

## A Merit-Pay Pilot Program for Michigan Public Schools

By Marc J. Holley and Patrick J. Wright, J.D.

### Introduction

Education research now makes it clear that of all the factors that schools can control, teacher quality is the most important for student achievement.<sup>1</sup> Efforts to reform public education within the current system of publicly financed school districts must therefore include improvements to teacher quality. As Stanford University's Eric Hanushek and Stephen Rivkin of Amherst College write, "[A] good teacher will get a gain of 1.5 grade level equivalents while a bad teacher will get 0.5 year for a single academic year."<sup>2</sup> The cumulative effects of good teachers are profound. Hanushek et al. write: "[H]aving five years of good teachers in a row (1.0 standard deviation above average, or at the 85th percentile) could overcome the average seventh-grade mathematics achievement gap between lower-income kids (those on the free or reduced-price lunch program) and those from higher-income families."<sup>3</sup> As education policy scholar Dan Goldhaber recently summarized the research literature, "It appears that the most important thing a school can do is to provide its students with good teachers."<sup>4</sup>

A research consensus has also emerged that a teacher's years of experience and advanced degrees do not generally enhance his or her ability to improve student achievement. Admittedly, there are two exceptions to this statement: Teachers do tend to become more effective over their first five years;<sup>5</sup> and teachers with

master's degrees in math and science content areas may produce slightly better student test results.<sup>6</sup>

Still, the current teacher pay system in conventional Michigan school districts<sup>†</sup> — the "single-salary schedule" — rigidly determines a teacher's pay based solely on years of experience and work on postsecondary degrees. This structure does not generally encourage teachers to focus their efforts on raising student achievement. Instead, it encourages teachers to stay in the job year after year and to spend their summers, nights and weekends earning advanced degrees that are unlikely to make them demonstrably more effective.

Concurrently, Michigan's education statistics indicate there is an education policy problem in Michigan. Michigan's education spending and teacher compensation are relatively high by national standards, and total spending on primary and secondary education increased by more than 50 percent from 1988-1989 to 2004-2005.<sup>7</sup> Nevertheless, in recent years Michigan's student performance in math and reading on the National Assessment of Educational Progress has lost ground in national comparisons.<sup>‡, 8</sup>

\* An extensive consideration of the arguments made in the introduction of this paper can be found in Marc J. Holley, "A Teacher Quality Primer for Michigan School Officials, State Policymakers, Media and Residents" (Mackinac Center for Public Policy: 2008), <http://www.mackinac.org/9576>.

† We use the phrase "conventional school districts" to refer to public school districts as they are usually understood — a number of schools spread across a geographic region. The phrase excludes charter schools, which can technically be considered school districts under Michigan law.

‡ The only potential bright spot appears to be that more and more students are becoming proficient on the tests administered by the Michigan Educational Assessment Program. Unfortunately, this statistic is not particularly encouraging. Unlike the National Assessment of Educational Progress, the MEAP exams are not taken by students from all 50 states, making it harder to determine whether Michigan students' progress on MEAP exams truly represents higher achievement or merely reflects annual differences in the exam itself. Moreover, one assessment of the MEAP tests found their standards for student achievement to be among the lowest in the nation (see Paul E. Petersen and Frederick M. Hess, "Few States Set World-Class Standards" *Education Next*, 8, No. 3 (2008), <http://www.hoover.org/publications/ednext/18845034.html> (accessed June 20, 2008)).

### About the Author

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Michigan must reverse this trend of lackluster student achievement, which now comes at an annual cost of over \$19.3 billion in expenditures on public education.<sup>9</sup> Given the cardinal importance of teachers to student achievement and the considerable sums that Michigan schools are devoting to teacher compensation, policymakers need to reconceptualize how teachers are evaluated and paid.

## **The Attraction of Privately Financed Merit Pay**

It is difficult for many educators, policymakers and community members to accept the need for fundamental changes to how Michigan compensates teachers. The mere mention of the words “merit pay” — the idea that teachers receive at least part of their compensation based on their students’ performance on exams — often evokes a defensive response from many well-intentioned teachers and policymakers, who recoil when they perceive any implicit criticism of Michigan’s teachers.

This is ironic. Well-designed merit pay would, after all, *reward* Michigan’s many fine teachers with additional income and a tangible sign of their employer’s esteem. True, a good merit-pay system would also put real pressure on ineffective teachers to improve quickly, but this hardship should be weighed against the important benefits to Michigan’s many good teachers, whose jobs are made harder when their peers perform poorly, and to Michigan’s children, whose learning is harmed when teachers fall short. Ultimately, a sound merit-pay program would help good teachers, spur underperforming teachers and improve student achievement from the start.

A well-designed merit-pay program would also have the long-term impact of improving the composition of the state’s teaching workforce. Good teachers would have further incentives to remain in the profession and to continue performing well. Talented undergraduates and career-changers would have new reasons to consider the teaching profession, since their teaching ability, rather than their university credentials or their ability to log long years on the payroll, would count most. At the same time, ineffective teachers who were unwilling or unable to improve their classroom performance would have less incentive to remain in the profession, since the pay schedule would no longer reward them just for completing another year on the job. The resulting compositional changes in the teaching workforce would further improve student achievement in the long term.<sup>10</sup>

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\* For a discussion of the problems with other possible reforms, such as reducing class sizes or increasing professional development programs, see generally Marc J. Holley, *A Teacher Quality Primer*.

The current skepticism of Michigan’s public education community toward merit-pay proposals suggests that a privately financed pilot program could be a helpful — even necessary — prelude to comprehensive changes in public school teacher compensation policy. The key to a successful merit pay reform is that a program be well-designed and perceived as fair. Programs that have been implemented recently have been more appealing to teachers and have produced the “buy-in” that is important for the success of performance-pay reforms.<sup>11</sup> The plan we present in this paper aims to reward teachers for elevating student achievement and to generate interest in re-examining current teacher compensation schedules.

## **Examples of Merit Pay**

Historically, resistance to merit pay meant that few such programs were tried. Recently, however, many states around the nation — in districts large and small; rural, urban and suburban — have begun to implement pay-for-performance systems.<sup>†, 12</sup> Although only a few rigorous studies of merit-pay programs have been conducted, research has begun to suggest that well-designed pay-for-performance plans can lead to better student achievement.<sup>13</sup>

The Achievement Challenge Pilot Project, which was instituted in the Little Rock public schools from 2004-2007, was a performance-pay plan that tied bonuses for school personnel solely to students’ progress on standardized tests. Teachers in the five participating elementary schools could earn bonuses of approximately \$10,000 for their individual students’ achievement gains, and other school personnel could earn awards of various sizes based on schoolwide test improvements.<sup>14</sup>

A program evaluation led by Marcus Winters and Gary Ritter of the University of Arkansas indicated that students in ACPP schools had relatively large and statistically significant gains in math and language arts compared to students in nonparticipating district schools.<sup>15</sup> Although critics of merit pay suggest teachers will begin to compete, rather than collaborate, and avoid working with traditionally low-performing students,<sup>16</sup> the ACPP evaluation found no evidence of these problems.<sup>‡</sup>

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† In this paper we use the words pay-for-performance and merit pay synonymously.

‡ Another concern often expressed by critics is the possibility that merit-pay compensation encourages teachers to focus on skills that appear on student achievement tests to the exclusion of important skills that do not. To the extent this concern is legitimate, however, the problem is not with merit pay *per se*, but with the exams on which the pay is based. A good exam schedule will ensure that all important conceptual skills are tested.

Other programs, such as the Teacher Advancement Program, blend performance pay with other rewards. TAP was initiated by the Milken Family Foundation,<sup>17</sup> and the program is currently being implemented in over 180 schools<sup>18</sup> in 13 states nationwide.<sup>19</sup> There are four basic components to TAP: targeted professional development programs, performance-based compensation, an intensive performance evaluation system, and a “career ladder,” which essentially allows high-performing teachers to earn higher pay while remaining instructors.<sup>20</sup> In some locations, TAP also provides “differential pay,” which is additional compensation for teachers “who teach in ‘hard-to-staff’ subjects and schools.”<sup>21</sup>

The TAP model is employed in the Chicago Public Schools’ “Recognizing Excellence in Academic Leadership” project, a pilot performance-pay plan in the district’s high-need schools. Project REAL was adopted in collaboration with the Chicago Teachers Union,<sup>22</sup> and the union has equal representation on REAL’s governing council.<sup>23</sup> The program is financed by district revenues, by a grant from the federal Teacher Incentive Fund, and by support from the Broad Foundation, the Joyce Foundation and the Chicago Public Education Fund.<sup>24</sup> Among other rewards, REAL teachers and principals can earn annual merit-pay bonuses of up to \$5,000 and \$4,000 respectively, based partly on statistical measurements of student achievement growth on standardized exams, both schoolwide and in individual teachers’ classrooms.<sup>25</sup>

Another prominent plan that contains elements of performance pay is “ProComp,” the Denver Professional Compensation System. Like Chicago’s REAL, ProComp was adopted with support from the local teachers union, the Denver Classroom Teachers Association.<sup>26</sup> The plan started as a pilot project in 1999<sup>27</sup> and expanded to allow all Denver Public Schools teachers to participate in 2004.<sup>28</sup> Denver voters also approved a \$25 million tax initiative to help finance ProComp in November 2005.<sup>29</sup>

Unlike the Chicago plan, however, ProComp compensation is not simply a bonus system; it shares major elements of the single-salary schedule and is meant to replace that schedule altogether. According to Denver Public Schools documents, “The starting salary for first-time teachers is based on their education and experience.”<sup>30</sup> But ProComp bases teacher compensation increases on several criteria:

\* The National Institute for Excellence in Teaching, which is the administrative arm of the TAP program, has released research that claims the program has been effective. (See <http://www.talentedteachers.org/publications.taf?page=22> for a summary of the study.) Some legitimate questions can be raised about the NIET’s findings, however; see Springer, M.G., Ballou, D. & Peng, A. (2008). Impact of the Teacher Advancement Program on Student Test Score Gains: Findings from an Independent Appraisal (paper presented at the National Center on Performance Incentives: Nashville, TN).

“completing professional development units”; “achieving a graduate degree or advanced license”; “earning a satisfactory evaluation”; and “achieving two student growth objectives per year.”<sup>31</sup> Meeting student achievement objectives can earn teachers a permanent increase of up to 4 percent of the basic “salary index” (the index was \$35,568 in the 2007-2008 school year).<sup>32</sup>

ProComp is a step in the right direction, but has plenty of room for improvement. Relatively little of the salary enhancement is tied to improved student outcomes, while there are still significant salary bumps for additional certifications and degrees. In the end, this program focuses too much on districts’ giving teachers skills and knowledge, and not enough on teachers’ giving *students* skills and knowledge.

## A Merit Pay Plan for Michigan Public School Educators

In the sections below, we describe a pilot program to institute merit pay in an interested Michigan school district (or districts). The resulting proposal can be implemented without changes to state law.

Before proceeding, however, we want to address briefly a misconception that has arisen among some in the education community about the constitutionality of merit pay. Article 11, Section 6, of the Michigan Constitution includes a passage stating, “[U]nless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees *other than teachers* under contract or tenure” (emphasis added).<sup>33</sup> This provision does not prohibit merit pay in schools; the “merit system” mentioned here refers to a civil service system, not pay-for-performance. A review of the constitutional convention deliberations renders this point beyond dispute.<sup>34</sup> While someone might try to use Article 11, Section 6, to mount a lawsuit against a merit-pay program, the effort would be devoid of legal substance and should be dismissed quickly.<sup>‡</sup>

The real issues facing any district willing to try a pilot merit-pay program are practical: determining the features of the plan; complying with state laws and local bargaining agreements; and obtaining the support of the local teachers union. Below, we deal first with the outline of the plan. Later, we discuss two larger policy questions: Who should pay for a pilot merit-pay program, and where should the program be tried?

† Teachers can also earn one-time bonuses for “working in one of the hard to staff schools” or “working in a hard to staff assignment.”

‡ Readers interested in an extended discussion of this issue should see Patrick J. Wright’s discussion in Holley, *A Teacher Quality Primer*, 119-24.



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## Provisions of a merit-pay pilot project

Each component of a merit-pay plan creates incentives that will guide teacher behavior. The recommendations made here reflect research findings on merit-pay programs:<sup>o</sup>

- *Effective plans are noncompetitive for teachers.* All teachers need to have the ability to earn performance awards if they meet performance criteria. Awarding only the top 10 percent of teachers, for instance, can create perverse incentives.
- *Effective plans judge teacher quality by student achievement growth.* Our recommended plan measures student growth by evaluating the differences between student performance at the beginning and end of a single school year. Teachers are judged by their students' learning progress, and they receive rewards whenever their students exceed the gains predicted statistically by the students' prior rate of learning and other factors.<sup>†</sup>

Such "value-added" statistical calculations of teacher effectiveness are already used in the Amphitheater Public Schools' "Project EXCELL!" in Arizona.<sup>‡</sup> As a manual for the Arizona program notes in describing the fairness of the value-added method, "Value added data analysis helps to hold professionals accountable for the value added to student growth, without penalizing or rewarding for pre-existing differences of the students in the classroom/school."<sup>35</sup>

- *Effective plans allow a wide range of school personnel to participate.* In our recommended plan, all instructional staff members, from teacher aides to principals, will

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\* Readers interested in "best practices" research should review the following: Solmon and Podgursky (2000); J.H. Barnett, "How Does Merit Pay Change Schools?" (2007). "A Review of the Research and Evaluation of the Impacts of the Achievement Challenge Pilot Project," unpublished doctoral dissertation, University of Arkansas; M.J. Podgursky and M.G. Springer (2006), "Teacher Performance Pay: A Review," available from the National Center on Performance Incentives at: [www.performanceincentives.org](http://www.performanceincentives.org); M.J. Holley, J.W. Ritter, and J.H. Barnett, (2007), "Merit Pay: Working Paper. Office for Education Policy," University of Arkansas, available at: [www.uark.edu/ua/oep/](http://www.uark.edu/ua/oep/); H.G. Heneman, A. Milanowski, and S. Kimbrall (2007), "Teacher Performance Pay: Synthesis of Plans, Research, and Guidelines for Practice," Consortium for Policy Research in Education, available at: <http://www.cpre.org/Publications/RB46.pdf>; D. Goldhaber (2006), "Teacher Pay Reforms: The Political Implications of Recent Research," Center for American Progress, [http://www.americanprogress.org/issues/2006/12/pdf/teacher\\_pay\\_report.pdf](http://www.americanprogress.org/issues/2006/12/pdf/teacher_pay_report.pdf); C.T. Clotfelter and H.F. Ladd (1996), "Recognizing and Rewarding Success in Public Schools," in *Holding Schools Accountable: Performance-Based Reform in Education*, Helen F. Ladd, editor, Brookings: Washington, D.C.

† This general principle still leaves details to be settled by those designing the program. For instance, teachers with multiple tested classes could be judged either on total average growth or on a weighted average of the classes' results. These methods entail trade-offs, but choosing one through a collaborative process involving teachers, the district, foundation personnel and a statistical expert should not be prohibitively difficult.

‡ For the Project EXCELL! manual, see <http://www.amphi.com/departments/teachlearn/projexcell/files/77EA6895EDD94187B0F2609608752002.pdf>.

earn rewards if students exceed projected growth targets. This inclusiveness promotes collaboration and a team approach to maximizing student learning.<sup>§</sup>

- *Effective plans offer significant awards.* Our recommended plan offers bonuses for three different categories of professional personnel: "core" teachers, whose subjects are tested by the standardized exams and whose students are sufficient in number to allow meaningful measures of overall student gains; administrators, as well as "noncore" teachers, who either teach subjects untested by the standardized exams or who teach too few students to produce reliable aggregate measurements; and instructional support personnel, such as paraprofessionals and teacher aides, who help increase teachers' gains in the classroom. There would be bonuses of up to \$10,000 for core teachers, up to \$7,000 for noncore teachers and administrators, and up to \$3,000 for instructional support personnel.<sup>¶</sup>
- *Effective plans involve teachers in key decisions.* Teachers must participate in the planning and design process for a plan to be effective. If they trust that their performance will be evaluated fairly, they are more likely to welcome the use of the complex statistical models that can better estimate their personal contributions to student learning.<sup>\*\*</sup>

With these factors in mind, our recommended merit-pay bonus plan ties 80 percent of the educator's award to value-added assessments of students' achievement gains. For core teachers, 40 percent of the award would be tied to value-added calculations of their own contribution to their students' achievement growth, and 40 percent

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§ Some merit-pay plans include noninstructional personnel. We have chosen not to do so here.

¶ A possible concern about this pay scale is that noncore teachers might feel frustrated by their inability to earn the core teachers' larger bonuses. But noncore teachers will also face less scrutiny, since their students' achievements in their subject area will not affect (and potentially reduce) their bonus. As the program progresses, the program's administrators (advised by district officials and teachers' representatives, as mentioned in the text) should monitor noncore teachers' reactions to the bonus schedule. The program administrators may want to search for ways to increase the noncore teachers' potential rewards by finding alternative tests of their students' achievement. To avoid unfairness, these tests should be comparable to those faced by students of core teachers.

\*\* The formula for compensating teachers involves a trade-off between transparency and complexity. A transparent model that uses straightforward arithmetic to calculate student achievement gains and the consequent teacher awards is more easily understood and verified, but is also more likely to overestimate or underestimate teachers' contributions to student improvements. On the other hand, a "value-added" model like the one recommended above is better at isolating a teacher's contribution from other factors affecting student achievement, but is harder to understand and verify. For a discussion of these trade-offs, see: "Roundtable Discussion on Value-Added Analysis of Student Achievement: A Summary of Findings" (The Working Group on Teacher Quality, 2007) [http://www.talentedteachers.org/pubs/value\\_added\\_roundtable\\_08.pdf](http://www.talentedteachers.org/pubs/value_added_roundtable_08.pdf) (accessed June 28, 2008).

**Graphic 1: Payout Chart for Model Merit-Pay Bonus in Michigan**

	<b>Core Teachers (Max. Bonus \$10,000)</b>			<b>Noncore Teachers, Administrators and Other Key Personnel (Max. Bonus \$7,000)</b>		<b>Instructional Support Personnel (Max. Bonus \$3,000)</b>	
<b>Component</b>	Student Progress in Teacher’s Classroom	Student Progress Schoolwide	Supervisor Evaluation	Student Progress Schoolwide	Supervisor Evaluation	Student Progress Schoolwide	Supervisor Evaluation
<b>Description</b>	Value-added assessment of individual teacher’s contribution to students’ test gains	Value-added assessment of entire professional staff’s contribution to schoolwide test gains	Bonus awarded based on percentage of total points earned	Value-added assessment of entire professional staff’s contribution to schoolwide test gains	Bonus awarded based on percentage of total points earned	Value-added assessment of entire professional staff’s contribution to schoolwide test gains	Bonus awarded based on percentage of total points earned
<b>Value</b>	40%	40%	20%	80%	20%	80%	20%
<b>Max. Amount</b>	\$4,000	\$4,000	\$2,000	\$5,600	\$1,400	\$2,400	\$600

would be tied to value-added calculations of the entire professional staff’s contribution to schoolwide achievement growth (a group measure that will provide core teachers with good reasons to collaborate with their colleagues). For noncore teachers and instructional support personnel, the entire 80 percent would be tied to value-added calculations of the staff’s contribution of schoolwide achievement growth. In each case, this heavy emphasis on student achievement would spur educators to focus their efforts on better classroom learning — the outcome that matters most.

The remaining 20 percent of educators’ awards would be based on supervisors’ evaluations. This component is meant as a safety valve to help correct any perceived flaws in the outcome of the value-added estimates. Although education research does suggest principals’ evaluations can be prone to certain subjective errors, the research also indicates that principals typically produce assessments that reflect a teacher’s ability to help students and satisfy parents.<sup>36</sup>

As noted earlier, our pilot plan offers different levels of maximum awards based on a teacher’s level of accountability. A higher possible award is available to core teachers, since their individual performance will face closer scrutiny and their students’ scores will directly impact the figure for schoolwide growth. In Graphic 1, the bonus plan is presented for the three categories of personnel.

We recommend that student achievement growth be measured using the Northwest Evaluation Association evaluations, rather than the tests administered by the Michigan Educational Assessment Program. NWEA tests are used in the Arizona program mentioned earlier, and they are administered up to four times a year in math, reading, language usage and science. These computerized tests are “adaptive,” meaning the questions get harder or easier based on a student’s previous answer until the test pinpoints the student’s exact achievement level.

By testing at both the beginning and the end of the school year, the tests identify a student’s starting point, his or her strengths and weaknesses, and his or her progress.<sup>37</sup> Reports on student progress are available within one to three days after each test administration.<sup>38</sup> The NWEA exams in Michigan are aligned with Michigan’s assessment system.<sup>39</sup>

Unlike the MEAP exams, which are given only in certain grades and only once in those grades,<sup>40</sup> NWEA testing can be used for students in grades K-10.<sup>41</sup> The company already has numerous customers in Michigan,<sup>42</sup> and the cost for a full year’s worth of testing is approximately \$14 per student.

Obviously, different tests would be needed for 11th- and 12th-grade teachers. The Michigan Merit Exam (which is based in part on ACT scores) might be used in the 11th grade, with perhaps a second round of ACT scores or some other assessment used in the 12th. These and other details of our merit-pay program should be governed by the program administrators in consultation with a district advisory council that includes teacher representatives, district officials and a statistician skilled in testing and measurement. This advisory council can also recommend ongoing adjustments to the plan. Such committees exist in Denver, Chicago and many other plans.<sup>43</sup>

**Why a bonus, rather than a new salary schedule?**

The plan discussed above involves a bonus to the single-salary schedule, rather than a replacement of that schedule. A brief discussion of why will help illuminate the issues faced in the design and implementation of any future merit-pay plan in Michigan.

To begin with, note that even in Denver, where the ProComp schedule has superseded the single-salary schedule, ProComp’s rewards for such items as

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higher degrees — a key element of the single-salary schedule — overshadow pay incentives based on student achievement gains. This is no surprise: Teachers unions, having championed uniform pay for decades based on college degrees and experience, will generally resist genuine departures from that paradigm. Ill-conceived past experiments have probably reinforced that tendency among unions and the teachers themselves.

As a result, a merit-pay initiative is more likely to be accepted as a bonus to the existing single-salary schedule than as a replacement of it. Such bonuses reassure teachers legitimately concerned about changes to the terms of their contract that a merit-pay system will not entail any immediate loss in income — only a potential increase.

Moreover, replacing a conventional school district's single-salary schedule with a comprehensive pay system that includes a merit-pay component would require changes to the state Teachers' Tenure Act.<sup>44</sup> The act states, "[D]ischarge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause,"<sup>45</sup> and it defines demotion as "to reduce compensation for a particular school year by more than an amount equivalent to 3 days' compensation or to transfer to a position carrying a lower salary."<sup>46</sup> Without amending the tenure act, a teacher could sue any conventional school district whose merit-pay schedule lowered the teacher's compensation by even a few days' pay compared to the prior school year.

Note, however, that this same language does not appear to prohibit a merit-pay bonus, even though a teacher's bonus might decline substantially from one year to the next. The bonus is an award, not a salary, and a failure to earn an award in subsequent years could not properly be considered a "demotion" — especially in our model program, where the award would be supplied by a private foundation, not the public employer.

There is another possible advantage to running a bonus program. If a private entity were to provide the money for the program (thereby leaving the public funding for a single-salary schedule clearly untouched), there is a small chance a court might rule that the merit pay bonus was not a "wage" or "condition of employment" under the Michigan Public Employment Relations Act.<sup>47</sup> In that event, the merit-pay bonus program would not be a mandatory subject of collective bargaining, and an

\* Michigan's Teachers' Tenure Act applies to teachers in conventional school districts, but not to teachers in charter schools.

† The Florida Supreme Court once rejected a union challenge to Florida's "Master Teacher Program," a merit-play plan (see *United Teachers of Dade, FEA/United AFT, Local 1974, AFL-CIO v Dade County School Board*, 500 So.2d 508 (Florida 1986)). Nevertheless, the Florida decision was heavily dependent on facts particular to that case.

uncooperative union might have a hard time blocking the program if faced with determined school district officials.

Alternatively, a district could try to argue that a merit-pay bonus program is a "pilot program" and therefore specifically exempt from mandatory collective bargaining under state law.<sup>48</sup> The success of this argument would depend, however, on the court's interpretation of the phrase "pilot program" in a vaguely worded PERA provision. In this case, the district would probably have a better argument if the program involved only some, not all, of the schools in the district, and if a research consultant were engaged to monitor the ongoing results of the program.

Common sense and the provisions of Michigan law both suggest that any merit-pay pilot program would be easier to implement as a bonus, rather than as a replacement of the current salary schedule. Nevertheless, a bonus program is not an optimal endpoint for merit pay in Michigan schools, given the counterproductive tendencies of the single-salary schedule. A successful bonus program should be seen as a precursor to comprehensive teacher compensation reform. This reform should include an amendment of the tenure act to allow teacher pay to rise and fall to reflect teacher performance without triggering an illegal "demotion."

### Who should pay?

In one potential scenario, state government would mandate and pay for a pilot merit-pay bonus program. In Michigan, however, the state government's cost in passing such a mandate would be higher than in many states.

The Headlee amendment to the Michigan Constitution prohibits state government from placing unfunded mandates on local government.<sup>49</sup> To the extent that state government mandated that a local school district (or districts) implement a merit-pay bonus program, it would have to pay the entire cost of implementing the mandate. Hence, the state could not simply provide money for the bonus awards themselves: It would also need to cover district costs associated with disbursing the higher pay,<sup>‡</sup> including the districts' mandatory additional tax and premium payments for workers' compensation, Social Security, Medicare, state and federal unemployment insurance, and school-employee pension and retiree health care. The pension and retiree health care premiums alone totaled nearly 18 percent of school employees' pay in fiscal 2007.<sup>50</sup> And if the state mandated that school districts use new exams to

‡ MCL 38.103a(2)(h) of the Public School Employment Retirement Act explicitly includes merit pay in "compensation."

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measure student achievement, the state would have to pay for the school districts' costs in buying and administering the tests.

Thus, a state mandate might prove prohibitively expensive, especially for an experimental pilot program in an era when slower-than-expected annual revenue growth and continued state spending growth has repeatedly left the state's budget tight.<sup>\*</sup> Nor in this climate are state policymakers likely to set aside seed money for a controversial merit-pay pilot program without mandating that some district use it, since the money could remain unclaimed and leave legislators open to accusations of misplaced priorities during a period of "budget austerity." Michigan remains, after all, a powerful union state.

In a second potential scenario, a local district might try to implement merit pay within its boundaries. Many local school districts have faced tight budgets in recent years, however. In some districts, the collective bargaining agreement also includes a clause that prohibits a district from using standardized test scores in evaluating teachers — a barrier to merit-pay compensation as long as the clause remains in effect.<sup>†</sup><sup>51</sup> Given the potential cost, obstacles and controversy, many school districts will hesitate to initiate merit-pay programs without assistance.

The challenges involved in state or school district financing of a pilot merit-pay bonus program lead us to recommend that private foundations consider choosing a Michigan school district and financing a merit-pay bonus program there, covering both the cost of testing and the bonuses themselves over the span of a few years. Private foundations are already playing a role in merit-pay pilot programs, providing all of the award money in the first year of the ACPP program in Little Rock<sup>52</sup> and some of the funding for the Denver ProComp and Chicago REAL programs. Moreover, private money would not be subject to claims from special-interest groups soliciting for other programs, and concerns over the Headlee amendment and local contract prohibitions would no longer apply.

That said, a private foundation would still find it difficult to be an entirely free agent. The foundation would almost

<sup>\*</sup> It is also worth pondering whether a state mandate would prove wise as a policy matter. A determined state Legislature might fare better than local school boards at designing a merit-pay program that required real student achievement gains, but a state program could preclude useful experiments at the local level.

<sup>†</sup> Such clauses could be excised during the bargaining of a new contract (or in impasse). The factors involved in teachers' evaluations are likely a "permissive" subject of bargaining, meaning that the district and the union are permitted to bargain on the issue, but are not required to. A district might therefore have an easier time removing the clause during contract negotiations than if the topic were mandatory.

certainly want to work with a school district's officials before trying to finance a merit-pay pilot program in that district, if for no other reason than to gain access to student achievement data. The federal Family Educational Rights and Privacy Act of 1974 prohibits the release of educational records without parental consent.<sup>53</sup> Obtaining this consent from scores of parents individually would be problematic, especially compared to forging a working relationship with the district,<sup>‡</sup> which has legal access to the results of tests taken in district schools. The district could protect student privacy by replacing the students' names with codes that nevertheless allow the foundation to link the scores with the appropriate teachers.

For the school district's sake, the foundation should probably pay teachers directly. As noted earlier, if the school district acted as a middleman by accepting foundation money for the bonuses and transferring it to the teachers, the district would be on the hook for a wide range of state- and federally mandated taxes and insurance premiums. In contrast, merit-pay bonuses sent directly to teachers by the foundation would not generate this burden, although the foundation would need to file IRS-1099 forms for each recipient and obtain the recipients' W-9 forms (basically Social Security numbers).<sup>§</sup>

Whether direct payment would also prevent the bonuses from being subject to disclosure under the state's Freedom of Information Act would depend. If the district were informed in writing of the size of individual teachers' bonuses, the information would be subject to FOIA, even if the bonuses were based partly on personal information like principals' evaluations.<sup>¶</sup> If, however, the district were

<sup>‡</sup> In theory, of course, a foundation could approach parents independent of the district in order to obtain access to students' test scores. Such an approach might seem appealing if a foundation believed a district's officials were inefficient or uncooperative.

But this tactic would pose numerous problems. It is unlikely that a private foundation would succeed in convincing all (or very nearly all) of a school's parents to release their children's test scores, especially without the school district's support. Basing merit-pay bonuses on the test scores of only some students, however, would undermine the validity of the bonuses and the program itself. The results of the project would be seen as — and almost certainly would be — skewed, since participating children could easily differ in important ways from children whose parents were unwilling to participate.

Moreover, a foundation approaching parents independent of the district could generate ill will with school district officials and the teachers themselves. This ill will might also be shared by parents who refused to release their children's test results, since they could rationally fear that their children, whose test scores would not count in the privately funded teacher bonuses, would not receive the same attention in the public school classroom.

<sup>§</sup> A prize or award is taxable income and not a gift even if provided by a "donor [who] derives no economic benefit from it" (see *Robertson v United States*, 343 US 711, 714 (1952)).

<sup>¶</sup> The Michigan Supreme Court has held that teacher evaluations may be obtained through FOIA (see *Bradley v Saranac Community Schools Bd of Educ*, 455 Mich 285 (1997)). The court explicitly ruled that the privacy exemption in MCL 15.243(1)



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not informed in writing, individual teachers' bonuses would probably not be subject to FOIA, though it is difficult to be certain, since the issue has not been litigated in Michigan.

There are several advantages to having a private foundation, rather than a public institution, finance a pilot merit-pay program. Some of the legal and financial complexities involved in state or district financing would disappear; the program would be less subject to political compromise; and the program would be more cost-effective. These advantages should make it easier to launch the program, and after a few years of promising results, state and local policymakers should be more willing to adopt and finance broader reforms. Hence, although a foundation would have to endure a few years of costs and negotiations in implementing a temporary pilot program, the foundation would also know that its work was strategic. A well-designed pilot program could easily serve as a catalyst for badly needed, long-term and demonstrable improvements in children's learning — and do so in a key union state.

### Picking a district

Given the legal and practical concerns discussed in the previous two sections, there are obvious benefits to finding a district where both the school board and the teaching community are willing to consider significant reform. Merit pay, though common in the private sector, is controversial in Michigan's public schools, and interest in merit-pay reforms is most likely to occur in districts that feel the greatest pressure to improve or excel.

This leads us to recommend two types of districts. The first is a lower-income district with weak academic results, a declining student population or both. Because the state's primary means of financing these districts is the per-pupil foundation allowance, districts with declining attendance face a mounting financial pressure to attract new students, even as they lose the money that could help them provide competitive teachers salaries. Drawing new students becomes even more difficult when a district also has poor academic results.

One way out of this quandary is to retain and reward good teachers. A merit-pay bonus could do this, and the program's uniqueness would act as a form of differential pay that could help attract new teachers to the district. Moreover, a foundation that financed a merit-pay plan in such a district would know it was trying to help the students who need it most.

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(a) did not prevent disclosure of performance evaluations, and the court also ruled that a collective bargaining agreement stating that only administrators would see the evaluation did not prevent its disclosure under FOIA.

The district could be either urban or rural. Examples might be the Detroit Public Schools, the Grand Rapids Public Schools or the Fennville Public Schools. The receptiveness of these districts to a partnership with a private foundation to establish a merit-pay bonus program is unknown, however.

A school district and the private foundation could also negotiate whether the plan would include every school in the district or only some. Involving a representative subset of schools would reduce the cost of the program, allow the participating schools to be compared to (similar) nonparticipating schools, and as noted earlier, make the merit-pay plan more likely to qualify as a "pilot program" exempt from mandatory bargaining under state law.

Our second recommendation is the school district known as a charter school. Charter schools face financial challenges that conventional school districts do not. Unlike a conventional public school district, a charter school cannot levy local taxes for operating or capital purposes; its almost exclusive source of income is the state foundation allowance; and its state foundation allowance never exceeds that of the conventional school district in which it is located.<sup>54</sup>

Moreover, charter schools are uniquely positioned to implement merit-pay programs, because they alone are exempt from the Michigan Teachers' Tenure Act.<sup>55</sup> This exception makes it easier for charter schools to remove or demote veteran teachers who are underperforming, since tenure cannot protect these teachers from prompt dismissal or pay cuts. And as a practical matter, most teachers in Michigan's charter schools are not unionized (though there is no prohibition on their organizing). This relieves charter schools of the intense pressure to adhere to the single-salary schedule that union negotiators prefer.

Some charter schools may already be paying teachers based on supervisor evaluations or on student performance on standardized tests. A foundation offering to add a merit-based bonus to a charter school's teacher compensation might not just find itself welcome; it would in fact be leveraging Michigan's charter school experiment at the point of maximum mechanical advantage. Evidence of success in a charter school merit-pay bonus program would only intensify the pressure on conventional public school districts to follow suit.

There are more than 200 charter schools in Michigan. Over 40 are located in Detroit, and the pending loss of Detroit's exceptional status as a "first-class" school district will likely increase that number.<sup>56</sup> Foundations should find it easy to locate good candidates or to find a willing



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“chain” of charter schools, such as the National Heritage Academies or the schools authorized by Bay Mills Community College, which is run by the Bay Mills Indian Community in the Upper Peninsula.

## Estimates of Maximum Cost

Using the plan outlined above, we can generate estimates of the maximum cost of a merit-pay bonus program in a particular district. These maximum costs will not be realized in a well-designed pilot program. Such a program will differentiate between the best and worst teachers, rendering it unlikely that all teachers and personnel will receive the maximum bonuses of \$10,000, \$7,000 or \$3,000. In that case, the annual cost of the program will be considerably less than the estimated maximums we calculate here. And as noted earlier, a district and a private foundation have good reasons to consider including only some district schools, rather than all, in the program. Thus, our estimates below assume only half of the district’s personnel are involved.

We look first at the Grand Rapids Public Schools. In full-time-equivalent figures in 2007, the district had approximately 1,327 teachers, 456 paraprofessionals and 167 administrators.<sup>57</sup> Although these are not the actual number of people in each group, we will treat the figures as if they were (we are generating only an estimate, but a simple head count would allot too much to part-timers).

Publicly available data do not tell us how many of the teachers would be core teachers and how many would be noncore teachers, so we have generated a lower-bound estimate on the maximum cost by assuming all teachers are noncore (earning a maximum of \$7,000) and an upper-bound estimate on the maximum cost by assuming all teachers are core (earning a maximum of \$10,000). A rough projection of the test cost is made by assuming the \$14 cost of an NWEA test\* for all of the district’s 18,748 students.<sup>58</sup> Hence, the total maximum annual cost of a merit-pay bonus program in the GRPS would range between approximately \$6.2 million and \$8.2 million. The maximum annual cost per student would range from \$330 to \$436.

Similar calculations for the Fennville Public Schools<sup>59</sup> — a smaller, rural district with uneven test scores — indicate

the total maximum cost would be between \$464,000 and \$617,000, with a maximum cost per student of \$308 to \$411. Again, the actual costs of both the Fennville program and Grand Rapids programs would be lower, since not all teachers, administrators and other personnel would earn their maximum possible bonuses.

## Conclusion

A privately financed merit-pay bonus program is feasible and potentially powerful. It could generate new and valuable data about how teachers respond to financial incentives and how much teachers are able to improve student achievement. Moreover, successful results could easily spark interest in teacher compensation reform outside a single district or charter school. Michigan residents, businesses, educators and policymakers are growing hungry for ideas that provide real grounds for hope, rather than grounds for more spending and uninspiring results.

A successful program would also suggest that the rough consensus of education researchers is correct: Most of the factors leading to higher pay in a single-salary schedule do not significantly affect teacher effectiveness and student performance. The real question would then be whether districts should not examine their reliance on the single-salary schedule itself.

True, reforming the single-salary schedule and removing tenure act barriers to demoting ineffective teachers would create “winners” and “losers” among Michigan’s teachers. But if the assumptions behind merit pay are correct, the teaching profession would improve, and public school monies would produce better results. In that case, Michigan’s schoolchildren would be the winners, just as they should be.

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\* The \$14 per-student cost is a reasonably accurate estimate for the kindergarten through 10th-grade students taking the NWEA exams. The cost of exams for 11th- and 12th-graders would depend on the assessment chosen by the program administrators, but given that 11th-graders already take the Michigan Merit Exam, the additional cost might be as low as \$0 for 11th-graders. A \$14 cost for 11th- and 12th-graders is therefore probably a reasonable estimate of the maximum cost.

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