectively deputize a third-party entity to collect and distribute taxes on out-of-state purchases. If enacted, the proposal would open the door to a national sales tax. The Michigan Legislature last year gave approval for Michigan to collaborate with other states in furthering the NGA plan.

But taxes are supposed to pay for services that governments provide, such as police protection. Out-of-state vendors with no physical presence in a state do not consume government services. Thus, it would be unfair to tax out-of-state retailers.

The NGA plan also raises privacy concerns. When a consumer pays sales tax at a local shop, no one asks her name, where she lives, or anything about her buying habits. Under the NGA plan, however, the third-party tax collector could easily collect such information.

Supporters of the NGA plan talk a lot about fairness and the need to "harmonize" states' sales taxes. But Michigan "loses" revenue all the time to states that tax less and tax better, and it gains revenue over states that tax more and in more harmful ways. That's

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***Sometimes unfairly, but often with good reason, Michigan is perceived in other parts of the country as a place where labor unions wield inordinate and harmful influence.***

healthy tax competition, and it's one of the reasons the states are called "laboratories of democracy."

Colorado Gov. Bill Owens, in a February 1, 2002 speech, made some revealing and instructive comments on the Internet tax issue that bear repeating to a Michigan audience:

When I go on Main Street to buy something at Wal-Mart in Aurora, Colo., I am using the city street. I am protected by the city police force. If there is a fire and I need the help of the fire department, they are there. As I am going to that Wal-Mart or while I am in that Wal-Mart, if I drink water from the water faucet, I am using municipal water. I am in fact receiving city services when I go to that Wal-Mart and make that purchase.

When I buy something over the Internet from Lands' End in Wisconsin, the only impact on any government in Colorado is the UPS truck that arrives at my door, bringing me that package. And UPS, I can assure you, more than pays its fair share in gas taxes for the use of that local or state road. There is no nexus between a service rendered and a service delivered for that Internet tax that some would want me to have to pay to Aurora and to Colorado.

Twenty states are now meeting regularly, setting up the system, so that if Congress ever allows us to tax the Internet, there are states all ready to go forward with the compact to make this happen. Well, let me just tell you—and I bet Colorado is not the only state that will do this—but it is my goal, if that day ever happens, to have Colorado be the Switzerland of Internet taxation. I want us to be a tax haven so that these companies move to Colorado.<sup>3</sup>

Some say the effort to impose sales taxes on all Internet transactions is a train rolling down the track. But it's a train that should be derailed.

***For further information, please see [www.mackinac.org/2773](http://www.mackinac.org/2773).***

#### **IV. Reforming Labor Law to Protect Worker Rights**

*Michigan's image as a place to do business has improved in recent years as the state has reduced burdensome regulatory costs and taxes. But one major roadblock to consolidating and expanding those improvements remains: an unfriendly labor climate. Sometimes unfairly, but often with good reason, Michigan is perceived in other parts of the country as a place where labor unions wield inordinate and harmful influence. And improving the labor climate in Michigan is more than a positive economic policy approach: It is necessary to thwart abuse of the rights of Michigan workers. The following recommendations will help enforce Michigan workers' moral and legal rights as well as have a positive impact on the state's economic climate.*

**17. Enforce the *Beck* rights of Michigan workers and enact “paycheck protection.”**

Under the 1988 ruling of the U.S. Supreme Court in *Communication Workers of America v. Beck*, workers are entitled to a refund of any union dues that are used for purposes unrelated to collective bargaining activities, contract administration, or grievance processing. Unfortunately, these *Beck* rights have gone largely unrealized because workers are unaware of them and governments have shown virtually no desire to enforce them. The result is that labor unions routinely spend half or more of their members’ dues on causes and candidates that many of those members oppose.

Michigan took a limited step in this area by enacting Public Act 117 in 1994. Under this legislation, individual workers must give their consent each year before payroll deductions can be used for political action committee contributions. Full protection of *Beck* rights, however, would require worker approval for all noncollective bargaining-related dues expenditures.

Either by act of the Legislature or by executive order of the governor, Michigan should act to protect workers’ freedoms of speech and association by enforcing the *Beck* decision. Requiring the posting of *Beck* information notices in all private-sector firms that contract with the state would be a step in the right direction. An April 1996 survey of 1,000 union members nationwide revealed that 78 percent were not aware of their right to have an independent accounting of how their unions spend their dues money and to secure a refund for that portion spent for noncollective bargaining activities.

“Paycheck protection” for all Michigan workers would put real teeth in the effort to enforce *Beck* rights by requiring that unions which compel dues and fees secure from each worker a prior, annual, voluntary, written authorization to use any dues for noncollective bargaining activities. Workers could automatically shield their money from noncollective bargaining activities upfront when dues are collected, instead of having to jump through hoops to recover those dues after they have been extracted.

Details about the *Beck* decision and suggestions for specific wording of an order to enforce it in Michigan are provided in the Mackinac Center for Public Policy study, “Compulsory Union Dues in Michigan.” Information about paycheck protection is provided in the Mackinac Center report, “Paycheck Protection in Michigan.”

*For further information, please see [www.mackinac.org/235](http://www.mackinac.org/235), [www.mackinac.org/1021](http://www.mackinac.org/1021), and [www.mackinac.org/790](http://www.mackinac.org/790).*

**18. Enact a right-to-work law.**

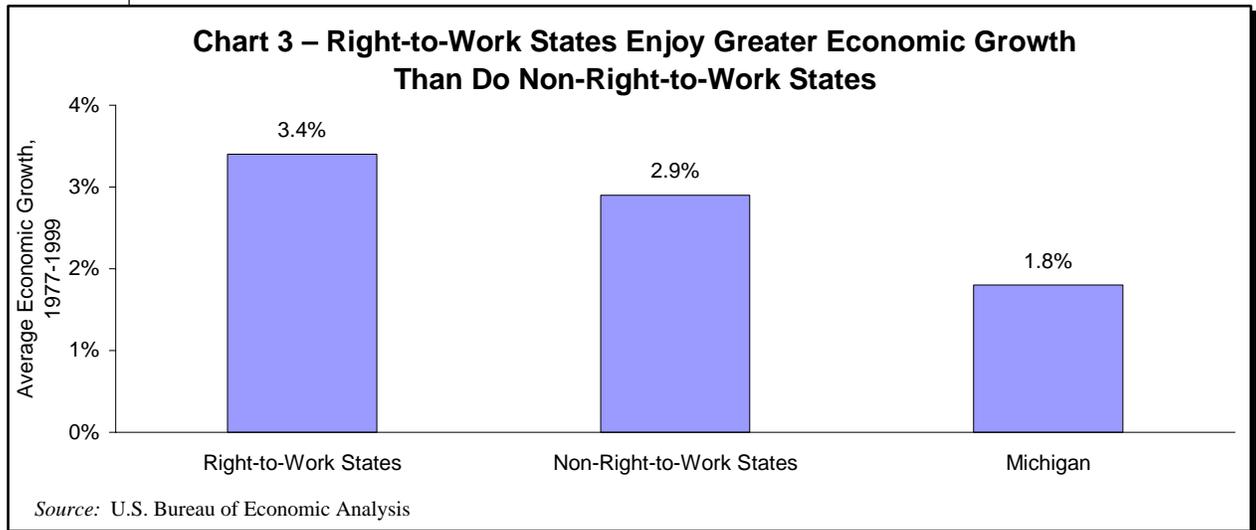
With the September 2001 passage of a “right-to-work” law in Oklahoma, 22 states now protect the right of every worker to abstain from union membership without fear of losing his or her job. Michigan, unfortunately, is not one of those states.

The lack of a right-to-work law is a drag on Michigan’s economy. While right-to-work states have a solid record of economic growth, new jobs and rising wages, Michigan’s economic performance has been lackluster by comparison. According to economist and

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***The lack of a right-to-work law is a drag on Michigan’s economy.***

Mackinac Center adjunct scholar William Wilson, for the period 1977-99, Michigan's economy grew an average of 1.8 percent annually—well below the 3.4 percent annual growth registered in right-to-work states (see Chart 3, below). Only three states (Montana, West Virginia, and Louisiana) had slower growth than Michigan during this period.<sup>4</sup>



A comprehensive study in the early 1990s by George Mason University economist James Bennett demonstrated that adjusting for the cost of living, including taxes, families in the 21 (pre-Oklahoma) right-to-work states earned \$2,852 more in real income per year than did their counterparts in Michigan and the other 29 states that lacked right-to-work laws.<sup>5</sup> Between 1970 and 2000, the 21 right-to-work states created 1.4 million manufacturing jobs, while Michigan and the other states without right-to-work laws lost 2.3 million manufacturing jobs. This, in turn, led to an unemployment rate that in Michigan was 2.3 percent higher on average than in states with a right-to-work law.<sup>6</sup> The evidence is clear and compelling: Right-to-work really means the right to work for *more*—more individual freedom, more jobs, and more income in real terms.

Nothing could do more for worker rights and Michigan's image and economic development than a right-to-work law. The only thing union officials have to fear from right-to-work is the free choice of the very workers they purport to help.

*For further information, please see [www.mackinac.org/74](http://www.mackinac.org/74), [www.mackinac.org/3354](http://www.mackinac.org/3354), and [www.mackinac.org/112](http://www.mackinac.org/112).*

### **19. Pass a “Union Accountability Act.”**

The Michigan Public Employment Relations Act allows for the collection of mandatory union dues as a condition of employment. But government employee unions are not required to account—either to the state or to their members—for how that dues money is spent. This leaves the door wide open for corruption, as well as political spending of dues that are contrary to the interests of workers themselves. Just as publicly held corporations

are required to report their financial condition, unions should be required to account for how they spend their members' money.

A "Union Accountability Act" would require unions that represent state and local government employees to file annual reports outlining their financial condition and showing the extent of their political spending. These reports would be audited by certified public accountants, using the same standards that apply to businesses. Unions that do not file accurate reports would be required to refund dues money and after a second offense would face an automatic decertification election.

A Union Accountability Act would not prevent workers from exercising their First Amendment right to support their union's political agenda, but would help citizens to "follow the money" and make it easier for those workers who oppose the union to enforce their right to not support union politics. As a consequence, workers would have the accurate and verifiable information they need to determine whether or not their money was being used wisely and to root out waste, fraud, and corruption by union officials.

The Mackinac Center estimates that government employee unions in Michigan take in over \$95 million of membership dues annually. Much of this money is used for political initiatives, giving the unions tremendous clout in Lansing and Washington. Loopholes in campaign finance laws allow union officials to hide the extent of their spending.

The state of Michigan gives unions a wide range of powers, including the ability to extract forced dues. But with power comes responsibility. Officials of government employee unions should be willing to bear the burden of accounting for their expenditures as a legitimate cost of business and a natural consequence of the favorable treatment they receive under current law.

*For further information, please see [www.mackinac.org/3944](http://www.mackinac.org/3944) and [www.mackinac.org/4113](http://www.mackinac.org/4113).*

## **20. Create a "Teacher Bill of Rights."**

Gov. Engler, in a major address to the Legislature in October 1993, stated that no teacher in Michigan should be coerced into joining and paying dues to a union. Unfortunately, a coercive employment situation persists for most Michigan public school teachers. Therefore, it's high time for the Legislature to pass, and the governor to sign, a "Teacher Bill of Rights" that would make exclusive representation optional for each individual teacher in Michigan and remove unions' duty of fair representation toward any teacher who opts out of his or her workplace union.

The monopoly bargaining privilege of the Michigan Education Association (MEA) and the Michigan Federation of Teachers (MFT)—afforded by Michigan's existing Public Employment Relations Act (PERA)—is the basis of the power of these two labor organizations to prevent teachers from negotiating their own terms of employment. As the exclusive representative, school employee unions inevitably end up bargaining education policy with local school boards and state government. The interests and objectives of individual teachers are often subordinated to the "collective whole" even when the individual

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***A Union Accountability Act would not prevent workers from exercising their First Amendment right to support their union's political agenda, but would make it easier for those workers who oppose the union to enforce their right to not support union politics.***

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***A Teacher Bill of Rights would allow teachers to act autonomously, getting the best deal for their services as independent professionals or joining a union when they believe it is in their best interest to do so.***

teacher's employment opportunities may suffer as a result.

Accordingly, current legal requirements that force teachers to accept union membership or pay dues or fees as a condition of employment should be repealed. PERA should be further amended to permit unions to represent only those teachers who affirmatively elect such representation in writing. Employees who do not agree to such representation should be permitted to negotiate for themselves.

Under a Teacher Bill of Rights, teachers would be allowed to opt out of the bargaining unit and negotiate their own wages, benefits, hours, and other terms of employment. Unions would owe no duty of fair representation to any teacher who elects independent (non-collective bargaining) status, but would be prevented from discriminating or retaliating against any teacher on the basis that he or she has elected not to join or be represented by a union.

Relieving unions of any legal duty toward non-members eliminates their claim that they are forced to represent all without being compensated for their services—the so-called “free rider” argument. Forced dues would neither be needed nor allowed.

A Teacher Bill of Rights would allow teachers to act autonomously, getting the best deal for their services as independent professionals or joining a union when they believe it is in their best interest to do so. This freedom will bring new dignity to the teaching profession in Michigan and appropriately reward the skilled teachers who should be free to negotiate for the value of their specialized expertise.

*For further information, please see [www.mackinac.org/1660](http://www.mackinac.org/1660).*

**21. Remove the state government's ability to act as a union collection agent for union political funds.**

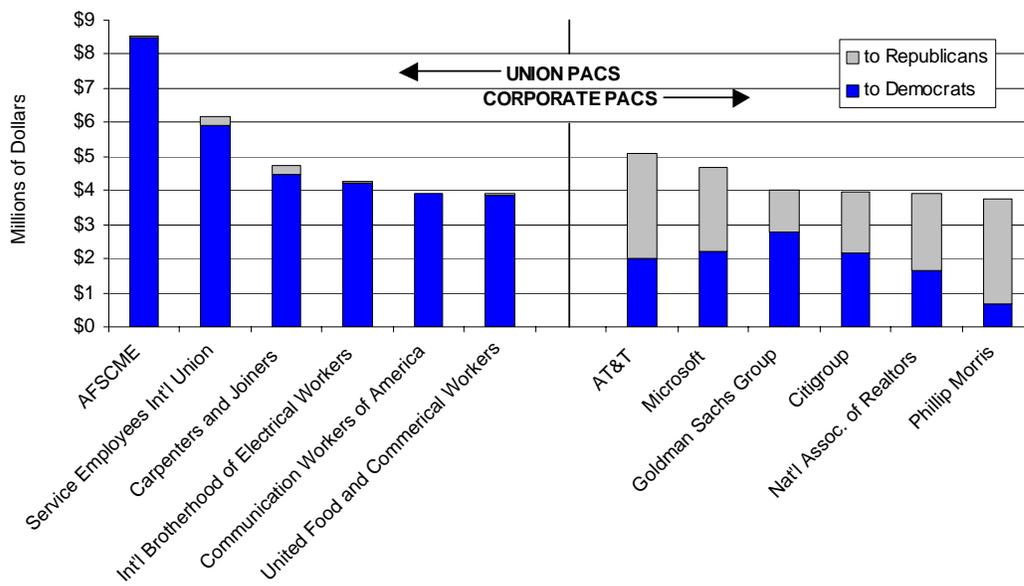
If workers' wages are the source of union funding, then employers are the pipes that convey the flow of dues to labor organizations. Payroll deduction is a convenient and popular method of funds collection that springs from a contractual provision between the union and the employer. Without such an agreement, unions would bear the burden of collecting funds from their memberships after the money has made its way into workers' pockets. This would require union collection agents to persuade members to consciously and voluntarily part with their hard-earned money.

The state has a compelling interest to remove partisan politics from government workplaces. One solution, the banning of “wage check-offs” for political purposes, has withstood judicial scrutiny. Political action committee (PAC) funding is already regulated in Michigan: Public Act 117 of 1994's ban of “reverse check-offs” (which stipulate that a worker must take action if he does *not* want political contributions deducted from his paycheck) and requirement for annual, worker consent of PAC payroll deduction authorizations were significant steps toward greater worker freedom and union accountability. According to the Michigan Chamber of Commerce, after union legal challenges resulted in Public Act 117 being upheld in court, worker contributions to union PACs declined in 1998, indicating many workers' desires were previously being thwarted.

The Legislature should build on these reforms by prohibiting government collection of all political funds via payroll deduction.

Prohibiting political payroll deduction would serve three additional purposes. First, it would afford greater protection of workers' free speech rights by returning direct control over disbursement of union political funds to the wage earner before it goes to union coffers. Second, it would compel unions during collection periods to persuade their members that the unions' political expenditures properly represent the political views of their memberships. Third, it would save Michigan taxpayers the cost of having the government acting as the dues collector for unions, which are private enterprises and ought to absorb such costs themselves.

**Chart 4 – Contributions by Party of 12 Largest PACs, 2000**



Source: [www.opensecrets.com](http://www.opensecrets.com)

## 22. Repeal the Prevailing Wage Act of 1965.

Imagine a law that subsidizes the well-off, discriminates against large segments of the workforce, wastes tens of millions of dollars every year, and hurts the competitiveness of Michigan businesses. Unfortunately, there is no need to imagine such a law: Those are the effects of the Michigan Prevailing Wage Act of 1965. It is a classic case of special-interest legislation that benefits a narrow few at the expense of the many.

The act, which covers construction projects in Michigan that receive full or partial funding from the state, requires workers to be paid "prevailing" wages and benefits.<sup>7</sup> In practice, this invariably means the rates fixed in local collective bargaining agreements—in other words, union wages and benefits. The competitive compensation packages established by nonunion contractors and their employees—who make up almost two-thirds of

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***The evidence on employment and construction costs shows that Michigan's prevailing wage law has adverse consequences.***

Michigan's construction workforce—simply are ignored in determining “prevailing” rates. Less expensive nonunionized firms, along with their competent and qualified workers, are effectively frozen out of work on a host of projects from school construction to road repair. In a Mackinac Center report, Ohio University professor of economics Richard Vedder estimates that Michigan's prevailing wage law increases the cost of construction on applicable projects by at least 10 percent.<sup>8</sup> That means the Prevailing Wage Act cost Michigan taxpayers an extra \$421.2 million in 1999, an amount equal to 6 percent of the revenue generated by the state's income tax on individuals.<sup>9</sup>

The prevailing wage law also reduces employment in construction. Between December 1994, when the law was found to be pre-empted by federal law, and June 1997, when the law was reinstated, Michigan saw construction employment rise by 17,600 jobs, compared to only 4,000 jobs that opened up in the period immediately prior to the court decision that temporarily struck down the law.<sup>10</sup>

The Legislature should apply common sense and sound economics by repealing this costly special-interest legislation. At the very least, it should follow the example of the Ohio Legislature, which in 1997 exempted public schools from having to pay the excessive costs mandated by that state's prevailing wage law. Hillsdale College economist Gary Wolfram estimates that by following Ohio's example, Michigan would save over \$150 million in school construction costs annually.<sup>11</sup>

The evidence on employment and construction costs shows that the state prevailing wage law has adverse consequences. The Legislature would do well to repeal it.

*For further information, please see [www.mackinac.org/2380](http://www.mackinac.org/2380).*

**23. Outlaw the use of “project labor agreements” on any building construction using state funds within the state of Michigan.**

“Project labor agreements” (PLAs) mandate that all contractors must employ members of designated unions for all labor performed on a particular site. These “union-only” arrangements are frequently agreed to by state and local governments in order to guarantee labor peace during the life of a given contract. But the premium paid for this peace also permits union discrimination and noncompetitive bidding to persist.

Assuring labor peace on a construction site is a legitimate goal, but strikes are primarily a function of unions themselves. Consequently, nonunion contractors are actually in a better position than union contractors to deliver on a no-strike promise. PLAs are not a foolproof means of avoiding labor strife; in fact, strikes and other delays have occurred on projects covered by PLAs in other states.<sup>12</sup>

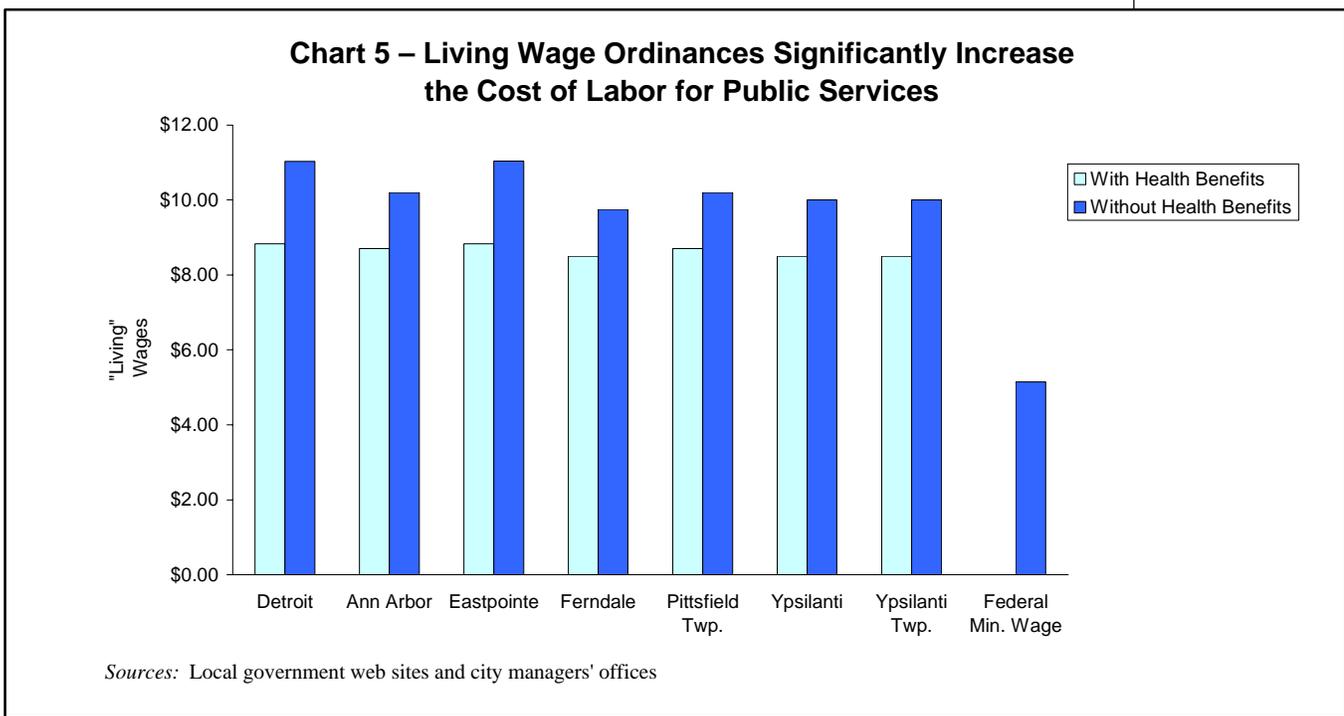
As a matter of public interest, the Legislature should ensure that Michigan's public construction awards are consistent with existing state bidding policies designed to foster competition in government contracting. The purpose of the many bidding laws is to protect the public by placing bidders on an equal footing, and to ensure that competition will eliminate the possibility of fraud, extravagance, or favoritism in the expenditure of public funds. But PLAs reduce competition and cause discrimination against nonunion employees

in favor of union membership. This discrimination has potentially severe detrimental effects on nonunion employees and employers.

*For further information, please see [www.mackinac.org/88](http://www.mackinac.org/88).*

#### 24. Pre-empt local “living wage” ordinances.

The proliferation of municipal “living wage” ordinances is a threat to economic growth in Michigan. These ordinances require employers who do business with a city, or who benefit from tax abatements, “enterprise zones,” or other subsidies, to pay employees an above-market premium wage of around \$8 to \$12 an hour, and often require health benefits. As this report was written,<sup>13</sup> “living wage” laws were in effect for Detroit, Ann Arbor, Eastpointe, Ferndale, Pittsfield Township, Ypsilanti, Ypsilanti Township, and the Washtenaw County Road Commission (see Chart 5, below).



“Living wage” ordinances have a certain superficial appeal; they are usually presented as a way to lift workers—and the families they support—out of poverty. But their appeal rests on a lack of knowledge about how the labor market works. These ordinances actually tear away the lower rungs on the ladder to economic opportunity. A Michigan House committee recently heard from small businesses with specific examples: A machine shop owner testified that he has seven employees and would like to hire more, but won’t be able to if his city adopts a proposed living wage ordinance. “I just hired an ex-con at \$7.50 an hour, and if he does well he can make a lot more. With a \$10 living wage I could not take a chance on this employee, or younger, lower skilled workers.”<sup>14</sup>

***By pre-empting local “living wage” laws, the state of Michigan would clear away obstacles to job creation, economic growth, and employment opportunities.***

By artificially raising the cost of labor, “living wage” ordinances force employers to hire higher-skilled workers (in order to improve productivity and justify the higher wage rates) or reduce their payrolls. In either case, unskilled workers don’t gain income—they lose jobs. And in the process, they lose opportunities to gain the work experience and on-the-job training necessary to find their way to higher wage employment. At the same time, higher wage costs lead to higher prices on goods and services sold to local government. These costs are eventually passed on to taxpayers in the form of higher taxes or limited services.

The spread of “living wage” ordinances is the result of a nationwide campaign by union officials. While such proposals have long been rejected by Congress and state legislatures because of their harmful economic effects, they often find fertile ground among ambitious local politicians. Not all local politicians are fooled, however. Ed McNamara, the Democratic executive of Wayne County, may have summed up “living wage” ordinances best, if rather bluntly: “living wage” is a “diabolical instrument that’s got to be eliminated. It’s the greatest deterrent to economic development of anything out there.”<sup>15</sup>

Wages should be agreed to by employers and employees, not dictated by the government. “Living wage” laws simply add another level of government interference in the market. By pre-empting local “living wage” laws, the state of Michigan would clear away obstacles to job creation, economic growth, and employment opportunities.

Local “living wage” laws are simplistic public policy with bad economic results. The Legislature should not hesitate to set them aside.

*For further information, please see [www.mackinac.org/1705](http://www.mackinac.org/1705).*

## **25. Give Michigan workers a flexible “comp-time” law.**

In today’s workplace, the act of punching a time clock in factory fashion is disappearing. The nature of work is changing and so are the needs and desires of workers who want ever more flexibility in their hours and compensation. Laws governing the workplace, however, are not always keeping pace. The issue known as “comp time” is a case in point.

Under existing law, hourly wage earners must be paid time-and-a-half or more for anything beyond the normal eight-hour day. But as workers increasingly feel a need to adjust their work schedules to accommodate family activities, desired leisure time, or the work patterns of a spouse, the old overtime practice is too rigid. Some workers would prefer to work overtime on some days and receive time off rather than cash for the extra hours.

The problem is that antiquated wage laws prevent workers from trading overtime earnings for comparable time off—a practice known as “comp time” that is becoming increasingly common in public-employee workplaces. Union leadership (but not so much rank-and-file workers themselves) oppose the adoption of any laws that would grant this time option because they fear employers will abuse the system to avoid paying overtime wages altogether. The 1964 Michigan minimum wage law sets minimum wage and overtime standards for many hourly employees not covered by the federal Fair Labor Standards Act.

Under these federal and state laws, employees must be paid in cash for overtime even though many would prefer the option of cashing in this pay for equivalent time off.<sup>16</sup>

Michigan's representatives in Washington can work to make the necessary changes at the federal level, but state legislators can act to extend the comp-time option to many workers right now. Today, there are more working, single parents and dual-income families than ever before. Especially for women in dual-earner and single-headed households, the comp-time option would provide greater workplace flexibility.

Comp time doesn't present a radical, untried idea. For many years, federal, state, and local governments have granted comp-time options allowing their employees trouble-free comp-time arrangements for leisure, family needs, or continuing education.<sup>17</sup> It's time that employees in the private sector enjoyed the same benefits public-sector employees already enjoy.

Granting Michigan workers more flexibility in their work schedules by recognizing their preference for comp time is a progressive, pro-worker, family-friendly reform whose time has come.

**26. Amend the Public Employment Relations Act to recognize the unconditional and immediate right of public-sector employees to resign their union memberships.**

Employees in the private sector have an unconditional right to resign from union membership at any time. A line of U.S. Supreme Court cases recognizes this right as essential to preserving the integrity of the First Amendment's guarantees of free speech and free association. As a result, private-sector union constitutions and bylaws that limit the timing of an employee's resignation from the union are unconstitutional. Additionally, it is a violation of a union's duty of fair representation under the National Labor Relations Act to refuse to honor an individual's unconditional withdrawal from the union.

Michigan's Public Employment Relations Act (PERA), which governs public-sector labor relations in the state, provides an option to government employees who are exclusively represented: They may either become members of a union, or else they decline union membership and become nonmember "agency fee payers."<sup>18</sup> But some Michigan public employee unions place limitations—such as time-limited "window periods"—on the right of union members to resign. Unfortunately, PERA as written does not protect an employee's unconditional right to resign, contrary to federal labor law regarding the individual's First Amendment right of free association. The Legislature could better protect government employees' rights by amending PERA to include a clause specifically prohibiting any unreasonable restrictions on any government employee's right to resign from his union.

**27. Permit employees to vote on compulsory support clauses.**

Compulsory support clauses are provisions in agreements between employers and unions that obligate employees to either join a union and pay union dues or else refrain from joining but pay agency fees, which are usually an amount equivalent to the dues of a full

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***Granting Michigan workers more flexibility in their work schedules by recognizing their preference for comp time is a progressive, pro-worker, family-friendly reform whose time has come.***

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***The inherently abusive nature of the union compulsory support clause is a ripe opportunity for employee-friendly labor reform.***

union member. Compulsory support clauses are the primary source of funding for unions, and they carry the force of law—so union negotiators will routinely sacrifice employees’ economic benefits for the legal right to compel every employee to pay dues or fees. Unfortunately, employers often agree to a compulsory support clause, regarding it as a throwaway concession to the union. Ultimately, however, it is employees who pay in the form of reduced compensation.

An amendment to Michigan’s Public Employment Relations Act (PERA) requiring prior employee approval—by way of a majority vote on the compulsory support clause—would give employees the ability to accept or reject an obligation to pay dues or fees before such an obligation is included in the contract and becomes legally binding.

The Legislature also should amend PERA to include a provision allowing for a “deauthorization” vote in unionized government workplaces where a specified number of employees presents a petition to the Public Employee Relations Board asking for such a vote. Deauthorization is a procedure whereby employees remove their union’s legal ability to coercively extract fees; it in effect repeals a contract’s compulsory support clause. If a majority of employees voting supported deauthorization, the compulsory support clause would be removed but the rest of the contract would remain in force, and the union would retain its exclusive bargaining rights.

The inherently abusive nature of the compulsory support clause is a ripe opportunity for employee-friendly labor reform. An amendment to PERA requiring employee approval for compulsory support clauses, as well as the option of deauthorization, would do much to promote democracy and fairness in the workplace.

**28. Amend the Public Employment Relations Act to require employee ratification of union contracts for public-sector employees.**

Some unions in Michigan allow for an employee ratification vote of negotiated contracts, but employee ratification is by no means a uniform practice, nor is it legally required. Without such ratification procedures, union officials may feel free to trade direct employee benefits—such as wage increases—for items that benefit union institutional interests, such as paid time off for union officials or free office space.

Even those unions that do provide for employee contract ratification do not necessarily require a secret-ballot vote. Public votes mean that union officials can keep an eye on any members who vote the “wrong” way on a contract.

As employee representative, a union has an ethical obligation to advance the interests of its members, not merely its own institutional interests. Unfortunately, Michigan’s Public Employment Relations Act (PERA) as written does not adequately hold public-sector unions accountable to this standard. Accordingly, the Legislature should amend PERA to require all public-sector unions in Michigan to hold secret-ballot ratification votes, allowing all employees in a bargaining unit the opportunity to accept or reject the collective bargaining agreement their union has bargained for them. The PERA amendment should provide that each bargaining unit employee—regardless of his union membership status—may vote on the acceptance of any contract offer submitted by the employer,

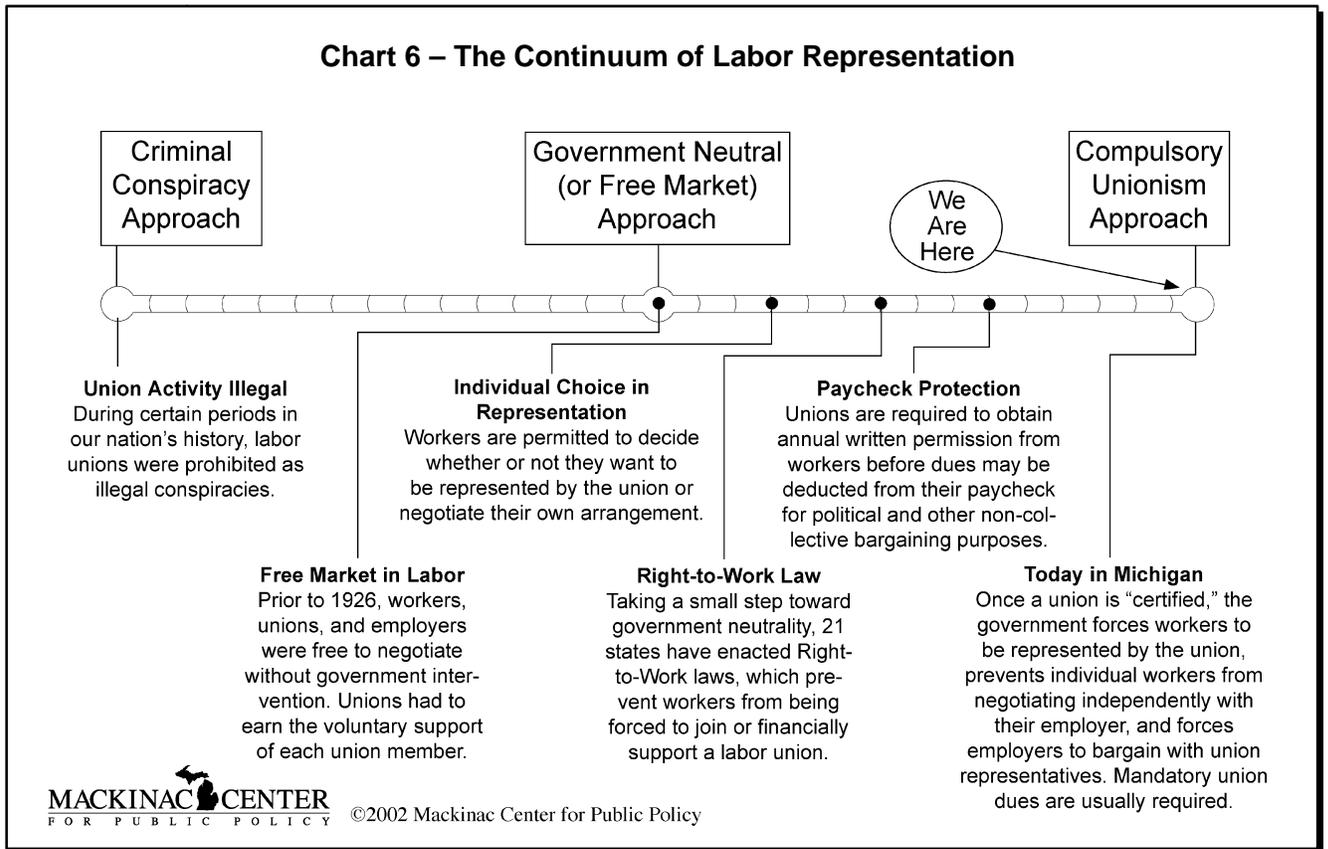
including collective bargaining agreements that affect wages, benefits, and working conditions.

**29. Require the Michigan Employment Relations Commission (MERC) to investigate the merits of unfair labor practice charges filed by employees.**

Existing administrative procedures for pursuing unfair labor practice charges place an insurmountable burden on individual employees attempting to enforce their rights through the Michigan Employment Relations Commission (MERC). MERC presently does not investigate the merits of an unfair labor practice charge before issuing a complaint—it is the charging party’s responsibility to gather sufficient facts, affidavits, and other evidence in support of the charge. Employees pressing charges with MERC usually do not have the benefit of counsel and must conduct this investigation independently and at their own cost.

If the charge appears to state a claim, then a complaint issues and a formal hearing occurs. Without counsel, however, employees in a hearing are left to navigate a maze of unfamiliar formal procedures entirely on their own. Such a prospect provides a significant disincentive for individuals employee who want to enforce their rights against a union or employer through MERC. Unsurprisingly, relatively few employees attempt to enforce their rights this way.

MERC should be accessible to unions, employers, and individual employees alike. Accordingly, the Legislature should amend the Public Employment Relations Act to authorize MERC to investigate charges and prosecute complaints on behalf of individual employees. A MERC attorney should investigate charges as they are filed, taking affidavits from the charging party and relevant witnesses. He should then determine whether there is reasonable cause to believe that the law has been broken and if so, a complaint should issue. Upon issuance of a complaint, the case should be assigned to a MERC trial attorney, who would prosecute the case on behalf of the employee.



## V. Improving Education for Michigan Children

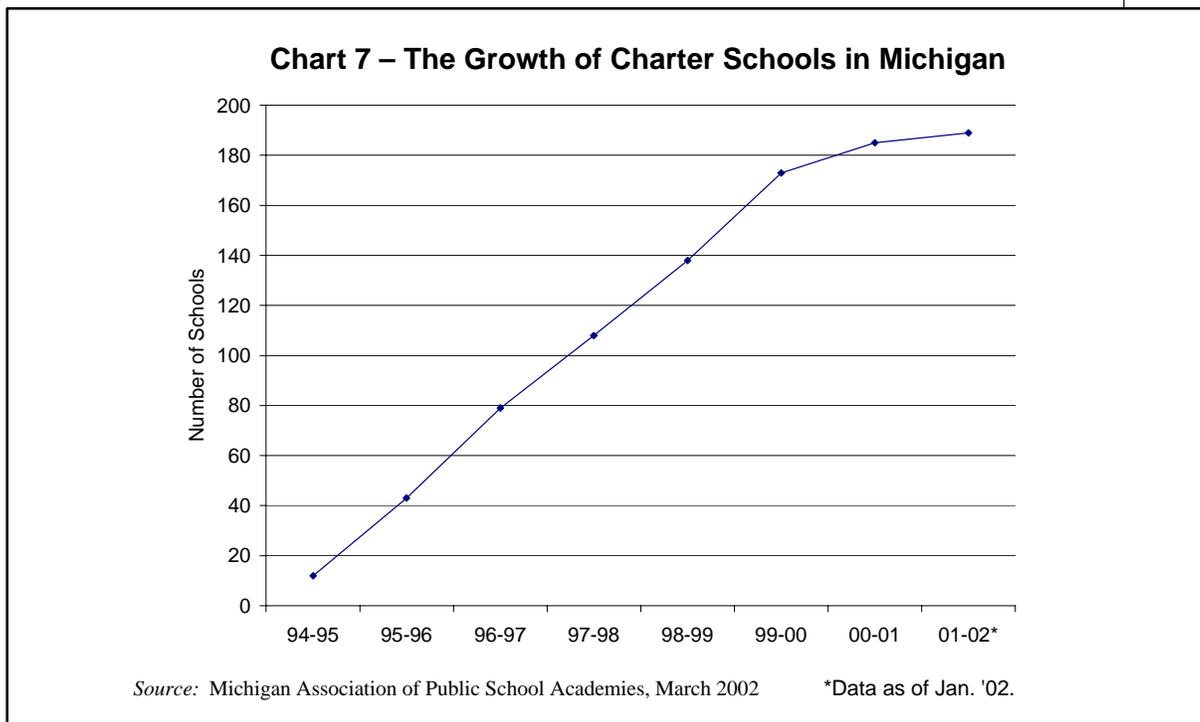
*All across America, a consensus is emerging about the troubled state of public education: The system is hidebound with regulations, bureaucracy, and disincentives for excellence. Remove these barriers, subject the system to competition, empower parents with choice, and improvements will at last begin to take place—that's the general prescription accepted more widely with each passing day. With the introduction of inter-district choice, charter schools, school funding restructuring, and other reforms of recent years, Michigan has made progress. Sadly, however, too many children still languish in poor and unsafe schools. Few issues are more important to the future of our state than education reform—making Michigan schools competitive for the 21st century.*

*The Mackinac Center for Public Policy is Michigan's leading education reform organization, having produced hundreds of studies, commentaries, articles, and policy recommendations since 1988. Its largest publication, Michigan Education Report (MER), is received by over 130,000 people, including most teachers in the state. MER and a wealth of education-related material can be easily found using the search engine at [www.mackinac.org](http://www.mackinac.org).*

**30. Remove the cap on the number of charter schools state universities can authorize.**

Michigan's status as a national charter school leader is directly related to the bold and innovative steps taken by state universities. However, this progress is being impeded by the legislative limitation placed on the number of charter schools state universities can authorize.

The current cap is set at 150 schools, despite increased demand from parents. In fact, 66 percent of Michigan's charter schools have waiting lists, and 75 percent of the state's charter schools' enrollment grew from the 2000-01 school year to 2001-02.<sup>19</sup> The Legislature should remove this cap and allow for the expansion of charter schools rather than rationing choice and opportunity to children. It should also consider the creation of an additional authorizing entity such as a statewide charter school board.



Charter schools have been particularly well received by many minority and poor students. More than 50 percent of Michigan's charter school students are ethnic minorities, compared to an average of 19 percent in traditional public schools. Forty percent of charter school students are eligible for the free and reduced portions of the National School Lunch Program.<sup>20</sup> For these students, charter schools offer the only alternative to a system that is failing to meet their needs. These opportunities should be expanded rather than restricted.

An April 2002 report from a commission headed by Michigan State University President Peter McPherson endorsed the need for more alternatives, particularly for disadvantaged students, but contradicted itself by calling for an overly restrictive expansion of charter schools precisely where students with the greatest needs reside.

The charter school movement is the future of public education—local control and accountability with public funds. The Michigan Department of Education and the Superintendent of Public Instruction should begin to prepare the state for the transition.

*For further information, please see [www.mackinac.org/3719](http://www.mackinac.org/3719), [www.mackinac.org/3219](http://www.mackinac.org/3219), and [www.mackinac.org/2975](http://www.mackinac.org/2975).*

**31. Extend the length of charter school contracts and allow schools to use multiple sites under one charter.**

The length of charter contracts is not specified by statute, but three to five years has emerged as the norm. Contracts of such short duration have a dramatically negative impact on the financial arrangements that charter schools can enter into, thereby reducing flexibility and options and raising the cost of providing an education. The Legislature should encourage charter school authorizers to use long-term contracts or even “evergreen” contracts that can be revoked any time a compliance failure exists or persists.

Allowing charter schools to use multiple sites under one charter would permit campus-style schools with a single address, the use of off-site facilities for instructional purposes, or the establishment of charter high schools that service pre-existing K-8 charters. A multi-charter contract also would encourage replication of quality programs that are in demand by parents.

**32. Prohibit traditional public school districts from restricting the use of non-utilized school buildings by charter schools.**

The Legislature should stipulate that when a government school seeks to sell a facility, it cannot prohibit the sale of the property to a charter school or in any way inhibit the use of that property by a charter school after sale.

**33. Allow property tax exemption to be passed on from a charter school to its landlord.**

Schools that lease facilities currently suffer additional costs because their landlord cannot benefit from the schools’ tax-exempt status. This reform would help ease the burden that charter schools now have with regard to securing facilities.

**34. Permit experience and/or education to qualify teachers for charter schools.**

In addition to hiring state-certified teachers, charter schools should be allowed to hire noncertified teachers whose experience and/or education qualifies them to teach in a particular field.

Arizona law permits noncertified teachers to enter the teaching profession, and that state has experienced great success in attracting the kind of quality educators who would be

excluded from teaching at traditional public schools in Michigan. Meanwhile, statistics on homeschooled children demonstrate the weak relationship between certification and academic success.<sup>21</sup>

**35. Reform teacher certification to increase the pool of quality teachers.**

Teacher certification has never guaranteed qualification. In fact, many people who possess the ability and knowledge to teach are ultimately excluded from entering the teaching profession due to expensive, time consuming, and onerous red tape imposed by certification procedures.

The original purpose of the teacher certification process was to ensure quality, but certification does not guarantee mastery of a subject. According to the U.S. Department of Education, 36 percent of public school teachers—972,000 teachers out of 2.7 million nationwide—did not major or minor in the core subjects they teach.<sup>22</sup>

Dr. Sam Peavey, professor emeritus at the University of Illinois, is among many experts who argue that “after 50 years of research, we have found no significant correlation between the requirements for teacher certification and the quality of student achievement.”<sup>23</sup>

The state should reform teacher certification in order to allow the most qualified people to enter the classroom at any time. The teaching profession should be open to all who are deemed to be positive role models and competent in their subject areas, regardless of certification or lack thereof. School districts and individual schools should be given the authority to set qualifications for teachers.

Public policy should address the shortage of highly qualified teachers by encouraging local schools and districts to recruit teachers from the ranks of their best students and provide training and mentoring in the schools in which they will serve. Additionally, by allowing local schools and districts to establish their own teacher qualification standards, competent professionals with subject matter expertise would be recruited into the teaching profession.

*For further information, please see [www.mackinac.org/1651](http://www.mackinac.org/1651).*

**36. Expand public schools-of-choice programs to allow all students in all districts to attend the public school of their choice.**

The Legislature should remove the provision in section 105 of the State School Aid Act<sup>24</sup> that allows school districts to choose, or refuse, participation in the public schools-of-choice program. All schools should be required to participate, and all Michigan students should be allowed to attend the public school of their choice.

In 1996, the state of Michigan made it easier for parents to choose their child’s school from among those in their own and neighboring districts. Previously, parents wanting to send their children to schools other than their assigned district school were typically

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***All Michigan students should be allowed to attend the public school of their choice.***

forced to obtain permission from the assigned district in order to avoid paying tuition to the public school of their choice.

For participating districts, the law now allows students to transfer between public schools in the same local district, to public schools in the same intermediate school district, or to public schools in contiguous intermediate districts without paying tuition, provided the desired district has space. While the number of students exercising public school choice is increasing, the number involved in the schools-of-choice program is limited because districts control whether or not they will participate.

Although the law doesn't explicitly limit the number of students who can leave districts to attend schools outside their district boundaries, intermediate school districts often strictly limit the number of students they enroll from outside neighborhoods. Intermediate school district conglomerates may "opt out" of certain provisions in the state's public school choice plan and create their own choice programs that are actually aimed at curtailing the level of choice. As a result, although the law encourages more choice than ever, choice remains elusive for many students.

According to the Michigan Department of Education, 283 out of 554 districts participate in Michigan's schools-of-choice plan, and another 165 districts have adopted their own plans, offering very limited forms of choice. More than 100 districts do not permit choice. Overall, the number of students participating statewide in the choice program has grown from 5,611 in the 1996-1997 school year to 33,506 in 2001-02, a small percentage of the 1.7 million K-12 public school population in Michigan.<sup>25</sup>

Districts such as the Genesee and Kent Intermediate School Districts have created their own choice programs, allowing few students to choose the school in which they enroll. The programs allow each student's assigned district to deny or grant permission each year for that student to attend his or her school-of-choice.

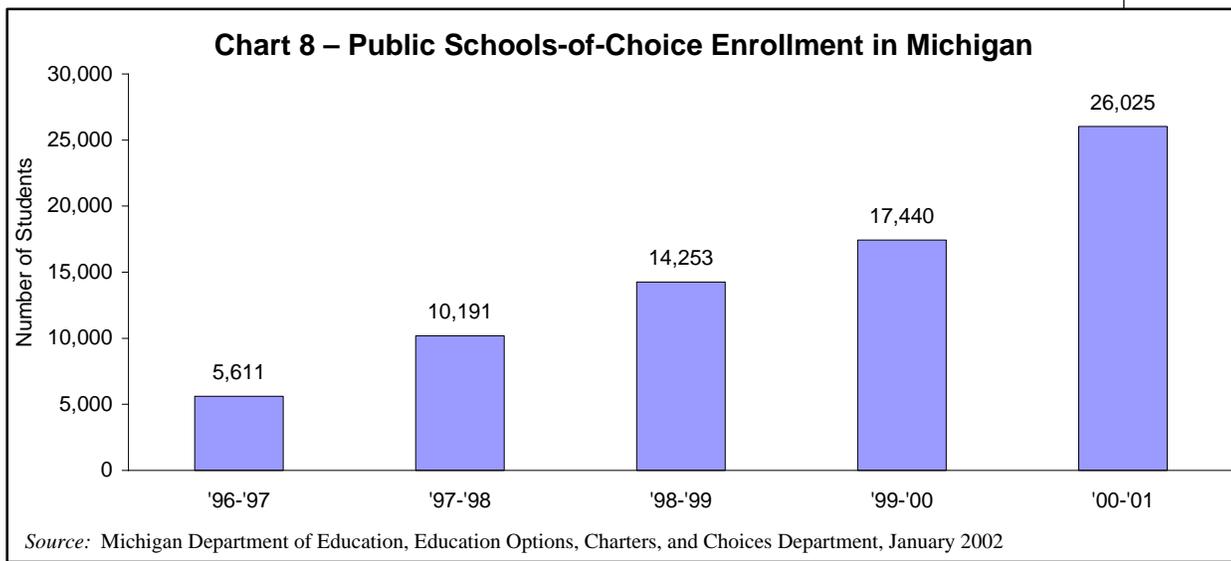
If the district denies permission for a student to leave, the student faces the same dilemma he would have faced before the choice program began: He must pay tuition to the district of his choice or stay in the assigned district.

It is time for this to change. The Legislature should alter the schools-of-choice law to require all districts to allow public school students to freely choose the school they prefer to attend. This would provide ample competition between districts, encourage improvements, and free students from schools that are not serving their individual needs.

Opening the public schools-of-choice plan to offer full choice would also benefit districts financially. Though the choice plan has been criticized and rebuffed by some district officials, it has proved profitable for many districts that have participated. For example, during the 1990s, as choice increased through the growth of charter schools and public school choice, the Dearborn school district began preparing to retain and attract students. New, specialized programs were developed, with parents' preferences becoming the primary focus. Concurrent with Dearborn's aggressive efforts to recruit students, enrollment in Dearborn public schools increased from 13,857 in 1994-95 to 17,075 in 2000-01, even as competition from neighboring school districts and charter schools has increased.

For more on how districts are responding to competition, see the 2000 Mackinac Center for Public Policy report, “The Impact of Limited School Choice on Public School Districts.”

*For further information, please see [www.mackinac.org/2962](http://www.mackinac.org/2962) and [www.mackinac.org/3236](http://www.mackinac.org/3236).*



**37. Remove from the state constitution discriminatory language that prohibits education tax credits, and place a Universal Tuition Tax Credit before voters.**

The U.S. Supreme Court has defended the primary right and responsibility of parents to direct the education of their children.<sup>26</sup> However, Article 8, Section 2 of the 1963 Michigan Constitution prevents the majority of Michigan parents from choosing the safest and best schools for their children without paying twice. It is therefore incumbent upon the Legislature and the citizens of Michigan to remove the 1970 amendment that took away this right and responsibility from parents.

Under the current system, parents who choose to send their children to a nongovernment school must pay twice—once in taxes for public schools they don’t use and again in tuition for the school they do use. This financial penalty prevents the majority of Michiganians from exercising their rights as parents, as it is only the wealthy who are able to afford such financial choices.

As detailed in the Mackinac Center for Public Policy study, “The Universal Tuition Tax Credit: A Proposal to Advance Parental Choice in Education,” a properly designed education tax credit plan can save money for the state’s School Aid Fund, make possible an increase in the state’s per pupil foundation allocation, create new incentives for school improvement, and expand options for parents—all at the same time.

Education tax credits are gaining momentum across the country. In recent years, 12 states have considered, and six have passed into law, some form of education tax credit (see

Table 1, below). Arizona’s program is the largest in the country, having provided more than 19,000 scholarships worth over \$32 million to low-income students since 1998.<sup>27</sup> In 2001, Pennsylvania and Florida enacted credits for businesses that want to help pay tuition for students to attend better or safer schools.

<b>Table 1 – States to Recently Consider or Enact K-12 Education Tax Credit Legislation</b>	
<i>State</i>	<i>Status</i>
Arizona	Passed 1997
Colorado	Ballot Measure Defeated in 1999
Florida	Passed 2001
Idaho	Defeated 2001
Illinois	Passed 1999
Iowa	Passed 1989
Kansas	Defeated 2001
Minnesota	Passed 1997
Missouri	Defeated 2001
Nebraska	Defeated 2001
Ohio	Defeated 2001
Pennsylvania	Passed 2001
South Carolina	Defeated 2001
Utah	Under consideration 2002
Virginia	Defeated 2001

*For further information, please see [www.mackinac.org/3541](http://www.mackinac.org/3541), [www.mackinac.org/3662](http://www.mackinac.org/3662), and [www.mackinac.org/S1997-04](http://www.mackinac.org/S1997-04).*

### **38. Preserve and strengthen Proposal A and school choice through “Proposal A+.”**

When Michigan voters overwhelmingly approved the school finance constitutional amendment known as Proposal A in 1994, they thought they were going to get several important things: a sales tax hike in exchange for significant property tax relief, less disparity in spending among school districts, and substantially more per-pupil funding.

The plan has delivered on those promises, but there’s a rising chorus for giving school districts renewed authority to seek higher local property taxes. For schools that need extra money and can make a good case for it, there’s a much better way than undoing what the voters endorsed seven years ago: It’s a plan known as “Proposal A+.”

First, it’s important to take account of just how much Proposal A has accomplished for Michigan. Prior to 1994, Michigan’s property tax burden was 35 percent above the national average and driving residents and businesses elsewhere.<sup>28</sup> Today, that burden is much closer to the national average and one of the reasons for the state’s impressive economic progress of recent years.

Proposal A has been good news for schools, too. Since 1994, the minimum per-pupil foundation allowance that school districts are guaranteed by the state has risen almost 43 percent, two-and-a-half times the inflation rate. In 1993-94, the 10 lowest-spending districts spent \$3,476 per pupil while the top 10 spent \$9,726. Today, the lowest 10 spend almost twice as much—\$6,500—and the highest 10 spend \$11,189.<sup>29</sup> According to the National Education Association, Michigan outspends 43 other states per pupil.

Nonetheless, if there are schools that can't or don't want to effect cost savings to improve their bottom lines and can make a convincing case that they need more money to do their job, they could do so under Proposal A+. This is not another tax hike opportunity. Rather, it's a chance to encourage greater financial support on a voluntary basis for all schools, public and private, at the same time.

The proposal was first presented publicly in the Dec. 7, 2001 issue of The Detroit News, in a commentary jointly authored by Congressman Peter Hoekstra and Mackinac Center President Lawrence Reed. It would amend the Michigan Constitution to allow a "universal" tax credit for educational expenses and for contributions to scholarship funds. The credit could be claimed by parents, friends, family members and even businesses against such levies as the state's personal income tax, 6-mill statewide property tax and the Single Business Tax.

The maximum credit need not be high. Arizona's \$500 tax credit has generated tens of millions of dollars in scholarship funds for students from low-income families, and millions more for use in the public schools.

The Proposal A+ plan would apply toward contributions to public as well as private schools. It would mean that government schools would not have to mount expensive and uncertain ballot efforts to get voter approval for a tax increase. If they made their case persuasively, they could entice individuals and businesses to make voluntary contributions. Up to the maximum credit allowed, those contributions would not cost the donor a penny, and nobody's taxes would increase as a result.

By allowing even a small tax credit for private education, Proposal A+ would strengthen local influence in the financial investment in Michigan children's education. Parents who choose private options, particularly low-income parents in inner cities, are often securing excellent educations for their children at a savings to the taxpayer and at great sacrifice of their own resources. They deserve a break. Parents who want to help their local public schools also will have the opportunity to do so.

Proposal A+ is not a voucher. Voters spoke convincingly and finally on that question in defeating a voucher plan in November 2000. The much more palatable and familiar vehicle of a tax credit would encourage contributions to schools, public and private, that make the best case that their fellow citizens should do more to support education.

### **39. Schedule all school elections with general elections in November.**

In the interest of greater public participation in the democratic process and reducing onerous costs, all school-related issues that need voter approval should be decided in the

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***Public policy should encourage teachers and administrators to recognize the diversity of students and provide the array of educational programs that will better address the varied ways children learn.***

general election cycle that occurs each November. Currently, Michigan school districts can call an election every six months. A vote might be in February one year and June the next. Polling places for these elections are often sites other than those used in general elections, and citizens are confused even more when some districts have elections on days other than the customary Tuesday.

By requiring that school governance and finance issues appear on the November ballot, significantly more citizens will know the place and time of the election and will exercise their right to decide how their schools will be run. Ballot consolidation would also relieve school officials of the responsibility for conducting elections and allow them instead to focus that time and money on their primary responsibility educating children.

**40. Exempt innovative schools and school districts from the requirements of onerous state statutes and regulations.**

Public policy should encourage teachers and administrators to recognize the diversity of students and provide the array of educational programs that will better address the varied ways children learn. These alternative education programs, known as “schools within schools” and pioneered by New York City’s District 4, have demonstrated significant success.

If significant numbers of parents and teachers want to implement alternative programs, the state superintendent of public instruction should be authorized to exempt a school or district from state requirements that inhibit innovation and to guarantee that freedom as long as educational progress is demonstrated. Parents within the district wishing to enroll their child in a traditional school or an alternative school should be free to do so.

Alternative schools should be free to adopt specific, written admission standards. Standards may include, but need not be limited to

- consideration of the capacity of a program, class, grade level, or school building;
- student academic ability;
- student behavior; or
- an advance requirement of parental participation.

**41. Replace Michigan’s public school “count day” with an average daily membership calculation.**

Michigan should discontinue using a student count day to determine school population and adopt an average daily membership (ADM) method for determining the number of students attending a school on a daily basis. An ADM method would take school attendance numbers over time and calculate the average number of students attending school each day.

Currently, each district's pupil count is a blend of two count days. The blend is comprised of 20 percent of the count taken on a day in February of the prior school year and 80 percent of the count on a day in September of the current school year.

States that use an ADM method of accounting for student attendance ensure that schools are fairly compensated for students they actually teach. Schools with an increase in attendance receive an increase in funding. Conversely, schools with dips in attendance realize dips in funding. Schools are paid only for the days that students attend school.

Not only would the ADM method of accounting for student attendance save the state money, it also would encourage attendance. Determining a school's funding amount based on average daily attendance would reward schools with consistently low truancy rates. With just two count days, schools have been known to artificially inflate their numbers by having pizza parties or using other gimmicks on count days to bring in students not in attendance on a regular basis. Additionally, students at their desks would truly represent funding for school districts, encouraging schools to treat parents and students more like valued customers.

#### **42. Give schools "real-time" funding for their per-pupil portion of state aid.**

Currently, the state per-pupil grant, which is the bulk of public school district funding, is paid annually. The remaining state aid is paid in eleven equal portions on the 20th of every month, except for September. The per-pupil grant should also be in monthly installments based on the "average daily membership" count (see recommendation 41, above) for the previous month. Current law presumes that attendance will remain constant for the entire year. But a number of factors, such as immigration (immigrant workers' children) or transfers from charter, public, or private schools, affect schools' population. With "real-time" funding, schools would be able to accurately forecast the amount of money that they will receive without the delay in funding. The dollars would follow the student, and schools faced with sudden increases in students are assured a fair share of educational funding. Additionally, school districts would be forced to manage their funding on a cash flow basis based on student attendance, much like other service providers (restaurants, hospitals, etc.).

#### **43. Exempt public schools from the Prevailing Wage Act.**

Earlier in this document, Michigan's Prevailing Wage Act was explained as special-interest legislation designed to benefit organized labor at the expense of anyone in the state who receives state tax dollars for a construction project. The act, in effect, requires the payment of union-scale wages and tends to lock out the majority of Michigan construction workers and firms that are open (or "merit") shops. The act should be repealed in its entirety.

However, legislators who are unwilling to go the full measure should at least provide relief to the state's public schools by exempting them from compliance with the Prevailing Wage Act. Within the first five years, such an exemption could save Michigan schools millions of dollars in unnecessary construction costs—money that could be better used in the

classroom. Legislators who oppose such an exemption have no right to decry a shortage of funds for public education.

During the time the Michigan Prevailing Wage Act was not in effect—from December 1994 to June 1997—Michigan schools enjoyed 30 months of substantial savings. The Hastings School District in Barry County, for example, was able to take advantage of a nonunion bid for a \$4.3 million construction project and saved 13 percent.<sup>30</sup>

The Ohio Legislature in 1997 exempted schools from that state’s prevailing wage law—saving schools an average of 10.5 percent in construction costs, according to the nonpartisan Ohio Legislative Budget Office. If Michigan were to follow Ohio’s lead, our schools would save at least \$150 million annually—a figure that represents 10 percent of average annual school construction costs and which is equivalent to \$90 for every student in the state.

*For further information, please see [www.mackinac.org/3844](http://www.mackinac.org/3844).*

#### **44. Strengthen the powers and responsibilities of local school boards.**

Michigan public school boards should be encouraged by the Legislature, the governor and his or her administration, and the State Board of Education to

- a) remove exclusive representation clauses that require union permission before employees can explore opportunities with other professional organizations;
- b) negotiate compulsory support clauses out of their collective bargaining agreements to maximize the rights and freedoms of individual public school employees;
- c) advise their employees of their rights under U.S. Supreme Court rulings regarding union dues for noncollective bargaining purposes;
- d) remove seniority-based salary schedules from their collective bargaining agreements and institute performance-based pay scales that reward outstanding teachers and attract the best people to the job of educating tomorrow’s leaders;
- e) competitively bid for teacher and support personnel health care packages to ensure the best benefits at the lowest cost; and
- f) competitively bid for noninstructional service providers. Privatization of transportation, food service, building maintenance, and janitorial services allows for cost savings on these budget items. Privatization also allows for a reduction in the amount of oversight of these services by administrators and an increased focus on classroom instruction.

These and many other suggestions for improving schools through changes in school board collective bargaining policy are explained in the Mackinac Center for Public Policy study, “Collective Bargaining: Bringing Education to the Table.”

*For further information, see [www.mackinac.org/791](http://www.mackinac.org/791).*

**45. Encourage innovative programs to enhance accountability in education.**

Public school districts and private schools should shoulder at least some of the financial burden of addressing the lack of basic skills among their graduates. At least one school district has proposed some sort of “money-back guarantee” for high school diplomas. In other words, if high school graduates are unable to demonstrate mastery of basic skills, schools would have to pay for at least some of the cost of remedial education for those students. This financial responsibility would provide a further incentive to schools to ensure that their graduates were minimally competent.

In September 2000, the Mackinac Center for Public Policy released a pioneering study entitled, “The Cost of Remedial Education: How Much Michigan Pays When Students Fail to Learn Basic Skills,” by Dr. Jay P. Greene. (The study is accessible on the Internet at [www.mackinac.org/3025](http://www.mackinac.org/3025).) It showed that the annual cost to the state’s businesses and universities of the failure of Michigan students to acquire basic skills in high schools is \$601 million per year. One of the study’s recommendations was for schools to provide a “money-back guarantee.” As it turns out, there is at least one public school district in Michigan that has been doing that successfully for several years: Rockford Public Schools, near Grand Rapids. It’s a model that ought to be encouraged all across the state. For more information, read a commentary by the Rockford Public Schools Superintendent Mike Shibler on the Internet at [www.mackinac.org/3179](http://www.mackinac.org/3179).

**46. Enact “Freedom School” legislation.**

As first proposed in 1993 by Mackinac Center Senior Policy Analyst Dr. Gary Wolfram, the “Freedom Schools” plan would introduce reforms to the public school system that would help all children receive a quality education.

Here is how the plan would work. A supermajority of the parents of a school, perhaps two-thirds, or a supermajority of the teachers in a school, perhaps three-fourths, would have the ability to declare the school a “Freedom School.” This would set the school free from the current system and free from the school district. The per-pupil school operating funds would then go directly to the school rather than to the district headquarters. The school would be able to operate independently of the district, setting its own curriculum, uniform policy, personnel policy, etc. However, no child would be assigned to the school (it would truly be a “choice” school), and thus the school would have to provide an education that is better than the alternatives in order to retain and/or attract students.

The parents would elect a board to operate as the governing body of the school. This would not require parents to run the day-to-day operations of the school. There are several good management firms that operate public schools in Michigan. To argue that parents are not capable of electing a board or running for the board of a Freedom School is a red herring. According to Dr. Wolfram, in 1920 one in 15 adults in Michigan was on a local school board, and it’s widely acknowledged that they delivered high-quality education—in some respects, much higher than we do today.

The building would remain the property of the school district. However, the district would be required to rent the building at fair-market value to the Freedom School. There are

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***Public school districts and private schools should shoulder at least some of the financial burden of addressing the lack of basic skills among their graduates.***

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***The traditional core curriculum that once guaranteed that all graduating students shared in the same body of knowledge and enjoyed the same competence in cognitive skills is in tatters.***

methods to set a fair-market value, such as an appraisal of an assessor agreed to by both parties. Maintenance of the building would be determined in the rental agreement.

Some have argued that poorly performing schools lack parental support, and thus Freedom Schools would not arise in Michigan's poorest performing districts. This theory could be tested by allowing Freedom Schools in the poorest performing districts. One reason parental participation is low in districts such as Detroit is the enormous size of the district and the inability of parents to truly affect outcomes. Freedom Schools would provide this opportunity, and the skeptics would be astonished at the interest of parents in their children's education once the parents are given greater control.

#### **47. Reform higher education.**

The state universities of Michigan, like many of their counterparts across the nation, are suffering from a general erosion of academic standards and a politicization of the undergraduate curriculum. The traditional core curriculum that once guaranteed that all graduating students shared in the same body of knowledge and enjoyed the same competence in cognitive skills is in tatters. An in-depth analysis of the undergraduate curriculum and recommendations for reform are discussed in the Mackinac Center for Public Policy report, "Declining Standards at Michigan Public Universities."

As proposed in that 1997 report, tenure rules on Michigan's campuses should be changed to encourage teaching excellence. Alternative accreditation of English departments, writing programs, and other humanities departments and programs should be instituted. Teachers-in-training should take far fewer courses in the education departments and schools of education and far more substantial courses in subject areas. The rules and regulations against political indoctrination in the classroom should be vigilantly observed and rigorously enforced. An all-campus undergraduate core curriculum should be established so that all students in state universities will undergo the essential core training and gain exposure to common, high-level material in the arts and sciences.

To preserve the autonomy of the state's universities, the Mackinac Center recommends that the Legislature not attempt to meddle directly by legislation in the curricular and personnel affairs of those universities. To advance a serious, statewide discussion of these and other reforms recommended in the report, the Mackinac Center calls on the governor to appoint a special commission for the purpose of reviewing those recommendations and examining university issues such as curriculum and tenure.

*For further information, please see [www.mackinac.org/236](http://www.mackinac.org/236).*

## **VI. Spurring Economic Growth and Development**

*For most of Michigan's history, economic development was thought of as what happened when people pursued their own productive enterprises, free of undue interference from government. The principles of free markets—"a fair field and no favor"—were the main guideposts for Michigianians. As a result, many jobs were created—more of them and*

at higher wages than anywhere else—when profit-seeking entrepreneurs rushed to meet the public’s demands and government encouraged a safe and stable environment in which to do business.

Today, however, economic development often means “industrial policy,” a euphemism for state government picking winners and losers; doling out subsidies; and engaging in wealth redistribution and corporate welfare. As a result, many government bureaucracies are loudly but falsely claiming credit for “creating” jobs. It is time for the Legislature to address economic development with a critical eye and the proper analytical tools.

When Gov. Engler took office in 1991, Michigan’s overall tax burden was well above the national average. Total state and local tax revenues as a share of personal income were 10.9 percent. By 1995, the Senate Fiscal Agency reported that the percentage had fallen to 10.3 percent. By the end of the decade, the tax burden was back up to 10.7 percent of personal income. In Fiscal Year 2000 it was 10.8 percent. Michigan must reduce its overall tax burden, particularly in light of the need to stay competitive with other states that are also cutting taxes. According to the Tax Foundation, a Washington, D.C.-based nonprofit organization, Michigan ranks 16th in per capita state and local tax burden as a percentage of income, which means that 34 states have a lesser burden than does Michigan. The following recommendations will help ensure Michigan’s economic prosperity.

#### **48. Scale back the Michigan Economic Development Corporation.**

The Michigan Economic Development Corporation (formerly the Michigan Jobs Commission) is the state’s department of corporate welfare, taking in hundreds of millions in federal and state tax dollars and doling out tens of millions of dollars in subsidies and other favors to select businesses. The Legislature should examine this agency’s budget and ask to what extent its programs merely redistribute jobs to the politically well connected while causing many other businesses to incur the costs of retraining and rehiring in tight labor markets.

Many of the MEDC’s activities appear disturbingly similar to the failed gimmickry of previous administrations. The Legislature should recognize that corporate welfare and “industrial policy” are no less objectionable when Republicans practice them than when Democrats do. The best policy for the state to follow is to excise all those programs of the MEDC that amount to corporate welfare, leaving any necessary or mandated functions to be managed by either a streamlined MEDC or other departments of state government.

State government should pursue economic development by improving core government services such as transportation, reforming education, cutting taxes and bureaucracy, and implementing needed labor reforms. This was the broad-based approach advocated and practiced by Gov. Engler in his first term but which has since been joined by the dubious programs of the MEDC. Indeed, the MEDC has brazenly declared in its own publications that its primary activity in 2002 will be working to preserve its own continuance into the next administration.<sup>31</sup>

It also should be noted that when the MEDC subsidizes some firms, it usually hurts other firms. Consider the case of Boar’s Head Provision Company—a meat products

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***The best policy is to excise all those programs that amount to corporate welfare, leaving any necessary or mandated functions to be managed by either a streamlined MEDC or other departments of state government.***

company headquartered in Brooklyn, N.Y. In exchange for the company's promise to invest \$14 million and create 450 new jobs in Michigan over three years, the MEDC arranged in 1998 to give Boar's Head an "economic development package" worth up to \$5.1 million in federal, state, and local resources. It included up to \$3 million for equipment leasing, an abatement of the 6-mill state education tax of up to \$212,590, and as much as \$1,000 per worker for training. Armed with these "incentives," the company opened a processing plant near Holland, Mich., on Dec. 13, 1999. What the MEDC's press releases never revealed was the impact of the deal on other Michigan businesses, such as Koegel Meats Inc., in Flint.

Like Boar's Head, Koegel makes meat products. A Michigan-based family business for three generations, it produces an extensive line of cold cuts and the popular "Koegel's Vienna Frankfurters" that get grilled by the millions in Michigan backyards every summer. Its meat products still use recipes devised by Albert Koegel when he emigrated from Germany to Michigan and started the company in 1916. The firm sells 99 percent of its product in Michigan and employs about 100 people at its Flint facility. For all of its 86 years, Koegel Meats always has paid its taxes while never receiving government favors or taxpayer dollars in the form of abatements or subsidies. The company always has trained employees with its own funds. In fact, when the company was once offered federal money for job training, Al Koegel turned it down because he did not want the hassle of red tape and paperwork.<sup>32</sup>

It is patently unfair to extract tax dollars from Koegel and use them to benefit an out-of-state competitor such as Boar's Head. Unfortunately, this sort of situation is part and parcel of the MEDC's mission—a mission that needs to be dramatically revised or ended.

*For further information, please see [www.mackinac.org/2670](http://www.mackinac.org/2670), [www.mackinac.org/4053](http://www.mackinac.org/4053), and [www.mackinac.org/718](http://www.mackinac.org/718).*

#### **49. End self-aggrandizing advertisements.**

One specific area the Legislature could examine is the MEDC's advertising to celebrate its own self-importance. In late 2001, the agency released a brochure of its "2002 Corporate Objectives" in which it listed "Ensure the Continuity of the MEDC" as its No. 1 objective. In other words, the bureaucrats at Michigan's department of jobs have made protecting *their own* jobs their top priority in 2002.<sup>33</sup>

The MEDC also is running a series of self-aggrandizing radio advertisements through the 2001-02 fiscal year, which ends on Oct. 31, 2002, just days before the next election. The timing of this ad run may not be a coincidence, since Michigan voters will choose a new governor in the election, and that governor may not be as favorably disposed toward the MEDC as Gov. Engler has been.

The MEDC is spending \$850,000 to produce and run the ads, which all underscore the importance of the MEDC in general, or what it has meant to specific entrepreneurs.<sup>34</sup> Of the 16 ads that the Mackinac Center for Public Policy has obtained through the Freedom of Information Act, all contain the following introductory and concluding remarks:

“The Michigan Economic Update is presented by the Michigan Economic Development Corporation, *the No. 1 driving force behind business growth in Michigan*”<sup>35</sup> (emphasis added).

Implicit in this astounding claim is the MEDC’s apparent belief that the thousands of Michigan entrepreneurs who risk their own money bringing products to market, who meet payroll, navigate state-mandated regulatory mazes, and pay taxes to support bureaucracies such as the MEDC itself are a *secondary* force in Michigan business development. This is an unrealistic, if not insulting, view of how a modern market economy works.

Each MEDC advertisement also concludes with the statement:

“The Michigan Economic Development Corporation is in the business of helping businesses grow and succeed. They can give your business an edge, provide you with expert help on workforce training, recruiting skilled workers and corporate tax strategies. The experienced staff at the Michigan Economic Development Corporation can help you cut through red tape that can save time and money. *Plus, their services are free*”<sup>36</sup> (emphasis added).

The MEDC’s activities are far from free. Since fiscal year 1999-2000 the MEDC has received more than \$244 million in General Fund/General Purpose dollars—tax money extracted from Michigan citizens.<sup>37</sup> The General Fund is the money in the Michigan budget over which elected politicians have the most discretion. And this figure does not include the money that is received by the MEDC from the federal government and other sources.

It is unseemly when government agencies promote themselves with lavish media buys, but particularly so when the agency is of such dubious worth as the MEDC and at a time when an economic downturn demands that government tighten its belt.

## **50. End duplicative state Internet job bulletin boards.**

The MEDC’s counterproductive work goes beyond just handing out favors to particular businesses. Sometimes, it competes directly against private firms and, in one particularly notable case, even against another state agency.

Consider two highly similar programs—one operated by the MEDC and the other by the Michigan Department of Career Development (MDCD). The MEDC sponsors a web site called “Michigan Careersite” while the MDCD operates one known as the “Michigan Talent Bank.” They each carry out the same function—bringing job seekers and job providers together—and compete not just with each other, but also with hundreds of private, Michigan-based job recruitment companies.<sup>38</sup>

Why does the state run these redundant sites? According to the MEDC, Michigan Careersite was created to help attract “skilled workers in Information Technology, Life Sciences, and Advanced Manufacturing.” The MDCD says its Michigan Talent Bank is intended to “bring employers and employees together,” but it does not exclude skilled workers from any field, so the two sites end up performing overlapping duties. In addition,

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***There are over 6,000 web sites specifically dedicated to job recruitment nationwide, and most of these private organizations do their work without costing the taxpayer a cent.***

an MEDC brochure about Michigan Careersite brags about its ability to “grab” jobs posted on Michigan’s Talent Bank and move them to its own.<sup>39</sup>

Reading the brochure, one gets the sense that even MEDC officials know they should not be in the job board business. It reads, “The world does not need another job board. We know. Internet job boards are one of the great advances in modern recruitment, but their popularity and abundance have reduced human resource staff productivity nationwide. The MEDC is partnering with Michigan-based Careersite.com to fix this problem.”<sup>40</sup>

Private recruitment companies have long helped employers find qualified workers to fill jobs. During the 1990s, Michigan alone saw 348 new “human resource” firms spring up to fill this role. Michigan also is home to many privately run labor exchange web sites, such as Careermatrix.com. Its founder, Dennis Hoyle, is not thrilled with the state’s involvement in his business. “It really is irksome to see the state using our tax dollars to compete against us,” he said. “Moreover, it’s bizarre watching the agencies competing against each other. There really isn’t much difference between the two sites.”<sup>41</sup>

Additionally, a number of general web sites in the state, such as Mlive.com, operate labor exchanges, and many newspapers post their want ads online. There are over 6,000 web sites specifically dedicated to job recruitment nationwide, and most of these private organizations do their work without costing the taxpayer a cent. Meanwhile, the MEDC is spending about \$500,000 to operate Michigan Careersite for its first two years. The MDCD does not know what it costs to operate the Michigan Talent Bank.<sup>42</sup>

Another irony is the MEDC’s mission to recruit workers from outside Michigan. According to the agency, it is “saturating the cities of Chicago, Indianapolis, Cincinnati and Columbus” with \$5 million in advertisements to tell workers about Michigan job opportunities. At the same time, the MEDC is enriching Career Site Corp., which it hired to help run Michigan Careersite. Career Site Corp. also operates Careersite.com, a national labor exchange site that can help Michigan workers find jobs outside the state.<sup>43</sup>

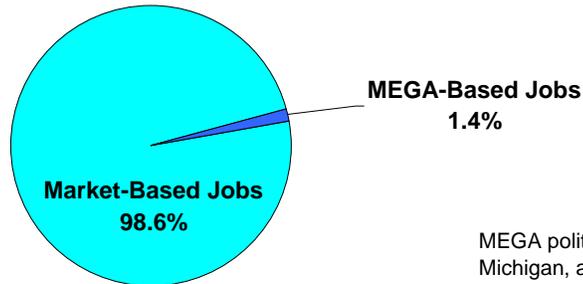
## **51. Abolish the Michigan Economic Growth Authority (MEGA).**

An important element of the MEDC’s business retention and attraction efforts is MEGA, a program of selective tax abatements for firms that promise to create or retain a certain number of jobs in Michigan. It is the essence of the government strategy for “picking winners and losers” that economists regard as counterproductive to genuine, lasting, market-directed development. During the past few years, Michigan labor markets were the tightest they have been in three decades. It hardly seems necessary for the state to be playing this game even if government were capable of knowing which firms are deserving and which are not.

Yet Michigan has an entire state bureaucracy that is organized around the mistaken idea that government economic planners can figure out which endeavors in the marketplace will be winning investments and which will not. Decades ago, Austrian economist Ludwig von Mises and his Nobel Prize-winning student Friedrich Hayek argued forcefully that such predicting is fraught with complications and limitations. It simply isn’t possible to predict

the ever-changing preferences of consumers, or the impact of innovation, competition and technology in a vibrant, healthy economy.

**Chart 9 – MEGA's Minuscule Jobs Impact**



Sources: Michigan Economic Development Corporation,  
Michigan Department of Career Development data, 1995-2000.

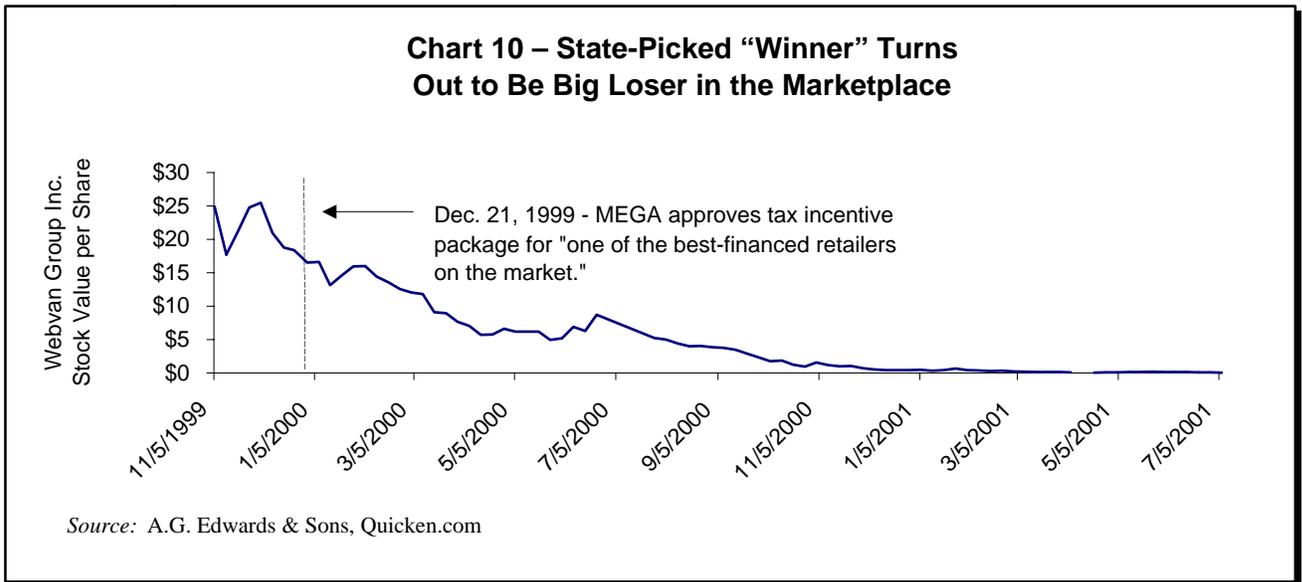
MEGA politicizes job creation in Michigan, all in an attempt to add just the tiniest sliver to the state's employment base.

Take, for example, MEGA's pick of Webvan Group Inc. of Foster City, Calif. An online grocery retailer, Webvan was offered \$23.4 million in tax credits by MEGA on Dec. 21, 1999, to build one of its 26 distribution centers in Michigan. The company's stock finished that week at \$18.38 per share.<sup>44</sup>

Webvan was supposed to be a big winner. Doug Rothwell, MEDC president, told Site Selection magazine in May 2000 that "Detroit was picked by one of the best-financed retailers on the market for the next wave of e-retailing." State officials heralded the Webvan-MEGA deal as wise policy and a win for Michigan. But the marketplace rendered a very different verdict.

Webvan's stock began a steady descent almost immediately following the MEGA agreement, reaching \$0.47 per share on Dec. 15, 2000. The company withdrew its promise to build a distribution center in Michigan, forfeiting the MEGA tax credits. (see Chart 10, next page). Webvan stock proceeded to lose 100 percent of its value with the company declaring bankruptcy in July 2001.<sup>45</sup>

Why did state officials fail to predict Webvan's difficulties? MEGA regularly issues reports purporting to forecast exactly how many jobs will be created by its tax credits, even 20 years into the future. The answer is simple: Hayek's knowledge problem again. Entrepreneurs putting their own money on the line have more reason to forecast correctly than anyone, yet even they fail much of the time. For government planners spending taxpayers' money, this sort of economic prediction is infeasible to say the least.<sup>46</sup>



Maintaining a government department that hands out special favors to certain businesses and not to others is not only unfair, it may also hurt economic growth. Harold Brumm, an economist with the General Accounting Office in Washington, D.C., says companies devote substantial resources to securing government favors, and that this has a “relatively large negative effect on the rate of state economic growth.” In other words, *without* discriminatory favors and especially with more broad-based tax and regulatory relief, Michigan’s economy might be doing better than it is.<sup>47</sup>

MEGA also is unfair to existing businesses that must compete with the firms favored by MEGA abatements. As of Dec. 31, 2001, MEGA has awarded more than \$1 billion in tax credit opportunities to 137 projects.<sup>48</sup> The majority of MEGA recipients must show that they have created a net number of new jobs to receive these credits against their Single Business Tax liabilities. But there is no way to prove that these jobs would not have been created anyway. In addition, the MEGA program makes it harder to cut taxes across the board—cuts that would encourage the creation of many thousands of jobs in their own right. Unfortunately, most MEGA recipients also receive many other government favors along with their credits: job training subsidies, property tax abatements, the elimination of fees for building permits, and on at least one occasion, free municipal recreation passes for employees of the expanding firm.

*For further information, please see [www.mackinac.org/718](http://www.mackinac.org/718).*

**52. Sustain the phased-in reductions in the state’s income tax and Single Business Tax.**

In 1999, Gov. Engler proposed, and the Legislature subsequently enacted, a phased-in reduction of the state’s flat 4.4 percent personal income tax rate to 3.9 percent over five years. The Single Business Tax (SBT) was put on a 23-year path to extinction by another law passed that same year. Broad-based reductions in personal income tax rates and

Michigan's particularly onerous SBT burden on businesses will do far more for Michigan's economic development than selective abatements or subsidies.

The complicated SBT is especially harmful to businesses. It's the only comprehensive, statewide, value-added tax imposed by any state, and businesses pay it whether they earn a profit or not. If Michigan had a standard corporate income tax, the rate necessary to raise the revenue brought in by the SBT would have to be in the vicinity of 15 percent—far higher than the corporate income tax rates of all but perhaps two states. That ought to tell us what businesses here have been saying for years, namely, that the SBT is a job-killer.

In 1998, calculations of the Senate Fiscal Agency prompted The Detroit News to editorialize that "Michigan's state and local taxes as a share of average state personal income are moving back up to levels not seen since before John Engler took office in 1991." At that time, combined state and local taxes amounted to 10.9 percent of personal income. They fell to 10.3 percent by 1995 but had edged back up to 10.7 percent by the end of 1997. Michigan workers need and deserve a tax cut. As pointed out earlier in this document, the Tax Foundation has shown that Michigan's overall tax burden is still above the national average.

With the current recession crimping state revenues, many are calling for delaying or canceling the scheduled reductions in the personal income tax and Single Business Tax. When he unveiled his 2003 budget proposals in February 2002, Gov. Engler wisely endorsed retaining those cuts. That's the course on which Michigan must remain.

*For further information, please see [www.mackinac.org/3821](http://www.mackinac.org/3821).*

**53. Lower the cost of home ownership.**

The state's real estate transfer tax stands at \$3.75 per \$500 of total home value at the time of purchase. To encourage home ownership, that rate should be cut to \$2.50 or lower, as soon as possible.

**54. Help businesses create jobs by lowering payroll taxes.**

Michigan's unemployment insurance payroll tax base—currently at \$9,500 of an employee's earnings—should be restored for at least one year to the federal level of taxable wage base, which is \$7,000. This would have no direct impact on state revenues because employers pay this tax into a separate fund, which presently is in surplus. Mirroring the federal wage base for one year would help cut the overall tax burden on all Michigan businesses.

**55. Eliminate the double sales taxation of automobiles.**

The 1994 hike in Michigan's sales tax from 4 cents to 6 cents on the dollar exacerbated at least one inherent flaw in the way the sales tax is imposed: the double

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***Michigan workers  
need and deserve a  
tax cut.***

taxation on automobiles, a major Michigan product on which tens of thousands of jobs depend.

When someone in Michigan buys a car, he pays sales tax on the purchase price. When he later trades in the car, he pays sales tax not only on a new vehicle but also on the trade-in value of the old vehicle. That amounts to double taxation because the individual already paid sales tax on the full value of that vehicle at the time of its purchase. The Legislature should end this inherently unfair practice.

**56. Extend personal property tax relief.**

In July 1998, the Legislature passed a bill that permits a handful of distressed municipalities to offer personal property tax breaks of up to 100 percent on the installation of new equipment by companies that relocate within Michigan. While tax reduction is laudable, this extremely selective approach is unfair to existing businesses that pay full freight and must compete with newcomers that get a substantial break. The Mackinac Center agrees with the MEDC that cutting the onerous personal property tax “is necessary to reduce unemployment, promote economic growth, and increase capital investment in the state,” but a broader and more comprehensive reduction of the tax would be much more fruitful.

Generating about \$1.7 billion statewide, the personal property tax in Michigan is an important source of revenue for many local units of government (which retain about one-third the total, leaving two-thirds to assist public education). However, it is also a detriment to economic development. Other industrial states against which Michigan competes, such as Pennsylvania, Illinois, and New York, have eliminated their personal property taxes altogether. Michigan must move in that direction to stay competitive.

The Legislature should enact legislation that would allow all local units of government, not just the 50 or so covered in the July 1998 law, to eliminate or phase down their personal property taxes.

**57. Critically review unfair state government and university competition with the private sector.**

In a number of areas, Lansing is competing head-on with private enterprise and doing so unfairly. In the past, this has involved such things as sales of computers, floral supplies, and recreational time (e.g., use of tennis courts) by the universities, and in other cases it involves more direct state agency intrusions. The Legislature should direct a comprehensive review of all those state government activities that compete with the taxpaying private sector, determine which are legitimate and appropriate, and jettison the rest.

**58. Critically review state-mandated health benefits.**

State-mandated health benefits have exploded across America in the past 30 years. They range from government-required coverage for drug and alcohol abuse treatment in most

states to coverage for hair transplants in Minnesota and pastoral counseling in Vermont. The National Center for Policy Analysis estimates that approximately one-quarter of all citizens without health insurance lack this important protection because the cost of state mandates has priced them out of the health insurance market (see Table 2, below).

<b>Table 2 – Estimated Additional Costs for Certain State-Mandated Health Benefits, 1997</b>		
<i>Benefit</i>	Estimated Additional Annual Cost	
1. Minimum Maternity Stay	Less than 1%	Under \$35*
2. Speech Therapy	Less than 1%	Under \$35
3. Drug Abuse Treatment	Less than 1%	Under \$35
4. Mammography Screening	Less than 1%	Under \$35
5. Well Child Care	Less than 1%	Under \$35
6. Podiatry	Less than 1%	Under \$35
7. Papanicolaou (Pap) Smears	Less than 1%	Under \$35
8. Vision Exams	1% to 3%	\$35 - \$105
9. Chiropractic Treatment	1% to 3%	\$35 - \$105
10. Alcoholism Treatment	1% to 3%	\$35 - \$105
11. Infertility Treatment	3% to 5%	\$105 - \$175
12. Mental Health Care	5% to 10%	\$175 - \$350
<b>Total</b>	15% to 30%	\$525 - \$1,050
* Based on a standard family policy without mandates costing \$3,500 per year. <i>Source:</i> National Center for Policy Analysis		

Consumers in the medical insurance marketplace should be free to pick the benefits that best suit their particular needs and desires. The Legislature should review all state-mandated health benefits and consider abolishing at least some and lowering the required dollar amount of coverage on others. The Legislature should refrain from adding new mandates, especially those whose costs outweigh their benefits. Following this recommended course will result in more Michiganians being insured and lower costs for Michigan businesses and health plans.

**59. Expand the scope of privatization.**

Michigan has engaged in significant privatization of state and local government duties in the past decade. In many cases, the process was well thought-out and the result was better service at lower costs. In a few cases, the process was hasty or ill-conceived and the results were poor.

The promise that privatization holds when it is the product of careful consideration is as great as ever. Indeed, because of its many successes, privatization is a megatrend across America, including at the local level of government in Michigan. The Legislature and the

governor should renew their commitment to exploring this option across a broad array of state activities.

One area that cries out for privatization is corrections—a fast-growing sector of state and local governments. Michigan lags behind more than two dozen other states whose experience with contracting for private operation and management of prisons and county jails is extensive and largely successful. Private management of the state’s new juvenile facility in west Michigan is a promising start, and the state should follow this up with a more vigorous approach to cutting its horrendous corrections costs through privatization of other facilities. Moreover, the Legislature should clear the books of all impediments that deny counties the option to privatize jail management.

Another area of privatization that Michigan can take action on involves Social Security. In May 1997, the Oregon Legislature passed a resolution urging Congress to grant waivers to let states opt out of the federal Social Security system and design their own retirement plans for both private-sector and government employees. Since then, Colorado has adopted a similar resolution and at least six other states are considering one. Many economists now believe that the only way to save Social Security before it goes bankrupt early in the 21st century without crippling tax hikes or substantial benefit reductions is to privatize it. Nations such as Chile have already shown that allowing individuals the freedom to invest their own retirement funds is a viable alternative to our present system, and one that can provide far greater payouts to retirees. Accordingly, a Mackinac Center for Public Policy report entitled “Saving Retirement in Michigan” urges the Michigan Legislature to adopt a resolution that asks Congress to either

- partially privatize the existing Social Security program by allowing workers to shift all or part of their current retirement payroll taxes into privately owned and managed accounts; or
- grant the state of Michigan a waiver to opt out of the federal Social Security system and design a more beneficial retirement plan for its citizens.

#### **60. Encourage Detroit to privatize to avoid fiscal disaster.**

Through legislation, appropriation, and the bully pulpit, Lansing policy-makers have the ability to prod Michigan’s largest city to streamline its operations, improve services, and become less dependent upon state assistance. The inauguration of a new mayor this year brings new hope for the beleaguered metropolis, and the state should help see to it that hope gives way to real policy change. The clock is ticking and the time is short for Detroit to do what needs to be done. Consider these facts below. The city of Detroit

- has lost 7.5 percent of its population since 1990, a sign that life in the city is not as appealing as alternatives;
- is so far in debt that it owes \$1,073 for every man, woman, and child in its environs;

- owes an additional \$2,600 per capita in unfunded health-care liabilities (the cost of funding this liability rose by 13.6 percent in just one year, from 1999 to 2000);
- will have to spend billions of dollars in the next several years to comply with new federal water and sewer mandates; and
- has such poor fire department services that it lost approximately \$177 million worth of residential property in 2000 alone, an amount equal to 75 percent of the value of residential structures built during the entire decade of the 1990s.

What to tackle first to begin saving money and fixing city services? Here are a few suggestions:

**Cobo Conference and Exhibition Center:** Since 1980, Cobo has cost the city of Detroit an average of \$9.1 million per year to maintain. That comes to \$182 million in 20 years. Cobo should be entrusted to the private sector, a move that could earn the city a one-time sales payment of at least \$50 million and generate another \$1.9 million in property taxes annually. At a minimum, Detroit should contract with a private firm to manage the facility for less cost, as cities including Riverside, Calif., and Denver, Colo., have successfully done with their convention centers.

**Department of Public Works:** Duties performed by this department could be outsourced in whole or in part. Shaving just 20 percent from the cost of running Detroit's DPW would save Detroit residents more than \$28 million annually. In fact, Detroit already knows the kind of savings it can realize in this way: In 1998, the DPW privatized oil changes for police vehicles. Savings figures haven't been announced, but the Mackinac Center calculates that if all 500 police cars get their oil changed 10 times yearly with a private vendor, the cost would come to roughly \$165,000. That's an astounding 83.5 percent drop in the cost the city previously incurred to perform this operation.

**Belle Isle:** How long will Detroiters permit their crown jewel to be neglected by poor city services? The city should hand over the entire 985-acre island park to a nonprofit corporation, just as was done successfully with the Detroit Institute of Arts. Some mayoral candidates have, to their credit, considered this "nonprofitization" idea, which could relieve the city of its annual Belle Isle appropriation, the latest of which topped \$5.5 million.

**People Mover:** The most recent subsidy for this sparsely used transportation service was \$11.4 million, a substantial sum that could be better directed to other needs if Detroit simply unplugged this boondoggle.

**Public Lighting:** There is no reason for the city to run its own power plant. Investor-owned utilities are more than capable of serving Detroit's needs, and for less. Utilities usually sell for 1.5 to 2.5 times their equity (that is, assets minus liabilities). If this were the case for Detroit's power company, a sale could fetch millions and relieve Detroit of management headaches, including appropriation of an annual subsidy, which is expected to top \$10 million in the 2001-02 fiscal year.

Detroit is full of talented and caring people who want to trim the suffocating municipal bureaucracy so they can unleash their creative entrepreneurial powers to build better lives for themselves, their families, and their communities. Citizens all over the state understand that Michigan's overall prosperity can be greatly strengthened by making Detroit a world-class city once again. The Legislature should focus its attention on getting that job done, not through greater subsidies that only insulate the city from its leaders' poor policies, but by encouraging new directions that emphasize privatization and modernization.

*For further information, please see [www.mackinac.org/3148](http://www.mackinac.org/3148).*

**61. Pursue regulatory reform and include sunset provisions in new regulations.**

More than 2,000 rules and regulations within state government—rules and regulations imposed upon the private sector—have been abolished under the Engler administration. The Mackinac Center recommends continued progress in this direction through the careful scrutiny of all existing regulations and requiring whenever possible that all new state regulations be subject to automatic “sunset” after two years to allow for a meaningful assessment of their real-life costs and benefits.

**62. Continue welfare reform with a strong emphasis on work incentives.**

In Michigan last year, welfare caseloads hit a 27-year low with the number of people on welfare falling below 100,000. While caseloads in the nation as a whole plunged 39 percent from 1993 to 1998, Michigan's plummeted 49 percent. A greater-than-ever percentage of Michigan welfare recipients is working at least part-time, though achieving that has been expensive. Midland County, for instance, received almost one half-million dollars from the state for child care and a bus system intended to increase the incentives for work. The Michigan Economic Development Corporation has even spent thousands of dollars to pay old traffic tickets for welfare recipients.

One important lesson from the many reforms in Wisconsin, Michigan, and elsewhere is that programs emphasizing work placement over training are having better results. The problem is that too few reform initiatives place finding a job as the highest priority, or they do not do enough to discourage the bad behavior and costly lifestyles that keep people in the welfare quagmire.

Michigan should continue its generally positive path to welfare reform by encouraging reforms at both state and local levels that set time limits, promote marriage, and responsibility, require drug testing, impose tough work requirements, establish a “family cap” to discourage recipients from having additional children while on welfare, target benefits to those most in need, and encourage efficiency and privatization.

### 63. Reduce state spending.

In fiscal year 1990, actual state spending from state sources (excluding federal revenue) was \$12.8 billion.<sup>49</sup> K-12 school aid was \$2.99 billion.<sup>50</sup> Excluding school aid, the bottom line was \$9.95 billion.

In fiscal year 2000, state spending from state sources (excluding federal revenue) was \$23.4 billion.<sup>51</sup> Excluding \$10.1 billion in net K-12 school aid funding, which was greatly increased when Proposal A transferred a significant portion of school funding from local property taxes to state revenues, the state spent some \$13.6 billion in fiscal year 2000.<sup>52</sup>

Between 1990 and 2000, the cost of living rose 31.7 percent.<sup>53</sup> The state population rose 6.9 percent.<sup>54</sup> If these figures are applied to 1990 spending levels, the result is an estimate of what the 2000 budget would have been had spending stayed constant. The amount is \$13.8 billion. This means that, in current dollars, the actual \$13.6 billion fiscal year 2000 spending total is some \$181 million lower than the 1990 level.

On the surface this looks pretty good. Dig a bit deeper, though, and it appears that an opportunity was lost to make substantive cuts in the size of government. In 1990, Michigan was still recovering from a devastating retrenchment in the auto industry. The state unemployment rate was 8 percent. By 2000, this had fallen to 3.6 percent, well below the national average for the first time in decades.<sup>55</sup> Welfare caseloads dropped from more than 200,000 to less than 100,000.<sup>56</sup> Serious crime incidents fell from 549,344 to 401,398.<sup>57</sup>

Some contend that these improvements were the result of higher state spending: Higher prison spending may mean fewer crimes because career criminals are not free to target citizens while in jail. Lowering welfare caseloads may require more state spending on employment assistance. That's debatable, and in any event taxpayers understandably expected a dividend in the form of substantially lower state spending as economic growth accelerated. Instead, scores of inefficient and outmoded programs were left on "autopilot" as state leaders were unwilling to take on the contentious debates that cuts would entail.

The figures quoted above compare just 1990 to 2000. The year-to-year numbers reveal important details. Earlier in the decade, real spending came down smartly, but that trend reversed in 1997. Using a baseline of 1997 spending levels, real spending rose \$157 million in 1998, \$539 billion in 1999, and \$565 billion in 2000. That's a grand total of \$1.261 billion in spending growth during the economic boom years of the late 1990s—just when the demand for government services should have fallen the most. Instead, Lansing saw higher revenue as an excuse for a spending binge, among other things passing massive pork-laden supplemental spending bills in 1999 and 2000 (\$412 million and \$612 million).<sup>58</sup>

As a result, state and local governments are still collecting \$102.80 for every \$1,000 of personal income, down only slightly from \$106.10 in 1989.<sup>59</sup> The state tax burden as a percentage of personal income rose from 7.2 to 8.6 percent in the 1990s.<sup>60</sup> (This is overstated by the 1994 Proposal A shift from local to state school funding, but has also edged up since then.) According to the latest statistics from the Tax Foundation, Michigan's overall tax burden is still higher than the national average: 34 states take less from their citizens.

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***Scores of inefficient and outmoded programs were left on "autopilot" as state leaders were unwilling to take on the contentious debates that cuts would entail.***

The lesson is that no opportunity should be missed to cut spending, especially in good times. Michigan's economy and state government both would be in better shape to meet today's budget challenges had this been done. In the future, state budget leaders need to redirect their "kinder and gentler" concerns to taxpayers in general, not the special interests that accrete around every spending program.

#### **64. Reform the budget process to make state spending transparent.**

The amount of detailed information about actual spending plans contained in executive budget bills has sunk to an unprecedented low level. The budgets are a shell of their former selves. It's so bad that even most of the legislators who vote for them have little idea of what programs they are authorizing.

Here is a minor example: The fiscal year 2002 Consumer and Industry Services (CIS) budget contained a \$10 million line item (later cut to \$5.5 million) entitled "nursing home quality incentive grants," with no further explanation. In fact, the grants were designed to reward nursing homes that complied with certain state recommendations by buying the homes air conditioners or other amenities. While some may view this as outside the proper role of government, it hardly needs to be hidden for political reasons. But the average taxpayer would be challenged to discover how this money was spent.

This is a comparatively transparent example. It was a discrete line item, and "boilerplate" language elsewhere in the budget requires grant criteria to be posted on the Internet. One can find the actual grant application on the CIS website with the details. In contrast, it can be impossible to unravel funding for routine department operations.

Take the CIS "Executive Direction" line. \$5.6 million was appropriated for 64.5 "unclassified" (non-civil service) "full time equivalent" (FTE) staff positions. What do these "64.5" people do? The budget document is silent, and there is no standardized annual report from CIS or any other state department showing where the money goes.

If asked, the House and Senate Fiscal Agencies can provide line item summary booklets giving a rough breakdown. These reveal that this item includes compensation to various state commission board members, among other things. But elsewhere even this source is silent, such as the 227 FTEs in the Michigan State Housing Development Authority (MSHDA) line item for "housing and rental assistance programs." This item encompasses several programs of varying effectiveness and efficiency, yet no breakdown is available describing the actual allocation of resources.

The rest of the CIS's \$569.8 million budget is similar. Occasionally, the Legislature demands specifics, usually for political or ideological reasons that only incidentally shed light on expenditures. For example, Democrats demanded that of the 99 FTEs involved in occupational safety and health (appropriation: \$9.1 million), 30 be general industry safety inspectors, 20 be construction industry safety inspectors, and 26 be industrial hygienists. This level of detail (including the functions of the other 23 FTEs) should be standard for every line item. Programs like the nursing home incentive grants should include a brief description of the item right on its line. (Note: The CIS budget is no better or worse than others; it was selected as a typical budget for illustration purposes.)

There are many possible explanations for why detailed budget information is lacking. Like any good manager, department heads want maximum flexibility without excessive micromanagement by the “board” (or Legislature, in this case). Such tensions are understandable, though with taxpayer dollars at stake, disclosure must win out. The other explanations are less excusable. Government loves secrecy. Politicians and bureaucrats know that large portions of the \$36 billion in revenue from all sources they spend each year might not pass public scrutiny. Having been embarrassed by past revelations of outrageous “pork,” they now keep everything close to the vest. In addition, some contend that an experienced governor is taking advantage of inexperienced term-limited legislators to “roll up” broad spending categories into single line items. The average citizen can’t decipher the budget; neither, apparently, can the average legislator.

The budget process should be reformed to require detailed line item breakdowns. Any citizen should be able to examine annual budgets to determine where his or her money is being spent.

**65. Require standardized annual state department performance reports.**

Transparent budgeting is only the first step in needed state budget reform. In addition to future cash flow projections, private corporations issue annual reports explaining in detail how they did or did not accomplish goals in the past year. These reports reveal which profit centers are making or losing money, allowing rational decisions to be made. Similar reports should be required for government, which is also in the business of spending money. State government issues lots of press releases, but no standardized documents detailing where the money goes.

Some agencies and departments do make an effort to report their activities, and other reports are required by statute. But there is no consistency in the standards, forms or measurements used. The overall impression is that the public is shown only what bureaucrats and politicians want them to see, rather than a balanced view.

Therefore, standardized, detailed annual department reports should be required describing how the money from each line item was actually spent. These should match inputs of tax dollars with specific outputs for each program. Outputs should be measurable in concrete terms—not hidden behind clouds of fluffy prose. This means the criteria for judging success must be explicitly defined. Requiring annual departmental reports will allow decision makers and citizens to compare each program’s performance over time with the intentions of the authorizing legislation. Without this information, it is impossible to make rational choices about any program.

**66. Require state “rent-to-own” office space deals to follow the regular capital outlay process.**

In 1999, a mini-scandal erupted when it was revealed that the House of Representatives had spent \$10 million on a no-bid contract to provide furniture for a new House office building, including \$1,000 leather chairs for legislators. While this outrageous deal was politically sensational and the media had great fun with it, little was said about the

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***Any citizen should be able to examine annual budgets to determine where his or her money is being spent.***

much bigger problem represented by the procurement of the new \$200 million building itself, which was obtained without any regular legislative accountability or oversight.

One would search the legislative journals in vain for a roll call vote approving this \$200 million commitment of taxpayer money. That's because the regular capital outlay process required for executive department construction projects under the Management and Budget Act is less rigorous for "rent-to-own" deals and does not apply to the legislative or judicial branch.

The House office building project was one of several acquired in rent-to-own deals in 1999, which also included a \$300 million Department of Environmental Quality building in Lansing. In 2000, the trend continued with a \$240 million contract on the former General Motors Corp. building in Detroit. These projects circumvent the normal full review process for building projects in which the legislative Joint Capital Outlay subcommittee approves each step of construction planning and cost authorization. In contrast, leases come to the committee ready-made, for a simple up or down vote.

Officials in the present administration contend that quick up-or-down votes on rent-to-own deals allows projects to be completed more quickly and avoids additional costs resulting from delays caused by the regular capital outlay process. But aside from the fact that full accountability should not be optional when spending taxpayer dollars, these contentions are not plausible for two reasons. First, the law establishing the capital outlay approval and oversight process was rationalized and streamlined in early 1999, eliminating many of the bottlenecks.<sup>61</sup> Second, despite protestations to the contrary by the administration, it's hard not to conclude that the taxpayer is getting a lousy deal. If the state owned the buildings, it would not pay property tax to local governments, and finance costs would be at a lower tax-free municipal bond rate. Plus, the profits generated by the real estate developer would not be included in the price.

The rent-to-own process is a potential breeding ground for corruption and influence peddling. That is why the law requires a regular capital outlay process with full legislative oversight and accountability at each step. Legislation should be passed immediately requiring that legislative and judiciary buildings, and executive branch rent-to-own projects, get full review under the regular capital outlay process.

#### **67. Reform the Michigan Catastrophic Claims Association (MCCA).**

The Michigan Catastrophic Claims Association was established to allow all insurance companies to have reasonable access to reinsurance to pay for their large losses under Michigan's no-fault law, which requires insurers to pay lifetime, unlimited medical costs for persons injured in automobile accidents. The MCCA was created in 1978 after many insurers reported difficulties in finding a reinsurer who would provide this sort of unlimited coverage. MCCA reimburses insurers for no-fault losses in excess of \$250,000. Funds for this reimbursement come from premiums assessed upon all insurers writing automobile insurance in the state. The MCCA makes an annual calculation of the anticipated losses for the ensuing calendar year, then divides those losses by the anticipated number of "car years." Every insurer is assessed this amount (which is known as a "pure premium,"

the amount per vehicle needed in order to pay anticipated losses) for every car it insures during that year.

Because no one had experience in providing reinsurance for this sort of exposure, earlier premiums were too low. Over time, the MCCA gained experience and has had more success in matching estimated pure premiums with actual losses incurred during the ensuing years. However, the no-fault statute does not allow the MCCA to distinguish between different kinds of vehicles and to recognize that some types might have lower loss payouts that would justify a lower pure premium assessment. Recent studies have shown that this “one-premium-fits-all” approach to MCCA assessments results in excessive charges for some types of vehicles, especially commercial vehicles. Recent MCCA data suggest that assessments for commercial vehicles are over three times the amount necessary to pay losses incurred by those vehicles.

In a three-year period ending in June 1999, the actual per car losses for commercial vehicles were \$13.93 per year, as compared to \$45.59 for private passenger vehicles and \$84.17 for motorcycles. When all classes were combined, the loss per car year was \$43.87. These lower losses for commercial vehicles result from the fact that when both no-fault and workers’ compensation are available to pay for medical expenses, only workers’ compensation pays. In a sense, the current MCCA scheme requires businesses to pay twice for employee injuries: once in their auto insurance policies and then in their workers’ compensation policies.

Had these loss ratios been applied to the 2002 MCCA assessment, which is \$71.15 per vehicle, the assessment per commercial vehicle would have been only \$22.60. This overcharge of almost \$50 per vehicle discourages investment by Michigan business and results in hiring of fewer employees by such businesses.

This drag on economic growth can be eliminated by requiring the MCCA, in its calculations, to classify vehicles according to their exposure to loss. The MCCA assessment should be calculated and levied upon four different classes of vehicles: private passenger autos, motorcycles, historic vehicles, and “all other” (that is, commercial and farm vehicles). Charging premiums based upon actual exposure to loss provides accurate information to policyholders about how to allocate their resources between insurance, loss control, and other alternative uses of their capital.

**68. Update the regulation of policy forms and rates for most commercial lines of property-casualty insurance.**

In 1979 and 1981, the Michigan Legislature recognized that competitive markets provide the best consumer protection with respect to quality of service and lower prices, and amended its laws with respect to private passenger automobile, homeowners, and workers’ compensation insurance to allow competition, rather than regulatory fiat, to determine prices. The Legislature repealed insurance laws requiring that rates for these three lines of insurance be approved by the state insurance commissioner. Instead, it substituted a “file and use” system, under which companies could file their rates, and if the commissioner later determined that they violated the statutory requirement that they not be “excessive, inadequate or unfairly discriminatory,” the commissioner could then take action. Further, the

statute was amended to indicate that a rate could not be considered excessive if the market for the line of insurance was competitive.

The result has been dramatically lower rates for workers' compensation, and rates for private passenger auto and homeowners insurance that are low in comparison to other states when Michigan's generous benefits are considered.

Interestingly enough, the law with respect to other types of insurance, such as commercial auto, property and liability, was not changed, leaving a regulated rate system in effect. Even the National Association of Insurance Commissioners (NAIC), which could hardly be accused of being soft on insurance companies, has recognized that commercial customers need much less government protection than do private individuals and has recommended that rates for all commercial lines of insurance be regulated on a "file and use" basis. The NAIC has made a similar recommendation with respect to regulation of policy forms, that is, they may be filed and then used without prior regulatory approval.

In addition, the NAIC has recommended that all rate and form regulation be abolished for property-casualty insurance for large commercial insurance customers that have sufficient resources to understand their insurance needs and the bargaining power to deal with insurance companies. In other states, a separate category of "exempt commercial policyholders" has been freed from regulatory scrutiny, allowing these large, sophisticated organizations and their insurance companies to freely negotiate prices and coverage without government interference.

The old prior approval systems were designed in the late 1940s, when most insurers belonged to "rating bureaus," which were essentially cartels. Such cartels no longer exist, and now insurers develop prices individually and compete actively against one another. The regulatory modernization recommended by the NAIC and adopted in a number of states recognizes the vast changes in insurance markets that have taken place in the last 50 years. Michigan should not lag behind in updating its regulations.

## **VII. Enhancing the Transportation Infrastructure**

*Michigan's transportation system is crucial to the state's economic progress. In 1997, the Legislature raised the gasoline tax, enacted reforms to cut the costs of road building and maintenance, and embarked upon a major, long-overdue repair effort. With the condition of the roads now clearly improving, transportation funding and related issues have slipped off the radar screen of the public and the Legislature. The Legislature should elevate transportation issues once again and address the following four reforms.*

### **69. Reform the system for the maintenance of state roads.**

In most counties, the Michigan Department of Transportation (MDOT) contracts the maintenance of state roads to the counties themselves; however, in a limited number of counties, MDOT maintains its own roads with its own facilities, equipment, and personnel, and the county road commission works only on the county roads.

In those counties where MDOT does its own work, it should request bids for the maintenance of its roads from the local county road commission, any neighboring commission, and private contractors. While it may prove that MDOT continues to be the best source in these counties, the duplication of resources for state and county roads in a given county makes little sense, and MDOT should be encouraged to leave the maintenance business whenever possible. In those counties where MDOT currently contracts with the local road commission, the entire county's work should be put out for bid from the local county, neighboring counties, and again, private contractors. While the local county road commission may continue to be the best contractor, the open bidding process would be a valuable one in its own right.

**70. Allow counties the option of abolishing their road commissions.**

Michigan is the only state in the union with separate, independent county road commissions. While there are many exceptions, the commissions can be patronage machines at their worst. With the state and federal governments providing the bulk of money for county and local operations, there is little incentive for local government to consider changes to an age-old system that offers many public employment jobs and too often tolerates poor performance and high cost in maintaining roads.

The Legislature should at least allow counties the option of terminating this unnecessary level of bureaucracy by allowing for the dissolution of independent county road commissions and giving the money it now provides to the road commissions directly to county commissions and county executives.

**71. Evaluate the formula for distributing road funds.**

Since 1951, most state road tax and fee revenues have been divided according to a controversial formula that provides 36.1 percent to state government, 36.6 percent to county road commissions, 18.8 percent to cities and villages, and 8.5 percent to transit agencies. The Legislature must review the formula by which state fuel and vehicle-registration taxes are distributed.

There is no particular merit to these percentages; they are the result of many amendments to the original formula of 1951, proposed in response to transient political forces. The formula has grown complicated, and the original guiding principle has been forgotten under layers of amendments and handouts to favored programs. The heated discussions of the formula and how it might be changed have degenerated into a free-for-all, with each level of government arguing for a bigger share of the pie. Local units in particular seem to want to turn the formula into a revenue-sharing scheme first and foremost. Which roads attract the most actual traffic has taken a back seat to the grab for more money.

There may be no one right way to distribute motorist taxes, but before the system is overhauled, legislators should adopt these principles to guide any future debate about formula changes:

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***Which roads attract the most actual traffic has taken a back seat to the grab for more money.***

- a) These revenues do not “belong” to any agency, geographic area, or unit of government. They are motorists’ fees for the use of the road system, given in trust to the Michigan Transportation Fund to be distributed in proportion to motorists’ and shippers’ needs.
- b) State aid should be focused on the routes of statewide importance, as indicated by the proportion of long-distance or other trips that cross jurisdictional lines. Taxpayers depend on the state to assure a uniform, adequate system that carries them across city limits and county lines.
- c) Funds should follow the traffic. The distribution of funds among state, county, and city systems should be guided first by the distribution of vehicle miles on those systems. Formulas that unduly favor route miles, population, or other factors risk cross-subsidy of little-used roads and congestion in the state’s busiest places.
- d) Purely local needs should be addressed by local funds. Local taxpayers know best whether local roads deserve more investment. The Transportation Fund should not be treated as a revenue-sharing scheme to which every local government is “entitled.”

The distribution formula should be simplified, and earmarked funds and special programs should be eliminated. If the formula is adequate, clumsy fixes like the Local Program, the special distributions of the 1997 tax-increase revenues, and the Economic Development Fund (which dispenses transportation dollars to localities according to the number of jobs new industries in their areas claim to have “attracted” or “retained”) will not be needed.

Although the share of motorists’ taxes given to mass transit was reduced in 1997, the total amount given to transit continues to increase. The Legislature should permanently reduce the mandated share of gas tax revenues allocated to mass transit. The 1990s saw palatial bus stations built on potholed streets that made every bus trip a trial; possibly the best thing that could be done for transit in Michigan is to devote more transit aid to road repair.

It’s also time to clear the books of the \$100 charge paid by Michigan truckers for the privilege of being regulated by the Michigan Public Service Commission. Trucking has been deregulated, and there is no clear authorization for the use of this money for anything.

## **72. Avoid micromanaging transportation technologies through tax policy or subsidies.**

Invariably, when the Legislature gets around to addressing transportation issues, some lawmakers are tempted to get into the business of picking winners and losers. The Mackinac Center cautions against any legislation designed to provide artificial boosts to gasohol, electric cars, propane burners, passenger trains, flywheel-powered buses, and other politically favored (but not necessarily economically viable) technologies. Government is not good at picking winners.

**73. Enact cost-reduction ideas proposed in the Mackinac Center for Public Policy report, “Fixing the Roads: A Blueprint for Michigan Transportation Infrastructure Policy.”**

Seven years after its publication, the Mackinac Center’s “Fixing the Roads” report continues to be one of the most comprehensive of its kind, with many suggestions for reform that deserve renewed attention in the Legislature.

These reforms include increased competitive bidding for road repair and construction projects, changes in land acquisition procedures, greater application of value engineering concepts in road type and design standards, tort reforms to minimize frivolous claims and payments, and the streamlining of MDOT.

*For further information, please see [www.mackinac.org/242](http://www.mackinac.org/242).*

## **VIII. Miscellaneous Recommendations**

**74. Revise mandatory minimum sentencing laws.**

Across the nation, state legislators are grappling with tough questions related to sentencing. At issue are harsh mandatory sentencing laws that remove discretion from judges and dramatically lengthen prison sentences through special provisions such as consecutive sentencing. These automatic sentences impose “one-size-fits-all justice,” usually based solely on the weight of the drugs involved.

Legislators intended to target “drug kingpins” and to deter drug use when they enacted mandatory sentencing laws. But the laws backfired. States are filling their prisons with low-level, often first-time offenders, while the drug kingpins exchange information and assets for lighter sentences. As for deterrence, drugs are purer, cheaper, and more easily obtainable than ever. And the cost of warehousing drug offenders is straining many state budgets to the limit.

Those runaway prison costs, as well as a rising skepticism about the efficacy of the current approach to combating drug abuse, are leading many states to quietly reconsider their drug penalties. Recently, Louisiana, Connecticut, Indiana, Iowa, Mississippi, California, and North Dakota rolled back mandatory drug sentences. Massachusetts, New York, Alabama, Georgia, New Mexico, and Idaho are all considering revising their drug laws.

In 1998, the Michigan Legislature became a leader in this reform movement when it voted to relax the “650 Lifer Law.” This law had mandated life without parole for sales of 650 grams of heroin or cocaine, even for first-time offenders, and was the harshest drug law in the nation. Unfortunately, the 1998 reform left some of the draconian sentencing structure in place.

Legislators need to finish the job by giving judges back the ability to fit the punishment to the crime and to the individual offender. All the tools are in place. Michigan has sentencing guidelines that allow judges to base sentences on all the relevant factors in a

***Those leading the effort to dilute the 1992 term limits amendment have not yet made a powerful case for change.***

case. The guidelines allow judges to impose appropriate sentences from within the range, but prevent sentencing extremes.

In addition, a statewide drug court and drug treatment movement, which has the enthusiastic backing of many county prosecutors and law enforcement officials, is proving that lives can be turned around. Such programs enhance public safety and restore families at a fraction of the cost of incarceration.

National and statewide polls indicate that citizens overwhelmingly support cost-effective treatment and carefully supervised alternatives to incarceration for many low-level drug offenders. That's not being soft, but being smart, on crime—and in these difficult economic times, Michigan's taxpayers also will thank their legislators for finding the courage to do the right thing.

**75. Don't be quick to revise term limits; generate a genuine debate about restoring a part-time Legislature.**

By an overwhelming vote in 1992, Michigan citizens approved limitations on the terms of the governor (two four-year terms), members of the Michigan House (three two-year terms), and members of the Michigan Senate (two four-year terms). Given that this year Michigan has the first major turnover since 1992 in the governorship and the Senate, it is rather early in the term limits experiment to draw sweeping conclusions about their effectiveness and any necessity for adjustments.

Nonetheless, a movement is afoot in Lansing to revise and extend the term limits provision of the Michigan Constitution. It is not a grassroots movement broadly based around the state, but rather is focused among longtime Lansing politicians, lobbyists, and pundits. Perhaps a strong case someday will be made that term limits do not serve the cause of good government, or have somehow actually harmed Michigan, but it doesn't help the cause of reform that so many of its leaders and advocates have a vested interest in returning to the old days. That was when politicians, lobbyists, and pundits didn't have to worry much about lots of fresh new faces in the Legislature; once they made a friend in a particular legislator, they often had him or her on their side for a long time.

Those leading the effort to dilute the 1992 term limits amendment have not yet made a powerful case for change. They speak of inexperience in the Legislature and the inordinate influence of the governor and the permanent bureaucracy. But what's so far been missing in their arguments is a "smoking gun"—actual legislation signed into law that shouldn't have seen the light of day and that wouldn't have seen the light of day in the pre-term limits age. Pork barrel bills still pass, just as before. Tough decisions are being made, just as before. And by one measure—overall restraint of government spending, there has actually been more of that in the last decade than in the free-spending decade that preceded 1992.

Proponents of revising term limits are wasting their time if the example of California is predictive. In March 2002, voters there were faced with a proposition to circumvent the state's term limitations, which are identical to Michigan's and were adopted two years before. The forces supporting the proposed revision outspent their opponents by a ratio of 10-1 but were defeated in a landslide.

Vague promises of better government if only the term limits provision were altered are not enough reason for a change, especially this early in the term limits era. Those now eager for an extension of term limits should at least be offering Michigianians something real in exchange, such as re-introduction of a part-time Legislature.

Michigan was not poorly governed before its Legislature became full-time less than 40 years ago. More than 40 states, including many much greater in population than Michigan, get by just fine with part-time Legislatures. Indeed, the composition of those part-time bodies is at least as diverse as Michigan's, and their members tend to focus more on the most important business of state government and less on cooking up dubious schemes for its expansion.

If Michigan is to have a debate about retention, extension, or elimination of term limits, it should engage in a simultaneous debate about restoring a part-time Legislature.

#### **76. Create a market for “vanity” license plates.**

Like many states, Michigan offers “vanity plates,” a specific combination of numbers and letters for an extra fee. (Specialty plate designs to benefit certain causes or institutions, such as universities, are also available.) These plates are popular because Michigan drivers like having more choices to express themselves and the state likes the revenue thus raised.

How does the present vanity-plate assignment system work? The state uses a simple first-come, first-served system to assign vanity letter combinations. In other words, one could request the “BIGIDEA” vanity plate. But if someone already has taken it, then no matter how much money one might be willing to pay the state, there is no way for that person to get “BIGIDEA” (and the state of Michigan will continue to collect only the original flat \$35 “asking price” for it).

The problem with the present system is that it is actually an overlooked golden opportunity to raise more transportation dollars that could be used to fix Michigan roads. The present system is inefficient because it ignores the market-based reality that many letter combinations are desirable to a number of people and companies.

That's opportunity knocking. The Legislature should direct the Secretary of State to set up an online auction system so that any Michigianian can bid on any letter combination, with each one going to the highest bidder each year. How would it work? The state could begin by setting the minimum bid at the current vanity plate surcharge of \$35 to make the revenue raised even with current levels for plates that only one person wants.

But some combinations will attract many bidders because they can be quite valuable to businesses, groups, or individuals, and each one is unique. For example, letter combinations for passions (such as #1 M FAN, GO BLUE, SPARTAN, GOFISHN, QUILTER, TEACHER) are fun and could make great gifts. Combinations for professions (EYE DOC, ATTORNEY, CPA, SALES, PLUMBER, SURGEON, and TV/radio station call letters) would also be popular.

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***If Michigan is to have a debate about retention, extension, or elimination of term limits, it should engage in a simultaneous debate about restoring a part-time Legislature.***

Auctions ensure a fair market price—the price a willing buyer will pay to have that unique combination. Bidding would open on the Internet for two weeks, with the winner getting rights to the plate for a year, after which it would go to auction again before the current license expires. Michigan already has attracted national attention for its online auctions of surplus property. Extending that idea to include license plate combinations is not a big leap. Public computer terminals in state licensing offices would ensure that no one is excluded from the online bidding process.

**77. Abolish Michigan’s archaic prohibition on Internet wine sales.**

It’s been nearly seven decades since the national war against alcohol during America’s Prohibition period (1920-33) came to an end with the repeal of the 18th Amendment. But 29 states including Michigan still prosecute a kind of mini-Prohibition of their own: They forbid consumers from buying alcoholic beverages from other states unless the products are shipped through a state-licensed liquor authority.

The Michigan law is a relic from 1934, when states took over the regulation of alcohol sales after Prohibition was repealed. The thought then was that states that want to discourage drinking should have the power to determine the sources of legal beer, wine, and spirits. Whether that made sense then or not, the law today does little more than bestow a monopoly privilege on domestic sellers, raise prices, and limit choices for Michigan consumers.

Undoubtedly, people who ignore the law transport lots of illegal alcohol from other states into Michigan. Short of searching every car and truck at the borders, the state can’t possibly expect to stop the flow. The primary effect of the law is probably to restrict sales over the Internet. Anyone who has ever attempted to purchase wine from one of hundreds of web sites of wineries in other states is familiar with a reply similar to this from all but perhaps a handful of wineries: “Sorry, Michigan is not a ship-to state. We can’t sell to you.” The few exceptions are those that agree to comply with state regulations that do nothing more than jack up the price by about 25 percent.

Of course, Michigan wineries that have web pages can and do sell wine legally over the Internet to Michigan residents. Thousands of Michigan citizens who don’t abuse alcohol and who would simply like to get an occasional bottle from a favorite out-of-state winery wonder what makes the state think its law does any good. Nonetheless, the Michigan Liquor Control Commission does make an enforcement effort. In a state of nearly 10 million residents, the commission seized more than a hundred packages of illegally shipped beer, wine, and liquor in 2000. And it’s been fighting a lawsuit filed by Michigan residents who claim the law is unfair and violates the interstate commerce clause of the U.S. Constitution.

Michigan legislators don’t need to wait for the courts to work this out. They should recognize the futility of this throwback to Prohibition, strike a blow for freedom of choice and competition, and repeal the 1934 law.

## Conclusion

In the long run, Michigan policy-makers should (and probably will) be judged by the state's citizenry not according to flashy photo-ops, fiery rhetoric, and smoke-and-mirror politics. They will be judged by what they actually accomplished for the good of Michigan. This suggests that lawmakers ought to put aside parochial concerns, avoid the pork barrel, eschew the temptation to plan and control the lives and businesses of people, keep government in its proper place, and solve problems in ways that leave citizens freer, better off materially, and facing a future full of new opportunities. These principles have guided each of the recommendations offered in this report.

With confidence in the integrity and intentions of Michigan's governor and elected lawmakers, the Mackinac Center for Public Policy is pleased to offer the foregoing recommendations for consideration and stands ready to supply additional details.

## Acknowledgments

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- <sup>55</sup> U.S. Department of Labor, Bureau of Labor Statistics, data accessible by Internet at <http://data.bls.gov/cgi-bin/surveymost?la> as follows: Select “Michigan,” “MICHIGAN, seasonally adjusted - LASST26000006,” then click “reformat” and under “Specify year range” select “from” 1990 and “to” 2000.
- <sup>56</sup> Michigan Family Independence Agency, “Information Packet,” April 2001, accessible by Internet at <http://www.mfia.state.mi.us/Reports/informationpacket2001.pdf>.
- <sup>57</sup> Michigan State Police Criminal Justice Information Center, “2000 Uniform Crime
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Report,” accessible by Internet at <http://www.state.mi.us/msp/cjic/ucr00/contents.htm>.

<sup>58</sup> H.B. 4075 in 1999 and S.B. 968 in 2000.

<sup>59</sup> “Tax Revenue Comparison: Michigan and the U.S. Average,” Citizens Research Council of Michigan, December 2001, accessible by Internet at <http://crcmich.org/PUBLICAT/2000s/2001/Memo1059.pdf>.

<sup>60</sup> Michigan Senate Fiscal Agency, “State Tax Burden Per-Capita, 1970-71 to 1998-99,” accessible by Internet at <http://www.senate.state.mi.us/sfa/revenue/statetaxburdenpercapita.pdf>.

<sup>61</sup> SB 259 (1999-2000), Public Act 8 of 1999, MCL 18.1113 et seq.; Michigan House Fiscal Agency, “Michigan Capital Outlay Process,” January 2001, accessible by Internet at <http://www.house.state.mi.us/hfa/capoutl.pdf>.

  
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(989) 631-0900 • Fax (989) 631-0964  
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