SHOW-ME newsletter

2016 LEGISLATIVE SESSION YIELDS ETHICS REFORM

By Patrick Ishmael

By most standards, 2015's legislative session was a rocky one for Missouri's lawmakers, as representatives from both parties and both chambers were brought down by scandals. By the end of the session an atmosphere of general public mistrust had settled over the Capitol, and it was clear that the culture in the legislature had to change. It's no wonder, then, that in 2016 ethics reform was a top priority for many elected officials.

One of the most important changes made to the state's ethics laws this year was the reformation of the legislator-turned-lobbyist "revolving door." At issue was the increasingly common practice of elected officials becoming lobbyists immediately after leaving office—and sometimes even leaving office early—to lobby their former colleagues.

This practice raises at least two obvious problems. First, if a legislator plans to move into a lobbying position after leaving office, that intention could affect, consciously or not, the sort of legislating they do. Constituents deserve to have the undivided loyalty of their elected representatives.

Second, public service shouldn't simply be a stepping stone to more lucrative endeavors, but rather an end unto itself.

The legislature enacted a new "cooling off period" that requires a legislator to wait at least six months after their scheduled term ends before working as a lobbyist. The law institutes what's effectively a non-compete clause for legislators—a step toward rebuilding trust in our legislative process.

The reform should be a win–win for legislators and taxpayers. It allows legislators to pursue employment opportunities related to their lawmaking after their terms are done, but it also helps to ensure that our elected officials are not unduly influenced during their public service by the opportunities that may be offered by special interests. With its passage, Missouri joins a majority of states with similar laws.

The legislature passed other ethics reform laws as well. One changed the manner in which elected officials can act as paid consultants for their peers; another modified campaign finance law to prevent former elected officials from easily leveraging leftover campaign funds to benefit their subsequent lobbying operations. Both laws were needed. Taken together, 2016's ethics reforms were substantive improvements that should help restore the public's trust.

ADVANCING LIBERTY WITH RESPONSIBILITY
BY PROMOTING MARKET SOLUTIONS
FOR MISSOURI PUBLIC POLICY

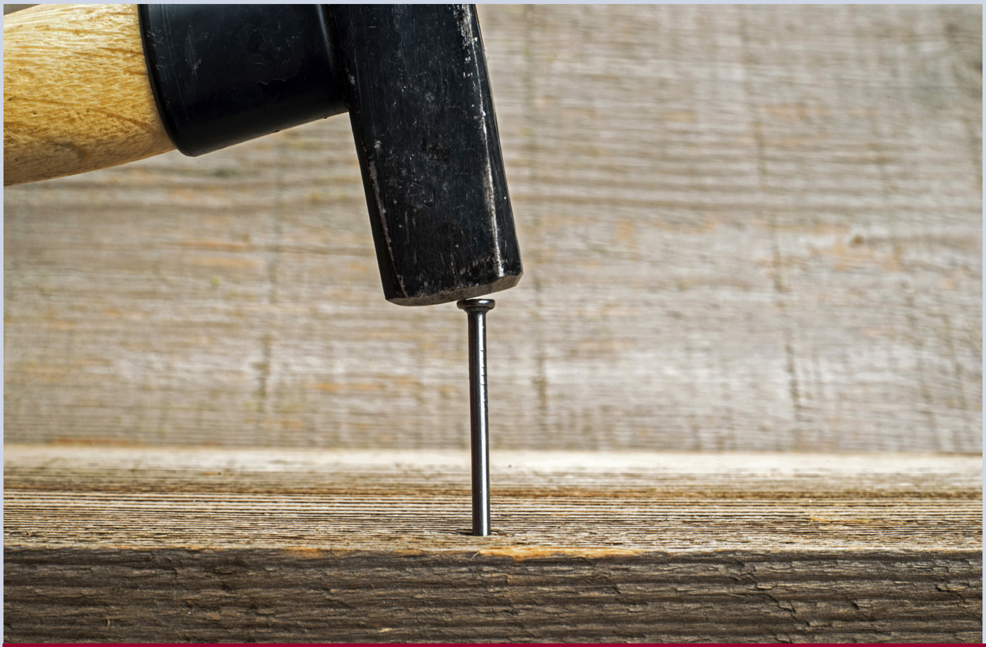
A MESSAGE FROM THE CHIEF EXECUTIVE OFFICER

Brenda Talent
Chief Executive Officer

Once you take up the free-market cause in Missouri, it becomes difficult to look at government without being reminded of the adage, "When all you have is a hammer, every problem looks like a nail." Government action, whether through taxation or regulation, is a blunt and powerful instrument capable of doing a lot of damage if misapplied. We see it at all levels of government, in a discouraging array of situations.

Sometimes the nail that the government hammers is very small indeed. For example, the Show-Me Institute has covered state and local efforts to preserve us from such scourges as poorly braided hair and uninspired performances by buskers, jugglers, and the like. The government solution: making hair braiders and street performers apply (and pay) for licenses before working in their chosen fields. In these cases we would recommend instead a little patience and faith in the consuming public. People really can decide for themselves where they want to get their hair done. The street musician whose audience declines to toss money into his hat, like the hair braider whose customers stop showing up, will eventually get the message; and in the meantime they aren't doing any harm. But licensure requirements can do a lot of harm, because they are barriers to making a living, and for the less advantaged the barrier can be substantial.

In other cases we find the government swinging on the theory that *something worth hammering must be around here somewhere.* Our Western Missouri Field Manager Patrick Tuohey has written about a case in point in Kansas City, where city government is spending almost $14 million (and counting) in order to buy and redevelop a shopping center. The city will then lease the building to a grocer for ten (10) dollars a year in order to create an oasis in a so-called food desert.



Let's start by acknowledging that the intention here—to provide easy access to groceries to a low-income population—is good. But just for once, can we ask the government to produce actual results—particularly when it spends so much money that could be used for other purposes? In this case, the evidence supporting government intervention is weak at best. Tuohey cited a U.S. Department of Agriculture article on food deserts in which researchers found that consumption of fruits and vegetables did not change much after the introduction of a grocery store to a Philadelphia neighborhood. In Kansas City, $14 million can get a lot of healthy food from the farm to a grocery store, but it can't create demand for that food. If the results seen in Philadelphia are replicated in Kansas City, then the city will have spent a lot of money giving people access to something they don't appear to want.

But the hammer might be most dangerous when it comes down on one of the most basic and critical relationships in our economy: that between employer and employee. At the local level we see this with recurring proposals to increase the minimum wage. Here the mistake is often in looking at a number—*$X per hour*—and deciding arbitrarily that it simply isn't enough, as if an employer sets wages according to whim, or what he thinks his employees deserve.

The truth is much more complicated, and involves a host of interrelated questions. *How much value does the employee provide? What other businesses nearby are competing for this person's labor, and how much are they paying? Are there other potential employees if this person decides to look elsewhere?* And there are also considerations from the employee's point of view. For someone with little experience and few marketable skills, a willingness to work at a lower wage than other job candidates might be the only advantage he can offer to an employer. None of this changes with an increase in the minimum wage. What changes is that business owners and workers have fewer options as they try to reach a mutually beneficial arrangement. In some cases, such an arrangement becomes impossible.

The problem isn't confined to hourly workers. Senior Writer Andrew Wilson has published articles in several venues describing new U.S. Labor Department regulations that will mandate overtime pay for salaried workers making less than $47,476 per year for any week in which they work more than 40 hours. This replaces the old threshold of $23,660, meaning some 80,000 workers in Missouri alone will be newly eligible for overtime pay. As Wilson explains, that doesn't mean these employees will actually get more money, because their employers aren't in a position to take huge increases in their personnel costs; the employers will instead react by downgrading the status of their salaried employees, dividing their hours among other employees, or restructuring operations so as to eliminate jobs.

The conceit behind regulations like this is that businesses have a magic cash drawer where they can get funds to pay the costs of new regulatory mandates. Regulators tend to think that way because, in the public sector, they don't have to worry about controlling costs. They *do* have a kind of magic cash drawer. They can raise taxes on the public or borrow on the public credit, and keep spending as much as they want—at least until, as Margaret Thatcher said, and as Puerto Rico is finding out, they run out of other people's money. Any time policymakers consider intervening in the operation of a free market, they should ask themselves:

> *Is the problem really something that the market won't fix on its own?*
>
> *Is it clear that the proposed action is likely to solve the problem?*
>
> *Will the "solution" cause more harm than the problem it's intended to solve?*

I don't have a lot of confidence that policymakers, on their own, will answer these questions accurately. But the Show-Me Institute is here to help. And even getting them to ask the questions would be a great start toward better government, greater prosperity, and more freedom for Missourians.

THE INSATIABLE DESIRE FOR MORE EDUCATION SPENDING

By Michael Q. McShane

How many angels can dance on the head of a pin? What is the sound of one hand clapping? Can God create a boulder so large that not even He could move it?

To these classic examples of unanswerable questions we can add another: What is the right amount of money to spend on the state's education system?

For decades now, all across the country, advocates who have failed to convince state legislatures to appropriate more money for education have appealed to courts to force higher levels of spending. These cases have generally hinged on two issues: adequacy and equity. *Adequacy* refers to the total amount of spending—is it enough to satisfy constitutional obligations to provide for a system of K-12 education? *Equity* refers to the distribution of those funds—are harder-to-educate students (students from poverty, students with special needs, and students learning the English language) getting the money they need?

Here in the Show-Me State, we've been hearing more about school finance because Kansas's Supreme Court took the drastic step of threatening to shut down the state's schools over equity issues. This threat dramatically ratcheted up the stakes. Courts rarely strike such a hard line, and given that the Kansas Department of Education estimates that the cost to remedy their funding problem will be only $38–$51 million out of a $4 billion education budget, it seems out of proportion.

Even though the Missouri State Supreme Court found our funding formula constitutional in 2009, the threat of a lawsuit is always looming in the background. How can this be? Simply because there is no magical dollar amount out there that can guarantee a quality education for students. We have not been able to create a reliable model that tells us if we put in *X* number of dollars we will get *Y* level of achievement. We simply don't know.

In a recent judgment on the constitutionality of Texas's Supreme Court case (a case in which I was proud to offer an expert letter), Chief Justice Don Willett summarized it perfectly:

> "the trial court's 'fact' findings as to the specific amount of funding needed to achieve a general diffusion of knowledge are, we think, beyond the current state of science in this field. . . . To determine as a matter of fact that specific funding levels are required to achieve the constitutional threshold of a general diffusion of knowledge, a court not only must find that a cost–quality relationship exists, but also must assign specific quantitative measures to that relationship."

In Kansas, the state's constitution simply states that "the Legislature shall make suitable provision for finance of the educational interest of the state." That's it. To think that we can glean from those words that a particular dollar amount is constitutional while another is not, or that a particular means of distributing those funds is constitutional while another is not (shy of violating longstanding precepts of equal protection under the law), is beyond what social science circa 2016 can justify.

As a result, we have to defer to our duly elected representatives to weigh the competing claims on state tax revenue and to apportion funds to schools appropriately—to "make suitable provision" as they see fit. We might not always like what they come up with, but that is what elections are for. Removing their ability to make these decisions and placing them in the purview of the courts is neither prudent nor likely to yield positive results.

BE CAREFUL WHAT YOU PROMISE: PENSION PLANS AND RISK

By Michael Highsmith

Great risk can bring great rewards, but it would be foolish to assume that it always does. When it comes to investing, the possibility of large returns, while enticing, is never guaranteed.

According to The Pew Charitable Trusts, the unfunded liabilities of public pension plans in the United States are nearing 1 trillion dollars. In defined-benefit pension plans, employers (in this case the states) are finding that their pension funds are running low, in part because of lower-than-expected investment returns. If this trend continues, employers will eventually find themselves without the required funds that have been promised to retiring employees. Since this income is guaranteed, the burden of covering the shortfall may ultimately fall upon taxpayers.

Earlier this month, Public School Retirement Systems of Missouri (PSRS) met to discuss whether they should lower their estimated rate of return for investments from 8% to 7.75% so as to better reflect unfunded liability growth. While changing the estimated rate itself would not affect unfunded liability, a more accurate estimation would sound the alarm that either initial contributions must increase, promised benefits must be reduced, or taxpayers should prepare themselves for the expense of shoring up these pension funds.

For now, PSRS has decided against modifying the rate and thus has saved today's taxpayers from writing a check, but the long-term effects of this decision remain to be seen. Every investor hopes for high returns, but as a general rule, high risk and high potential returns are a package deal.

Many private sector employers, wary of the risks associated with defined-benefit plans, have moved to defined-contribution plans. Unlike defined-benefit plans (in which employees are promised a set amount of income every year for the remainder of their lives), defined-contribution plans are funded directly through employer/employee contributions and investment gains, so unfunded liability isn't a problem. However, the majority of public plans in Missouri still follow the defined-benefit model.

A simple truth underlies much of the difficulty facing defined-benefit plans: Returns on relatively secure investments are not as strong as they once were. Thirty-year treasury bonds in 1986 had rates as high as 9.19%, while today they hover around the 2.5% mark. This fact is hardly the fault of pension fund managers, but it limits their options for investment. With insufficient return rates on guaranteed investments, not to mention increasing lifespans of retirees, defined-benefit pension plans simply can't sustain themselves without taking on riskier assets. But turning away from bonds and treasury bills and toward the stock market means that money the state has promised to employees is being put at increasing risk. This investment strategy may or may not be wise—but at the very least, shouldn't the plans account for that risk when assessing their ability to pay what they have promised to retirees?

EVALUATING THE KANSAS CITY STREETCAR

By Patrick Tuohey

On May 6, 2016, the Kansas City Streetcar opened to the public amid effusive praise from local media. (Full disclosure: staffers at the Show-Me Institute's Kansas City office took our first ride on May 9.) In the weeks that followed, daily ridership has averaged 6,400, well above the initial estimates of 2,700 to 3,500. Now there is talk of purchasing a new streetcar to handle the demand, along with a new push to extend the rails a few miles south to Country Club Plaza.

Will this last? The *Kansas City Star* has credited high ridership numbers to the streetcar's novelty, which will soon wear off. The experiences of other cities with new streetcar lines—such as Tucson, Arizona, and Atlanta, Georgia—can be instructive. Both cities opened their systems to higher-than-expected ridership numbers in 2015. But a year later, as the novelty has worn off, ridership is down.

In 2015, the Tucson system was said to be carrying more riders than forecast 7 months after its launch. Yet in May 2016, officials announced that the streetcar was curtailing its late-night service in the name of "passenger efficiency."

Streetcar proponents in Atlanta were also crowing about better-than-expected ridership numbers last year and urging the city to consider expansion. Yet a year later, the system is being threatened with closure due to a list of problems, not the least of which has been a decline in ridership. Both the Tucson and Atlanta systems charge a fee; the Kansas City streetcar does not—at least not yet.

Urban transit planning involves accounting for the threat of unforeseen glitches. The KC streetcar was shut down briefly twice during its first weekend of operation. On May 23, the streetcar derailed. Two days later, service was halted due to electrical concerns. On May 26, the streetcar was hit by a motorist who ran a red light, resulting in halted service. Supporters and detractors agreed it was a bad week.

But even when things run smoothly, streetcars aren't as efficient as other modes of rail transit. According to the 2014 National Transit Database, streetcars run about 95 percent of their scheduled vehicle miles. That sounds impressive enough, until you realize that it is a lower performance percentage than that of any other form of rail transit. Nationally, systems such as commuter rail, heavy rail, and light rail run at 105.2, 97.3, and 98.9 percent of scheduled vehicle miles, respectively.

Metro buses run 102.8 percent of scheduled vehicle miles. In Kansas City, the KCATA runs 99.8 percent for both metro buses and bus rapid transit, such as the MAX lines.

The difference between 95 percent for street cars and 102.8 percent for buses may seem small until you consider the costs of each. The Show-Me Institute has noted that Kansas City could buy 100 additional buses for the same cost of expanding the streetcar system by 7.6 miles.

As Kansas Citians consider efforts to expand the streetcar line, hard data like ridership, transit costs, and performance need to take precedence over feel-good puff pieces. That's the only way to promote good public policy.

SAINT LOUIS IS LIGHT ON REASONS FOR MORE LIGHT RAIL

By Joseph Miller

The Saint Louis area appears to be on track—yet again—to expand MetroLink, the region's light rail system. Rail advocates have supported expanding the system ever since the last line opened in 2006, and regional planners are spending millions to decide where, and not if, more light rail should be added. Mayor Francis Slay has recently thrown his weight behind the scheme. The plan currently in favor would add a new line that would run from North Saint Louis County, through downtown, and into South Saint Louis County. But with project costs likely to be anywhere between one and two billion dollars, is more light rail worth it in Saint Louis?

Assuming other types of public transportation service (such as buses) are unaffected, the addition of a north–south MetroLink line could increase the speed and quantity of public transportation in the Saint Louis region. Light rail is generally faster than standard buses and therefore attracts more riders. However, Saint Louisans need to remember that light rail is just one option among many for improving transportation, and perhaps not the most prudent one.

The first problem efficient light rail faces in Saint Louis is the very layout of the region. The most effective rail systems in the county route riders from congested central business districts to dense environments in the city or near suburbs. Cost-effective light rail systems generally have population densities nearing 20,000 people per square mile around stops. However, Saint Louis is dispersed both in terms of where people work and where they live. For instance, most residents live and work outside Saint Louis City, and more people commute into Saint Louis County than Saint Louis City for work. Saint Louis's central business district, far from being congested, actually has less employment than parts of West Saint Louis County. This dispersal is reflected in the region's low population density, as most of Saint Louis City (and nearly the entire planned route of north–south MetroLink) has fewer than 5,000 residents per square mile.

These obstacles likely contribute to light rail's disappointing past performance in Saint Louis. Despite the immense expenditures (around $3 billion) and multiple expansions, total bus and rail ridership today is lower than bus ridership alone was in 1991, three years before MetroLink opened. Even worse, not all MetroLink expansions have even resulted in sustained higher ridership. Take the case of latest expansion, from Forest Park to Shrewsbury, which opened in 2006. While the addition initially pushed rail ridership to new heights, ten years later total MetroLink ridership is lower than it was the year before the expansion opened. As for hopes that rail would promote urban regeneration, past experience with the MetroLink shows no such effect. Far from resuscitating areas that were down on their luck (like East Saint Louis or Saint Louis Centre), MetroLink has failed to prevent decline in areas of its route that appeared to be ascendent in 1994, like Union Station and Laclede's Landing. With few exceptions, MetroLink platforms remain areas of quiet repose, isolated from businesses, residences, and crowds. It's ironic, given the claims of rail advocates, that the true success stories of urban renewal in Saint Louis City are places like Soulard, South Grand, the Grove, and now Cherokee Street, located far away from any MetroLink station.

Fortunately for the region, adding more rail is not the only way to improve public transportation. Saint Louis could, for far less than a billion dollars, improve its poorly managed bus system or implement bus rapid transit, both options made much easier by the relatively low traffic levels on Saint Louis's highways and arterial roads. If Saint Louis is serious about improving transit, and not simply obsessed with building more rail, it will explore these more cost-effective measures instead of expanding MetroLink. However Saint Louis officials move forward, if they do not start looking for public transportation plans that take the city as it is—and not how transit activists want it to be—the system will continue to operate as it does today: expansive yet inefficient, expensive yet resource-poor, overbuilt yet under-ridden.

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WANT TO BECOME A PROFESSIONAL WRESTLER? FIRST STEP: GET A LICENSE

By Jonathan Brown

To become a professional wrestler in the state of Missouri, or even to become a professional wrestling announcer, you must first take on a 400-pound gorilla. That would be the Missouri Division of Professional Registration. That's right: Before jumping in the ring, or picking up a mic, you need a license from the state of Missouri.

And it's not just for the wrestlers and announcers; licenses are also required for promoters, matchmakers, managers, referees, and sponsors—and even the timekeepers. Before any pile-drivers or body slams are cordially dispensed, the state collects over $1,100 in licensing fees, and that's just a conservative estimate for the participants in a single match.

In addition to the cost of a state license (which all expire on June 30 of every even-numbered year), the promoters must obtain a $150 event permit for each wrestling contest per day, backed by a $5,000 surety bond. By comparison, promoters for both professional boxing and professional martial arts competitions are only on the hook for a $25 event permit per contest per day.

Missouri has licensed nearly 300 wrestlers, 60 announcers, and 48 referees, generating more than $15,000 in revenue from licensing fees every two years. But that does not include revenue from the more expensive licenses for promoters, matchmakers, and managers, or the $150 permit per contest per day. Missouri also collects an "athletic tax" of 5% of gross receipts (less state, local, and county taxes) from admission sales plus 5% on gross receipts from the sale or lease of TV, pay-per-view, and motion picture rights.

According to the Athletic Department website, part of their mission is to "protect the health and safety of participants." This is indeed a legitimate concern. The "rules" of professional wrestling might be negotiable, but the safety of the participants (and even the audience) should not be. Licensing participants and referees, for example, might be one way to make injuries to wrestlers and others less likely.

Another part of the Athletic Department's mission is to "ensure [that] the event meets state requirements." That can mean just about anything. It's hard to see the rationale for licensing each promoter, timekeeper, and announcer.

Show-Me Institute analysts have written before that licensure requirements for some occupations are harmful, burdensome, and largely unnecessary. Not only do they circumvent the consumer protections already provided by the free market, but they can easily cross the line between licensing for consumer or professional safety and licensing as a revenue source for government.