

THE EMPIRE STRIKES BACK: STATE TAKEOVER AND EDUCATION IN MICHIGAN

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Abstract:

State takeover has become a consistent policy prescription for school districts who become financially insolvent and/or have low academic achievement. A look at the state of Michigan's state takeover laws and the case study of Detroit Public Schools (DPS) demonstrates the negative consequences and nuances of the policy to improve academic achievement and promote fiscal health. In Michigan, the takeover of school districts has had generally negative results in improving district fiscal health, test scores, or gaining the support of the community.

Keywords: takeover, education policy, Detroit, urban education, equity

INTRODUCTION

Since the 1980s, the policy of "state takeover" has become a prescription for urban deindustrialization and deterioration. State takeovers of public schools, where a state-appointed emergency manager replaces local governance to manage fiscal distress, is an ineffective education policy. In Michigan, state takeovers are the culmination of years of state divestment and deindustrialization—for which authoritarian, unilateral control is an inappropriate cure. Since the first takeover in 1999, Detroit Public Schools has hemorrhaged its student population, shut down around 200 schools, and continued to deteriorate in academic quality. Emergency managers often make decisions that are adverse to the needs of the community, and a lack of democratic accountability shields them from responsibility for the negative effects of their policies. Thus, there is an ironic dichotomy between takeover's theoretical underpinnings in holding the state accountable for the conditions of its schools and the reality that it further deteriorates already struggling academic environments.

BACKGROUND

Since the 1970s, American cities have been grappling with the effects of deindustrialization and resource poverty. Deindustrialization, the loss of unskilled, high-paying jobs through the outsourcing of manufacturing to other countries, often engenders community-level resource poverty, the lack of capital - economic, social, and human - leading to an inability to meet the basic needs of that community. While deindustrialization and resource poverty have affected every aspect of urban life including public health, poverty, and blight, it has especially affected the school system. Few places have experienced deindustrialization like the state of Michigan.

Michigan was one of the largest manufacturing states in the country; its citizens and economy depended upon the jobs provided by the auto industry. In the 1950s and 1960s, the auto industry provided well-paying jobs and symbolized middle class living for auto workers and the American consumers, literally driving American middle class living to its peak (Moore, 2003). During the late 1970s and throughout the 1980s, however, the industry began to face increased competition from foreign vehicle manufacturers which, coupled with production of shoddy products, caused the auto industry to decline (Highsmith, 2015, p. 244, 250). The industry thus began to look for ways to cut production costs, laying off high-paid workers and moving production to less expensive locales (Moore, 2003). This deindustrialization precipitated sharp economic declines in both industry's original communities like Detroit and the state of Michigan as a whole.

The precipitous loss of jobs in Michigan's urban centers led to many people fleeing from the cities to the suburbs or out of the state altogether and spurred an increase in resource poverty. Each person who moves out of Detroit takes with them tax dollars that the city needs for public works, public health, and to maintain the schools. Unless those tax dollars are replaced, the city can lose hundreds of thousands in tax revenue, making it harder to meet the needs of the community members who still live there. Between 1960 and 1980, Detroit lost over a quarter of its population, dropping from 1.67 million to 1.2 million (Addonizio & Kearney, 2012, p. 197). During that time, the deadly riot of 1967 led to an even greater exodus out of Detroit, augmenting the city's fiscal problems. Detroit Public Schools (DPS) enrollment peaked at about 300,000 students in 1966 (Grover and Van der Velde, 2018); by 1980, its enrollment dropped to 214,736 (Addonizio & Kearney, 2012, p.197). As the population of the city and the schools continued to drop, the proportion of Black citizens rose, such that the future of the city disproportionately affected minority residents (Addonizio & Kearney, 2012, p. 197). As of 2010, Detroit's population was 713, 777 and is 82.7% Black (U.S.

Census Bureau).

State takeover laws developed to treat fiscal crisis; fiscal crisis is the depletion of a municipality and/or school district's financial resources due to the erosion of the tax base from population losses. As deindustrialization and economic recession hollowed out city tax bases, the disparity between the resources available to suburban and urban school districts grew. Following a series of lawsuits in New Jersey, the state Supreme Court ordered that the state was responsible for addressing these inequities (Morel, 2018, p. 24). In response, the New Jersey state government made the first "state takeover" law which allowed the state to assume responsibility for the finances and direction of city governments and school districts (Morel, 2018, p. 24). These lawsuits, for the first time, ruled that the state was responsible for providing an adequate education to its students. They provided the inspiration for several lawsuits throughout the United States, prompting many states to respond with new litigation of their own. Since its original conception in 1989, more than 20 states including Michigan have adopted laws that allow the state to control municipal and school district governance to promote educational and financial stability (Oluwole & Green, 2009, p. 343).

Michigan Takeover Law

During the 1988-1989 academic year, approximately 30 Michigan school districts were running a deficit, with Detroit Public Schools' deficit at \$150 million (Bowman, 2013, p. 5). In 1988, the state of Michigan proposed its first law to explicitly allow the state to intervene in financially dysfunctional municipalities; however, the Government Fiscal Responsibility Act did not extend its powers to school districts (Bowman, 2013, p. 5). In 1989, some legislators proposed that the law be expanded to allow for intervention in financially unstable school districts (Bowman, 2013, p. 5). Proponents of the law believed it provided for the state and local districts a clear path to resolve fiscal crises that escalated in accordance with the gravity of the situation, whereas opponents stated that the law threatened local control and transparency of government (Bowman, 2013, p. 6). In 1990, the bill, which would become to be known as Public Act 72 (1990), was passed, spelling out the procedures that the state and local governments would take should a school district fall into fiscal distress:

1. An agreement would be made between the state and local governments to minimize the distress;
2. If the financial insecurity continued, the state could appoint an Emergency manager;
3. The manager was selected by governor from a shortlist preapproved by the state superintendent for public instruction and board of education;
4. The emergency manager had the authority over the school district's finances and could authorize the filing for bankruptcy (Bowman, 2013, p. 6).

In 2011, Public Act 4, one of the first pieces of legislation signed by newly elected Governor Rick Snyder, strengthened state power in the event of fiscal crisis (Hakala, 2016). Public Act 4 clarified the definitions of fiscal distress, required more frequent and extensive reporting by the emergency manager to the state, maintained the principle of escalation over time, and gave significantly more power to the emergency manager by extending their powers to the day-to-day management rather than simple control of the finances (Bowman, 2013, p. 7–8). The essential difference between financial control and day-to-day management is the power to make policies vs. enact them on the ground. Under "simple control of finances", financial decisions can be made without the ability to implement them as one intends. Under the day-to-day management, the emergency manager can make financial decisions and implement them without external input. Although this process is more efficient, it fundamentally eliminates the possibility for debate. The coalescence of power in the hands of the emergency manager ultimately represents a shift from a democratic system to an authoritarian-centralized one.

The extensive power of the emergency manager can be found most clearly in section 20(f) of Public Act 4: "[The emergency manager may] exercise solely, for and on behalf of the school district, all other authority and responsibilities affecting the school district that are prescribed by law to the school board and superintendent of the school district" (2011). In effect, the law eliminated checks and balances on district decisions and made the local school board and superintendent obsolete; neither could act without permission of the emergency manager (Bowman, 2013, pp. 7–8). Another major provision of Public Act 4 was that it allowed the governor to appoint an emergency manager to a municipality or school district without conference with the senate or any other body of government, expanding the governor's unilateral control over the community in fiscal crisis (Bowman, 2013, p. 8). Thus, the policy removed democratic barriers of debate and multi-person control in favor of more centralized control in the hands of the governor and the emergency manager.

Public Act 4 was highly controversial, leading to a long string of litigation (Bowman, 2013, p. 11). At the heart of the controversy was whether or not a state-appointed emergency manager could adequately serve a community if that community had no say in the decisions being made or ability to remove the emergency manager should they prove ineffective. Public Act 4 was recalled in November 2012 after 52% of the state population voted in favor of its repeal (Hakala, 2016; Bowman, 2016, p. 12). Almost immediately, the legislature responded with Public Act 436, which made some alterations to Public Act 4: the state would pay the salary of the emergency manager instead of the local government where they were appointed and the local government

could remove the emergency manager by vote after 18 months (Hakala, 2016). In addition, the most contentious aspect of the law was its “referendum proof” clause, such that the law could not be overturned by the public (Hakala, 2016). Public Act 436’s imperviousness to democratic checks represents continued escalation of authoritative power taken by the state.

Each takeover law, therefore, has concentrated more power in the hands of the governor and the emergency managers, made it more difficult to remove emergency managers, and made it more difficult to affect state policy on emergency management. Overall, the policy has had mixed results: at the municipal level, emergency management has ranged from the successful turnaround of Detroit following its bankruptcy in 2013 to the human rights calamity of the Flint Water Crisis. At the school level, takeovers have proven to have collectively negative results in Michigan.

Public School Takeovers and Their Effects in Detroit

Public school takeovers in Michigan have resulted from a dire mismatch between school districts’ professional and academic obligations and the financial resources at their disposal. Michigan is one of the worst offenders in state budget cuts to education and reductions in real term spending (Leachman et al., 2017): it is 50th out of 50 states in school funding growth, and funding for at risk youth has declined by 60% per pupil; meanwhile, real funding has continued to fall due to reduced tax effort (Arsen, Delpier, & Nagel, 2019). School district budgets are comprised of 47% state funding, 45% local government funding, and 8% federal funding (Leachman et al., 2017). Thus, when the state cuts spending on education, more often than not the other funding sources cannot make up for the losses in revenue. Thus, Michigan’s schools have gone underfunded for over twenty years and have suffered the consequences. A vicious cycle ensues as many schools suffer from depopulation, crippling infrastructural problems, growing debt, forced cuts to programs, and vulnerability to state takeover. For Detroit, this cycle led to two state takeovers from 1999-2005 and 2009-2016 (Higgins, 2019). As a result of these policies, nearly 200 schools have closed and enrollment is down from 162,693 in 2000 to 47,959 students in 2015 (Grover & Van der Velde, 2018).

Fiscal Health

The first takeover of Detroit Public Schools (DPS) under Public Act 72 , lasted from 1999 to 2005 (Mason & Reckhow, 2016). In 1999, Governor Engler, under Public Act 10 (1999), dissolved the democratically elected board of DPS and replaced it with a 7-person appointed “reform board” (Guyette, February 2015). Engler did this, allegedly, to resolve some of the criticisms of the existing state takeover law, Public Act 72 - though Public Act 10 did not replace it (Guyette, 2015). At the time of the 1999 state takeover, DPS actually had modestly increasing enrollment, a positive fund balance, and midrange scores on standard exams; under the reform board, the school district went from having a budget surplus to a \$200 million deficit (Guyette, 2015). A “sunset clause” in Public Act 10 allowed Detroiters to vote on retaining the reform board or reinstating the elected board; they voted by a 2:1 margin in November 2004 to bring back the locally elected school board, ending the takeover (Guyette, 2015). In November 2005, the elected board officially regained control of the district and needed to decide how to approach the financial mess that the takeover had left them with (Guyette, 2015).

The second takeover of Detroit Public Schools began in January 2009 when Governor Jennifer Granholm appointed emergency manager Robert Bobb under Public Act 72 (Bowman, 2013, p. 9; Guyette, February 2015). Bobb’s management was wrought with controversy over the meaning of Public Act 72 (Bowman, 2013, p. 9; Guyette, 2015). According to legal scholars, the law could be interpreted as creating a power-sharing authority between the emergency financial manager, who would control district finances, and the school board, who would retain control of academics (Bowman, 2013, p. 9). In contrast, Bobb believed the law gave him greater authority, stating: “If a penny touches any of the issues involving the Detroit Public Schools system, then I am engaged and involved” (Guyette, 2015). Bobb’s claims of authority flared tensions with the community, leading to several lawsuits. One lawsuit was successful in challenging Bobb’s attempt to change academic management, claiming it violated the stipulations of Public Act 72 (Bowman, 2013, p. 9). This restored some democratic power to the school board, and thus, the community. Nonetheless, throughout his tenure, Bobb closed 59 DPS schools in the course of two years, fired and then rehired hundreds of teachers and counselors, privatized the custodial staff, and left DPS with a \$284 million deficit (Bowman, 2013, p. 14; Guyette, 2015).

Far from reaching his goal of putting DPS in the black, he would, like the reform board before him, leave the district worse off than he found it (Guyette, 2015). One of the major problems of cost cutting measures is that as schools close and quality deteriorates, enrollment also drops (Guyette, 2015). Because Michigan’s funding formula is based on per pupil spending, the loss of each student resulted in an equivalent loss of funding for the district. Over the last decade, DPS lost 83,336 students or more than 50% of its enrollment (Guyette, 2015). This loss was at a rate much higher than the city’s population decline, indicating something else was driving students out of the district (Guyette, 2015). DPS lost \$573 million in state aid between 2000 and 2011 (Guyette, 2015).

Bobb served as emergency manager until 2011 when he was replaced by Roy Roberts (Bowman, 2013, p. 9). At the same time

that Bobb left his position, Governor Granholm was being replaced by Governor Snyder, who signed Public Act 4 upon entering office, thus expanding the state's control over DPS. Many consider Public Act 4's expansion of powers to the emergency manager and to the governor as rebuttals to the successful lawsuit by the DPS school board (Bowman, 2013, pp. 7–8; Guyette, 2015). Roberts would be the first emergency manager appointed in Detroit under the new legislation, and had no easier time governing DPS than Bobb. Roberts held unilateral control over district financials and daily management that Bobb had wanted until Public Act 4 was suspended in August 2012. The suspension was the result of the impending referendum that would eventually repeal Public Act 4 (Bowman, 2013, p. 11; Guyette, 2015).

While serving as emergency manager, Roberts shifted 15 DPS schools to a state collective district known as the Education Achievement Authority (EAA) (Bowman, 2013, p. 10; Guyette, 2015). A lawsuit challenge to this move was defeated, legally validating the power of the emergency manager (Bowman, 2013, p. 10). The EAA policy had immediate calamitous effects for DPS: the removal of about 7,000 students from the district meant an equivalent loss in per-pupil funding (Guyette, 2015). Roberts also fired 400 union teachers and closed more DPS schools (Bowman, 2013, 10; Guyette, February 2015). He left the position of emergency manager in July 2013 with the DPS student population reduced to 51,318 (Guyette, 2015).

State takeover in Detroit, therefore, has been tragically unsuccessful in reversing the district's financial downslide. In the 2007–2008 school year, DPS educated around 95,000 students in 198 schools (Guyette, 2015). As of February 2015, those numbers were down to 48,900 students and 103 schools (Guyette, 2015). According to Mason and Reckhow (2016), in a report on the effects of Michigan state takeover policy, "Despite the state's efforts, financial and academic problems have become worse. Budget shortfalls continue, with a projected accumulated deficit of \$335 million in June of 2016, up from \$238 million a year earlier." In 2016, the state gave the district a \$617 million bailout, created Detroit Public Schools Community District to serve students - with the original DPS district existing to pay down debts - and put the new district under state oversight by the Detroit Financial Review Commission (Higgins, 2019). While the bailout met immediate needs, it restricted the district's ability to take on debts to address persistent needs like building maintenance (Higgins, 2019).

The goal of state takeover in school districts is to ameliorate fiscal distress and increase academic achievement, thereby increasing the faith of the community in both the academic institutions *and* in the state centralized governing structure. Unfortunately, though, state takeover in DPS has been unsuccessful in achieving these goals. In fact, it has done the opposite, by driving down the quality of education, alienating itself from the community, and incentivizing students to leave in droves.

Decline in Academic Achievement

Generally speaking, the academic proficiency of Michigan's students has been on the decline since the 1990s. Detroit, however, has been struggling much more profoundly than the state as a whole. Statewide and national testing results demonstrate the degree to which the state and city of Detroit are struggling to keep up with the rest of the nation academically. While takeover represents the state's lack of faith in the community to improve academic achievement, the community itself would contend that the state's interference has had calamitous effects on student performance.

State test scores tell diverging narratives about the quality of education in Michigan. Between 1992 and 2007, Michigan students' scores on the National Assessment for Education Progress (NAEP) have remained largely flat, although Michigan seems to be doing worse and worse compared to other states (Addonizio & Kearney, 2012, p. 97). In 1992, Michigan ranked 22nd among 42 states in 4th grade reading scores on the NAEP (Addonizio & Kearney, 2012, p. 97). As of 2015, it had backslid to 45th and is projected to continue its fall to 49th by 2030 (Higgins, 2016 and French and Wilkinson, 2018). In 8th grade math, Michigan ranked 21st in 1992 then fell to 36th out of 51 states in 2007 (Addonizio and Kearney, 2012, p. 97).

Scores on the Michigan statewide exams like the Michigan Educational Assessment Program (MEAP) also remained stable throughout the 1990s and 2000s (Addonizio and Kearney, 2012, p. 97). Between 2006 and 2011, 4th grade reading scores remained at roughly 84% proficient (Addonizio and Kearney, 2012, p. 111). Mathematics, on the other hand, showed generally consistent growth of about 0-3% each year from 2006-2011 (Addonizio and Kearney, 2012, p. 111). However, scores in reading and math never reached higher than 90% or 95% respectively, meaning that students were consistently missing the goal of "total proficiency" by 5%-10% (Addonizio and Kearney, 2012, p. 111). While the MEAP scores left little to be said in terms of improving student outcomes, the newer version of state academic exam, the Michigan Student Test of Educational Progress, or M-STEP, paints an even bleaker picture. The M-STEP, instituted in 2015, measures performance in social studies, math, and english across grades 3-8 and 11 (French et al., 2018; Yowell, 2014;). Unfortunately, Michigan students seem to be having trouble reaching proficiency on it: 2018 marked the fourth year in a row that the number of students who failed to reach proficiency increased (French et al, 2018). Across grades 3-11, less than half of Michigan students scored proficient on the M-STEP in reading, math, *and* social studies in 2018 (French et al., 2018). Consequently, Michigan students, when measured against themselves, aren't improving, or are doing worse.

On top of these statewide trends, adverse circumstances have further depressing effects on test scores. According to French et al (2018), less than half of students in poverty score proficient (30.3%) as compared to 62% among students who are not. Success on standardized tests is likewise geographically segregated. In areas with high poverty levels and high concentrations of students of color, such as Detroit, students exhibit lower rates of proficiency (French et al., 2018). In 2009, 5% of Detroit's 4th graders demonstrated proficiency on the NAEP reading tests, which is dramatically worse than the state average of 30% and the average in other large U.S. cities of 23% (Addonizio and Kearney, 2012, p. 98, 117). In the same year, 8th Grade Math, 4% of 8th grade Detroiters were proficient in math, compared to 24% for the 8th graders in other large U.S. cities and 31% in the state (Addonizio and Kearney, 2012, p. 98,117). In 2018, Detroit test scores were up in 3rd and 4th grade reading, but fewer than 10% of students were proficient on 8 out of the 15 tests (French et al., 2018). Meanwhile, in upper middle class, suburban communities in the Detroit Metropolitan area, upwards of 75% of students were proficient, well above the state average of 43.9% (French et al., 2018). When academic success can be determined by zip-code, it's hard not to draw the conclusion that there is something wrong.

Five Detroit students agree: plaintiffs of the 2016 lawsuit *Gary B. v. Snyder* argued that the quality of education in DPS was so poor that students had been denied the fundamental "right to read" (Wong, 2018). The 100 page complaint alleged that the state of Michigan, which controlled DPS via state takeover, underfunded and mismanaged the school district to the extent that it was as if these students had never gone to school at all (Wong, 2018). They argued that the long term effects of these policies and levels of illiteracy is a crippling inability to take part fully in society, the economy and democracy (Wong, 2018). The case was dismissed in 2018, the presiding Detroit district-court judge stating that the case made too many hard to prove causal claims (Wong, 2018). Despite this, the fact remains that Detroit Public School students are receiving an inferior education to most Michigan students. By naming former Governor Rick Snyder as the defendant, the lawyers and students are holding the state of Michigan and its policies—particularly its state takeover policy—responsible for the quality of education in Detroit.

Conclusion

In theory, state takeovers are meant to unite the state and community into a single entity to combat the problems of fiscal distress. Takeover as a policy prescription is rooted in an idealized notion of the community and the state being nested entities of each other, where the state—with its more expansive resources—can effectively and efficiently help the community make better financial decisions, and the community comes out more financially stable on the other side. But the grand irony of takeover is that this theory and the reality are eons apart. At its core, takeover is hampered by the paternalistic, implicit assumptions that the community is responsible for its financial distress and the state is, therefore, better equipped to make financial and academic decisions for its school districts. The presumption of incapability alienates the state from the community and removes the state's culpability in the community's financial distress. Thus, underlying problems continue and the community and the state continually grow apart.

As of 2016, half of Michigan's African American population has lived in a community under emergency management, meaning half of all African Americans in the state of Michigan have lost their right to control their own communities (Altavena et al., 2016). Detroit is thus just one example of the effects state takeover can have on education and on a community. Over time, emergency management law has evolved to grant greater authoritative power to governors and emergency managers and to remove citizens' power to oust ineffective or damaging policymakers. While state takeover law was meant to hold the state accountable for the quality of education, it has shielded it from any sort of transparency or accountability by removing democratic processes that check the unilateral control of the governor and the emergency manager. After nearly twenty years of state takeover, DPS has a \$3.5 billion long-term debt to pay off with tax dollars from fewer students who are receiving a poorer quality of education (Grover & Van der Velde, 2018).

In 2019, there was a new hope that Detroit will regain democratic control of its schools in 2020 (Higgins, 2019). Going forward, the state must cease using takeover as a policy prescription and try to find new ways to collaborate with communities in financial distress. Moreso, Michigan must reckon with the realities of deindustrialization and the limits of its present tax policies. To move forward, the state as a whole must commit itself to more stable funding and policies which help communities rather than punish them. Otherwise, the cycle of decline will persist.

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