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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

v.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

Supreme Court Case No. 160658

Court of Appeals Case No. 334663

APPENDIX – VOLUME 1
PLAINTIFFS-APPELLANTS APPENDIX TO TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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Attorney for Plaintiffs-Appellants

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(313) 693-5155
tpetersplc@att.net

Attorney for Plaintiffs-Appellants

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STATE OF MICHIGAN

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TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

Supreme Court Case No. 160658

v.

Court of Appeals Case No. 334663

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

TABLE OF CONTENTS TO APPENDIX TO PLAINTIFFS-APPELLANTS TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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Complaint, Filed Sept 7, 2016 (Doc No 1)	00016a-00039a
VOLUME 2	
Brief in Support of Complaint w/ Exhibits 1-8, Filed Sept 7, 2016 (Doc No 2)	00040a-00295a

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VOLUME 3	
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Brief in Support of Answer to Complaint w/ Exhibits A-C, Filed Nov 1, 2016 (Doc No 25)	00317a-00516a
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Reply to Def Answer w/ Exhibits 1-3-Plaintiffs, Filed Feb 8, 2018 (Doc 89)	01227a-01284a
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Opinion-Partial Concurrence/Dissent (On Reconsideration) of BORRELLO, P.J., Entered Oct 29, 2019 (Doc No 130)	01429a-01432a
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Exhibit 7 [8], Headlee Amendment Drafters Notes, Filed Dec 10, 2019 (Doc No 147)	01560a-01587a
Application for Leave to SCt-Defendants, Filed Dec 10, 2019 (Doc No 148)	01588a-01625a
Answer to Pl Application for Leave to SCt w/ Exhibit-Defendants, Filed Jan 21, 2020 (Doc No 156)	01626a-01667a
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Answer to Def Application for Leave to SCt w/ Exhibits 1-5-Plaintiffs, Filed Jan 21, 2020 (Doc No 157)	01668a-01805a
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VOLUME 11	
Brief of Amicus Curiae w/ Exhibits-MML, SBM-Govt Law Section, MAC, MTA, Filed Feb 11, 2020 (Doc 160)	01815a-01949a
Brief of Amicus Curiae w/Exhibits-TUM Foundation, Filed Feb 11, 2020 (Doc 162)	01950a-01988a
Reply to Def Answer-Plaintiffs, Filed Feb 11, 2020 (Doc No 163)	01989a-02003a
Order: Def Application – Grant, SCt, Entered Jul 1, 2020 (Doc No 167)	02004a-02005a
Order: Pl Application – Grant, SCt, Entered Jul 1, 2020 (Doc No 168)	02006a-02007a

Case Search

Case Docket Number Search Results - 334663

Appellate Docket Sheet

COA Case Number: 334663

MSC Case Number: 160660

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVT V STATE OF MICHIGAN

1	TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT	PL	RET	(52721) **PHILO JOHN C**
			CO	(76185) **PETERS TRACY ANNE**
			CO	(17866) **MOGK JOHN E**
2	DUCHANE STEVE	PL	SAM	
3	BLUM RANDALL	PL	SAM	
4	KANDEL SARA	PL	SAM	
5	STATE OF MICHIGAN	DF	AG	(72193) **HODGES MATTHEW B**
6	TECHNOLOGY MANAGEMENT AND BUDGET DEPARTMENT OF	DF	SAM	
7	AUDITOR GENERAL OFFICE OF	DF	SAM	
8	MICHIGAN MUNICIPAL LEAGUE	AC	RET	(18981) **POLLARD DENNIS R**
9	GOVERNMENT LAW SECTION OF STATE BAR OF MICHIGAN	AC	SAM	
10	MICHIGAN ASSOCIATION OF COUNTIES	AC	SAM	

Show all 11 parties

COA Status: Case Concluded; File Open **MSC Status:** Pending on Application

Case Flags: HEADLEE; Priority Case

09/07/2016 1 Miscellaneous Form of Initiation

Proof of Service Date: 10/03/2016
Answer Due: 11/01/2016
Fee Code: EPAY
Attorney: 52721 - PHILO JOHN C
Comments: svc on DTMB & Auditor General 9/27/16; svc on State of MI on 10/3/16

09/07/2016 2 Source of Case

From: MICHIGAN COURT OF APPEALS
Case Number: 00-000000
Nature of Case:
Civil Miscellaneous Headlee

09/07/2016 3 Appearance for Plaintiff

Date: 09/07/2016
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C

09/07/2016 4 Appearance - Of Counsel

Date: 09/07/2016

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For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 76185 - PETERS TRACY ANNE
Comments: appearance as co-counsel

09/20/2016 7 Copy Request Fulfilled
Date: 09/15/2016

09/26/2016 8 Correspondence Received
Date: 09/26/2016
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: letter re service of complaint on AG instead of defendants as required in ct rule

09/28/2016 9 Defective Holding File Letter
Attorney: 52721 - PHILO JOHN C
Comments: Letter sent to all parties.

09/28/2016 10 Pleadings Returned
Date: 09/26/2016
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: return summons & complaint SCAO form - unnecessary

09/30/2016 11 Copy Request Fulfilled
Date: 09/30/2016

09/30/2016 12 Appearance for Defendant
Date: 09/30/2016
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B

09/30/2016 14 Pleadings Rejected
Date: 09/30/2016
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: stip ext time to file answer rejected - no provision in rules for filing - need motion

10/03/2016 15 Correspondence Received
Date: 09/28/2016
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: letter in response to defect for P/S on agencies

10/03/2016 16 Proof of Service - Generic
Date: 09/27/2016
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: proofs of service of complaint on DTMB & Auditor General by hand delivery

10/03/2016 17 Proof of Service - Generic
Date: 10/03/2016
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: service of complaint on State of Michigan via first class mail

10/05/2016 18 Motion: Late Answer
Proof of Service Date: 10/05/2016
Filed By Attorney: 72193 - HODGES MATTHEW B
For Party: 5 STATE OF MICHIGAN DF
Fee Code: STATE
Requested Extension: 11/01/2016
Answer Due: 10/12/2016

10/11/2016 21 Submitted on Administrative Motion Docket

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Event: 18 Late Answer
District: G
Item #: 1

10/12/2016 22 Order: Grant - Generic
View document in PDF format
Event: 18 Late Answer
Panel: JPH
Attorney: 72193 - HODGES MATTHEW B
Extension Date: 11/01/2016
Comments: mot ext time to file answer granted until 11/1/16

10/13/2016 23 Answer - Motion
Proof of Service Date: 10/13/2016
Event No: 18 Late Answer
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

11/01/2016 24 Answer - Complaint
Proof of Service Date: 11/01/2016
Event No: 1 Miscellaneous Form of Initiation
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 73864 - SADOWSKI ADAM
Comments: answer to complaint and affirmative defenses

11/01/2016 25 Other
Date: 11/01/2016
For Party: 5 STATE OF MICHIGAN DF
Attorney: 73864 - SADOWSKI ADAM
Comments: corrected brief in support of answer to correct citation on pages 6 & 7

11/03/2016 26 Copy Request Fulfilled
Date: 11/03/2016

11/16/2016 27 Motion: Motion
Proof of Service Date: 11/16/2016
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Fee Code: EPAY
Answer Due: 11/23/2016
Comments: motion for leave to file reply brief on new issues raised by dfts' answering bf

11/18/2016 29 Appearance for Plaintiff
Date: 11/18/2016
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 17866 - MOGK JOHN E
Comments: appearance as co-counsel

11/23/2016 30 Answer - Motion
Proof of Service Date: 11/23/2016
Event No: 27 Motion
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 73864 - SADOWSKI ADAM

11/29/2016 31 Submitted on Administrative Motion Docket
Event: 27 Motion
District: G

11/30/2016 32 Order: Grant - Generic
View document in PDF format
Event: 27 Motion
Panel: JPH

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Attorney: 52721 - PHILO JOHN C
Comments: motn for leave to file reply bf on new issues granted; bf limited to 10 pgs due w/in 21 dys

12/21/2016 33 Brief: In Support of Complaint
Proof of Service Date: 12/21/2016
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Comments: reply brief on new issues/affirmative defenses raised by dfts' answering bf

01/04/2017 34 Motion: Motion
Proof of Service Date: 01/04/2017
Filed By Attorney: 72193 - HODGES MATTHEW B
For Party: 5 STATE OF MICHIGAN DF
Fee Code: STATE
Answer Due: 01/11/2017
Comments: motion for leave to file reply to plaintiffs' supplemental brief - bf filed with motion

01/04/2017 41 Brief: In Support of Complaint
Proof of Service Date: 01/04/2017
Filed By Attorney: 72193 - HODGES MATTHEW B
For Party: 5 STATE OF MICHIGAN DF
Comments: sur-reply to PLs' supplemental brief

01/06/2017 35 Copy Request Fulfilled

01/11/2017 36 Answer - Motion
Proof of Service Date: 01/11/2017
Event No: 34 Motion
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

01/17/2017 39 Submitted on Administrative Motion Docket
Event: 34 Motion
District: G
Item #: 1

01/17/2017 40 Order: Grant - Generic
View document in PDF format
Event: 34 Motion
Panel: MJT
Attorney: 72193 - HODGES MATTHEW B
Comments: mot lv to file reply to PLs' suppl bf in suppt complaint granted & accpt sur-reply bf filed 1/4/17

01/31/2017 43 Telephone Contact
Comments: Inquiry regard when Panel will be assigned; advised case assigned to Wilder, Hood and Shaprio, JJ

03/22/2017 44 Submitted on Special Motion Docket
Event: 1 Miscellaneous Form of Initiation
District: G
Item #: 1

05/09/2017 46 Order: Order - Generic
View document in PDF format
Event: 1 Miscellaneous Form of Initiation
Panel: KTW,KFH,DBS
Attorney: 52721 - PHILO JOHN C
Comments: original action to proceed to full hearing; cross-motns summary dispo w/in 56 dys - see order

05/11/2017 47 Correspondence Sent
Comments: Chf Clk Advised Attys That Judge Borrello Will Serve In Judge Wilder's Stead

06/01/2017 48 Motion: Motion
Proof of Service Date: 06/01/2017
Filed By Attorney: 52721 - PHILO JOHN C

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For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Fee Code: EPAY
Answer Due: 06/08/2017
Comments: motion for brief period of discovery & entry of scheduling order w/revised briefing schedule

06/08/2017 49 Answer - Motion
Proof of Service Date: 06/08/2017
Event No: 48 Motion
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B

06/12/2017 51 Submitted on Special Motion Docket
Event: 48 Motion
District: G
Item #: 1

06/13/2017 52 Order: Grant - Generic
View document in PDF format
Event: 48 Motion
Panel: SLB,KFH,DBS
Attorney: 52721 - PHILO JOHN C
Comments: motion for brief period of discovery & entry of scheduling order granted - see order for add'l info

06/14/2017 53 Copy Request Fulfilled

06/28/2017 54 Appearance for Plaintiff
Date: 06/28/2017
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 81464 - GUTTMAN NICKOLAS M
Comments: appearance of co counsel

08/02/2017 55 Proof of Service - Generic
Date: 08/02/2017
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: service of DFts responses to First Set of Request of Production of Docs & Interrogatories

08/17/2017 56 Other
Date: 08/17/2017
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: Plaintiffs' 1st requests for admission to all defendants

08/22/2017 57 Motion: Motion
Proof of Service Date: 08/22/2017
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Fee Code: EPAY
Answer Due: 08/29/2017
Comments: motion to compel discovery - WITHDRAWN PER STIPULATION OF PARTIES ON 8/29/17

08/29/2017 58 Order: Withdraw Motion - Request of Party
View document in PDF format
View document in PDF format
Event: 57 Motion
Attorney: 52721 - PHILO JOHN C
Comments: motion to compel withdrawn per stipulation of parties

09/08/2017 59 Motion: Motion
Proof of Service Date: 09/08/2017
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

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Fee Code: EPAY
Answer Due: 09/15/2017
Comments: motion for thirty day extension of the discovery deadline & briefing schedule

09/14/2017 60 Other
Date: 09/14/2017
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: Defendants' response to PLs' first set of requests to admit

09/14/2017 61 Stips: Miscellaneous
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
P/S Date: 09/14/2017
Comments: stipulation for the withdrawal of Nickolas Guttman as counsel for plaintiffs

09/15/2017 62 Answer - Motion
Proof of Service Date: 09/15/2017
Event No: 59 Motion
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B

09/19/2017 63 Motion: Reply to Answer
Proof of Service Date: 09/19/2017
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Fee Code: EPAY
Answer Due: 09/26/2017
Comments: reply filed with motion

09/19/2017 67 Reply to Answer - Panel Grtd Mot to File
Proof of Service Date: 09/19/2017
Event No: 62 Answer - Motion
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

09/26/2017 64 Answer - Motion
Proof of Service Date: 09/26/2017
Event No: 63 Reply to Answer
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B

09/29/2017 65 Submitted on Special Motion Docket
Event: 59 Motion
Event: 63 Reply to Answer
District: G
Item #: 1

10/02/2017 66 Order: Grant - Generic
View document in PDF format
Event: 59 Motion
Event: 63 Reply to Answer
Panel: SLB,KFH,DBS
Attorney: 52721 - PHILO JOHN C
Comments: mot ext discovery & briefing sched granted; disc period open until 10/11/17; grnt mot reply answer

11/30/2017 68 Stips: Miscellaneous
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
P/S Date: 11/30/2017
Comments: stipulation to voluntarily dismiss count III of PLs' complaint

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12/04/2017 69 Order: Order - Generic

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Panel: SLB,KFH,DBS

Attorney: 52721 - PHILO JOHN C

Comments: pursuant to stip of parties filed 11/30/17, count III of PLs' complaint dismissed

12/06/2017 70 Motion: Amicus Curiae Brief

Proof of Service Date: 12/06/2017

Filed By Attorney: 18981 - POLLARD DENNIS R

For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC

Fee Code: EPAY

Answer Due: 12/20/2017

12/06/2017 71 Motion: Summary Disposition

Proof of Service Date: 12/06/2017

Filed By Attorney: 52721 - PHILO JOHN C

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Fee Code: EPAY

Answer Due: 01/25/2018

12/06/2017 72 Motion: Summary Disposition

Proof of Service Date: 12/06/2017

Filed By Attorney: 72193 - HODGES MATTHEW B

For Party: 5 STATE OF MICHIGAN DF

Fee Code: STATE

Answer Due: 01/25/2018

12/11/2017 73 Other

Date: 12/11/2017

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Attorney: 52721 - PHILO JOHN C

Comments: stip ext time to file answer to motions to summary disposition - corrected stip filed

12/11/2017 74 Stips: Miscellaneous

Filed By Attorney: 52721 - PHILO JOHN C

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

P/S Date: 12/11/2017

Comments: stipulation to extend time for the parties to answer the pending motions to dismiss

12/12/2017 75 Motion: Motion

Proof of Service Date: 12/12/2017

Filed By Attorney: 18981 - POLLARD DENNIS R

For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC

Fee Code: EPAY

Answer Due: 12/19/2017

Comments: amended motion of Amici Curiae to add Michigan Township Association

12/13/2017 76 Order: Order - Generic

View document in PDF format

Panel: SLB,KFH,DBS

Attorney: 52721 - PHILO JOHN C

Extension Date: 01/25/2018

Comments: pursuant to 12/11/17 stip of parties, 6/13/17 order amended - ans mot sum dispo due 1/25/18

12/20/2017 77 Answer - Motion

Proof of Service Date: 12/20/2017

Event No: 70 Amicus Curiae Brief

For Party: 5 STATE OF MICHIGAN DF

Filed By Attorney: 72193 - HODGES MATTHEW B

12/27/2017 78 Reply to Answer - Application

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Proof of Service Date: 12/27/2017
Event No: 77 Answer - Motion
For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC
Filed By Attorney: 18981 - POLLARD DENNIS R
Comments: reply to response to mot amicus bf

01/04/2018 81 Submitted on Special Motion Docket
Event: 70 Amicus Curiae Brief
Event: 75 Motion
District: G
Item #: 1

01/09/2018 82 Order: Amicus Brief - Grant
View document in PDF format
Event: 70 Amicus Curiae Brief
Event: 75 Motion
Panel: SLB,KFH,DBS
Attorney: 18981 - POLLARD DENNIS R
Comments: Amici may file bf no later than 2/15/18, limited to 50 pgs - see order

01/12/2018 83 Motion: Motion
Proof of Service Date: 01/12/2018
Filed By Attorney: 18981 - POLLARD DENNIS R
For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC
Fee Code: EPAY
Requested Extension: 02/26/2018
Answer Due: 01/19/2018
Comments: motion for extension of time to file Amici Curiae brief

01/23/2018 84 Submitted on Special Motion Docket
Event: 83 Motion
District: G
Item #: 1

01/23/2018 85 Order: Grant - Generic
View document in PDF format
Event: 83 Motion
Panel: SLB,KFH,DBS
Attorney: 18981 - POLLARD DENNIS R
Extension Date: 02/26/2018
Comments: mot ext time to file amici curiae bf granted until 2/26/18

01/25/2018 86 Answer - Motion
Proof of Service Date: 01/25/2018
Event No: 72 Summary Disposition
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

01/25/2018 87 Answer - Motion
Proof of Service Date: 01/25/2018
Event No: 71 Summary Disposition
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B

02/08/2018 88 Reply to Answer - Panel Grtd Mot to File
Proof of Service Date: 02/08/2018
Event No: 86 Answer - Motion
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B

02/08/2018 89 Reply to Answer - Panel Grtd Mot to File

Proof of Service Date: 02/08/2018
Event No: 87 Answer - Motion
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

02/13/2018 90 Motion: Motion
Proof of Service Date: 02/13/2018
Filed By Attorney: 18981 - POLLARD DENNIS R
For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC
Fee Code: EPAY
Requested Extension: 03/15/2018
Immediate Consideration: Y
Answer Due: 02/20/2018
Comments: motion for second extension of time to file Amici Curiae brief

02/15/2018 91 Defective Filing Letter
Event: 90
Defect:
Fees: $100 Motion - Cured

02/20/2018 92 Fee - Motion - Defect Cured
For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC
Attorney: 18981 - POLLARD DENNIS R
Fee Code: EPAY

02/20/2018 93 Defect Cured
Event: 90
Defect:
Fees: $100 Motion - Cured

02/22/2018 94 Motion: Strike
Proof of Service Date: 02/22/2018
Filed By Attorney: 72193 - HODGES MATTHEW B
For Party: 5 STATE OF MICHIGAN DF
Fee Code: STATE
Answer Due: 03/08/2018
Comments: motion to strike or in the alternative to file a surreply

03/01/2018 96 Submitted on Special Motion Docket
Event: 90 Motion
District: G
Item #: 1

03/01/2018 97 Order: Grant - Generic
View document in PDF format
Event: 90 Motion
Panel: SLB,KFH,DBS
Immediate Consideration Granted
Attorney: 18981 - POLLARD DENNIS R
Extension Date: 03/15/2018
Comments: mot second ext time to file amici curiae bf granted until 3/15/18

03/01/2018 98 Answer - Motion
Proof of Service Date: 03/01/2018
Event No: 94 Strike
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

03/13/2018 99 Brief: Amicus Curiae
Proof of Service Date: 03/13/2018
Oral Argument Requested:

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Timely Filed:
Filed By Attorney: 18981 - POLLARD DENNIS R
For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC

03/21/2018 101 Submitted on Special Motion Docket
Event: 94 Strike
District: G
Item #: 1

04/13/2018 102 Order: Strike - Motion - Deny
View document in PDF format
Event: 94 Strike
Panel: SLB,KFH,DBS
Attorney: 72193 - HODGES MATTHEW B

05/22/2018 103 Copy Request Fulfilled
Date: 05/22/2018
Comments: Copies of Amicus Brief - 17 pages

11/09/2018 105 Copy Request Fulfilled

12/13/2018 106 Submitted on Special Motion Docket
Event: 71 Summary Disposition
Event: 72 Summary Disposition
District: G
Item #: 1

12/26/2018 107 Order: Court`s Own Motion
View document in PDF format
Panel: SLB,PMM,DBS
Comments: parties directed to appear at oral argument to be heard at 11AM Tuesday 1/22/19 at Lansing Courtroom

01/22/2019 108 Submitted on Case Call
District: L
Item #: 0
Panel: SLB,PMM,DBS
Comments: Oral Argument At 11:00 AM; Each Side Has 30 Minutes

01/22/2019 109 Oral Argument Audio
Listen to audio in MP3 format

07/23/2019 112 Brief: Supplemental Auth`y
Proof of Service Date: 07/23/2019
Oral Argument Requested:
Timely Filed:
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

07/30/2019 113 Opinion - Authored - Published
View document in PDF format
Pages: 12
Panel: SLB,PMM,DBS
Author: SLB
Result: L/Ct Judgment/Order Affirmed
Comments: PL may tax costs.

07/30/2019 114 Opinion - Partial Concurrence/Dissent
View document in PDF format
Pages: 8
Author: PMM

08/20/2019 115 Motion: Stay
Proof of Service Date: 08/20/2019
Filed By Attorney: 72193 - HODGES MATTHEW B

For Party: 5 STATE OF MICHIGAN DF
Fee Code: STATE
Immediate Consideration: Y
Answer Due: 08/27/2019

08/20/2019 116 Motion: Reconsideration of Opinion
Proof of Service Date: 08/21/2019
Filed By Attorney: 72193 - HODGES MATTHEW B
For Party: 5 STATE OF MICHIGAN DF
Fee Code: STATE
Answer Due: 09/04/2019

08/21/2019 117 Defective Filing Letter
Event: 116
Defect:
Other - Cured

08/21/2019 118 Telephone Contact
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: Left voice mail. Mtn Reconsider defective. Need copy of COA Opinion being reconsidered

08/21/2019 119 Other
Date: 08/21/2019
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: COA Opinion as exhibit to the Motion for Reconsideration. Attached to event 116.

08/21/2019 120 Defect Cured
Event: 116
P/S Date: 08/21/2019
Defect:
Other - Cured

08/21/2019 121 Submitted on Reconsideration Docket
Event: 115 Stay
Event: 116 Reconsideration of Opinion
District: C

08/27/2019 122 Answer - Motion
Proof of Service Date: 08/27/2019
Event No: 115 Stay
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

09/03/2019 124 Answer - Reconsideration
Proof of Service Date: 09/03/2019
Event No: 116 Reconsideration of Opinion
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C

10/01/2019 127 Copy Request Fulfilled
Date: 10/01/2019

10/29/2019 128 Order: Reconsideration - Grant - Vacate Opinion
View document in PDF format
Event: 115 Stay
Event: 116 Reconsideration of Opinion
Panel: SLB,PMM,DBS
Immediate Consideration Granted
Attorney: 72193 - HODGES MATTHEW B
Comments: Vacate 7-30-2019 COA Opinion. Mtn Stay is Denied

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RECEIVED by MSC 9/9/2020 12:56:30 PM

10/29/2019 129 Opinion - On Reconsideration - Authored
View document in PDF format
Pages: 13
Panel: SLB,PMM,DBS
Author: DBS
Result: Mandamus Granted

10/29/2019 130 Opinion - Partial Concurrence/Dissent
View document in PDF format
Pages: 4
Author: SLB

10/29/2019 131 Opinion - Partial Concurrence/Dissent
View document in PDF format
Pages: 8
Author: PMM

11/08/2019 132 Motion: Stay
Proof of Service Date: 11/08/2019
Filed By Attorney: 72193 - HODGES MATTHEW B
For Party: 5 STATE OF MICHIGAN DF
Fee Code: EPAY
Immediate Consideration: Y
Answer Due: 11/15/2019

11/12/2019 133 Defective Filing Letter
Event: 132
Defect:
Fees: $100 Motion - Cured

11/12/2019 134 Telephone Contact
For Party: 5 STATE OF MICHIGAN DF
Attorney: 72193 - HODGES MATTHEW B
Comments: Advised need addl $100 fee for Mtn Stay and IC

11/12/2019 135 Defect Cured
Event: 132
P/S Date: 11/12/2019
Defect:
Fees: $100 Motion - Cured

11/12/2019 136 Submitted on Special Motion Docket
Event: 132 Stay
District: C

11/15/2019 137 Answer - Motion
Proof of Service Date: 11/15/2019
Event No: 132 Stay
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C
Comments: Answer to Motions for Stay and IC

11/15/2019 138 Motion: Stay
Proof of Service Date: 11/15/2019
Filed By Attorney: 52721 - PHILO JOHN C
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Fee Code: EPAY
Immediate Consideration: Y
Answer Due: 11/22/2019

11/18/2019 139 Defective Filing Letter
Event: 138

00012a

Defect:
Fees: $100 Motion - Cured

11/18/2019 140 Telephone Contact
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: Left msg with atty office re need addl $100 fee for Mtns Stay and IC

11/18/2019 141 Fee - Motion - Defect Cured
Date: 11/18/2019
Fee: $100.00
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Fee Code: EPAY

11/18/2019 142 Defect Cured
Event: 138
P/S Date: 11/18/2019
Defect:
Fees: $100 Motion - Cured

11/18/2019 143 Submitted on Special Motion Docket
Event: 138 Stay
District: C

11/21/2019 145 Order: Stay - Grant
View document in PDF format
Event: 132 Stay
Event: 138 Stay
Panel: SLB,PMM,DBS
Immediate Consideration Granted
Attorney: 52721 - PHILO JOHN C
Comments: Defendant's motion for stay is Denied. Plaintiff's motion for stay is Granted. See order

11/21/2019 146 Email Contact
Comments: 11-21-2019 COA order sent to all parties

12/10/2019 147 SCt: Application for Leave to SCt
Supreme Court No: 160658
Answer Due: 01/07/2020
Fee: E-Pay
For Party: 1
Attorney: 52721 - PHILO JOHN C
Comments: 160658 - Taxpayers Application; Action originated in Court of Appeals.

12/10/2019 148 SCt: Application for Leave to SCt
Supreme Court No: 160660
Answer Due: 01/07/2020
Fee: E-Pay
For Party: 5
Attorney: 72193 - HODGES MATTHEW B
Comments: 160660 State of MI Application; Action originated in Court of Appeals.

12/10/2019 150 Other
Date: 12/10/2019
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Attorney: 52721 - PHILO JOHN C
Comments: Notice of filing for leave to appeal in the Supreme Court

12/10/2019 151 Other
Date: 12/10/2019
For Party: 5 STATE OF MICHIGAN DF

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Attorney: 72193 - HODGES MATTHEW B
Comments: Notice of filing for leave to appeal in the Supreme Court

12/11/2019 149 SCt Case Caption
Proof Of Service Date: 12/11/2019
Comments: Caption for both No. 160658 and No. 160660.

12/23/2019 152 SCt Motion: Housekeeping
Party: 1
Filed by Attorney: 52721 - PHILO JOHN C
Comments: 160660 Motion to extend time to 01-21-2020 to file answer and Motion for immediate consideration

12/23/2019 153 SCt Motion: Housekeeping
Party: 5
Filed by Attorney: 72193 - HODGES MATTHEW B
Comments: 160658 Motion to extend time to 01-21-2020 to file answer and Motion for immediate consideration

12/26/2019 154 SCt Order: Chief Justice - Grant
View document in PDF format
Comments: #160658: Grant DFAEs motions for IC and to extend the time for filing their answer to 1-21-2020.

12/26/2019 155 SCt Order: Chief Justice - Grant
View document in PDF format
Comments: #160660: Grant PLAEs motions for IC and to extend the time for filing their answer to 1-21-2020.

01/21/2020 156 SCt: Answer - SCt Application/Complaint
Filing Date: 01/21/2020
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B
Comments: 160658

01/21/2020 157 SCt: Answer - SCt Application/Complaint
Filing Date: 01/21/2020
For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL
Filed By Attorney: 52721 - PHILO JOHN C
Comments: 160660

02/11/2020 158 SCt Motion: Amicus - Leave Application
Party: 8
Filed by Attorney: 42111 - SCHULTZ THOMAS R
Comments: 160660 - MML, SBM Gov't Law section, MTA, MAC; brief included

02/11/2020 159 SCt: Reply - SCt Application/Complaint
Filing Date: 02/11/2020
For Party: 5 STATE OF MICHIGAN DF
Filed By Attorney: 72193 - HODGES MATTHEW B
Comments: 160660

02/11/2020 160 SCt: Miscellaneous Filing
Filing Date: 02/11/2020
For Party: 8 MICHIGAN MUNICIPAL LEAGUE AC
Filed By Attorney: 42111 - SCHULTZ THOMAS R
Comments: 160660 - MML et al Amended Motion and Amicus Curiae Brief

02/11/2020 161 SCt Motion: Amicus - Leave Application
Party: 12
Filed by Attorney: 18690 - PATERSON ANDREW A
Comments: Motion of Taxpayers United MI Foundation to file AC brf.

02/11/2020 162 SCt: Amicus Curiae Brf - SCt Application/Complaint
Filing Date: 02/11/2020
For Party: 12
Filed By Attorney: 18690 - PATERSON ANDREW A

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Comments: AC brf of Taxpayers United Michigan Foundation.

02/11/2020 163 SCt: Reply - SCt Application/Complaint

Filing Date: 02/11/2020

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Filed By Attorney: 52721 - PHILO JOHN C

Timely: Y

02/12/2020 164 SCt Order: Chief Justice - Grant

View document in PDF format

Comments: Grant motion of MML, Govt Law Section, MTA, MAC to file AC brf.

02/14/2020 165 SCt Order: Chief Justice - Grant

View document in PDF format

Comments: Grant Taxpayers United Michigan Foundation's motion to file AC brf.

07/01/2020 167 SCt Order: Application - Grant

View document in PDF format

Comments: No. 160658. Invited AC=MI Muni League, Govt Law Section, MI Twps Assn, MI Assn of Counties, Taxpayers United MI Foundation.

07/01/2020 168 SCt Order: Application - Grant

View document in PDF format

Comments: No. 160660. Invited AC=MI Muni League, Govt Law Section, MI Twps Assn, MI Assn of Counties, Taxpayers United MI Foundation.

08/12/2020 169 Pleadings Rejected

Date: 08/12/2020

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Attorney: 52721 - PHILO JOHN C

Comments: Mtn Enforce Judg-Mandamus Relief rejected because case concluded in COA

08/13/2020 170 Telephone Contact

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Attorney: 52721 - PHILO JOHN C

Comments: Atty left voice mail with regard to the rejected motion to enforce the mandamus.

08/19/2020 171 Pleadings Rejected

Date: 08/14/2020

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Attorney: 52721 - PHILO JOHN C

Comments: Mtn to Reopen Case and Enforce 10-29-2019 Mandamus and Judgement of this Court is rejected because case is concluded in this Court.

08/19/2020 172 Telephone Contact

For Party: 1 TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT PL

Attorney: 52721 - PHILO JOHN C

Comments: Returned call from atty Philo. He stated belief that rejection of filing was improper and should not be a clerical decision, but should be a judicial decision. Advised him that, as indicated in COA letter rejecting, the Supreme Court has jurisdiction of this matter and any motion to enforce COA opinion or for other relief should be addressed to that Court.

Case Listing Complete

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. _____

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.

_____/

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_____/

COMPLAINT
FOR DECLARATORY, INJUNCTIVE & MANDAMUS RELIEF

NOW COME Plaintiffs, Taxpayers for Michigan Constitutional Government, Steve Duchane, Randall Blum, Sara Kandel, by and through their attorneys and for their Complaint, do hereby allege as follows.

NATURE OF PLAINTIFFS' CLAIMS

1. This lawsuit arises from violations of Plaintiffs' rights under the Constitution of the State of Michigan of 1963.

2. Article 9, § 25 of the Michigan Constitution prohibits the State of Michigan from reducing the proportion of state spending in the form of aid to Local Governments.

3. Article 9, § 25 also prohibits the State of Michigan from shifting the tax burden to Local Governments.

4. Article 9, § 30 of the Michigan Constitution prohibits the proportion of total state spending in the form of aid that is paid to Local Governments from being reduced below the proportion that was in effect in fiscal year 1978-79.

5. The proportion of total state spending required to be paid to Local Governments is 48.97%.

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6. Defendants have repeatedly violated art. 9, § 25 and § 30 by improperly including various expenditures within their calculations of the amount of state spending in the form of aid that is paid to Local Governments. The state thereby improperly inflates the reported amount of state spending that is paid to Local Governments.

7. The state improperly counts as spending in the form of aid that is paid to Local Governments items such as:

a. Proposal A ("Prop. A") spending;

b. Spending on charter schools;

c. Spending to support trunk line roads; and

d. Spending on state mandates paid to Local Governments.

8. By improperly including such expenditures in their calculations, the State thereby reduces the constitutionally required proportion of spending in the form of aid that is actually paid to Local Governments.

9. Furthermore, by improperly including such expenditures, the State also shifts the tax burden to Local Governments.

10. The actions of the Defendants violate the Michigan Constitution, art. 9, § 25 and § 30, the Management and Budget Act, PA 431 of 1984 at MCL 18.1349 and the State Disbursements to Local Units of Government Act, PA 101 of 1979 at MCL 21.242.

JURISDICTION AND VENUE

11. Jurisdiction and venue is conferred by Mich. Const. Art 9, § 32 and MCL 600.308a (1).

PARTIES

12. Plaintiff Taxpayers for Michigan Constitutional Government is a nonprofit

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corporation registered in the State of Michigan with its principal offices located in Wayne County.

13. Plaintiff Steve Duchane is a citizen of the United States and a resident and taxpayer of Clinton Township in Macomb County, Michigan.

14. Plaintiff Randall Blum is a citizen of the United States and a resident and taxpayer of the Harrison Township in Macomb County, Michigan.

15. Plaintiff Sara Kandel is a citizen of the United States and a resident and taxpayer of the City of Roseville in Macomb County, Michigan.

16. Defendant State of Michigan exercises authority throughout Michigan.

17. Defendant Department of Technology, Management and Budget of the State of Michigan ("DTMB") is an executive branch department that exercises its authority throughout Michigan.

18. Defendant Michigan Office of the Auditor General ("OAG") is an independent oversight arm of the Legislature that exercises its authority throughout Michigan.

COMMON FACTS

The Headlee Amendment.

19. The Headlee Amendment was adopted as part of a nationwide taxpayer movement that sought to address increasing tax burdens and mandated activities that states were placing on local taxpayers and Local Governments.

20. In 1978, the People of the State of Michigan adopted the Headlee Amendment, which added art. 9, § 25 through § 34 to the Michigan Constitution.

21. Article 9, § 25 prohibits state government from:

a. increasing property taxes and most state and local taxes without voter approval;

b. *requiring any new or expanded activities by Local Governments without full state financing*;

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c. *reducing the proportion of state spending in the form of aid to Local Government;* and

d. *shifting the tax burden to Local Government*.

22. Together, art. 9, § 25 and § 30 state the aggregate anti-shifting purpose of the Headlee Amendment and incorporate an absolute prohibition on the State from enacting legislation or adopting policies that shift tax burdens to Local Governments.

23. Article 9, § 30 requires the State to maintain the proportion of total state spending in the form of aid to Local Government in at least the same proportion as was in effect during the fiscal year 1978-79 ("the base year").

24. The required base year proportion of state spending was intended to prevent the State from reducing the proportion of spending for required programs that were in effect at the time that the Headlee Amendment was ratified.

25. The base year proportion was originally computed to be 41.61%. After a lawsuit in 1993 however, the State of Michigan entered into a settlement agreement that required a recalculation. As a result, the recalculated base year proportion is now 48.97%.

26. The Headlee Amendment thus strictly limits the power of Local Governments to increase property taxes. In turn, the Headlee Amendment protects Local Governments from unfunded state mandates, from reductions in proportion of total state spending that is paid to them, and from state actions that shift the tax burden to Local Governments.

The Role of the Department of Technology, Management and Budget.

27. The DTMB is an executive branch department that is responsible for various support functions, including development of the executive budget, presenting budget recommendations to the Legislature, and implementing the State's budget.

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28. The State of Michigan's fiscal year begins on October 1st and ends on September 30th of the following calendar year.

29. Pursuant to the Michigan Management and Budget Act, the Executive Budget must be submitted to the Legislature within thirty (30) days after the Legislature convenes on the second Wednesday in January.

30. Not later than May 31 of each year, the DTMB is required to compile an itemized statement of total state spending and state spending paid to Local Governments during the previous year. The statements are compiled for the purpose of complying with the requirements of Const. 1963 art. 9, § 25 and § 30 and MCL 18.1349.

31. The DTMB then transmits the itemized statement to the OAG. The DTMB's transmittal is required to include a calculation of the proportion of state spending in the form of aid that is paid to Local Governments.

32. If a shortfall exists in the constitutionally required proportion of state spending paid to Local Governments, the DTMB's itemized statement shall report the amount of additional state payments to Local Government necessary to meet the requirements of art. 9, § 30.

33. On or about June 7, 2016, the DTMB transmitted its itemized statement of state spending paid to Local Governments for the 2015 fiscal year to the OAG.

34. In its transmittal to the OAG for fiscal year 2015, the DTMB improperly failed to report a shortfall in the constitutionally required proportion of state spending paid to Local Governments.

35. After review of the financial statement by the OAG, the DTMB then published its report to the Legislature and again failed to report any shortfall in the proportion of state spending in the form of aid that was paid to Local Governments during the 2015 fiscal year.

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The Role of the Michigan Office of the Auditor General.

36. The OAG is created by the Michigan Constitution. At art. 4, § 53, the Constitution provides that the OAG shall conduct financial audits of financial transactions and accounts of state government.

37. Upon receipt of the DTMB's itemized statement, the OAG reviews and provides comment on the statement, before a final report is then published by submission to the Legislature no later than June 30 each year.

38. For fiscal year 2015, the OAG failed to property review and then comment upon and report a shortfall in the proportion of state spending paid in the form of aid to Local Government within DTMB's calculations.

Spending on Payments to Local Government from Prop. A Funding.

39. Prop. A arose out of a crisis in school aid funding within Michigan.

40. In July 1993, the Legislature passed and the Governor signed into law Public Act 145 of 1993 ("PA 145"). Public Act 145 *eliminated all local property taxes for school funding*.

41. Before the law's passage, Michigan public schools were primarily funded *by local property taxes assessed and collected by Local Government*. Revenue collected by local property taxes was also supplemented by state aid.

42. In 1993 before enactment of PA 145, local taxes accounted for approximately 69% of school funding, while state payments amounted to approximately 31%. As a result of PA 145, Local Governments could no longer assess and collect these property taxes.

43. The new law, PA 145, had the effect of reducing statewide school budgets by approximately 64% The Legislature was then required to derive a new system for funding Michigan schools.

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44. The state's solution to the massive shortfalls in school funding was to place Prop. A before Michigan voters. Prop. A was approved by voters in March 1994 and it created a new system for funding schools.

45. Under Prop. A's new system, amendments to the Michigan Constitution required the State's school aid fund to be financed from the following new taxes:

a. a 2% increase in the state sales tax;

b. a 2% increase in the state use tax;

c. a state education tax assessed on the taxable value of all property at 6 mills;

d. a new real estate transfer tax; and

e. certain increases to the state cigarette tax.

46. As a result of Prop. A, schools are now primarily funded by state taxes, supplemented by modest amounts collected by Local Governments. State aid now accounts for approximately 80% of school funding, while local taxes account for approximately 20%.

47. Together, Prop. A and PA145 executed a "tax shift" prohibited by art. 9, § 25 and § 30.

48. The new laws executed a prohibited tax shift by first, substituting state payments from increased state taxes in place of local property tax revenue directly collected by Local Governments; and then counting the increased state payments to fund schools against the proportion of state spending in the form of aid that is paid to Local Governments for purposes of meeting the requirements of art. 9, § 25 and § 30.

49. As a result of counting the new Prop. A revenue as spending in the form of aid paid to Local Governments, the State reduced payments for other existing programs and work of Local Government. Prop. A spending thus displaced other state spending that had been previously been

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paid to Local Government for other existing programs and work, allowing such payments to be reduced or eliminated by the State. With the reduction and/or elimination of state payments for other existing programs and work, the tax burden was shifted to Local Governments, who are required to increase taxes and fees to fund those programs and work.

50. The state is prohibited from including payments made to school districts generated by a "tax shift" in its calculation of state spending in the form of aid to Local Governments.

51. Through the tax shift, the State significantly reduced the amount of spending that was paid to Local Governments for existing activities and services, without providing new state revenue streams to Local Governments.

52. The State's tax shift increases the tax burdens on Local Governments to fund activities and services previously supported by State payments in the form of aid to Local Governments.

53. On or about June 17, 2015, Public Act 85 of 2015 ("PA 85") was approved by the Governor and the law was given immediate effect. Public Act 85 makes appropriations to aid in the support of the public schools, intermediate school districts, community colleges, and public universities for fiscal year 2015-2016.

54. For fiscal year 2015-2016, PA 85 allocates state appropriations for school aid to be paid to Local Governments in the estimated amount of $11,962,930,600.00. This amount is included within the amount of state spending in the form of aid that is paid to Local Governments to maintain the proportion required by art. 9, § 25 and § 30.

55. The $11,962,930,600.00 to be paid to Local Governments includes all monies raised from the Prop. A tax increases during the fiscal year.

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56. Under PA 85, the Defendants thus improperly included Prop. A revenue that is used for school funding in their calculations of the proportion of state spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30.

57. On or about June 27, 2016, Public Act 249 of 2016 ("PA 249") was approved by the Governor. Public Act 249 makes appropriations to aid in the support of the public schools, intermediate school districts, community colleges, and public universities for fiscal year 2016-2017.

58. For fiscal year 2016-2017, PA 249 allocates state appropriations for school aid to be paid to Local Governments in the estimated amount of $ $11,919,909,800.00. This amount is included within the amount of state spending in the form of aid that is paid to Local Governments to maintain the proportion required by of art. 9, § 25 and § 30.

59. The $11,962,930,600.00 to be paid to Local Governments includes all monies raised from the Prop. A tax increases during the fiscal year.

60. Under PA 249, the Defendants thus improperly included Prop. A revenue that is used for school funding in their calculations of the proportion of state spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30.

61. Discovery and the development of a factual record is necessary to determine that amount of Prop. A revenue that was paid to Local Governments under PA 85 and PA 249, and was used in the DTMB's calculations of the proportion of state spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30. Further discovery and development of a factual record is necessary regarding the State payments that were ended and/or reduced as a result of adding Prop. A revenue to the State's calculations.

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Spending on Payments to Charter Schools.

62. For fiscal year 2015-2016, PA 85 includes payments to public school academies ("charter schools") as spending in the form of aid that is paid to Local Governments.

63. Within the $11,962,930,600.00 in state school aid payments during the fiscal year 2015-2016 that the State calculates as spending in the form of aid that is paid to Local Governments, the State allocates:

a. $5,281,700,000.00 for payments to school districts *and public school academies* to meet funding requirements for school districts under art. 9, § 11 of the Michigan Constitution;

b. $389,695,500.00 for payments to school districts *and public school academies* for certain reading and college readiness programs; and

c. Foundation allowance payments for *public school academies* in an amount up to a maximum allocation $7,391.00 per pupil.

64. For fiscal year 2016-2017, PA 249 also includes payments to public school academies as spending in the form of aid that is paid to Local Governments.

65. Within the $12,181,929,700.00 in state school aid payments during the fiscal year 2016-2017 that the State calculates as spending in the form of aid that is paid to Local Governments, the State allocates:

a. $5,205,000,000.00 for payments to school districts *and public school academies* to meeting funding requirements for school districts under art. 9, § 11 of the Michigan Constitution;

b. $389,695,500.00 for payments to school districts *and public school academies* for certain reading and college readiness programs; and

c. Foundation allowance payments to public school academies in an amount up to a maximum allocation $7,511.00.

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66. Charter schools operating are not "Local Governments" or "units of Local Government" under art. 9, § 25 or § 30, since these charter schools are not political subdivisions of the State as defined by art. 9, § 33 and MCL 18.1115(5).

67. Discovery and the development of a factual record is necessary to determine the specific amount of school aid spending that is paid to charter schools and that the Defendants improperly credited as payments to Local Government to meet the requirements of art. 9, § 25 and § 30. Further discovery and the development of a factual record is necessary to determine the particular charter schools that delegate the educational functions of their schools to private educational management organizations and to determine the nature and scope of their delegation.

Spending on Payments to Maintain State Trunk Line Roads.

68. On or about June 17, 2015, Public Act 84 of 2015 ("PA 84") was signed by the Governor and became law. Public Act 84 makes appropriations to the various executive branch departments for fiscal year 2015-2016.

69. Under PA 84 the State calculates that from appropriations to the Department of Transportation, the State will spend $1,438,206,000.00 in the form of aid to be paid to Local Governments.

70. Included within the $1,438,206,000.00 is spending from the trunk line roads fund that is paid to county road commissions and others.

71. The State's trunk line roads fund is used to pay for the maintenance, upkeep, and improvement of trunk line roads and related obligations of the State.

72. On or about June 28, 2016, Public Act 268 of 2016 ("PA 268") was signed by the Governor and became law. Public Act 268 makes appropriations to various executive branch departments for fiscal year 2016-2017.

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73. Under PA 268, the State calculates that from appropriations to the Department of Transportation, the State will spend $1,590,461,200.00 in the form of aid that is paid to Local Governments.

74. Included within the $1,590,461,200.00 is spending from the trunk line roads fund that is paid to county road commissions and others.

75. Support and maintenance of state trunk line roads however is an obligation of the State and a state function. As a result, payments to county road commissions and others for the maintenance and improvement of state trunk line roads and for other state obligations are not payments to Local Governments as intended by art. 9, § 25 and § 30 of the Michigan Constitution.

76. Department of Transportation payments to county road commissions and others from the trunk line road fund cannot therefore be used in the Defendants' calculations of payments to Local Governments for purposes of determining whether art. 9, § 25 and § 30 requirements are met.

77. Discovery and the development of a factual record is necessary to determine the specific amount spending from the trunk line roads fund that was paid to county road commissions that the Defendants have improperly credited as payments to Local Government to meet the requirements of art. 9, § 25 and § 30. Further discovery and the development of factual record is necessary to determine the purposes for which the funds are used.

State Mandates

78. The State includes appropriations to fund State mandates that were enacted after adoption of the Headlee Amendment, in the State's calculations of spending in the form of aid that is paid to Local Government.

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79. In *Mahaffey v. Attorney Gen.*, 222 Mich App 325 (1997), plaintiffs brought suit based on allegations that the State violated Headlee Amendment prohibitions against unfunded mandates. The case involved increased costs to Local Government related to state-mandated informed consent before an abortion. The Court of Appeals noted that if the State had diverted existing funds in order to pay for the mandate, this would be improper under Headlee and the lawsuit subsequently settled after remand to the trial court.

80. In *Durant v. State Dep't of Educ.*, 238 Mich App 185 (1999), plaintiffs' alleged that, in violation of Art 9, § 29, the State had failed to appropriate funds for certain state-mandated special education programs, transportation and services. In 1999, the Michigan Court of Appeals held that the State violated art. 9, § 29 when it allocated the revenues provided to school districts by Prop. A in order to satisfy its independent funding obligation under the Headlee Amendment.

81. In *Adair v. State*, 486 Mich 468 (2010), plaintiffs' also brought suit based on the State's violations of the Headlee Amendment prohibitions on unfunded mandates. The plaintiffs alleged that the State had failed to provide funding for new record keeping requirements imposed on schools. In 2010, the Michigan Supreme Court entered declaratory judgment in favor of the plaintiffs.

82. In *Mahaffey*, *Durant* and *Adair*, the State was required to appropriate spending to pay to Local Governments for the costs of the previously unfunded mandates. The state improperly includes the appropriations for such spending as payments in the form of aid to Local Governments.

83. The State Disbursements to Local Units of Government, Public Act 101 of 1979 ("PA 101") at MCL 21.242 specifically prohibits the state from reducing the state financed

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proportion of the necessary costs of existing activities or services required of local units of government by existing law, unless the existing law is repealed.

84. No existing state laws requiring activities or services of Local Government are repealed as the State adopts new State mandates such as those in *Mahaffey*, *Durant* and *Adair*. Without such repeal, there is an effective reduction of the State financed proportion of the necessary costs of existing activities and services when the new mandates are added into the calculations of the proportion of spending in the form of aid paid to Local Governments to meet the requirements of art. 9, § 25 and § 30.

85. Without repeal of pre-Headlee statutes imposing costs on Local Government as the result of state requirements, State spending to satisfy the requirements of art. 9, § 29 that result from post-Headlee enactments cannot be included in calculations of spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30.

86. Public Act 101 is the state statute implementing art. 9, § 29 of the Michigan Constitution. At MCL 21.235, the state law requires the requires the Governor to include with the annual budget recommendation and accompanying report of the amount of state disbursements required to be paid to each local unit of government for the necessary cost of each state requirement and the total amount of all disbursements required to be paid to Local Government.

87. At MCL 21.241, the statute further requires the DTMB to collect and tabulate information concerning:

a. the state financed proportion of the necessary cost of an existing activity or service required of local units of government by existing law;

b. The nature and scope of each state requirement which shall require a disbursement under section 5 of the statute;

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c. The nature and scope of each action imposing a potential cost on a local unit of government which is not a state requirement and does not require a disbursement under this act.

88. The statute requires that the information collected and tabulated by the DTMB shall include:

a. The identity or type of local unit and local unit agency or official to whom the state requirement or required existing activity or service is directed;

b. The determination of whether or not an identifiable local direct cost is necessitated by state requirement or the required existing activity or service;

c. The amount of state financial participation, meeting the identifiable local direct cost;

d. The state agency charged with supervising the state requirement or the required existing activity or service; and

e. A brief description of the purpose of the state requirement or the required existing activity or service, and a citation of its origin in statute, rule, or court order.

89. The statute finally requires that all this information be published in a report submitted to the Legislature each year and that it be annually updated.

90. The Defendants have failed to comply with the reporting requirements of MCL 21.235 and 21.241.

91. Discovery and the development of a factual record is necessary to determine the specific amount of State spending to fund State mandates as required by art. 9, § 29 that is included within Defendants' calculations of State spending in the form of aid that is paid to Local Governments. Further discovery and development of a factual record is necessary regarding the State payments that were ended and/or reduced as a result of adding State mandate funding to the State's calculations.

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92. By including each of these items – payments from Proposal A revenue, payments to charter schools, payments to county road commissions and others from the trunk line roads fund, and payments to cover the costs of state mandates – in their calculations of spending in the form of aid that is paid to Local Government, Defendants overstate the amount of art. 9, § 25 and § 30 spending that is paid to Local Governments and also engage in an illegal tax shift. When these items are subtracted, state spending in the form of aid that is paid to Local Governments falls significantly below 48.97% of total state spending and thereby violates Const. 1963, art. 9, § 25 and § 30 and MCL 18.1349.

COUNT I – Constitutional Violation
1963 Const. Art 9, § 25 and § 30
Proposition A School Aid Payments

93. Plaintiff incorporates by reference paragraphs 1 through 92 above as though fully stated herein.

94. The Michigan Constitution of 1963 at art. 9, § 25 provides: "The state is prohibited … from reducing the proportion of state spending in the form of aid to Local Governments."

95. Article 9, § 25 further provides: "The state is prohibited … from shifting the tax burden to Local Government."

96. The Michigan Constitution of 1963 at art. 9, § 30 also states: "The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." The Management and Budget Act at MCL 18.1349 codifies the requirements of art. 9, § 30.

97. The minimum proportion of total state spending in the form of aid that must be paid to all Local Governments is 48.97%.

98. For fiscal years 2015-2016 and 2016-2017, the Defendants improperly include

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revenue generated by Prop. A in the State's calculation of spending in the form of aid that is paid to Local Governments.

99. By including Prop. A spending in its calculations of spending in the form of aid that is paid to Local Governments, the Defendants also engage in a tax shift and increase the tax burden to Local Governments.

100. When Prop. A spending is excluded from the Defendants' calculations, total state spending paid to Local Governments is less than the required 48.97%.

101. The Defendants' actions thereby violate art. 9, § 25 by effecting a prohibited tax shift and art. 9, § 25 and § 30 and MCL 18.1349 by impermissibly reducing the constitutionally required proportion of state spending in the form of aid that is paid to Local Governments.

WHEREFORE, Plaintiffs request that this Honorable Court enter an order: a) granting declaratory relief finding that Prop. A spending cannot be used in calculations of the proportion of spending in the form of aid that is paid to Local Governments to meet the Constitutional requirements of art. 9, § 25 and § 30; b) granting declaratory relief finding that when revenue from Prop. A taxes is included in the State's calculations of spending in the form of aid that is paid to Local Governments, the State engages in a tax shift prohibited by art. 9, § 25; c) granting injunctive relief restraining the Defendants from including Prop. A fund spending in future calculations; and d) ordering Defendants to monetarily remedy past deficiencies in the constitutionally required proportion of spending in the form of aid that is paid Local Governments.

COUNT II – Constitutional Violation
1963 Const. Art 9, § 25 and § 30
School Aid Payments to Charter Schools

102. Plaintiff incorporates by reference paragraphs 1 through 101 above as though fully stated herein.

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103. The Michigan Constitution of 1963 at art. 9, § 25 provides: "The state is prohibited … from reducing the proportion of state spending in the form of aid to Local Governments."

104. The Michigan Constitution of 1963 at art. 9, § 30 states: "The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." The Management and Budget Act at MCL 18.1349 codifies the requirements of art. 9, § 30.

105. The minimum proportion of total state spending in the form of aid that must be paid to Local Governments, taken as a group, is 48.97%.

106. For fiscal years 2015-2016 and 2016-2017, Defendants improperly include school aid spending on payments to charter schools in the calculation of payments made to Local Governments.

107. When school aid spending on charter schools is excluded from the Defendants' calculations, total state spending in the form of aid that is paid to Local Governments is less than the required 48.97%.

108. The Defendants' actions thereby violate art. 9, § 25 and § 30 and MCL 18.1349 by impermissibly reducing the constitutionally required proportion of state spending in the form of aid that is paid to Local Governments.

WHEREFORE, Plaintiffs request that this Honorable Court enter an order: a) granting declaratory relief finding that school aid spending on payments to charter schools cannot be used to calculate the proportion of spending in form of aid that is paid to Local Governments to meet the Constitutional requirements of art. 9, § 25 and § 30; b) granting injunctive relief restraining the Defendants from including school aid spending on payments to charter schools in future

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calculations; and c) ordering Defendants to monetarily remedy past deficiencies in the constitutionally required proportion of spending in the form of aid that is paid Local Governments.

COUNT III – Constitutional Violation
1963 Const. Art 9, § 25 and § 30
Payments to Maintain State Trunk Line Roads

109. Plaintiff incorporates by reference paragraphs 1 through 108 above as though fully stated herein.

110. The Michigan Constitution of 1963 at art. 9, § 25 provides: "The state is prohibited … from reducing the proportion of state spending in the form of aid to Local Governments."

111. The Michigan Constitution of 1963 at art. 9, § 30 states: "The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." The Management and Budget Act, at MCL 18.1349 codifies the requirements of art. 9, § 30.

112. The minimum proportion of total state spending in the form of aid that must be paid to Local Governments, taken as a group, is 48.97%.

113. For fiscal years 2015-2016 and 2016-2017, the Defendants improperly include spending from the trunk line road fund that is paid to county road commissions and others within the State's calculation of spending in the form of aid that is paid to Local Governments.

114. When spending from the trunk line road fund is excluded from the Defendants' calculations, total state spending in the form of aid that is paid to Local Governments is less than the required 48.97%.

115. The Defendants' actions thereby violate art. 9, § 25 and § 30 and MCL 18.1349 by impermissibly reducing the constitutionally required proportion of state spending in the form of aid that is paid to Local Governments.

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WHEREFORE, Plaintiffs request that this Honorable Court enter an order: a) granting declaratory relief finding that spending from the trunk line road fund that is paid to county road commissions and others cannot be used to calculate the proportion of spending in form of aid that is paid to Local Governments to meet the Constitutional requirements of art. 9, § 25 and § 30; b) granting injunctive relief restraining the Defendants from including state trunk line road funds that are paid to county road commissions in future calculations; and c) ordering Defendants to monetarily remedy past deficiencies in the constitutionally required proportion of spending in the form of aid that is paid Local Governments.

COUNT IV – Constitutional Violation
1963 Const. Art 9, § 25 and § 30
Payments to Fund State Mandates

116. Plaintiff incorporates by reference paragraphs 1 through 115 above as though fully stated herein.

117. The Michigan Constitution of 1963 at art. 9, § 25 provides: "The state is prohibited … from reducing the proportion of state spending in the form of aid to Local Governments."

118. The Michigan Constitution of 1963 at art. 9, § 30 states: "The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." The Management and Budget Act, at MCL 18.1349 codifies the requirements of art. 9, § 30.

119. The minimum proportion of total state spending in the form of aid that must be paid to Local Governments, taken as a group, is 48.97%.

120. For fiscal years 2015-2016 and 2016-2017, the Defendants improperly include state payments made to Local Governments pursuant to judgments and settlements to resolve unfunded

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mandate lawsuits and other appropriations to fund mandates as required by art. 9, § 29 in the calculation of spending in the form of aid that is paid to Local Governments.

121. Defendants fail to meet the reporting requirements of MCL 21.235 and 21.241 detailing all existing and new appropriations for the costs of activities and services required by the State and paid to Local Government pursuant to art. 9, § 29 of the Michigan Constitution.

122. When state payments to Local Governments that are made pursuant to funded mandates are excluded from the Defendants' calculations, total state spending in the form of aid that is paid to Local Governments is less than the required 48.97%.

123. The Defendants' actions thereby violate art. 9, § 25 and § 30 and MCL 18.1349 by impermissibly reducing the constitutionally required proportion of state spending in the form of aid that is paid to Local Governments.

WHEREFORE, Plaintiffs request that this Honorable Court enter an order: a) granting declaratory relief finding that state payments made to Local Governments pursuant to funded mandates cannot be used to calculate the proportion of spending in form of aid that is paid to Local Governments to meet the Constitutional requirements of art. 9, § 25 and § 30; b) granting injunctive relief restraining the Defendants from including state payments made to Local Governments pursuant to funded mandates in future calculations; c) ordering Defendants to fully comply with the reporting requirements of MCL 21.235 and 21.241; and d) ordering Defendants to monetarily remedy past deficiencies in the constitutionally required proportion of spending in the form of aid that is paid Local Governments.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL, prays this Honorable Court enter Judgment against Defendants granting:

a. Declaratory relief holding that Prop. A spending, spending paid to charter schools, state spending from the trunk line road funds that are paid to county road commissions and others, and payments made to Local Governments pursuant to funded mandates required by art. 9, § 29 cannot be used to calculate the proportion of state spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30;

b. Declaratory relief holding that when Prop. A spending is included in the State's calculations of spending in the form of aid that is paid to Local Governments, constitutes a tax shift prohibited by art. 9, § 25;

c. Declaratory relief finding that Defendants have failed to comply with the reporting requirements of MCL 21.235 and 21.241;

d. Injunctive relief restraining the Defendants from including Prop. A spending, spending paid to charter schools, state spending from the trunk line road funds that are paid to county road commissions, and payments made to Local Governments pursuant to funded mandates required by art. 9, § 29 in the State's calculation of the proportion of state spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30;

e. For the fiscal year prior to filing of the complaint and for all fiscal years through the date judgment is entered, mandamus relief directing the State of Michigan to make up shortfalls in the proportion of state spending in the form of aid that is constitutionally required to be paid to units of Local Government that were caused by including Prop. A spending, spending paid to charter schools, state spending from the trunk line road funds that are paid to county road commissions and others, and payments made to Local Governments pursuant to funded mandates required by art. 9, § 29;

f. Mandamus relief directing the State of Michigan to fully comply with the reporting requirements of MCL 21.235 and 21.241;

g. For the fiscal year prior to filing of the complaint and for all fiscal years through the date that judgment is entered, monetary relief directing the State of Michigan to compensate Local Governments for shortfalls in the proportion of state spending in the form of aid that is constitutionally required to be paid to units of Local Government that were caused by including Prop. A spending, spending paid to charter schools, state spending from the trunk line road funds that are paid to county road commissions and

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others, and payments made to Local Governments pursuant to funded mandates required by art. 9, § 29;

h. For attorneys' fees and costs; and

i. For such further relief as is just and equitable.

Respectfully Submitted,

By: /s/ John C. Philo

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Date: September 7, 2016

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

v.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

Supreme Court Case No. 160658

Court of Appeals Case No. 334663

APPENDIX – VOLUME 2
PLAINTIFFS-APPELLANTS APPENDIX TO TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

Supreme Court Case No. 160658

v.

Court of Appeals Case No. 334663

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. _____

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.

_____/

PLAINTIFFS' BRIEF IN SUPPORT OF COMPLAINT TO ENFORCE THE HEADLEE AMENDMENT PURSUANT TO CONST 1963, ART. 9, §32

ORAL ARGUMENT REQUESTED

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I. BASIS OF JURISDICTION

This lawsuit arises from Defendants' violations of the Headlee Amendment, art. 9, § 25, and § 30, to the Constitution of the State of Michigan of 1963. Original jurisdiction in this court is conferred by art 9, § 32 and MCL 600.308a (1).

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II. STATEMENT OF QUESTIONS INVOLVED

1. **DOES THE STATE'S INCLUSION OF PROPOSAL A SPENDING IN THE CALCULATION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS CONSTITUTE AN IMPERMISSIBLE TAX SHIFT THAT IS PROHIBITED BY ARTICLE 9, § 25 OF THE MICHIGAN CONSTITUTION?**

   Plaintiffs' Answer: Yes.

2. **MUST PROPOSAL A SPENDING THAT IS PAID TO LOCAL GOVERNMENTS BE EXCLUDED FROM CALCULATIONS OF THE PROPORTION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS FOR PURPOSES OF MEETING THE REQUIREMENTS OF ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION?**

   Plaintiffs' Answer: Yes.

3. **ARE CHARTER SCHOOLS LOCAL GOVERNMENTS UNDER ARTICLE 9, § 25 AND § 30 WHEN CHARTER SCHOOLS ARE NEITHER SCHOOL DISTRICTS NOR POLITICAL SUBDIVISIONS OF THE STATE AS DEFINED AT ARTICLE 9, § 33 OF THE MICHIGAN CONSTITUTION?**

   Plaintiffs' Answer: No.

4. **MUST SPENDING THAT IS PAID TO CHARTER SCHOOLS BE EXCLUDED FROM CALCULATIONS OF THE PROPORTION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS FOR PURPOSES OF MEETING THE REQUIREMENTS OF ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION?**

   Plaintiffs' Answer: Yes.

5. **DO STATE DEPARTMENT OF TRANSPORTATION PAYMENTS FROM THE STATE TRUNK LINE ROAD FUND TO COUNTY ROAD COMMISSIONS AND OTHER LOCAL GOVERNMENTS TO SUPPORT AND MAINTAIN STATE TRUNK LINE ROADS FULFILL A STATE OBLIGATION AND A STATE FUNCTION?**

   Plaintiffs' Answer: Yes.

6. **MUST STATE DEPARTMENT OF TRANSPORTATION PAYMENTS FROM THE STATE TRUNK LINE ROAD FUND TO COUNTY ROAD COMMISSIONS TO SUPPORT AND MAINTAIN STATE TRUNK LINE**

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ROADS BE EXCLUDED FROM CALCULATIONS OF THE PROPORTION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS FOR PURPOSES OF MEETING THE REQUIREMENTS OF ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION?

Plaintiffs' Answer: Yes.

7. **MUST STATE SPENDING TO PAY FOR THE INCREASTED COSTS OF STATE MANDATES BE EXCLUDED FROM CALCULATIONS OF THE PROPORTION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS FOR PURPOSES OF MEETING THE REQUIREMENTS OF ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION?**

Plaintiffs' Answer: Yes.

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III. SUMMARY OF ARGUMENT

This lawsuit arises from violations of Plaintiffs' rights under the Constitution of the State of Michigan of 1963. Article 9, § 25 and § 30 of the Michigan Constitution prohibit the State of Michigan from reducing the proportion of state spending in the form of aid to Local Governments. Article 9, § 25 also prohibits the State from shifting the tax burden to Local Governments.

The proportion of total state spending that is required to be paid to Local Governments is 48.97%. Defendants have repeatedly violated art. 9, § 25 and § 30 by improperly including various expenditures within their calculations of the amount of state spending in the form of aid that is paid to Local Governments. The Defendants thereby improperly inflate the reported amount of state spending that is being paid to Local Governments.

The Defendants improperly count as spending in the form of aid that is paid to Local Governments items including Proposal A spending, spending on charter schools, spending to support trunk line roads, and spending to compensate Local Governments for the costs of State mandates. By improperly including such expenditures in their calculations, the Defendants thereby reduce the constitutionally required proportion of state spending in the form of aid that is actually paid to Local Governments. Furthermore, by improperly including Proposal A spending in their calculations, the Defendants improperly shift the tax burden to Local Governments.

The actions of the Defendants violate art. 9, § 25 and § 30 of the Michigan Constitution, MCL 21.235 of the State Disbursements to Local Units of Government Act, PA 101 of 1979 and MCL 18.1349 of the Management and Budget Act, PA 431 of 1984.

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IV. STATEMENT OF FACTS

The Michigan electorate approved Proposal E of 1978 (known as the "Headlee Amendment") as part of a nationwide taxpayer revolt in order to restrain government spending and rapidly increasing taxes at both the local and state level. The Headlee Amendment includes Mich. Const. Article 9, §§ 25 to 34. Together they established a balanced fiscal policy framework for Local Governments, limiting their ability to increase revenues from local property taxes on the one hand, but protecting Local Governments against State actions that would undermine their fiscal integrity, on the other.

Specifically, Mich. Const. Article 9, § 25 and § 30 require that the proportion of state spending paid to units of Local Government in the form of aid must not be reduced below the proportion in 1978, the base year. The base year proportion was originally computed to be 41.61%. After a lawsuit in 1993 however, the State entered into a settlement agreement that required a recalculation. As a result, the recalculated base year proportion is now 48.97%.

The State of Michigan ("State") is in violation of its constitutional obligation to make minimum proportional payments of State revenues ("Constitutional Payments") to units of Local Government. Relying upon faulty interpretations of Article 9, § 25 and § 30 and upon miscalculations of spending in the form of aid that is paid to Local Governments, the State has violated, and continues to violate, its obligation to maintain mandated Constitutional Payments in the proportion required by § 25 and § 30. As a result, Local Governments have been shorted billions of dollars over more than two decades and the shortage has contributed to the financial stress of many Local Governments throughout Michigan.

The Department of Technology, Management and Budget (DTMB) is the office that is assigned responsibility to develop and implement the State's budget. The State of Michigan's fiscal

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year begins on October 1st and ends on September 30th of the following calendar year. MCL 18.1491. As part of the State's budget process for each fiscal year, the DTMB is required to compile an itemized statement of total state spending from state revenue sources and of spending that was paid to Local Governments during the previous year. MCL 18.1497. The DTMB's statement is required to be compiled by May 31 of each year. *Id.* The itemized statement is to ensure that the State is meeting the proportion of spending that is required to be paid to Local Governments under Article 9, § 25 and § 30 of the Michigan Constitution.

If the DTMB finds that the proportion of spending in the previous fiscal year was less than required by the Constitution, the DTMB is required to report the amount of additional payments to units of Local Government that are necessary to meet the requirements of Article 9, §25 and § 30. See MCL 18.1497.

The DTMB then transmits the itemized statement to the Office of the Auditor General ("OAG"). *Id.* The OAG then reviews and comments upon the DTMB's statement before it is published by submission to the Legislature, on or before June 30 each year. *Id.*

On or about June 7, 2016, the DTMB transmitted its itemized statement of state spending paid to Local Governments for the 2015 fiscal year to the OAG. The DTMB did not report a shortfall in the constitutionally required proportion of state spending paid to Local Governments. After review, the OAG also failed to report a shortfall in the required spending. The DTMB then reported to the Legislature the Department's calculation of the proportion of state spending in the form of aid that was paid to Local Governments and again failed to report any shortfall during the 2015 fiscal year.[1]

[1] See attached as Exhibit 1, DTMB's "Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government-Legal Basis" and OAG's "Independent Accountant's Review Report" (June 7, 2016).

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The DTMB and OAG's failure to report a shortfall in the proportion of state spending that is paid to Local Governments is based upon faulty understandings of Article 9, § 25 and § 30 and upon the improper inclusion of various spending that should be excluded from the State's calculations of aid that is paid to Local Governments. Specifically, the DTMB has improperly included as Constitutional Payments: (1) spending from Proposal A revenue that constitutes a prohibited "tax shift" that places a tax burden on Local Governments under art. 9, § 25; (2) payments made to Public School Academies ("charter schools") that are not school districts or political subdivisions of the State within art. 9, § 33's definition of Local Governments; (3) spending from the state trunk line roads fund that are paid to county road commissions and other Local Governments to fulfill an "obligation of the State"; and (4) payments made to Local Governments pursuant state mandates required to be funded by art. 9, § 29.

A. State Spending from Proposal A Funding.

In 1993, the Michigan Legislature enacted Public Act 145 of 1993 ("PA 145"), which restricted Local Governments from levying taxes for school operations.[2] The new law eliminated an estimated $6.9 billion from school finances and led to a crisis in school funding. On the heels of the crisis, the Legislature placed Proposal A of 1994 ("Prop. A") on the ballot and the measure was approved. Proposal A replaced local property taxes with an increase in the sales, cigarette and use taxes and the addition of an education tax on the taxable value of property and a real estate transfer tax (together "Prop. A Revenue"). S.J.R. S of 1994.

After the adoption of Prop. A, the DTMB began including payments from Prop. A Revenue to school districts when calculating the required Constitutional Payments to Local Governments to satisfy the requirements of Mich. Const. art. 9, § 25 and § 30. While the State may institute

[2] See attached as Exhibit 2, Citizens Research Council, STATE AND LOCAL REVENUES FOR PUBLIC EDUCATION IN MICHIGAN, 3 (Report 363, Sept. 2010)..

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reform of public school funding, art 9, § 25 prohibits DTMB from including payments generated by a "tax shift" in its calculation of Constitutional Payments to Local Governments under art. 9, § 30. Miscalculations arising from the DTMB's unconstitutional counting of Prop. A Revenue paid to local school districts have materially reduced Constitutional Payments to Local Governments below required levels.

Although Prop. A was adopted after the Headlee Amendment of 1978, it did not alter its enforceability. There is no conflict between enforcing both the balanced fiscal policy structure of the Headlee Amendment in limiting the taxing authority of Local Governments and protecting them against new financial burdens imposed by the State and, at the same time, enforcing public school funding reform instituted by Prop. A. The two Amendments are consistent. The drafters of Prop. A expressed no intent to include Prop. A funding in the State's calculation of the proportion of spending that is paid to Local Governments to meet art. 9, § 25 and § 30 requirements. Likewise, the drafters of Prop. A did not express any intent to alter or amend the Headlee Amendment. On the contrary, the drafters expressed intent to amend art. 9, §§ 3. 5. 8, 11 and 36, but specifically made no express or implied reference to art. 9, §§ 25 to 34 of the Headlee Amendment. *Durant v. State*, 456 Mich 175, 202, 566 NW2d 272, 284 (1997).

Factual discovery is necessary to determine that amount of Prop. A revenue that was paid to Local Governments under PA 85 and PA 249 and used in the DTMB's calculations of the proportion of spending that is paid to Local Governments and regarding any payments that were ended and/or reduced as a result of adding Prop. A revenue to the State's calculations.

B. State Spending paid to Charter Schools.

The Defendants also miscalculate the amount of Constitutional Payments to Local Governments by including State spending paid to charter schools. In calculating the amount of

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Constitutional Payments made by the State, the DTMB is only permitted to include amounts paid to Local Governments. The Headlee Amendment at art. 9, § 33 defines Local Governments in a manner that excludes charter schools.

Article 9, § 33 defines Local Governments as "political subdivisions of the state." Charter schools are not political subdivisions of the State, as intended by the drafters of the Headlee Amendment. While the Headlee Amendment includes school districts as they existed in 1978 as political subdivisions of the state, political subdivisions of the state are commonly understood to possess the power to act on behalf of and provide local services for citizens within geographically limited areas of the State. These school districts typically operate under elected boards who remain accountable to local citizens and exercise delegated sovereign powers from the State, including the power to tax and acquire property by eminent domain. Charter schools have none of these characteristics.

The multiple autonomous parties in the charter school model illustrate other important differences between charter schools and a school district as commonly understood in 1978. Private entities, such as corporations and even labor organizations, initiate the charter school application process through proposed contracts to an authorizing body. Charter schools are organized as private nonprofit corporations and are administered under either a private board of directors, private education management organizations ("EMOs"), or some combination of both pursuant to a contract to operate the schools. Education management organizations are private corporations that perform varied tasks - from minimal administrative functions to comprehensive formation, management, and operation of the schools.

Individual authorizers' geographic boundaries and membership requirements account for charter schools' further departure from school districts as they were commonly understood in

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1978. Generally, local school districts, intermediate school districts, and community colleges must prioritize local pupil enrollment and may only charter schools within their boundaries, while state universities and federal tribal community colleges have no obligation to prioritize local student enrollment and can operate schools anywhere in the state. Statewide authorizers accept statewide pupil enrollment while those with geographic limits may also accept these pupils only after considering those within their local areas. Importantly, even charter schools authorized under geographically limited authorizers may operate cyber schools and schools located on federal military installations beyond their geographic boundaries and without prioritizing local enrollment. Findings from the State's Center for Educational Performance and Information further illustrate charter schools' departure from common understandings of school districts as Local Governments at the time the Headlee Amendment was adopted.

As of June 16, 2016, 85 percent of Michigan's charter schools operated outside of geographically limited areas and offered statewide pupil enrollment.[3] The remaining 15 percent operated within geographically limited areas.[4] Education management organizations provided complete educational services for 56 percent of charter schools.[5] An additional 28 percent delegated some amount of their educational functions, while only 14 percent independently delivered their educational functions as self-managed schools.[6] Taken together, 51 percent of all charter schools delegate their complete educational functions to private EMOs while possessing no authority to serve or act on behalf of any geographically limited area of the state.

[3] See attached as Exhibit 3, State of Michigan, *Public School Academy Districts With Education Service Providers and Chartering Agencies* (June 16, 2016). Available online at: http://cepi.state.mi.us/eem/reports.aspx.
[4] *Id*.
[5] *Id*.
[6] *Id*.

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Charter schools are thus not "Local Governments" as defined by art. 9, § 33. As a result, State spending paid to such entities must be excluded from calculations to determine the amount of Constitutional Payments paid by the State to meet the requirements of art. 9, § 25 and § 30.

Factual discovery is necessary to determine the specific amount of school aid spending that is paid to charter schools and that the Defendants improperly credited as payments to Local Government to meet the requirements of art. 9, § 25 and § 30.

C. State Spending to Maintain Trunk Line Roads.

The Defendants further miscalculate the amount of Constitutional Payments by including spending by the State Department of Transportation that is paid to county road commissions and other Local Governments in support of maintenance and improvements to state trunk line roads.

The Michigan Constitution permits the State to "provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state." art. 7, § 16. The Constitution further permits the Legislature to establish a trunk line road system. The Legislature has determined that the trunk line road system includes all roads constituted as "state trunk line highways under the laws of this state." MCL 247.651(1). The State's Department of Transportation is required to bear the cost of maintaining and improving trunk line roads. MCL 247.651b. Maintenance and improvement of Michigan's trunk line roads is the responsibility and function of the State.

The Defendants cannot include spending paid to county road commissions and other Local Governments to maintain trunk line roads. These payments are made to fulfill a State obligation to provide trunk-line roads for the people of the State and are not eligible to be included in calculating Constitutional Payments required by art. 9, § 25 and § 30.

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Factual discovery is necessary to determine the specific amount of spending from the State Department of Transportation's trunk line roads fund that was paid to county road commissions and other Local Governments and included in Defendants' calculations for purposes of meeting the requirements of art. 9, § 25 and § 30.

D. Funded State Mandates.

The Defendants finally err by including spending that is paid to Local Governments to meet the funded mandate requirements of art. 9, § 29.

Three examples are found in the cases of *Mahaffey v Attorney Gen.*, 222 Mich App 325 (1997), *Durant v State Dep't of Educ*, 238 Mich App 185 (1999), and *Adair v. State*, 486 Mich. 468 (2010). Each case involved claims that the state imposed unfunded mandates upon Local Governments. *Mahaffey* involved increased costs to Local Government related to state-mandated informed consent before an abortion. In *Durant*, plaintiffs alleged that the State failed to appropriate funds for certain state-mandated special education programs, transportation and services. And, in *Adair*, the lawsuit alleged that the State failed to provide funding for new record keeping requirements imposed on schools. Each case was resolved by entry of judgment or a settlement requiring the State to provide appropriations for the obligations imposed. The Defendants improperly include such appropriations as spending paid to Local Governments as required by art. 9, § 25 and § 30.

Discovery is necessary to determine the specific amount of State payments to fund State mandates under art. 9, § 29. Further discovery and development of a factual record is necessary regarding the State payments that were ended and/or reduced as a result of adding spending to fund State mandates to the State's calculations.

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V. DISCUSSION

A. Headlee Amendment Requirements.

In 1978, the People of the State adopted the Headlee Amendment that added Article 9, §§ 25 to 34 to the Michigan Constitution. Article 9, § 25 sets forth the intention of the Amendment:

> Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct voter approval. [Const 1963, art 9, § 25.]

Section 25 further sets forth specific prohibitions:

> The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the proportion of state spending in the form of aid to local governments, or from shifting the tax burden to local government. [*Id.*]

The Headlee Amendment thus limits the power of Local Governments to increase property taxes.[7] In exchange, the Amendment provides protections for Local Governments by prohibiting the State: 1) from imposing future unfunded mandates; 2) from reducing the proportion of state spending that is paid to Local Governments; and 3) from shifting the tax burden to Local Governments.

This proportional payment requirement is expressly set forth in art. 9, § 30, as follows:

> The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79. [Const 1963, art 9, § 30.]

The constitutional requirements of art. 9, § 30 were also codified by the Management and Budget Act at MCL 18.1349.

1. The Headlee Amendment Establishes A Balanced Framework That Functions Correctly Only If All Three Prohibitions Are Upheld.

The Headlee Amendment was adopted to slow rising taxes in state and local government.

[7] Property taxes are the principal source of tax revenue for Local Governments.

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The Amendment thus placed specific limitations on state and local governments' power to raise taxes. Const. 1963, art. 9, § 25.

The Headlee Amendment's drafters however recognized that the revenue limitations could have unintended harmful effects if not coupled with specific prohibitions. The drafters therefore prohibited the State from: (1) imposing unfunded mandates upon Local Government; (2) reducing the proportion of spending in the form of aid that is paid to Local Governments; and (3) shifting the tax burden onto Local Governments. See Const 1963, art. 9, § 25. See also *Schmidt v. Dep't of Educ.*, 441 Mich 236, 254-255, 490 NW2d 584 (1992).

As a result, the Headlee Amendment creates a balanced framework. The framework gives control of tax increases to the voters while ensuring that existing activities and services of Local Government would be maintained and any future State mandated requirements that impose costs on the Local Government would be fully funded by additional State payments. The framework however can only function correctly if all three prohibitions are observed. If one is ignored or falters, then the intent of the voters who adopted the Amendment is defeated and without these prohibitions, the revenue limitations imposed by the Amendment are no longer economically viable.

If all three of the Headlee Amendment's prohibitions are not faithfully observed, the Amendment's framework unravels with harmful effect. In the presence of strict tax limitations on Local Government, new unfunded mandates from the State increases the costs of Local Governments and leaves no available avenue to pay for the increased costs except to reduce existing activities and services or to increase taxes. A reduction in funding for existing activities and services of Local Government by reducing the proportion of State spending paid to them would have the same effect. And, a shift of the tax burden likewise forces Local Governments to choose

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between cutting existing activities and services – often required by State law – or increase local taxes to maintain existing obligations. In each instance, the outcome places severe stress upon the finances of Local Government. In each instance, the outcome is one that the voters who approved the Headlee Amendment sought to prevent.

Thus, the framework established by the Headlee Amendment balances its limitations on Local Government's power to raise taxes and increase revenue with a corresponding check on State Government's power to reduce funding or transfer of costs to Local Government by prohibiting unfunded mandates, prohibiting reductions in the proportion payments in the form of aid, and prohibiting tax shifts. In so doing, the Headlee Amendment provides a viable economic framework that controls revenue growth while maintaining funding for existing programs and requiring identifiable funding for new activities and services. In this way, the Headlee Amendment provides a viable economic framework that prevents Local Governments from experiencing the severe economic distress that can result from the unbridled costs of unfunded State mandates; irresponsible cuts in State aid; and unseen shifts in the tax burden to Local Governments.

2. State Spending in the Form of Aid Paid to Local Governments Fails to Meet the Requirements of Art. 9, § 30.

The State has consistently miscalculated Constitutional Payments required to be paid to Local Governments by art. 9, § 30. State miscalculations were first identified in *Oakland Cnty. v. Dep't of Mental Health*, 178 Mich App 48, 443 NW2d 805 (1989*)* appeal dismissed and remanded sub nom. *Cnty. of Oakland v. Michigan Dep't of Mental Health*, 437 Mich 1047, 471 NW2d 619 (1991). The *Oakland Cnty,* case resulted from the DTMB's classifying State payments for mental health services to counties as spending paid to Local Governments in satisfaction of the State's art. 9, § 30 obligation. *Oakland Cnty*., 178 Mich App. at 56.

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Beginning in 1981, the State offered local governments shared management contracts, which would allow for local control of State mental health facilities and State reimbursement for the expenses. *Id.* at 57. Oakland County refused to enter into the shared management contract. In 1985, Oakland County filed suit alleging that the classification of payments to state-owned state-operated mental health facilities as payments to Local Governments was unconstitutional. *Id.* at 58. This court held that mental health services are an obligation of the State and money to discharge that obligation, even though "technically paid to a unit of local government, remains state spending because the county is merely discharging the obligation of the State." *Id.* at 59-60. In a settlement reached between Oakland County and the State following the decision, the DTMB recalculated the proportion of spending that must be paid to Local Governments and set it at 48.97%, where it stands today.

The Defendants however continue to improperly include various forms of State spending in their calculations of state spending that is paid to Local Governments for purposes of meeting the requirements of the Headlee Amendment. By including payments from Proposal A revenue, payments to charter schools, payments to county road commission from the trunk line roads fund, and payments to cover the costs of State mandates, Defendants overstate the amount of art. 9, § 25 and § 30 spending that is paid to Local Governments and also engage in an illegal tax shift. When these items are subtracted, State spending in the form of aid that is paid to Local Governments falls significantly below 48.97% of total state spending and thereby violates Const. 1963, art. 9, § 25 and § 30 and MCL 18.1349.

B. Proposal A Spending Should Not Be Included in Aid Paid to Local Governments to Meet the Requirements of art. 9, § 30.

Every year since 1994, DTMB has violated the Headlee Amendment by including "tax shift" funding prohibited by art. 9, § 25 when calculating the proportion of spending that must be

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paid to Local Governments. This results from the Michigan Legislature enacting PA 145 of 1993, which restricted Local Governments from levying taxes for school operations, eliminating an estimated $6.9 billion.[8] Then, in 1994, the People of the State of Michigan adopted Prop. A, which replaced the billions of dollars lost in locally raised taxes with billions of dollars in State taxes. The State then sent these newly imposed taxes back to Local Governments, mostly in the form of education funding from the School Aid Fund.

Between 1994 and 1995, the first year following the implementation of Prop. A, State payments to units of Local Government increased by 52%.[9,10] This increase was caused by the DTMB including the payments from revenue generated by Prop. A in its calculations of the proportion of spending paid to Local Governments to meet the requirements of art. 9, § 25 and § 30. By including Prop. A payments in this calculation, the State supplanted other State spending previously paid to Local Governments, placing a tax burden on Local Governments to further raise local taxes in order to offset lost State revenue. This shift of tax burden created a cushion so that the State could slowly reallocate resources away from Local Governments and appropriate those revenues for their own uses. The effects of this tax shift would not have its greatest impact on Local Governments when an economic downturn hit Michigan. Using the Prop. A funds as a buffer to keep the State above the proportion of spending required to be paid to Local Governments by art. 9, §25 and § 30, the State balanced its own budget while forcing Local Governments to make a difficult choice: cut services or raise taxes.

[8] See Exhibit 2 at p. 3.
[9] See attached Exhibit 4, State of Michigan, Detail Expenditures to Units of Local Government, Fiscal Year Ended September 30, 1994.
[10] See attached Exhibit 5, State of Michigan, Detail Expenditures to Units of Local Government, Fiscal Year Ended September 30, 1995.

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The accounting maneuver outlined above is specifically prohibited by art. 9, § 25, which provides that, "[t]he state is prohibited… from shifting the tax burden to local government." Const 1963, art. 9, § 25. While the State may continue to fund public education with taxes levied under Prop. A, the State may not count the revenue resulting from Prop. A toward its obligation to meet the Constitutional Payments required by art. 9, § 30.

As noted above, the People of the State of Michigan adopted Michigan Constitution art. 9, §§ 25 to 34 in order to halt rising taxes at both the state and local levels. On one hand, the Headlee Amendment places specifically defined limitations on the revenues of both state and local government units. On the other hand, it provides protections for units of Local Government, by enacting three prohibitions that restricting the State from imposing economic burdens on Local Governments. The three prohibitions create a balanced economic framework that serves to keep taxation under the direct control of the voters while ensuring that citizens' local services are maintained. The framework can only function correctly if all three aspects are upheld. If one falters, then the intent of the voters is defeated and Local Governments experience economic distress. Through the tax shift resulting from the State's including Prop. A revenue in its calculation of the Constitutional Payments made to Local Government, the State violates the prohibition on tax shifts stated at art. 9, § 25 and contravenes the intent of the voters who adopted the Headlee Amendment.

1. Including Proposal A Revenue Within Calculations Of Required Constitutional Payments Constitutes A Shift Of The Tax Burden To Local Governments That Is Prohibited By Art. 9, § 25.

After the adoption of Prop. A, the DTMB began including the Prop. A revenue within the State's calculation of spending in the form of aid paid to Local Governments to meet the requirements of art. 9, § 30. The net effect is that local taxpayers throughout Michigan pay a State

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tax to replace their local property tax in order to support public schools, while having their corresponding State tax payments used by DTMB to reduce State revenue from other sources previously paid to their Local Governments.

Commenting on Prop. A, Richard Headlee, the drafter of the Headlee Amendment, concluded that "the proposal had turned into a major tax shift."[11] Richard Headlee states further:

> The constitution guarantees local governments 41.6 percent of all state revenues for local programs. Without recalculation of the Section 30 requirements, the state would count the $1.8 billion of sales tax revenue as spending for local governments, thereby **gutting Section 30** and protection of local government revenue sharing.[12]

Michigan voters prohibited tax shifts for the very reason that Richard Headlee posits - shifting of funding responsibility between State and Local Governments in this manner allows the State to decrease the revenue it sends to Local Governments for local programs. It allows the State to impose its priorities on Local Governments and force Local Governments to cope by either raising taxes or cutting local services.

The balanced framework that limits Local Governments from imposing new taxes, but also prevents the State from shifting a tax burden onto them is memorialized in the Michigan Constitution, which specifically prohibits the State "from shifting the tax burden to local government." Const 1963, art. 9, § 25. Further fortifying this position, the drafters' notes accompanying the Headlee Amendment are unequivocal:

> Section 25 specifically prohibits the state from circumventing the intent of the amendment by shifting tax burdens from the state to local government levels. Any action by the state which would result,

[11] See attached Exhibit 6, Charlie Cain, *Headlee Criticizes Proposal A As Tax Shift And Tax Increase*, THE DETROIT NEWS, May 14, 1993, at 2B.
[12] *Id*. (emphasis added).

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> **directly or indirectly**, in increased local taxation through a shift in funding responsibility is **clearly prohibited** by this Section.[13]

As previously discussed, in order for the intent of the People to be properly expressed, each part of the Headlee Amendment must be upheld. *Schmidt*, 490 NW2d at 591.

The Michigan Supreme Court has clearly spoken in *Schmidt* as to what constitutes a tax shift that places a tax burden on Local Governments under Mich. Const. art. 9, § 25. *Schmidt* was a case involving unfunded mandates prohibited by Mich. Const. art. 9, § 29 and undertook a thorough analysis of tax shifts prohibited by art 9, § 25.

As emphasized in *Schmidt*, the clear intent of the voters when adopting Headlee was to preclude the State legislature from shifting any funding obligation onto Local Governments. *Schmidt*, 490 NW2d at 590. The Court reasoned that because the voters intended that the State provide full funding for any new mandated service or activity, the voters also intended that the State be precluded from circumventing that prohibition by shifting the tax burden to Local Governments. *Id.* at 592. The Court goes a step further, implying that when Mich. Const. art. 9, § 25 and §30 are read together they create "absolute prohibition of any shifting to local government." *Schmidt*, 490 NW2d at 592.

The Michigan Supreme Court confirmed this position in *Durant*, where the court held that:

> [T]he people have said that shifting of the tax burden to local taxpayers is a matter of constitutional dimension; it is banned; and, through § 32, the ban must be enforced. The people having spoken through their constitution, the policy debate is no longer open. [*Durant v. State*, 456 Mich. 175, 220, 566 N.W.2d 272, 291 (1997).]

Under the Court's analysis in *Schmidt*, the DTMB's treatment of Prop. A Revenue shifts the burden onto local taxpayers by forcing Local Governments to raise taxes in order to provide

[13] See attached Exhibit 7, Taxpayers United Research Institute, Drafters' Notes – Tax Limitation Amendment, at 2-3, (February 15, 1979) (unpublished) (on file with the Library of Michigan). (emphasis added)

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the same local services. This practice is strictly prohibited by the Michigan Supreme Court's understandings of the Michigan Constitution.

DTMB's treatment of Prop. A Revenue as included within Constitutional Payments to Local Governments circumvents the prohibition against the State shifting its tax burden onto units of Local Government, placing a major burden on units of Local Government. Ultimately, it forces Local Governments to raise local taxes in order to maintain local services. However, the balanced fiscal framework of the Headlee Amendment limits the ability of Local Governments to raise local property taxes, the precise reason why tax shifts are prohibited by the Headlee Amendment.[14]

This accounting scheme, which amounts to a shell game, would allow the State to cut funding for Local Governments by the amount the State provides from Prop. A Revenue to local public schools without affecting its compliance with art. 9, § 30 requirements. The DTMB's treatment of the Prop. A Revenue allows the State to budget for additional state programming in the economic boom years or to balance the State's budget by cutting funding to Local Governments in lean years. The losers in all of this are Local Governments which must absorb the cuts in State aid while having very limited options for raising replacement revenues. This results in severed economic distress with Local Governments.

The State, through the DTMB, must be required to recalculate the proportion of state spending that was paid to Local Governments to meet the requirements of art. 9, § 30 for fiscal year 2015-16 and must be maintain compliance in all future years. Allowing DTMB to classify Prop. A Revenue as part of the State's Constitutional Payments required by art. 9, § 30 forces Local Governments to either raise taxes or cut services in the same manner disapproved of by the

[14] See Exhibit 7, Drafters' Notes, at 10-11.

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Michigan Supreme Court in *Schmidt*. *Schmidt*, 490 NW2d at 590. See also *Cnty. of Oakland*, 443 NW2d at 810-11.

In summary, DTMB's treatment of Prop. A Revenue violates the Headlee Amendment, specifically 9, § 25 and § 30. Counting spending from Prop. A Revenue that is paid to Local Governments in order to satisfy the requirements of art. 9, § 25 and § 30 constitutes a tax shift prohibited by art. 9, § 25. Therefore, the Prop. A Revenue must be excluded from the State's calculation of Constitutional Payments required by art. 9, § 25 and § 30.

C. The State May Provide Financial Assistance To Charter Schools, But Payments To Charter Schools Should Not Be Included In Aid Paid To Local Governments Under Art. 9, § 30.

The 1963 Michigan Constitution provides that, "The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." Const. 1963, art. 9, § 30. Under the Headlee Amendment, a "Local Government" is defined as:

> [A]ny political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other units of local government.[art. 9, § 33.]

Pursuant to the authority provided in Michigan's Constitution, art. 9, § 34, to implement the Amendment, the Legislature defines the commonly understood meaning of the term "Local Government" as follows:

> Unit of local government means a political subdivision of this state, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, *if the political subdivision has as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the state and has the power to act primarily on behalf of that area*. [MCL 18.1115(5)].[15]

[15] Note, MCL 18.1115(5), as amended by 1982 PA 483, as repealed by 1984 PA 431, as amended by 1988 PA 504, as amended by 1999 PA 8, as amended by 2012 PA 430. MCL 21.261 implemented Section 30 of Article 9 of the

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School districts, accordingly, as political subdivisions of the state, have as their primary purpose the provision of services for citizens within geographically defined areas.

Charter schools, as public schools and school districts for limited purposes, may utilize state school aid funds to deliver public educational services within the State's system of free public elementary and secondary schools formed and defined by the Legislature. MCL 380.501(1). Constitutionally authorized funds paid however, may not be included in Defendants' calculations of the proportion of total state spending paid to units of Local Government, taken as a group, under art 9, § 30, because charter schools are not school districts, political subdivisions of the state, or local governments as those terms were commonly understood in 1978.

The DTMB's actions misinterpret charter schools' limited constitutional purposes and fiscally harm Local Governments by the DTMB's misunderstanding of the definition of Local Governments as it was understood at the time the Headlee Amendment was adopted in 1978.

1. The Rules Of Constitutional Construction Require That The Terms of Art. 9, § 33 Be Construed In Accordance With The Voters' Common Understanding At The Time Of The Headlee Amendment's Adoption.

Michigan courts have long recognized that the primary rule of constitutional construction is the rule of common understanding. *Traverse City Sch Dist v Att'y Gen*, 384 Mich 390, 405; 185 NW2d 9 (1971). The Michigan Supreme Court writes:

> A constitution is made for the people and by the people. The interpretation that should be given it is that which reasonable minds, the great mass of the people themselves, would give it. 'For as the Constitution does not derive its force from the convention which framed, but from the people who ratified it, the intent to be arrived at is that of the people, and it is not to be supposed that they have

State Constitution of 1963. MCL 21.261 was amended with no change by 1982, Act 483, Imd Eff December 30, 1982 and repealed by 1984, Act 431, Eff March 29, 1985 which omitted charter townships and charter counties from inclusion. The Legislature has consistently defined a local government as a "…political subdivision [having] as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the state and [having] the power to act primarily on behalf of that area."

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> looked for any dark or abstruse meaning in the words employed, but rather that they have accepted them in the sense most obvious to the common understanding, and ratified the instrument in the belief that that was the sense designed to be conveyed.." [*Id*. (citing with approval Justice Thomas Cooley's Const Lim 81) See also, *Studier v. Mich. Pub. Sch. Emples. Ret. Bd.*, 472 Mich. 642, 652, 698 N.W.2d 350 (2005); *Carman v. Secretary Of State*, 384 Mich 443, 450-453, 185 NW2d 1(1971); *Lockwood v. Comm'r of Revenue*, 357 Mich 517, 555, 98 NW2d 753 (1959); *People v. Dean*, 14 Mich. 406, 417-418 (1866); and *Syntex Laboratories, Inc. v. Department of Treasury*, 188 Mich App 383, 385 470 NW2d 665 (1991).]

Under the rule of common understanding, certain principles are clear. First, "a provision should be given the interpretation that the great mass of people would give it. The intent to be arrived at is that of the people." *Traverse City Sch Dist v Att'y Gen,* 384 Mich at 405. Next, courts "must construe [constitutional provisions] as the people did *in their adoption* …" *Lockwood*, 357 Mich at 555. And, finally, "the circumstances surrounding the adoption of the constitutional provision … may be considered" to clarify a term's meaning. *Traverse City Sch Dist,* at 405.

Charter schools are not Local Governments as defined at art. 9, § 33 and therefore are not Local Governments as that term is used in § 25 and § 30. Charter schools are not Local Governments because they are neither "political subdivisions of the state" nor "school districts" under common understandings of those terms at the time the Headlee Amendment was adopted in 1978.

2. At The Time The Headlee Amendment Was Adopted, Charter Schools Were Not Within Voters' Common Understandings Of The Terms "Political Subdivision Of The State," Or "School District."

The Public School Academies Act defines charter schools as constitutional deliverers of public instruction and state school aid fund recipients for purposes of art. 8, § 2 and art. 9, § 11 of the Michigan Constitution. MCL 380.501(1). Significantly, the Legislature does not describe

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charter schools as school districts for purposes of art. 9, § 30 and § 33 of the Michigan Constitution. See MCL 380.501 *et seq*.

Charter schools organize as nonprofit corporations formed pursuant to agreements between private entities who administer the schools, and authorizing bodies ("authorizers") who oversee and serve as their fiscal agents. MCL 380.502(1), (2)(a)-(e), (4) and 507(3). Each charter school independently acts on behalf of its corporate self under its own governance model. MCL 380.502(1), (3)(f) and 504a. Accordingly, no charter schools act on behalf of any citizens or pupils they serve. MCL 380.502(1) and 504a.

Privately appointed boards of directors ("boards") may administer charter schools themselves or contract with education management organizations ("EMOs") to operate the schools. MCL 380.502(1) and 503c(1). As of June 16, 2016, 56 percent of charter schools delegated their complete educational functions in this manner through management agreements with EMOs.[16] An additional 28 percent of schools delegated some portion of their responsibilities to one or more of these private operators while merely 14 percent operated as self-managed schools.[17]

Approximately 84 percent of Michigan's 300 charter schools prioritize statewide pupil enrollment over pupils locally, in schools located throughout the State.[18] An additional six cyber schools (or one percent) operating pursuant to a statutory exception mandating remote learning serve pupils statewide after considering those residing within their authorizers' geographic boundaries.[19]

[16] See Exhibit 3.
[17] *Id*.
[18] *Id*. (showing that state public universities and federal tribal community colleges authorize 69 and 14 percent of charter schools, respectively)
[19] *Id*.

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Conversely, only 15 percent of charter schools currently locate and prioritize service for pupils located within their authorizers' geographic boundaries. *Id*. (providing that school districts, intermediate school districts and community colleges authorize approximately four, six and one percent of charter schools, respectively).

Taken together, 51 percent of Michigan's charter schools delegate their complete educational functions to EMOs, accept statewide membership and may locate anywhere in the State.[20]

a. The Defining Characteristics Of School Districts As Commonly Understood In 1978.

The commonly understood meaning of a school district upon adoption of the Headlee Amendment was a public school system operating within geographically limited areas of the state under an elected and accountable governing board empowered to act on behalf of these regions. See *Irving Parents & Landowners Assn v State Bd of Educ*, 45 Mich App 387, 394; 206 NW2d 503 (1973) and 1970 CL 340.449, 583; *Wallace v Tripp*, 358 Mich 668; 101 NW2d 312 (1960); and 1970 CL 340.32, 75, 115 and 158(b) (describing districts' powers to commence suit, submit electors' questions at annual meetings, and borrow funds voted for by qualified electors).

Additionally, school districts in 1978 possessed all three traditional sovereignty powers. *Fizer v Onekama Consol Schs*, 83 Mich App 584, 584-5; 269 NW2d 234 (1978) (discussing taxing authority); *Bd of Educ v Michigan Bell Tel Co*, 51 Mich App 488, 491, 495; 215 NW2d 704 (1974) (discussing police and eminent domain power).

School districts were considered political subdivisions of the state at the time of the Amendment's adoption in 1978. *Bowie v Coloma Sch Bd*, 58 Mich App 233, 240; 227 NW2d 298, 302 (1975). Many of school districts' commonly understood characteristics are embodied in the

[20] *Id*.

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Headlee Amendment's drafters' notes reflecting their belief that the Amendment was intended to pertain to those units of Local Government with powers including but not limited to levying taxes and proposing millages to the general electorate.[21]

School districts in 1978 were organized as Primary, First, Second, Third and Fourth Class districts. MCL 340.2. In addition to traditional sovereignty powers, Second and Third Class district school boards possessed authority "[i]n general to do anything … which [was] necessary for the proper establishment, maintenance, management and carrying on of the public schools of [the] district." MCL 340.121e and 154. The Legislature recognized First Class districts as local governmental units – empowering them to do "anything whatever that may advance the interests of … the good government and prosperity of the free schools in said city, and the welfare of the people concerning the same." MCL 340.192.

b. Charter Schools Possess Insufficient Sovereign Powers Compared To School Districts In 1978.

Charter schools differ significantly from school districts as that term was commonly understood in 1978 since they "… may not levy ad valorem property taxes or [other] tax[es] for any purpose." MCL 380.503(9). Additionally, they lack the State's police power and may exercise only a limited power of eminent domain. MCL 380.501 *et seq*. and 503(10). Taxation power is consistent with the sovereign authority and actions prescribed by the Amendment's drafters to school districts, as units of Local Government at that time.[22]

Although the context differs, the Internal Revenue Code (the "IRC") Treasury Regulation evaluated in *Michigan v United States* ("*MET*") reflects 1978 Michigan statutory and common law granting political subdivisions a portion of the state's sovereign powers – illustrating their

[21] Exhibit 7, Drafters' Notes, at 2-4, 11, and 15-17.
[22] Exhibit 7, Drafters' Notes, at 2-4 and 11.

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essentialness to these governmental units' identities. *Michigan v United States*, 40 F3d 817, 825 (6th Cir 1994) (analyzing 26 USC § 103, sec 94, art 22(b)(4)(1)).

Under IRC criteria, political subdivisions are (1) municipal corporations; or, (2) purely public subdivisions of the state or territory that have been delegated either sufficient sovereign powers, or expressly empowered to exercise governmental functions on behalf of the state. *Id*. (citing *Comm'r v Shamberg's Estate* (*Shamberg*), 144 F2d 998 (2d Cir 1944)).

"Entities need not possess all three traditional sovereign powers [under this measure], but whatever powers [they do] possess must be substantial in their effect, as are the enumerated powers, as well as in amount."[23] "[A]ll facts and circumstances are to be taken into account in determining whether the entity has adequate sovereign powers."[24] In lieu of traditional sovereignty powers, "public agenc[ies] explicitly authorized to exercise contracting powers "on behalf of the state" for a purpose that the Michigan Legislature has declared "is necessary and desirable for the public health, safety, and welfare" are considered political subdivisions of the state under IRC criteria. *MET*, 40 F3d at 825-6.

In *MET*, the Sixth Circuit recognized these sovereign power combinations sufficient for port authorities seeking political subdivision designation under IRC criteria: (1) a limited eminent domain power and ability to collect bridge tolls without state interference in order to fulfill construction bonds issued by the entity, and (2) full eminent domain power, ability to maintain a uniformed police force, and make and enforce regulations governing the operation and maintenance of bridges and tunnels within its control, the and right to collect and charge usage

[23] See attached Exhibit 8, *Comments on the Definition of Political Subdivision for Tax Exempt Bonds and Other Tax-Advantaged Bonds*, 2015 ABA Sec. Tax., at 12
[24] *Id*.

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tolls without state interference. 40 F3d at 825 (citing, *Comm'r v White's Estate*, 144 F2d 1019, 1020 (2d Cir 1944) and *Shamberg*, 144 F2d at 1002-3).

Charter schools indeed share one obligation with political subdivisions due to a general power to contract on their own behalf in furtherance of public educational purposes. MCL 380.504a(d). This general obligation differs, however, from the Sixth Circuit's requirement of express statutory power to contract on behalf of the state and illustrates the lack of interdependence between charter schools and the State. 40 F3d at 818-9.

Multiple private ownership interests and private governance are the "other facts and circumstances" contributing to charter schools' insufficient sovereign powers under the IRC analysis. For example, charter school contracts prohibit future conflicts of interest, but applications lack disclosure requirements for existing relations or conflicts among applicants, proposed boards, or private EMOs providing educational services to the school. MCL 380.503(6)(k). And, EMOs owning and constructing their own school buildings earn equity in their properties by leasing them to the charter school. MCL 380.504a(b). Finally, UHSA applicants' $50,000,000.00 net assets requirement illustrates these private entities' significant ownership interests in the charter school. MCL 380.523(1)(e).

Additionally, private entities and individuals form charter boards in their contract applications; supplying the selection method, qualifications and names of proposed board members to an authorizing body. MCL 380.502(3). It is only after receipt of the charter application that authorizers adopt the resolution establishing the board of directors for the charter school. MCL 380.503(5). This amount of private control is permissible for charter schools' limited role of sharing in public funds. *Council of Orgs & Others for Educ about Parochiaid,* 455 Mich 557, 587; 566 NW2d 208 (1997).

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In contrast to charter school boards, the Sixth Circuit considers the following examples reflective of "purely public" bodies: (1) Nine member board with the State Treasurer as an ex-officio member and eight others appointed by the governor with the advice and consent of the senate pursuant to state law; and (2) Twelve member board containing six members from each state with all actions requiring a board majority and governor approval. 40 F3d at 819.

Finally, charter schools, as nonprofit corporations and "bodies corporate" are not municipal corporations or divisions of the state. Divisions of the state are considered public instrumentalities and defined as "public bod[ies] corporate and politic." 40 F3d at 818. The terms' seemingly technical distinction is germane to the proposition that charter schools are distinct from municipal corporations that are political subdivisions of the state as they are predominantly private entities.

c. Charter Schools Are Administered By Appointed, Unaccountable Boards And Not Elected Boards Accountable To Voters When Compared To School Districts In 1978.

Unlike school districts governed by elected officials who remain accountable to the citizens served by the district, charter schools are administered by privately appointed and unaccountable boards of directors, EMOs delegated authority to provide comprehensive educational services for the schools, or some combination of both. MCL 380.502(3)(b) and 503(5), 503c(2)(a), and 504a(d). In this connection, authorizers' supervising charter schools have unlimited power to issue new charter school contracts and open schools without meaningful growth restrictions or electorate approval. MCL 380.503(1) and (2)(a)-(h). This action dilutes and will continue to reduce the mandated proportion of constitutionally dedicated revenues to Local Governments, taken as a group, under art. 9, § 30 as the DTMB continues to include funds paid to each newly opened charter school in its aid paid to Local Governments under art. 9, § 30. This system contrasts

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directly with the drafters' desire "not to limit the legislature's ability to create more effective and efficient governmental entities."[25]

Neither charter nor EMO boards are responsible to the electorate. EMO boards of directors account solely to shareholders while authorizer approved charter board members face discretionary removal only during optional school reconstitution proceedings. *Decisions and Orders of the National Labor Relations Board*, *Charter School Admin Servs And MEA/NEA* (*CSAS*), 353 NLRB 394, 396, No 35 (2008); and MCL 380.528(7).

d. As School Districts For "Limited Purposes" Charter Schools Are Not School Districts As Commonly Understood In 1978.

The Michigan Supreme Court holds charter schools constitutional for the singular school district power they possessed in 1994 – sharing in state school aid funds. *Parochiaid*, 455 Mich at 587. The Legislature gradually expanded their limited powers, granting them authority to borrow with school aid anticipation notes in 1996 (1995, Act 289, Eff July 1, 1996) and limited bonding authority in 2003 (2003, Act 179, Imd Eff October 3, 2003). MCL 380.501(1).

Under Michigan law, charter schools may not issue bonds requiring their boards to set tax rates, levy millages, or submit bond proposals for voter approval. MCL 380.504a(g). Additionally, citizens lack standing to bring suit as district "residents" to enforce bond issuance procedures because charter schools, as school districts for limited purposes, have no residents. OAG, 2004, No. 7154, p 122 (March 31, 2004). Legislative removal of citizen oversight in this area illustrates charter schools' negligible resemblance to school districts as that term was commonly understood in 1978. See generally 1970 CL 340.77a(b), 115, 158(b) and 196 (discussing the unlimited bonding authority of Fourth, Third, Second and First Class school districts, respectively).

[25] Exhibit 7, Drafters' Notes, at 3-10.

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The Attorney General noted this distinction between school districts and charter schools, as school districts for limited purposes, stating, in relevant part:

> While the Legislature has made numerous provisions of the Revised School Code applicable to [charter schools] either by reference in Parts 6A and 6B or by amendment to the specific sections to the statute, *it is clear that the Legislature did not intend to equate [them] with school districts as a general proposition*. [OAG, 1996, No. 6915, p 204 (September 4, 1996) (emphasis added)].

Finally, charter schools have no power to act on behalf of geographically limited areas of the state and the great majority of them fail to provide local governmental services to citizens within such areas.

3. Charter Schools' Inability To Service And Act On Behalf Of Limited Geographic Areas Excludes Their Consideration As "Units of Local Government" or "Political Subdivisions Of The State" Under The Headlee Amendment.

Pursuant to art. 9, § 34 of the State Constitution, the People have expressly authorized the Legislature to enact legislation implementing § 25 and § 30 and others of the Headlee Amendment. In its enacting legislation, the Legislature defined "units of local government" as:

> [A] political subdivision of this state, including school districts … **if the political subdivision has as its primary purpose the providing of local governmental service for citizens in a geographically limited area of the state and has the power to act primarily on behalf of that area**. [MCL 18.1115(5). See also *Schmidt v Department of Educ*, 441 Mich 236, 299; 490 NW2d 584 (1992) (Levin, J., dissenting) (discussing "geographically limited" nature of local governments under art. 9, § 29).]

The Legislature's definition reflects common understandings near the time that the Headlee Amendment was adopted. Under this definition, units of Local Government are political subdivisions of the state only if they are required to serve and act on behalf of geographically limited areas. MCL 18.1115(5). The Amendment's implementing legislation represents the Legislature's understanding of what constitutes a "unit of local government" based upon its

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knowledge of the people's understanding of this term in 1978. Since that time, the Legislature has consistently defined political subdivisions of the state (including school districts) and units of local government, as serving geographically defined areas of the State.

In sharp contrast to the voters' and Legislature's common understanding of the terms "units of local government" and "political subdivision of the state," charter schools lack authority either to act on behalf of any limited geographical areas, or citizens within such areas of the State. MCL 380.4a. Schools authorized by the governing boards of state public universities, federal tribally controlled community colleges, and agencies created pursuant to interlocal agreement may be located anywhere in the State and do not meet the statutory definition of Local Governments contained in MCL 18.1115(5). MCL 380.502(2)(d), 504(3), 552(17)(b) and 502(2)(e).

Even school district, intermediate school district, community college boards and two or more agencies acting jointly fail this standard since they may authorize one cyber school each to operate and serve up to 10,000 students outside their geographic boundaries. MCL 380.552(6)(a)-(c), (e). Cyber schools depart dramatically from the commonly understood standards for political subdivisions of the state, as Local Governments, as they may provide learning "remote from school facilit[ies]" and are "not required to comply with any rules requiring a pupil's physical presence or attendance in a classroom." MCL 380.553a(1), (4). Finally, charter schools authorized by community colleges and located on the grounds of federal military installations outside the bounds of any community college district illustrate charter schools' incongruence with Local Government standards as they may also operate outside their authorizer's geographic jurisdiction. MCL 380.502(2)(c).

The Michigan Attorney General articulated this distinction between charter schools and school districts, as units of local government and as political subdivisions of the state as follows:

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> General powers school districts, MCL 380.11a(1) and first class school districts, MCL 380.401, occupy territory within defined geographical boundaries and have residents who live within those boundaries. See MCL 380.626. Public School Academies, in contrast, have no defined geographical territory assigned to them. Accordingly, section 1147, which gives a school-aged person who is a "resident of a school district" the right to attend school in that district, has no application to public school academies. [OAG, 2004, No. 7154, p 122 (March 31, 2004)].

The Attorney General's Office affirmed a prior determination that "the Legislature did not intend to equate [charter schools] with school districts as a general proposition" when it wrote that "[charter schools are not school districts] for all purposes of the [Revised School] Code; particularly for purposes of section 1147." OAG No. 7154 p 122 (March 31, 2004) (affirming OAG, 1996, No. 6915, p 204 September 4, 1996)).

No charter schools serve citizens within geographically limited areas of the state in the manner school districts did in 1978. All charter schools may prioritize enrollment for pupils meeting specific age or grade criteria despite authorizer location and enrollment requirements. MCL 380.502(2)(a)-(c). In addition to charter schools authorized by governing boards of statewide authorizers, those authorized by school districts, intermediate school districts and community colleges also "*may* be open to all individuals who reside in th[e] state … and *shall* be open to all pupils who reside within the geographic boundaries of that authorizing body." MCL 380.504(3).

4. Charter Schools Delegate Their Public Educational Functions To Private Operators That Are Not Political Subdivisions Of The State As That Term Was Commonly Understood In 1978.

Currently, 56 percent of charter schools reassign all or some of their educational functions to private EMOs who operate the schools through comprehensive management agreements.[26] As

[26] See Exhibit 3.

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a result, private operators perform the public educational functions which charter schools have been delegated to provide. This practice improperly compensates private entities as Local Governments for purposes of art. 9, § 30. Yet, these private entities are not political subdivisions of the state as that term was commonly understood in 1978.

The Public School Academies Act does not define EMOs as political subdivisions of the state. It provides rather, that "[a]n [e]ducational management organization [is] an entity that enters into a management agreement with a public school academy." MCL 380.503c(2)(a). An "entity" is a partnership, nonprofit or business corporation, or any other association, corporation, trust, or other legal entity. *Id*. at 503c(2)(b). Together, the provisions define EMOs as private companies and not as political subdivisions of the state.

In two National Labor Relations Board matters, the Board found that neither private for-profit EMOs nor charter schools, themselves, were exempt from the NLRB's jurisdiction as political subdivisions of the state. *CSAS*, 353 NLRB at 398; *Hyde Leadership Charter School – Brooklyn and United Fed of Teachers*, 364 NLRB 88 (August 24, 2016). The NLRA limits political subdivision exemptions to entities (1) created directly by the state, so as to constitute departments or administrative arms of the government, or (2) administered by individuals who are responsible to public officials or to the general electorate. See *Moir v Greater Cleveland Reg'l Transit Auth*, 895 F2d 266, 271(6th Cir 1990). While not determinative, the decisions of the Board reflect long-standing understandings of what constitutes a political subdivision of the state.

There is no Michigan statute that directs that charter schools be created or that directly creates charter schools. MCL 380.501 *et seq*. An authorizer's act of "contracting" with private entities "… evidences the [school's] authorization, establishes [its contract], and confirm[s] the status of a [charter school] as a public school in this state." MCL 380.501(2)(d).

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Charter schools are not arms of the state because the State has no legal liability for judgments awarded against them or authority to control or veto actions of these entities legislatively defined local descriptors such as "public schools" and "school districts for limited purposes." MCL 380.504a and 380.501(1). Further, no local or state officials select or remove board members whom authorizers merely approve pursuant to language providing for board composition to "reflect representation from the local community" – language insufficiently constituting a local selection process. *Hess v Port Auth Trans-Hudson Corp*, 513 US 30, 51, 130 L Ed 2d 245, 115 S Ct 394 (1994); MCL 380.502(3)(b), 503(5), 507(1)(c) and *Kentucky River Comm Care*, 193 F3d 444, 451 (6th Cir 1999) (explaining rule). It is irrelevant that a charter school's own bylaws may provide authorizers with these powers because the private entity applicant proposes its own bylaws in its contract application to the authorizing body. See MCL 380.502(3)(c)(v)(d); *Decisions and Orders of the National Labor Relations Board*, *Research Found of the City Univ of NY*, 337 NLRB 965, 969 No. 152 (July 31, 2002); 364 NLRB 88 at 6. Finally, charter schools individually provide for their own curricula and education assessments; despite education's characterization as both a state and local function. MCL 380.502(3)(e)(ii). As such, charter schools delegating their public educational functions cannot fairly be found political subdivisions of the state as understood when the Headlee Amendment was adopted in 1978.

5. Excluding Payments Made To Charter Schools From The State's Minimum Proportional Payments To Local Governments Under Art. 9, § 30 Is Consistent With Charter Schools' Constitutional Purposes.

Enjoining the DTMB from including State payments made to charter schools in the Amendment's minimum proportional payments to Local Governments under art. 9, § 30 in no way invalidates their legislative designation as constitutional deliverers of public instruction under art 8, § 2, or as state school aid fund recipients under art. 9, § 11 of the Constitution. On the contrary,

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such a decision supports the Headlee Amendment's goal to protect Local Governments from State practices which undermine their fiscal integrity. *Schmidt*, 441 Mich at 254-5 (discussing state government's funding rights and obligations under qrt. 9, § 29).

Adjudicating charter schools in accordance with the rule of common understanding allows taxpayers' rights under the Headlee Amendment to be protected, while honoring the Legislature's prerogative to define Michigan's system of free public elementary and secondary schools. As a result, school aid payments to charter schools should not be included by Defendants in calculations of aid paid to Local Governments to meet the requirements of Art. 9, § 30 of Michigan's Constitution.

D. Spending Paid To Maintain Trunk Line Roads Should Not Be Included In The Constitutional Payments Required By Art. 9, § 30

The DTMB is including in its calculations of the required minimum Constitutional Payments, spending paid to county road commissions and other Local Governments to maintain and improve the State's trunk line roads. These payments are made to fulfill a State obligation to provide trunk line roads for the People of the State and are not eligible to be included in calculating Constitutional Payments required by art. 9, § 30.

It is the obligation of the State to maintain the trunk line road. State Trunk Line Highway System Act, Public Act 51 of 1951 states:

> The state trunk line highway system of this state consists of all roads, streets, and highways, either located within or outside the limits of incorporated cities and villages, now or hereafter constituted state trunk line highways under the laws of this state. MCL 247.651(1).

The statute also states, "All roads, streets, and highways included in the state trunk line highway system shall be known and may be referred to for all purposes as state trunk line

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highways." *Id.* Maintenance and improvement of the trunk line roads system is thus clear a state obligation and state function.

Likewise, the clear purpose of the trunk line roads fund is to maintain and improve state trunk line roads and for certain bonds and provisions. See MCL 247.661. The purpose of the fund is to make sure the roads are suitable for the People of Michigan, not for the general purposes of local governments.

The Michigan Court of Appeals held that payments made to Local Governments in order to fulfill a State obligation, while technically a payment to Local Governments, cannot be used to satisfy the State's obligations under art. 9, § 30. *Oakland Cnty. v. Dep't of Mental Health*, 178 Mich. App. 48, 60, 443 N.W.2d 805, 811 (1989), appeal dismissed and remanded sub nom. *Cnty. of Oakland v. Michigan Dep't of Mental Health*, 437 Mich. 1047, 471 N.W.2d 619 (1991). Similarly, the planning, construction, maintenance, repair and other associated support structures for the trunk line road system is the obligation of the State. Therefore, any payments from the State to Local Governments which are subsequently spent on the trunk line road system may not be counted as a payment to Local Governments in the form of aid under Section 30.

As noted above, the drafters' notes accompanying the Headlee Amendment are unequivocal:

> Any action by the state which would result, **directly or indirectly**, in increased local taxation through a shift in funding responsibility is **clearly prohibited**.[27]

In order for the intent of the People to be properly expressed, each part of the Headlee Amendment must be upheld. *Schmidt*, 490 NW2d at 591. This is also consistent with the holding of the Court of Appeals in *Oakland Cnty.* Anytime the State is allowed to shift the cost or tax burden onto local

[27] See Exhibit 7, Drafters' Notes, at 2-3. (emphasis added).

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governments while still counting those payments to meet the requirements of art. 9, § 30, the State circumvents the intent of Headlee and Local Governments are forced to either raise taxes or reduce local services.

Like the mental health services and payments in *Oakland Cty.*, it is the obligation of the State to maintain the trunk line roads and, therefore, the funding should not be included in the calculations of payments to Local Governments for purposes of determining whether art. 9, §30 of the Michigan Constitution requirements are met. Because of these improper inclusions into the calculations of Constitutional Payments, the DTMB has consistently miscalculated the spending paid by the state to Local Governments.

E. The State Is Prohibited From Including Spending to Fund State Mandates In Calculations Of Constitutional Payments Made To Meet The Requirements Of Art. 9, § 30.

The State has imposed mandates upon Local Governments that require Local Governments to perform services which they have not voluntarily elected to perform. Article 9, § 29 of the Michigan Constitution requires that the State provide funding to offset the costs of activities and services that are performed by Local Governments to meet State requirements, as follows:

> The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of unit of Local Government unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI Section 18. Const 1963, art. 9, § 29.

Article 9, § 29's requirement to provide funding to Local Governments for the costs of new state mandates does not constitute payments in the form of aid to them, as the term is used in § 25 and § 30. Rather, it constitutes payments to offset new burdens imposed upon Local Governments

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by the State. Nonetheless, the DTMB has included such payments to support State mandated services, such as payments for informed consent requirements in *Mahaffey v. Attorney Gen.*, 222 Mich App 325 (1997); special education services in *Durant v. State of Michigan*, 456 Mich. 175 (1997); and record keeping requirements in *Adair v. State*, 486 Mich 468 (2010) in calculating Constitutional Payments to Local Governments under art. 9, § 30.

When read together with Mich. Const. art. 9, § 29 and § 30, DTMB may not classify mandates, whether funded or unfunded, as payments to Local Governments for purposes of meeting the State's proportional spending obligations under art. 9, § 25 and § 30. Notably, the state codified, in part, existing understandings of the intent art. 9, § 29 when it enacted the State Disbursements to Local Units of Government, Public Act 101 of 1979 ("PA 101").

In addition to requiring the funding of all new state mandates as required by art. 9, § 29, the statute, at MCL 21.242, specifically prohibits the state from reducing the state financed proportion of the necessary costs of existing activities or services required of local units of government by existing law, *unless the existing law is repealed*. The statute thus encapsulates the dual requirements of art. 9, § 29 and § 30 – that the State must fully fund new mandates imposed on Local Governments and must maintain the existing proportion of State spending paid to Local Governments to compensate them for existing activities and services. Otherwise, the State effectively reduces its share of the compensation paid to Local Governments for existing activities and services when it includes payments for newly enacted mandates within its calculation of the required Constitutional Payments to meet art. 9, § 30 obligations.

There have been few cases involving unfunded mandates in Michigan. *Durant* is the leading authority on the issue and involved the state financing of necessary increased costs for Local Governments by State mandated special education and transportation. *Durant v. State Bd.*

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of Educ., 424 Mich 364, 391, 381 NW2d 662, 673 (1985). The Michigan legislature passed MCL 21.233(6)(d), which provided:

> The state requirement imposes a cost on a local unit of government that is recoverable from a federal or state categorical aid program, or other external financial aid. *Id.*

The Court held that this provision violates Mich. Const. art. 9, § 29 because the State used it to reduce the amount of categorical aid it provided to certain school districts, requiring them to make up the shortfall through other sources, such as unrestricted aid. *Durant*, 381 NW2d at 673 (1985).

The intent of the Headlee Amendment, as expressed by the people in Mich. Const. art. 9, § 25 was to forestall new legislation which would require Local Governments to pay for the costs of new or expanded local activities and services and to prohibit the state from shifting the tax burden to local governments. Mich. Const. art. 9, § 25. This portion of the argument focuses on the interplay between art. 9, § 25, § 29 and § 30. While § 29 prohibits the state from imposing unfunded mandates upon Local Governments, § 25 prohibits the State from shifting the tax burden onto Local Governments. When the State imposes mandates upon Local Governments, whether funded or unfunded, it forces Local Governments to choose whether to cut existing services or to raise taxes. This is practice is forbidden under the Michigan Supreme Court's interpretation of the Headlee Amendment in *Schmidt*. *Schmidt*, 490 NW2d at 590. Taking this practice to its logical conclusion, the State could theoretically impose mandates upon Local Governments that require the entirety of their funding.

In *Oakland Cnty*, Oakland County argued that State funding to Local Governments suffers when the state is allowed to use revenue prohibited by the Headlee Amendment framework. *Oakland Cnty*, 443 NW2d at 810-11. As discussed above, State mandates may not be counted in the Constitutional Payments required by art. 9, § 30 because doing so would result in a prohibited

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tax shift analogous to the reasoning regarding state obligations discussed in the previous section and by the Court in *Oakland Cnty*. While the Court of Appeals in *Oakland Cnty* adopted the settlement agreement between the parties and increased the proportion of spending required to be paid to Local Governments from 41.61% to 48.97% to compensate for including the ineligible mental health payments, the appropriate remedy is to exclude ineligible payments from the calculation altogether. Allowing DTMB to classify State mandate payments as aid to Local Governments under § 30 would force Local Governments to either raise taxes, cut services or use unrestricted aid in the same manner posited by the Supreme Court in *Durant*. *Durant*, 381 NW2d at 673 (1985). See also *Oakland Cnty*, 443 NW2d at 810-11.

The drafters' notes accompanying art. 9, § 29 refer back to § 25 emphasizing that the State is prohibited from requiring any new or expanded activities by local governments without full state financing or from shifting the tax burden to local government.[28] Also, the drafters' notes contemplate raising the percentage when the State mandates additional or expanded activities stating that increased § 29 activities would tend to raise the proportion of total state spending paid to local governments.[29] The reference to the tax shift prohibition seeks to ensure that the State cannot force Local Governments to use other money or raise new money in order to make up for the deficit caused by the State mandate. That is precisely what would happen if the State can count spending to fund State mandates in order to satisfy the proportion of spending that must be paid to Local Governments. Allowing the State to count the payments for these mandates, would erode, if not gut, the requirements of art. 9, § 30 and render Local Governments unable to continue to provide the same level of local services in the face of increasing State mandates.

[28] See Exhibit 7, Drafters' Notes, at 8.
[29] *Id*. at 11.

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The State, through DTMB, must be required to recalculate the proportion of state spending that was paid to Local Governments to meet the requirements of art. 9, § 30 for fiscal year 2015-16 and must be maintain compliance in all future years.

VI. RELIEF REQUESTED

Plaintiffs TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL, requests that this Honorable Court enter Judgment against Defendants, for the actions stated in Plaintiffs' Complaint and in this brief, providing:

a. Declaratory relief holding that the Defendants have failed to maintain the proportion of state spending in the form of aid that is paid to Local Governments as required by art. 9, § 25 and § 30;

b. Declaratory relief holding that when Prop. A spending is included in the State's calculations of spending in the form of aid that is paid to Local Governments, constitutes a tax shift prohibited by art. 9, § 25;

c. Declaratory relief holding that the practices of Defendants are an improper tax shift prohibited by art. 9, § 25;

d. Injunctive relief restraining the Defendants from including the prohibited items in their calculations of the proportion of state spending in the form of aid that is paid to Local Governments to meet the requirements of art. 9, § 25 and § 30;

e. For the fiscal year prior to filing of the complaint and for all fiscal years through the date that judgment is entered, mandamus relief directing the State of Michigan to make up shortfalls in the proportion of state spending in the form of aid that is constitutionally required to be paid to units of Local Government that were caused by the identified improper practices;

f. For the fiscal year prior to filing of the complaint and for all fiscal years through the date that judgment is entered, monetary relief directing the State of Michigan to compensate Local Governments for shortfalls in the proportion of state spending in the form of aid that is constitutionally required to be paid to units of Local Government that were caused by the identified improper practices;

g. For attorneys' fees and costs; and

h. For such further relief as is just and equitable.

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Respectfully Submitted,

By: /s/ John C. Philo

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Date: September 7, 2016

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EXHIBIT 1

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RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
STATE BUDGET OFFICE
LANSING

JOHN S. ROBERTS
DIRECTOR

June 13, 2016

Michigan State Senate
c/o Mr. Jeff Cobb, Secretary
State Capitol
Lansing, MI 48909

Michigan House of Representatives
c/o Mr. Gary L. Randall, Clerk
State Capitol
Lansing, MI 48909

Dear Mr. Cobb and Mr. Randall:

This letter transmits the "Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis" for fiscal year 2015, which has been prepared in accordance with Sections 18.1115(5), 18.1303-18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws for the purpose of demonstrating compliance with Article 9, Section 30 of the Michigan Constitution.

The computed percentage of total state spending from state sources paid to local governments for fiscal year 2015 is 55.25%, which is $1.9 billion more than the minimum required.

The statement has been reviewed by the Office of the Auditor General and a copy of their independent accountant's review letter is enclosed.

If you have questions regarding this report, please contact Mr. Michael J. Moody, Director, Office of Financial Management, at 373-1010.

Sincerely,

John S. Roberts
State Budget Director

Enclosure

cc: D. Posthumus, Executive Office
Senate Appropriations Committee
House Appropriations Committee
Ellen Jeffries, Senate Fiscal Agency
Mary Ann Cleary, House Fiscal Agency

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Doug A. Ringler, CPA, CIA
Auditor General

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INDEPENDENT ACCOUNTANT'S REVIEW REPORT

The Honorable Rick Snyder, Governor
Members of the Legislature

We have reviewed the accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis (Statement) of the State of Michigan for the fiscal year ended September 30, 2015. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the accompanying statement as a whole. Accordingly, we do not express such an opinion.

Management is responsible for the preparation and fair presentation of the accompanying Statement in accordance with Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the *Michigan Compiled Laws*, which provide statutory language to implement Article IX, Section 30 of the Michigan Constitution, and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the accompanying Statement.

Our responsibility is to conduct the review in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance that there are no material modifications that should be made to the accompanying Statement. We believe that the results of our procedures provide a reasonable basis for our report.

The accompanying Statement was prepared for the purpose of complying with the *Michigan Compiled Laws* cited above, as discussed in Note 1, and is not intended to be a presentation in conformity with accounting principles generally accepted in the United States of America.

Based on our review, we are not aware of any material modifications that should be made to the accompanying Statement for the fiscal year ended September 30, 2015 in order for it to be in conformity with the basis of accounting described in Note 1.

This report is intended solely for the information and use of the Governor, the Legislature, and the State's management and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Doug Ringler

Doug Ringler
Auditor General
June 7, 2016

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State of Michigan

Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government
Legal Basis

Fiscal Year Ended September 30, 2015

Prepared by

State Budget Office
Office of Financial Management

June 7, 2016

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MICHIGAN
STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT-LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015
(In Millions)

TOTAL STATE SPENDING (Note 2)		
Expenditures and Transfers		
General Fund	$ 33,353.2	
Other Operating Funds	18,867.3	
Nonoperating Funds and Component Units	97.2	
Adjustment to General Fund Expenditures and Transfers	(21.5)	
Total Net Expenditures and Transfers:		$ 52,296.3
Interfund Transfer Deductions (Note 2)		
From General Fund to Other Operating Funds	(140.2)	
From Other Operating Funds to		
General Fund and to Other Operating Funds	(1,060.7)	
Subtotal	(1,200.9)	
Less Interfund Transfer of		
Federal Funds	1.6	
Total Interfund Transfer Deductions:		(1,199.3)
Expenditure Adjustments (Note 3)		
Debt Service	(274.8)	
Refunds (net)	(365.6)	
Accounts Receivable Write-Off	(12.8)	
Total Expenditure Adjustments:		(653.2)
TOTAL STATE SPENDING		50,443.8
NON-STATE FUNDING		
Federal Revenue	(20,728.9)	
Local Revenue	(147.9)	
Private Revenue (Note 4)	(137.0)	
Total Non-State Funding:		(21,013.9)
Budget Stabilization Fund (Note 5)		
Deposits	94.0	
Withdrawals	-	
Total Budget Stabilization Fund Adjustments:		94.0
TOTAL STATE SPENDING FROM STATE SOURCES		$ 29,523.9
STATE SPENDING PAID TO UNITS OF LOCAL GOVERNMENT		$ 16,313.1
PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT (Notes 2 and 6)		55.25%
Excess of actual payments to units of local government over minimum proportion required of 48.97% (Note 6)		$ 1,855.2

The accompanying notes are an intregal part of this financial statement.
Note that column detail may not add to totals because of rounding.
See Independent Accountant's Review Report.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015

NOTE 1 – BASIS OF ACCOUNTING AND PRESENTATION

The accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis is presented in accordance with legal requirements set forth in Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws (MCL). These sections provide statutory language to implement Article 9, Section 30 of the State Constitution. This statement is not intended to be a presentation in accordance with generally accepted accounting principles.

NOTE 2 – STATUTORY DEFINITIONS

The following definitions were used in the preparation of the financial statement:

a. Total State Spending – MCL Section 18.1305(1) defines total State spending as the sum of State operating fund expenditures, not including transfers for financing between funds. Transfers between operating funds continue to be excluded from total State spending, which eliminates the potential for duplicate counting. Transfers from operating funds to nonoperating funds are not excluded, however, and are considered a part of total State spending.

b. State Operating Fund – MCL Section 18.1304(2) defines a State operating fund as a State fund entity established by law to provide direct financial support for services delivered to the public pursuant to the State budget. Prior to fiscal year 2001, the State's operating funds consisted of the General Fund and select special revenue funds. The State's implementation of the Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments, for fiscal year 2001 resulted in some operating funds being reclassified as permanent funds. The State's implementation of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, for fiscal year 2011 resulted in some operating funds being reclassified as capital projects funds. Accordingly, the financial statement includes the General Fund, the permanent funds, and certain special revenue and capital projects funds of the State of Michigan.

   The financial statement also includes nonoperating fund and component unit appropriated administrative expenditures. The expenditures have been included because, during the computation of the base year proportion of total State spending from State sources paid to units of local government, the expenditures were recorded in the General Fund. The inclusion of these expenditures provides for consistency of the current year computation with the base year.

   The financial statement excludes certain General Fund expenditures on the line titled "Adjustment to General Fund Expenditures and Transfers." These expenditures are excluded because, during the computation of the base year, the expenditures were recorded in funds that were not considered operating funds. The exclusion of these expenditures provides for consistency of the current year computation with the base year.

c. Total State Spending From State Sources – MCL Section 18.1305(2) defines total State spending from State sources as the sum of State operating fund expenditures, not including transfers for financing between funds, federal aid, and restricted local and private sources of financing.

d. Unit of Local Government – MCL Section 18.1115(5) defines a unit of local government as a political subdivision of this State, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the State and has the power to act primarily on behalf of that area.

e. State Spending Paid to Units of Local Government – MCL Section 18.1304(3) defines State spending paid to units of local government as the sum of total State spending from State sources paid to a unit of local government. The section further provides that State spending paid to units of local government does not include payments made under a contract agreement for the providing of services to the State or to State property, and loans made by the State to a unit of local government.

   Also included in total State spending paid to units of local government are payments made on behalf of units of local government. Section 18.1350 requires the inclusion of expenditures as payments to units of local government if the expenditures relate to functions performed by the units of local government and the State assumed the financing and administration of the function after December 22, 1978.

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f. Proportion of State Spending From State Sources Paid to Units of Local Government – MCL Section 18.1303(5) defines it as the proportion of total State spending from State sources paid to all units of local government in a fiscal year. This proportion shall be calculated by dividing a fiscal year's State spending from State sources paid to units of local government by total State spending from State sources for the same fiscal period. The proportions as calculated are expressed in terms of percentages.

NOTE 3 – EXPENDITURE ADJUSTMENTS

Debt Service - Revenue dedicated to the repayment of voter approved bonds and loans to school districts authorized under Article 9, Section 16, of the State Constitution is not considered a State source for purposes of the computation of the State revenue limit under Article 9, Section 26, of the State Constitution. Therefore, expenditures recorded for the actual debt service payments are also not considered to be State spending from State sources for this statement.

Refunds – MCL Section 18.1350(2) states that refunds or other repayments of prior year revenues shall not be considered in the determination of total State spending. As such, the following adjustments have been made to total State spending:

a. As explained in more detail in the *State of Michigan Comprehensive Annual Financial Report*, the State accounts for certain income tax credits as expenditures. These expenditures, the most significant of which are related to property taxes, were not considered expenditures in the base year and are, therefore, subtracted in determining total State spending to provide consistency with the base year.

b. Certain individual income and Michigan business tax credits that are not based on actual tax liabilities are added back to State spending by reducing the "refunds" exclusion for other credits. The reason for counting these tax credits as total State spending is that the tax revenues, which finance the tax credit programs, are considered State sources of financing for the purposes of the computation of total State revenue as defined by Article 9, Section 26 of the State Constitution. Because the tax revenue is considered a State source of revenue, the expenditure of the revenue is considered State spending for purposes of this statement.

c. Tax refunds that are recorded in a fiscal year after the tax revenue has been recognized are recorded as expenditures, rather than as revenue reductions. Therefore, these refunds of prior year revenue have been subtracted in order to exclude them from total State spending.

Accounts Receivable Write-offs - Write-offs of prior year accounts receivable are recorded as expenditures. Because the write-off of a prior year accounts receivable is an adjustment to prior year revenue, the amount of such write-offs recorded as an expenditure is subtracted to be appropriately excluded from total State spending.

NOTE 4 – PRIVATE REVENUE

Private revenue has generally been defined for the preparation of this statement as revenue received from nonpublic entities, in which the use is restricted by the entity remitting the revenue or restricted by the State Constitution, statute, or an appropriation act. A statutory definition has not been developed. The largest components of fiscal year 2015 private revenues are hospital contributions ($78.2 million), child support offset collections ($13.9 million), and collections for care of patients, wards, and inmates ($15.4 million).

The child support offset collections are received by the State Disbursement Unit from State and federal tax return offsets. The amounts collected are reimbursements to the State for excess payments made by the Temporary Assistance to Needy Families program. Also, a portion of the collections must be returned to the federal government as a repayment of the federal share of the excess Temporary Assistance to Needy Families payments. The hospital contributions were voluntary contributions received from hospitals and restricted for use to finance increased payments to hospitals with a disproportionate share of indigent clients. The collections for care of patients, wards, and inmates are from the individuals in State custody, their families, or insurance providers to reimburse the State for a portion of the cost of care provided to these individuals.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015 (CONTINUED)

NOTE 5 – BUDGET STABILIZATION FUND ADJUSTMENTS

Deposits to the Counter-Cyclical Budget and Economic Stabilization Fund are added to total State spending. When withdrawals are made from the fund, the withdrawal is subtracted from total State spending, so that the funds previously deposited are not counted as spending twice.

During fiscal year 2015, the fund received a deposit of $94.0 million from the General Fund.

During fiscal year 2014, $194.8 million was transferred to the Michigan Settlement Administration Authority to support the Detroit bankruptcy settlement. The withdrawal will be repaid to the fund in the amount of $17.5 million annually from tobacco settlement funds, beginning in fiscal year 2015. Repayments are not included in deposits to avoid double counting as the funds were added to State spending at the time of their original deposit.

NOTE 6 – BASE YEAR SPENDING PROPORTION

Article 9, Section 30 of the State Constitution requires the State to maintain the proportion of State spending to local units in at least the same proportion as that which was in effect in fiscal year 1979 (base year). The base year proportion was originally computed to be 41.61%.

Effective with fiscal year 1993, a recalculation was made of the base year proportion as a consequence of a settlement agreement reached on the County of Oakland v State of Michigan lawsuit, which was settled in 1991. The recalculated base year proportion is 48.97%.

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EXHIBIT 2

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STATE AND LOCAL REVENUES FOR PUBLIC EDUCATION IN MICHIGAN

SEPTEMBER 2010

REPORT 363

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STATE AND LOCAL REVENUES FOR PUBLIC EDUCATION IN MICHIGAN

SEPTEMBER 2010

REPORT 363

This CRC report was made possible by grants from the W.K. Kellogg Foundation, the Frey Foundation, the PNC Foundation, ArvinMeritor, the Richard C. and Barbara C. Van Dusen Family Fund, and a consortium of education groups including the Tri-County Alliance for Public Education, Michigan Association of School Boards, Metropolitan Detroit Bureau of School Studies, Inc., Michigan Association of School Administrators, Michigan School Business Officials, Middle Cities Education Association, Michigan Association of Intermediate School Administrators, Michigan PTSA, Michigan Association of Secondary School Principals, and the Michigan Elementary and Middle School Principals Association.

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Public K-12 Education in Michigan

Entering 2010, Michigan residents find public primary and secondary education facing numerous challenges:

- State revenues are falling;
- Local revenue growth is stagnating;
- K-12 education service providers are facing escalating cost pressures, with annual growth rates outpacing the projected growth in available resources;
- Spikes in the level of federal education funding resulting from the American Recovery and Reinvestment Act of 2009 (ARRA) will produce a budgetary "cliff" when the additional dollars expire; and
- School district organization and service provision structures are being reviewed with the goals of reducing costs and increasing efficiencies.

Because of the critical importance of education to the state, its economy, and its budget, the Citizens Research Council of Michigan (CRC) plans a long-term project researching education in Michigan with an emphasis on the current governance, funding, and service provision structures and their sustainability.

Because of the breadth of topics and issues touched upon in each of these areas, it was determined that, in some cases, it would be necessary to address each broad issue through multiple reports. Since the topic of education finance is so complex, we have divided the subject matter into three reports.

This report represents the first analysis that will be produced by CRC on school finances in Michigan. This first report focuses primarily on the state and local revenues available to support public education, with particular attention paid to the structure of the financing system and changes to it over time. This report also covers the major factors, economic, political, and demographic, that influence performance of state and local revenues. The discussion of federal funding is reserved for the second education finance report because state and local officials exercise very limited control over the amount and distribution of these funds.

The second report will concentrate on the distribution of state, local, and federal resources among local and intermediate school districts. Considerable attention will be directed at the per-pupil foundation allowance grant, which is responsible for allocating the vast majority of state and local resources among districts, and the key challenges facing this system. This report also will look at the methods and policies for targeting resources to specific subsets of schools and students throughout the state via categorical funding and the changes to this type of funding over time. Finally, the role of federal funding and the related programs will be covered in this report.

A third report will be an in-depth examination of school expenditures, including those growing spending pressures that contribute to fiscal distress at the local level. We will take a close look at the causes and implications of deficits in school districts and the state laws and processes that govern such occurrences.

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Citizens Research Council Education Project

In 2009, CRC was approached by a consortium of education interests and asked to take a comprehensive look at education in Michigan. CRC agreed to do this because of the importance of education to the prosperity of the state, historically and prospectively, and also because of the share of the state budget that education demands. Education is critical to the state and its citizens for many reasons: 1) A successful democracy relies on an educated citizenry. 2) Reeducating workers and preparing students for the global economy are both crucial to transforming Michigan's economy. 3) Education is vital to state and local budgets. 4) Public education represents a government program that many residents directly benefit from, not to mention the indirect benefits associated with living and working with educated people. As with all CRC research, findings and recommendations will flow from objective facts and analyses and will be made publicly available. Funding for this research effort is being provided by the education consortium and some Michigan foundations. CRC is still soliciting funds for this project from the business and foundation communities.

The goal of this comprehensive review of education is to provide the necessary data and expertise to inform the education debate in Lansing and around the state. This is a long-term project that will take much of the focus of CRC in 2010 and into 2011. While an overall project completion date is unknown, CRC plans to approach the project in stages and release reports as they are completed. Topic areas CRC plans to study include education governance, K-12 revenues and school finance, school district spending analyses, public school academies (PSAs) and non-traditional schools, school district service provision and reorganization, and analyses of changes to Michigan's educational system.

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Summary

Financial support for Michigan public elementary and secondary education continues to be a major public policy issue despite the fact that significant resources are dedicated to serving nearly 1.7 million children each year. In state Fiscal Year 2007-2008 (FY2008) Michigan schools received $16.2 billion in state and local revenues for on-going operations. This support equaled 4.6 percent of Michigan personal income in FY2008. Although public education is a priority, there are concerns that it is currently under-funded, and that spending pressures will outpace the resources available each year in the future.

Some of the current concerns about the financial support for education can be better understood in the context of the financing system and its components. Specifically focusing on the financing system's design and the economic, political, and demographic factors affecting it provides valuable insights into the outputs it generates, such as the level of resources in the aggregate or on a per-pupil basis. The structure of the system and its components influences how resources grow year-over-year. Michigan's education financing system is influenced by a variety of factors, most notably the underlying economic bases upon which public revenues (primarily taxes) are derived, demographic changes involving the aging of the Michigan populace, and modifications to state law, specifically tax policy changes. Furthermore, because financing public education is a state responsibility as a result of Proposal A of 1994, these finances have to be understood in the larger context of aggregate state finances.

Most of the recent discussion on the issue of school finance and recommendations for reform focus on the amount of state financial support for education. Central to this discussion is the slowdown in state School Aid Fund revenue growth arising from the transformation of Michigan's economy dating back to the beginning of the last decade. Compounding the effects of the structural changes in the economy was the failure of the Michigan economy to exhibit any sustained rebound from the mild 2000-2001 recession. These factors combined to negatively affect the state's ability to increase support for education throughout much of the last decade, especially in relation to economic activity and prices. Recently, the Great Recession of 2008 decimated state tax revenues from all sources, causing actual year-over-year declines in FY2009 and FY2010. The revenue picture facing Michigan schools beginning in the early 2000s is much different than that immediately following the Proposal A reforms, when the state's economic picture was much brighter.

Looking forward and absent state policy changes, state support for education will be contingent on Michigan's recovery from the Great Recession. Both the strength and duration of a recovery will be factors in determining the level of state resources in the near term. However, future state revenues, regardless of their ultimate level, will face new demands arising from the decline in property values that will drive down property taxes dedicated to schools. Property taxes exhibited considerable stability since the adoption of Proposal A. Any growth in state tax revenues dedicated to schools is likely to be negatively affected by the loss of local revenues, thereby continuing the fiscal pressures of the past into the foreseeable future. Prospectively, and over the longer-term, annual growth potential of education revenues will be contingent on the structural relationships between the tax bases and economic activity in the state. It is expected that demographic, legal, and economic factors will combine to further weaken the relationships in the future. Given the extremely centralized nature of the financing system, only state, and not local, policy makers have the authority to address these weaknesses.

Michigan's Education Revenue Structure: State-Dominated Financing System

The school finance reforms of the mid-1990s ushered in a completely new method for financing public education in Michigan. The most visible and most significant fiscal effect of the school finance reforms was the shift in primary responsibility for funding education. The reforms centralized education revenue-raising responsibility at the state level, accompanied by an increase in level of earmarked revenues for education.

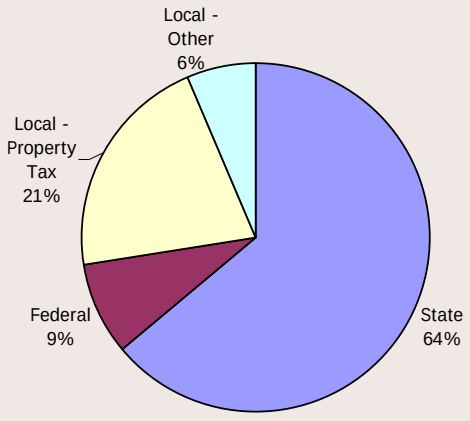
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Centralization had both "direct" and "indirect" aspects. In a direct sense, existing state taxes were increased and new taxes authorized. Revenues from these state tax changes were designed to replace the resources generated by local property taxes following substantial rate reductions. Furthermore, the new system strictly limited "local-option" revenue supplementation. In terms of indirect effects, the reforms created stringent caps on local property tax rates and tax base growth such that the "local" revenues generated by the system are effectively "state" revenues. Taken together, the various aspects of centralization resulted in a school finance system that is entirely state-run in terms of annual operating revenues for schools. Given the practical realities of the current financing system, state-controlled revenues (directly or indirectly) comprise nearly 85 percent of the total operating funding for local schools (**Chart A)**. As a result, state, not local, policy makers control the purse strings of Michigan's local schools.

Proposal A created a real mismatch in terms of crafting annual budgets at the school district level, something that did not exist before Proposal A. State officials effectively control the purse strings, but local school boards and administrators are responsible for setting the spending priorities. During times of expanding budgets, this may not be viewed as problematic; however, in austere times, the fiscal arrangement proves more difficult for achieving required budget balance.

School finance centralization helped achieve specific, long-standing tax policy objectives. Specifically, the tax landscape in the state changed on a number of fronts: 1) property tax burden fell to below the U.S. average; 2) the consumption tax burden increased relative to the national average; and 3) the overall composition of major taxes (property, consumption, and income) became more balanced and more closely mirrored the U.S. average.

Chart A
School Operating Revenues by Source: FY2008



Source: National Public Education Financial Survey

Economic Performance Key Factor

Centralization directly linked education finances to the performance of the Michigan economy, both in terms of the dedicated state taxes (consumption and income) as well as the discretionary resources (General Fund allocation) available to schools each year. Since the adoption of Proposal A, Michigan went from being a state in the top one-third in terms of individual wealth in 1995 to one that is in the bottom fourth of all states today. This significant economic slide has had profound effects on education funding, as well as the finances of other public services.

Economic performance over the past 15 years (1995 through 2009) should be divided into three distinct subperiods and school finances examined accordingly. The first period (1995 through 2000) was characterized by steady and stable economic growth, measured in terms of employment level and the amount of income earned. In contrast, during the second period (2001 through 2008), employment levels declined and annual personal income growth slowed in nominal terms and in some years declined in real terms. Although Michigan was affected by the mild 2001 recession during this period, the fundamental economic problem which directly influenced public education finances centered on the complete transformation of the economic base, led by the auto sector.

The third and most recent period (2009 to present) is marked by a continuation of the job losses and income declines of the previous period, but at an accelerated rate because of the severe national recession that took hold in 2008. The recessionary effects of today have been compounded by the fact that Michigan's economy continues to undergo the final stages of a massive "rebalancing", with a concentrated shift away from its traditional manufacturing base.

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Table A
School Aid Fund Revenue Annualized Growth Rates: FY1997 to FY2009

Revenues	FY1997 to FY2000	FY2001 to FY2008	FY1997 to FY2008	FY2008 to FY2009
State Taxes	6.2%	2.0%	3.1%	-8.6%
Lottery Transfer	1.7%	3.4%	2.1%	-2.2%
General Fund Transfer	4.6%	-31.6%	-18.5%	123.5%
Total State-Source School Aid Fund	5.9%	1.5%	2.7%	-7.8%
Michigan Personal Income	5.6%	2.2%	3.1%	-3.0%
U.S. CPI	2.2%	2.8%	2.7%	-0.3%

Source: Michigan Department of Education; U.S. Dept. of Commerce; U.S. Dept. of Labor; May 2010 Consensus Revenue Estimates adjusted for personal property tax exemptions

On-Going Operating Revenue Performance

From FY1997 to FY2008, total state-source School Aid Fund revenues grew from $8.6 billion to $11.5 billion, an increase of 34 percent, equal to an annualized rate of 2.7 percent. This average growth rate was equal to the annual rate of change in the U.S. Consumer Price Index (CPI) over the same period, but slightly below Michigan personal income growth (3.1 percent per year). Viewed over the entire period, growth of the SAF appears to have fared relatively well; however, this picture changes significantly when the component pieces of the Fund are dissected and the period is broken into three sub-periods corresponding to Michigan' economic performance (See **Table A**).

During the initial years following Proposal A's adoption, state operating revenue growth was strong due to the strength of major tax collections, but per-pupil revenue growth was moderate because of rising student enrollments. Causes of Michigan's weak state education revenue growth from FY2001 to FY2008 include the mild 2001 recession and economic restructuring and, to a lesser extent, tax policy changes that effectively narrowed the bases of major taxes dedicated to funding schools. The tepid growth of the major taxes was not observed in per-pupil funding levels as this period was marked by declining student enrollments. In contrast to the first two sub-periods in which state revenues exhibited some degree of growth, revenues over the current period (FY2009 and FY2010) will decline in response to the Great Recession's impact on the Michigan economy, the first such occurrence since Proposal A. The very severe national recession has established the new "base" level of state funding from which future state revenues will grow.

Annual changes in minor state education taxes have been influenced by a number of factors different from those which affected major tax receipts. Growth of these taxes benefited from a number of tax rate increases and the adoption of new taxes.

At the same time that growth in dedicated tax revenues has been slowing or declining (FY2001 to present), the annual General Fund allocation to schools was pared back and funding responsibility for certain items shifted from the General Fund to the School Aid Fund. The "safety value" previously available to finance schools and provided by the General Fund was effectively shut off as discretionary resources were re-allocated to other areas of the state budget in the annual appropriation process. Today, discretionary state funds do very little to supplement dedicated education revenues. Future General Fund allocations to schools will be tied to the performance of General Fund taxes, the composition of which is different from the state School Aid Fund.

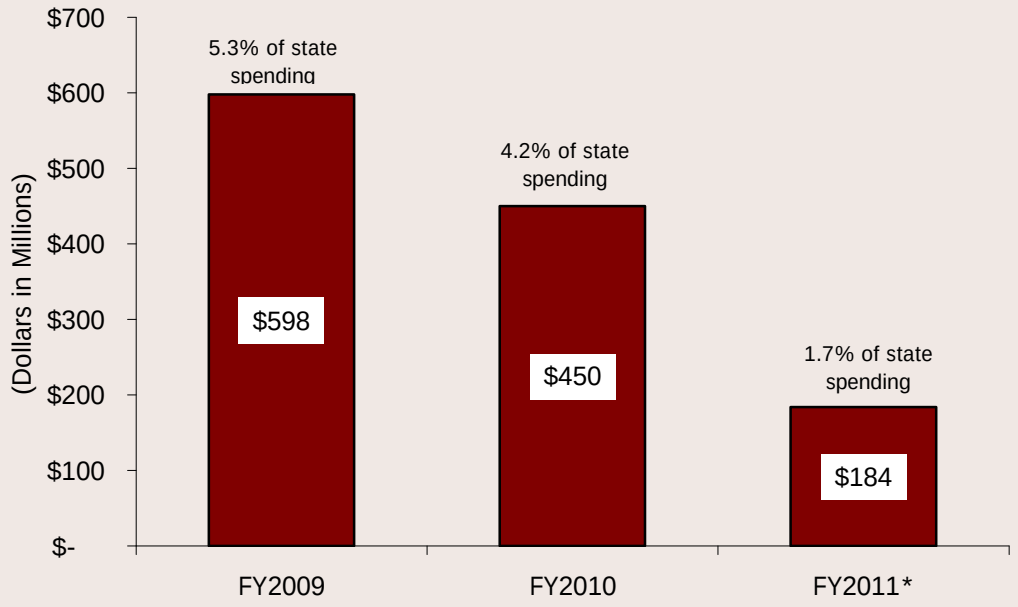
In contrast to the ebbs and flows of state sources over last decade, local operating revenues have exhibited steady growth dating back to 1995. Stability

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was provided by the property tax, which varies little over the business cycle vis-à-vis consumption and income taxes. Until recently, the appreciation in the property tax base was not adversely affected by changes in the Michigan economy; however, the bursting of the housing bubble is affecting property values and property tax growth has stopped. The long-term challenges facing the property tax as a revenue source for schools relates to state tax limitations that will constrain tax base growth during the eventual real estate market recovery.

Chart B
ARRA Funds Used to Achieve SAF Budget Balance: FY2009 through FY2011



* Based on Enacted FY2011 budget (Public 110 of 2010).

Tax revenues, especially those based on economic activity, will always be subject to the ups and downs of the business cycle, but public finance systems can be designed to moderate such volatility through the composition of tax sources. Operational support for Michigan's public schools comes from a balanced mix of major tax sources (consumption, income, and property) with no single source being dominant. Stability is further enhanced through earmarking of state revenues and indexed growth rates for some minor tax sources (i.e., Michigan Business Tax). Michigan's system of state and local school finance exhibits greater revenue stability than the state's General Fund.

Non-recurring Resources Supporting Schools

Schools have not had to deal with the full effects of stagnating and declining state resources because state policy makers have provided substantial amounts of non-recurring resources to maintain education spending levels since FY2001. Initially, accumulated reserves, both School Aid Fund and Rainy Day Fund, were used to augment on-going revenues. Additionally, a one time change involving the collection of the statewide property tax was enacted to increase cash receipts in one year (effectively reducing receipts in the next year). At the local level, districts have been drawing down fund balances to maintain programs and to reduce the level of annual spending cuts in response to state aid performance.

Recently, the state and local operating revenue declines in FY2009 and FY2010 will not be fully reflected in the level of education services delivered. The $934 million (8.2 percent) reduction in state-dedicated funding in FY2009 will be partially offset by the availability of temporary funding provided through the 2009 federal "stimulus" legislation. Significant levels of non-recurring federal monies are being used in FY2009 and FY2010 (**Chart B**). Michigan will be receiving additional federal resources ($318 million), through another new "stimulus" program, to prop up the FY2011 School Aid Fund budget. The fiscal effects of Michigan's heavy reliance on substantial amounts of one-time and temporary

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funding are that they produce revenue "cliffs" in the out-years and perpetuate an imbalance between on-going resources and on-going spending. These resources do nothing to achieve structural balance in Michigan education finances.

Long-Term Fiscal Imbalance

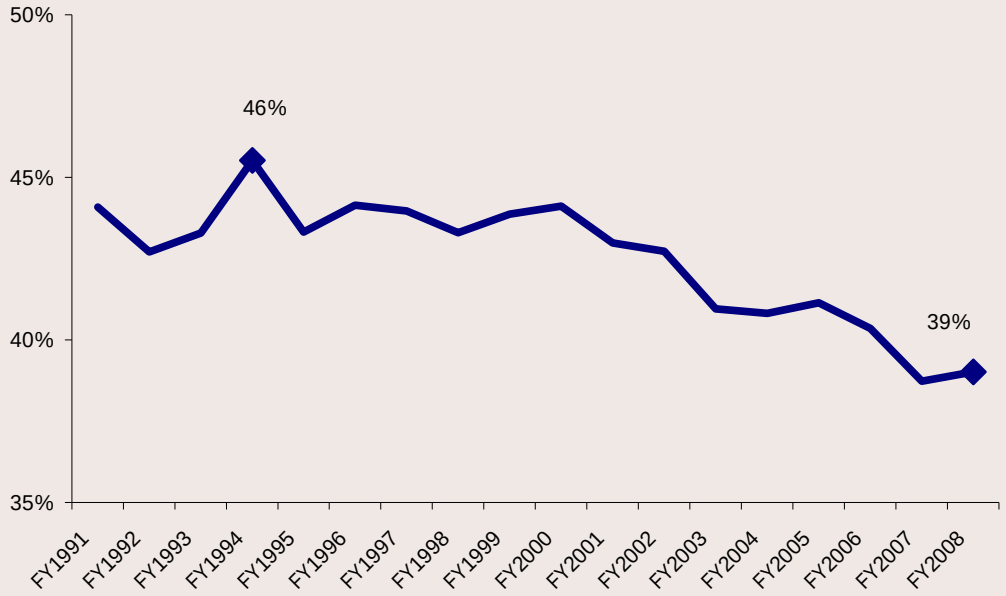
Recent events have focused attention of policy makers and taxpayers on the revenue volatility as it relates to state taxes and funding for public services, particularly public education and the $165 per-pupil reduction that occurred in FY2010. These current events, however, obscure a more fundamental, long-term problem that plagues K-12 education finances in Michigan. Since the early 2000s, the state has failed to come to grips with the dual structural deficits affecting its major operating funds, General Fund and School Aid Fund. Instead of fixing the problems in a permanent, sustainable fashion, the state has relied on a series of "stop gap" measures dating back to FY2001 to achieve budget balance.

CRC's previous efforts to scope and quantify the structural budget deficit facing public education reveals that spending pressures at the local level are expected to grow at a rate of 4.7 percent annually, while operating revenues (based on current tax structure and moderately improving economic climate) are projected to growth 3.0 percent per year. Long-term challenges on both sides of the budget ledger contribute to an estimated 1.7 percentage point difference between spending pressures and available resources (about $400 million annually over the forecast period). Specifically, personnel costs driven primarily by health care spending for current and retired school employees along with wage and salary increases will contribute to the growth on the expenditure side. The expected future growth in school revenues will be influenced by the relationships between the state's economic base and the taxes dedicated to financing, along with tax policies that narrow the base of these taxes.

Enhancing Stability in Education Finances

Emerging from the Great Recession, state policy markers and Michigan citizens should focus their attention on the long-term prospects for school funding. Despite the relative stability of school finances vis-à-vis the state's General Fund, at least in the short-run, long-term growth of the education financing system will not match economic growth because of the current tax structure and projected economic and demographic trends. Individuals are receiving a greater portion of their income from nontaxable sources. Consumers are purchasing an increasing amount of untaxed services in relation to taxed goods and they are avoiding the use tax through Internet and remote purchases (**Chart C**). The state's work-

Chart C
Taxable Sales as Percent of Personal Income: FY1991 to FY2008



Source: State of Michigan, Comprehensive Annual Financial Reports; U.S. Department

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ing-age population is shrinking, while the general population is aging at a faster rate than other states, which will likely reduce tax receipts because older residents have different consumption preferences. Also, older residents receive more of their income from untaxed sources such as pensions and transfer payments (i.e., Social Security).

As the economy continues to transform and if the school finance system remains unchanged, the link between state education revenues and economic activity will continue to weaken. Policy actions will be required to "re-connect" the school funding system with the direction of the Michigan economy if tax receipts are to grow commensurate with broad measures of economic activity. Furthermore, legal provisions superimposed on property taxes (state and local) will accentuate the disconnect between overall education revenue growth and what is taking place in the economy as property tax receipt growth will experience a drag associated with the deterioration of the tax base. Without state revenue restructuring or attempts to address various and inter-connected property tax limitations, the delivery of public education services will have to be re-calibrated to match a revenue system that grows more slowly in the future, because the option to influence overall revenue growth vial the local property tax is extremely restrained.

Repairing the weakened relationships between state education taxes and the economy will enhance the current level of stability in the education finance system. Specific actions to enhance stability will have to focus on the major sources of school funding, both state and local taxes. At the state level, broadening Michigan's consumption tax base to include the growing service sector is likely to enhance revenue stability and preserve the long-term sales tax yield. A broad-based consumption tax would also provide some protection during recessionary periods against wide fluctuations in yields associated with a goods-dominated tax. Re-configuring the sales tax base entails a host of complex issues (i.e., administrative, equity, definitional), including the decision whether a net tax increase or a net tax decrease is a desired end-product.

Changing the projected growth path of the income tax will require modifying the rate structure, deductions, and/or credits. If Michigan were to substitute a graduated income tax for its current flat rate tax, considerable additional growth in revenues could be realized because income growth over much of the last half-century has been concentrated in high income earners.

To modify the projected growth path of the 6-mill State Education Tax coming out of the period of declining tax base would require a statutory change in the tax rate or changes to the Michigan Constitution to alter the modified acquisition value system of property valuation. For local school operating taxes, policy marker will have to confront the complex relationships of Michigan's various property tax limitations. Proposal A did not amend the Headlee Amendment's property tax limitations, nor did it specify how the Headlee Amendment provisions should be applied to the new measure of taxable value and "pop ups" in value (following transfer of ownership). The resulting statutory implementation of these limitations has had a compounding affect creating greater aggregate limitation than either Headlee or Proposal A was designed to achieve individually. One response that would enhance stability would involve redefining the tax base "growth" to exclude "pop ups" to allow the tax base of existing property to grow at a rate that approximates, or slightly exceeds, inflation. Another option would be to provide for the effective exemption of the "required" local school operating millage (18 mills in most cases) from the Headlee tax rate "roll back" provisions.

Finally, some contend that the school finance system's primary failure is the lack of local options to raise operating revenue, separate from the "required" local taxes. One option that could provide additional stability to school finances, at least at the individual local level, would be to allow districts to ask voters for additional millage, subject to a state-determined cap. The current ISD-wide enhancement millage could be eliminated or modified to effect more local choice over the ultimate level of financial resources available to each district annually.

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State and Local Revenues for Public Education in Michigan

Introduction

Public K-12 education in Michigan provides a prime example of the federalist system, complex governance, and intergovernmental finance systems. Despite shared responsibility among levels of government, strong language in the 1963 Michigan Constitution entrusts the state government with ultimate authority over public K-12 education. The Constitution further allocates authority and responsibility among the executive and legislative branches of state government, as well as the constitutionally created state board of education. Although plenary power over educational matters rests with the state government, considerable authority has been delegated to local school districts, especially functions dealing with the delivery of elementary and secondary education services. Financing education is one very important area where authority is highly centralized at the state level, specifically with the legislature, and where there is little local decision-making responsibility. [Note about term "education": Michigan state government finances, via the legislative appropriations process, education services provided at various governmental levels and through many different entities. Hereafter, references to "education" are meant to refer to public K-12 education provided through traditional local and intermediate school districts, as well as public school academies, unless otherwise specified. The term does not include private or parochial education.]

Financial support for public education in Michigan continues to be a major public policy issue, despite the fact that significant resources are dedicated to serving nearly 1.7 million children each year. In state Fiscal Year 2007-2008 (FY2008) Michigan schools received $16.2 billion in state and local revenues for on-going operations.[1] This total does not include $1.5 billion in federal revenues and nearly $1.9 billion in state and local revenues spent on capital projects. State and local revenues supporting education equaled 4.6 percent of Michigan personal income in 2008. Education is a priority, but there are concerns that public education is currently under-funded and that, prospectively, spending pressures will outpace the resources available each year. There is further concern that state and local resources are distributed inequitably among Michigan school children.

Some of the current concerns about financial support for education can be better understood in the context of the financing system and its components. Focusing on the system's design and the economic, political, and demographic factors affecting it, provides valuable insights into the outputs it generates, such as the level of resources in the aggregate or on a per-pupil basis. These outputs, however, do not directly translate into specific educational outcomes. Michigan's education financing system is influenced by a variety of factors, most notably the underlying economic bases upon which public revenues (primarily taxes) are derived, demographic changes, and modifications to state law. Because of the predominant role played by state government, Michigan's education finances also have to be understood in the larger context of aggregate state finances.

Prior to the approval of Proposal A in March 1994, the responsibility for funding schools and the decisions regarding annual resource levels were the province of local officials and residents. Not surprisingly, in this environment, the experiences of Michigan's 550-plus districts varied widely. Two areas where inter-district differences were most stark were: 1) per-pupil revenue levels and 2) local property tax effort. Largely as a consequence of the growing disparities in these two areas, voters were asked nearly a dozen times over the 20-year period preceding Proposal A to amend Michigan's Constitution to address some aspect of the school finance system. Each time, change was rejected.

Unlike previous attempts at reform, the changes brought about by Proposal A represented a transformational, as opposed to a marginal, shift in the way school revenues were raised and how these revenues were distributed to local districts. The constitutional and statutory changes enacted in 1993 and early-1994 revamped Michigan's school finance

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system by destroying the old one and ushering in a completely new one. The seismic nature of the reforms meant that elected officials in Lansing and in local communities, along with school officials and citizens, had little experience with the operations of such a system. Thus, in a real sense, the new financing system was an experiment.

Today, the financing for Michigan's education system is extremely centralized at the state level. Resource availability, both in terms of local and state revenues, is governed largely by decisions rendered in Lansing. At the same time that budgetary resource decisions are set centrally, nearly all spending determinations remain at the local level with a couple of noteworthy exceptions (e.g., retirement benefits funding). For many local school districts, operating under such a system has posed challenges in recent years. Such a "command and control" finance system leaves few options available for raising additional revenues, regardless of local preferences for education services. In this sense, today's system stands in marked contrast to that which existed prior to the 1994-95 school year.

Most of the recent discussion on school finance and recommendations for change focuses on the level of state financial support for education. Central to this discussion is the slowdown in state School Aid Fund revenue growth due to the nearly decade-long recession Michigan has experienced. Michigan's budget problems began with the mild 2000-2001 recession from which the state economy never fully recovered, and the transformation of Michigan's manufacturing-dependent economic base, which accelerated during the 2000s. These factors materially affected major tax revenue growth, especially in comparison to the experience of the 1990s. The changes in state revenue growth, combined with tax policy changes enacted during the late-1990s and early-2000s, negatively affected the state's ability to increase support for education throughout the decade. Recently, the Great Recession decimated state tax revenues from all sources, including those dedicated to the School Aid Fund. The revenue picture facing Michigan schools over the last ten fiscal years is much different than the picture immediately following the Proposal A reforms.

Looking forward and absent state policy changes, state support for education will be contingent on Michigan's recovery from the Great Recession. Both the strength and duration of a recovery will be factors in determining the level of state resources in the near term. Future revenues will continue to be affected by the decline in property values and the contraction of the tax base. The mechanics of the foundation allowance program will put additional strain on state resources to make up for lost property tax revenues at the local level in order to avoid future per-pupil funding reductions. Given the current system's limits on local districts' ability to raise local property tax rates for operations, greater significance is placed on state revenue performance going forward.

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Current Financing System: Historical and Descriptive

The origins of the current education financing system date back to before the enactment of a series of reforms in 1993 and 1994 and have as their roots a number of failed attempts at finance reform throughout the 1970s and 1980s and stretching into the early 1990s. While pieces of today's school financing system resemble components espoused in earlier attempts at school finance reform, the current system is unique in its content and scope. And while the origins of today's education finance system can be traced to a long history of contemplated constitutional and statutory changes, the most significant event in the history of the current system dates back to a single legislative action that occurred in 1993.

The origins of the current education financing system date back to before the enactment of a series of reforms in 1993 and 1994 and have as their roots a number of failed attempts at finance reform throughout the 1970s and 1980s and stretching into the early 1990s.

Michigan's most dramatic step toward education finance reform occurred in the summer of 1993 with the elimination of the property tax as the primary revenue source for funding local school operations. This bold step was taken without an alternative funding mechanism identified to replace the lost revenue. Furthermore, Senate Bill 1 of 1993 (PA 145) did not embrace any other issue related to the concerns surrounding Michigan's school finance system at the time, i.e., issues dealing with property tax base growth, assessments, etc. Despite its limited scope, the complete elimination of the main source of school operating revenues effective for FY1995 was enough to spur five months of in-depth deliberations that would eventually break the 20-year impasse on school finance reform. By the end of the 1993 calendar year, the Michigan Legislature had completed work on a new school funding allocation method, abandoning the power-equalization system for a per-pupil foundation system. The only unresolved piece of the reform picture was how to finance the new system. This question was left to the Michigan electorate to decide in the spring of 1994 at a special statewide election. Michigan voters opted for a plan to increase the sales tax and other minor taxes over an alternative statutory plan that was based on an increase in the individual income tax rate and single business tax rate.

Elimination of the Property Tax and the New Revenue Structure

Public Act 145 eliminated all property taxes for local school operating purposes effective with the 1994 calendar year and the 1994-95 school year (state FY1995). The Act exempted all property from local and intermediate school district (ISD) operating millages, but did not affect debt and building and site millages. Further, community college millages were specifically excluded from the exemption. The legislation made no provision for the replacement of the lost revenue, estimated to total $6.9 billion in 1994 for all units of local government affected (See **Table 1**).

The elimination of the local property tax for school operations resulted in substantial property tax re-

Table 1
Property Tax Reduction under PA 145 of 1993
(Dollars in Millions)

School districts:	
Local K-12	($6,020)
ISDs	(510)
Fiscal impact of assessment freeze	(128)
Tax abatements and tax increment financing	(180)
Property tax administrative fees	(39)
Total property tax reduction	($6,877)

Source: Michigan Department of Treasury

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lief. The average statewide property tax rate (all levies) in 1993 was 56.64 mills and the average school operating millage rate (33.91 mills) constituted 67 percent of this total figure. The highest school operating millage was 45.67 mills and the lowest 7.8 mills. Fifty-three districts (10 percent of the total) had rates of 40 mills or higher and 257 districts (49 percent) levied millages at or above the statewide average tax rate. From a tax rate perspective alone, PA 145 resulted in a monumental property tax rate cut.

As a result of the property tax elimination, local school districts lost an estimated $6 billion and ISDs lost $510 million. It is estimated that the property tax accounted for nearly two-thirds of the total $10 billion in combined state and local support for local district and ISD operations in FY1994.

The option to increase state taxes to fully replace the lost locally derived revenues faced legal, political, and administrative constraints. Of particular note was the state revenue limit of Article IX, Section 26 of the 1963 Constitution.

The repeal of the local property tax as the primary funding mechanism for public education raised a number of questions. Chief among these was the question of how the revenues would be replaced. A number of previous attempts at school finance reform over the preceding 20-year period aimed to replace a portion of the property tax with an increase in a state tax, most often the sales tax. Given the sizeable loss of local revenue brought about by PA 145 ($6.9 billion), it would have been impossible to achieve even partial replacement without heavy reliance on one or more of the four major state taxes in effect at the time: single business, individual income, sales and/or use. Another option would have been the creation of new tax, such as a statewide property tax.

The option to increase state taxes to fully replace the lost locally derived revenues faced legal, political, and administrative constraints. Of particular note was the state revenue limit of Article IX, Section 26 of the 1963 Constitution, which limits the amount of state revenue that can be collected in any state fiscal year to a set percentage of state personal income. Michigan was nearly $3.2 billion below the state revenue limit in FY1993, the last full year prior to the reforms, however, this was far short of the needed amount to fully replace the $6.9 billion in lost local property tax resources.[2] Given this legal constraint, the legislature needed to rely, to some degree, on a local tax source to secure full replacement of the lost local property tax revenue. Further, because of the limited revenue options available to local school districts and the use of the property tax in the past, some type of local property tax was going to be part of the final revenue picture for schools.

Adjusting the Revenue Limit to Accommodate the Shift in Education Funding

In addition to establishing a state revenue limit and describing the mechanics of the limit, Section 26 of Article IX also provides for the adjustment of the limit if programs are transferred from one level of government to another. Such a transfer has to occur as a result of a constitutional amendment and the total amount of state and local revenue collected after the change cannot exceed the amount that would have been authorized without such a change. In other words, an increase in state revenues has to be accompanied by an equal or greater reduction in local revenues. The inclusion of this provision in Section 26 recognized the fact that responsibility for the provision of public services can change over time.

The major shift in financing public education services from the local level to the state level contained in both the statutory and constitutional plans of the mid 1990s could have triggered an adjustment to the Section 26 revenue limit. The school finance reform proposals did not broach the topic of adjusting the Section 26 revenue limit; therefore, the issue of replacement revenues resulting from PA 145 was constrained by the existing state revenue limit.

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Another constraint on revenue replacement was the constitutional limitation on the maximum state sales tax rate. Article IX, Section 8 of the Michigan Constitution prohibited the legislature from imposing a sales tax of more than four percent. In order for the legislature to be able to raise the sales tax rate, voter approval was needed.

The Michigan Legislature responded to the passage of PA 145 on two distinct fronts. First, it engaged in an effort to redesign the mechanism for distributing education funding. A primary goal of this effort was to address the per-pupil financial disparities that existed under the pre-1993 funding model. There was a general consensus that this objective could be achieved through centralizing, at the state level, the system for determining annual per-pupil revenue amounts. This would require the abandonment of the power-equalization method in favor of a per-pupil foundation grant. The Legislature completed its work on the new per-pupil foundation program in late December and the Governor signed the package of bills on December 31, 1993.

Proposal A established the first-ever per-pupil revenue floor for schools in Michigan, beginning in FY1996. The FY1996 per-pupil funding floor was set equal to each local district's combined state and local per-pupil operating revenue in FY1995.

The second area of legislative debate following passage of PA 145 dealt with financing the new system. During the months that followed adoption of PA 145, the Legislature developed two revenue replacement proposals. The main component of the first plan involved amending the Michigan Constitution to raise the sales and use tax rates from four to six percent. The backup statutory plan relied on a combination of increased income and single business tax revenues. Both plans shared similarities, but also exhibited key differences. In March 1994, voters were asked how they preferred to pay for the new school funding model developed by the Michigan Legislature. The two choices presented to the voters did not allow for a continuation of the existing system, something previous attempts had provided for and which voters opted for every time.

At a statewide special election held on March 15, 1994, Michigan voters approved the ballot proposal (Proposal A) and its method for funding schools going forward. Proposal A amended a number of sections of the 1963 Michigan Constitution related to financing public elementary and secondary education:

- Allowed school operating taxes to be imposed on a non-uniform basis as to rate, allowing owner occupied homes to be taxed at a lower rate (Article IX, Section 3).
- Limited assessment increases on individual parcels of existing property to the lesser of five percent or the rate of inflation beginning in 1995 (Article IX, Section 3).
- Increased the state sales tax rate from four to six percent, beginning May 1, 1994, and dedicated the additional revenue to the School Aid Fund (Article IX, Section 10).
- Guaranteed that each local school district, beginning in FY1996 and thereafter, would receive at least as much combined state and local operating revenue per pupil as it did in FY1995 (Article IX, Section 11).
- Required a three-fourths vote of the legislature to increase school operating tax rates above those in effect on February 1, 1994 (Article IX, Section 3).[3]

Proposal A established the first-ever per-pupil revenue floor for schools in Michigan, beginning in FY1996. The FY1996 per-pupil funding floor was set equal to each local district's combined state and local per-pupil operating revenue in FY1995. Under the new language, the new per-pupil funding floor does not apply to any district in any year in which the district levies a school operating millage rate less than it levied in 1994. The Constitution did not prescribe the method for funding the new per-pupil floor as this was detailed in the statutory changes that accompanied the ballot proposal.

Proposal A also added a new vote threshold to increase school operating taxes (Article IX, Section 3). This new language requires a super-majority (three-fourths) approval of the members of both the Michigan Senate and House of Representative to pass a

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law that increases operating taxes above the level in existence on February 1, 1994. Previously, the Michigan Constitution did not contain any special provision regarding the passage of laws related to school operating taxes.

The approval of Proposal A triggered numerous changes in state tax law to supplement the constitutional increase in the sales taxes used to finance the new education funding system. Changes affected both the local district contribution and the state aid payment portion of the new foundation allowance. These changes are summarized in **Table 2**.

The new legislation enacted subsequent to Proposal A's passage restored a portion of the local operating property tax for local school districts, but at a significantly reduced level. Additionally, property taxes for operating purposes were levied at the state level for the first time. The new state property tax (State Education Tax) took effect in 1994, was levied at the rate of 6 mills, and applied to all property classes.

The Michigan Legislature fully restored the three types of operating taxes used to finance intermediate school districts (general operating, vocational-technical education, and special education); however, statutory caps were placed on the maximum tax rate for each type of tax, subject to local voter approval.

The local property tax also took effect in 1994 with the base limited to property classified as business, including rental housing, and second homes. The rate of the new "non-homestead" tax was capped at 18 mills or the rate in effect in 1993, whichever was less. The proceeds from the local property tax were retained locally and used as the first dollars toward funding the new per-pupil foundation allowance. In addition to these primary operating taxes, state law allowed some higher-spending school districts to levy additional mills, known as "hold-harmless" mills, to maintain their higher level of spending. The only supplemental local operating tax available to all districts was a three-mill enhancement tax. Authoriza-

Table 2
Statutory Tax Changes of School Finance Reforms

	Pre-Proposal A	Post-Proposal A
New Taxes		
State Education Tax (property)	None	6 mills on all property
State Real Estate Transfer Tax	None	2 percent**
Other Tobacco Products Tax	None	16 percent of wholesale price
Tax Rate Changes		
Local property tax	8 - 40 mills (varied by district)	18 mills on non-homestead property*
Individual Income Tax	4.6 percent	4.4 percent
Use Tax	4 percent	6 percent
Cigarette Tax	25 cents per pack	75 cents per pack
Tax Base Changes		
Use Tax – interstate phone calls	None	Included

Notes:

* Or the rate levied in 1993, whichever is less

** Public Act 330 of 1993 created the new tax and established the rate of $10 per $500 (two percent) of value of property transferred; however, before it took effect, the rate was changed to $3.75 per $500 (0.75 percent) of the property value under PA 3 of 1994.

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tion for districts to levy this millage expired after 1996 and was replaced by a three-mill regional property tax levied at the intermediate school district level.

Proceeds from other state taxes were dedicated to the School Aid Fund. A new state-level Real Estate Transfer Tax (rate of 0.75 percent of the value of property) was created. [Note: This new tax accompanied an existing county-level real estate transfer tax, levied at 0.11 percent of the value of property.] The use tax rate was increased by two percentage points to 6 percent to complement the constitutional sales tax rate increase included in Proposal A. The use tax base was also expanded to include certain interstate phone calls. A tax on non-cigarette tobacco products was enacted at a rate of 16 percent of the wholesale prices. The cigarette tax was increased by 50 cents per pack (to a total of 75 cents per pack). Finally, the personal income tax rate was reduced on May 1, 1994, at the same time that the sales and use tax rates increased to 6 percent. Beginning October 1, 1994, 14.4 percent of the gross personal income tax collections were deposited in the School Aid Fund.

Michigan's school finance reforms changed the fiscal and tax landscape on a number of fronts. As a result of the property tax cuts, Michigan's property tax burden fell to below the U.S. average.

Impacts of Michigan's New Education Revenue Structure

Michigan's school finance reforms changed the fiscal and tax landscape on a number of fronts. As a result of the property tax cuts, Michigan's property tax burden fell to below the U.S. average. The sales tax burden increased relative to the national average and the overall composition of major taxes became more balanced. Changing the mix of state and local taxes also caused the financing system to be more centralized with a greater degree of state tax earmarking. Some of these changes were most pronounced immediately following the reforms and are still visible today, such as the high degree of funding centralization at the state government level. Other effects of the changes, such as the overall tax composition in the state, have slowly faded as a result of other tax policy changes and economic activity that has occurred over the years.

Property Tax Burden and Tax Composition

A specific goal of the school finance reforms was to reduce the reliance on property taxation to finance elementary and secondary education. Over the 20-plus years prior to Proposal A, a general consensus had developed that property taxes in Michigan were unduly burdensome. Although its total elimination as a funding source for schools, as contemplated under PA 145 of 1993, did not materialize, property taxes were reduced substantially as a result of school finance reform. The shift from the local property tax to the state sales tax helped achieve this objective without decimating the aggregate funding for schools.

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Table 3
Statewide Ad Valorem Property Tax Rates and Levies: Pre- and Post-Proposal A

	1993			1995		
	Rate (mills)	Levy (millions)	Percent of Total	Rate (mills)	Levy (millions)	Percent of Total
Counties	6.22	$ 1,042.3	11.0%	6.28	$ 1,143.5	16.1%
Townships	3.36	283.4	3.0%	3.68	344.6	4.9%
Cities	15.45	1,288.0	13.6%	15.95	1,411.5	19.9%
Villages	11.94	50.7	0.5%	12.34	56.8	0.8%
Schools						
Operating	*33.91*	*6,381.3*	*67.2%*	*9.26*	*2,477.4*	*35.0%*
Debt and Site	*2.54*	*454.8*	*4.8%*	*3.03*	*554.5*	*7.8%*
ISD/Community College	*4.3*	*		*4.36*	*	
State Education Tax	*0*			*6.0*	*1,092.8*	*15.4%*
Subtotal	*40.75*			*22.65*		
Total	56.64	$ 9,500.5	100%	38.88	$ 7,081.1	100%

* ISD/Community College levy totals included in operating and debt totals.

Sources: State Tax Commission, Ad Valorem Property Tax Levy Report. Michigan Department of Treasury, Property Tax Report, 2007.

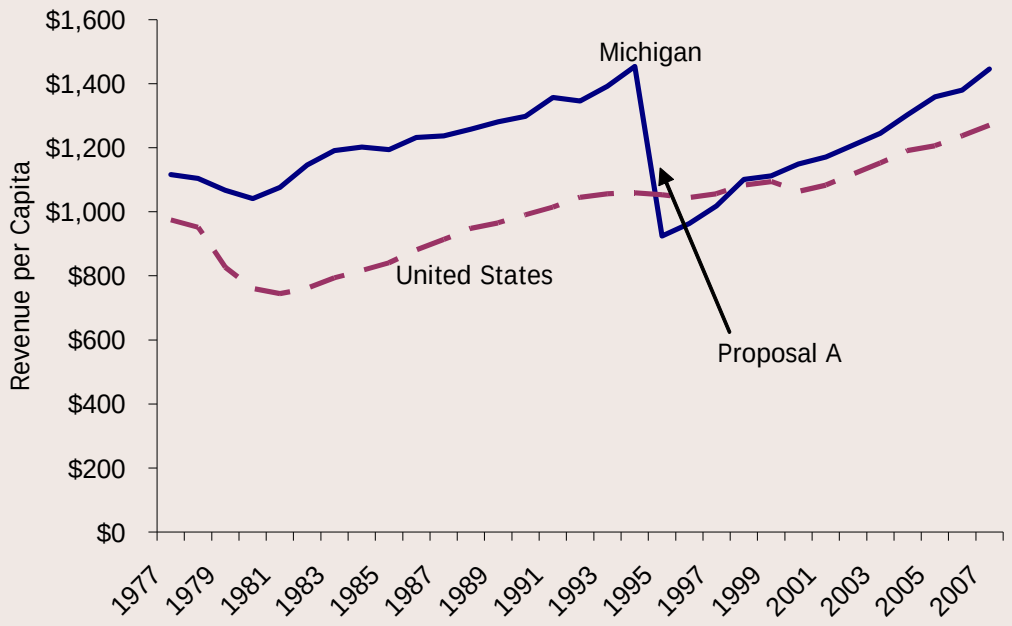
The overall reduction in Michigan property taxes is clearly seen in the comparison of statewide average tax rates and tax levies, immediately prior to and following Proposal A (See **Table 3**). The average total millage rate fell nearly 18 mills. The statewide average school operating millage rate fell from almost 34 mills in 1993 to just over 15 mills in 1995 (including the 6-mill State Education Tax), a 56 percent reduction. The amount of school operating taxes paid by Michigan property taxpayers, individuals and businesses, declined by $2.8 billion, from $6.4 billion in 1993 to $3.6 billion (including SET receipts) in 1995. The reduction also changed the composition of the overall property tax burden in Michigan. Previously, school operating taxes accounted for over two-thirds of the total property tax levy. Following the reforms, school operating property taxes (including the SET) made up one-half of the total.

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Chart 1
Real State and Local Property Tax Revenue Per Capita
Michigan and U.S. Average



Source: U.S. Census Bureau

Chart 1 illustrates the change in Michigan's property tax burden relative to the U.S. average over the years. The effect of Proposal A is evidenced in the steep decline that occurred from 1994 to 1995. On a per-capita basis, Michigan residents were paying property taxes 37 percent higher than the U.S. average in 1994. In 1995, Michigan dipped to 12 percent below the national average. Since that time, Michigan's per-capita property tax burden has grown faster than the national average and now it is above the national figure (about 14 percent); though the difference is less than in 1994.

The chart also shows the disparate growth rates between Michigan and the U.S. as a whole, which were not materially affected by the Proposal A changes. Michigan's higher growth rate, both pre- and post-Proposal A, is a function of two factors. Michigan local governments are almost entirely dependent on property taxes for their own-source revenues. Where other states authorize their local governments to levy local-option sales, income, motor fuel, or payroll taxes, local governments in Michigan rely on state aid and property taxes. This is because these other taxes are prohibited or local governments have opted against using them. For example, only 22 cities have elected to impose a municipal income tax. Given the lack of revenue options for local government in Michigan, property taxes are the main source of revenue for cities, villages, townships, counties, K-12 schools, community colleges, and those special districts with taxing authority. Second, the Michigan assessment system endeavors to produce assessments that reflect current market value. Some states allow several years to pass between reassessments, resulting in slower growth of their property tax base.

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The shift from the property tax to general sales tax as the major financing mechanism for education changed Michigan's overall tax composition. Tax composition, or tax reliance, refers to relative shares of each major tax type (e.g., property, sales, income, etc.). Because different levels of government have different responsibilities for funding public services in each state, both state and local tax data must be included in comparisons of tax composition. Failure to examine both state and local taxes can skew inter-state comparisons of tax reliance. A state's tax composition provides insight into the basic method and relative weight given to each major tax type. Michigan's relatively high property tax burden compared to other states prior to the school finance reforms was reflected in its tax composition at the time. Compared to the U.S. average, Michigan relied more heavily on property taxes and less on general (not selective such as motor fuel, tobacco, and alcohol) sales taxes to finance government services at the state and local level (See **Table 4**). After implementation of the school finance reforms in Michigan, property taxes constituted a smaller share of the total tax picture and the portion attributable to general sales taxes increased. Also, Michigan's overall tax composition more closely resembled the U.S. average figures. Since that time, however, the property tax burden has increased.

After implementation of the school finance reforms in Michigan, property taxes constituted a smaller share of the total tax picture and the portion attributable to general sales taxes increased. Also, Michigan's overall tax composition more closely resembled the U.S. average figures.

Table 4
State and Local Tax Composition, U.S. Average and Michigan

	1992		1997		2008	
	U.S.	Michigan	U.S.	Michigan	U.S	Michigan
Property Taxes	32%	44%	29%	29%	31%	38%
General Sales Taxes	24%	18%	25%	27%	23%	22%
Income Taxes	25%	26%	27%	32%	27%	25%
Other Taxes	19%	12%	19%	12%	19%	16%

Source: U.S. Census Bureau, State and Local Government Finances.

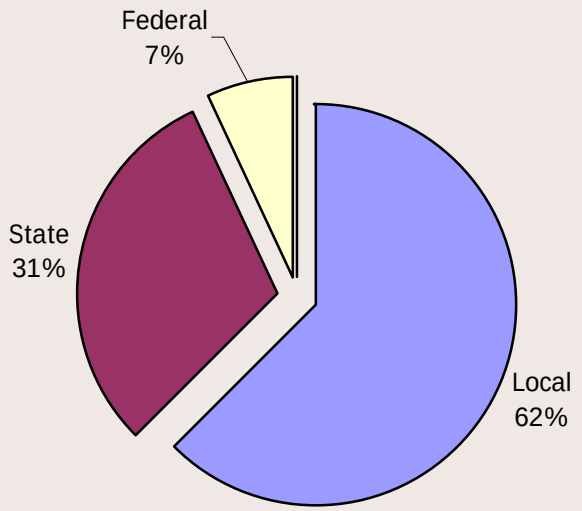
Notes:
1) "general sales " does not include "selective sales taxes", such as motor fuel, tobacco, alcohol , these are included in the "other" category.
2) "income" includes both "individual" as well as "corporate" income taxes as defined by the U.S. Census.

Numbers do not add because of rounding.

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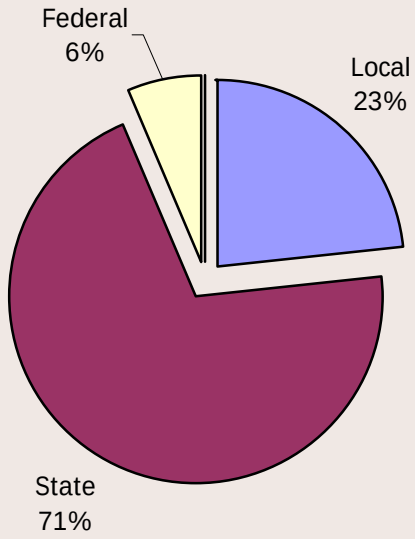
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Chart 2
Operating Revenues by Source: FY1994



Source: National Public Education Financial Survey

Chart 3
Operating Revenues by Source: FY1995



Source: National Public Education Financial Survey

Centralized Revenue System

The school finance reforms centralized education revenue-raising responsibility at the state level, effectively eliminating a balkanized system at the local government level. This shift is clearly visible in the shares of total operating revenues by source supporting public education services in Michigan before and after the reforms (See **Charts 2** and **3**).[4] In the years leading up to the reforms the education finance system had been criticized on a number of fronts; however, its fragmentation became a clear rallying point for public displeasure when a district was forced to close early in 1993 because of its failure to garner public support for increased local property taxes to fund operations.[5]

State government's expanded role in education financing was accompanied by an increase in the portion of state revenues specifically earmarked for education and deposited in the School Aid Fund (SAF). Following the adoption of the reforms, the composition of the SAF changed dramatically as a result of new constitutional and statutory tax revenue earmarking provisions. Prior to the reforms, earmarked taxes (both constitutional and statutory) comprised slightly more than two-thirds of the total state-generated revenue going to the SAF in FY1993, with the remainder (about one-third) coming from the discretionary General Fund allocation, which were subject to the demands of the broader state budget. Following the reforms and after implementation of the increased income tax earmarking, the SAF was almost entirely comprised of dedicated state revenues and the General Fund played a much smaller role in percentage terms.

While the effects of centralization on the entire (statewide) financing system are clear from the percentage shares of each operating revenue source before and after the reforms, centralization also affected the relationship between state and local revenues received at the individual district level. This can be seen in the functioning of the per-pupil foundation grant. The grant amount for each district each year was determined at the state level (either by statute or legislative decision) and this amount was guaranteed, regardless of the performance of the school operating property at the local district level. State aid was provided to make up the difference between

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the per-pupil grant amount and the per-pupil operating tax revenues generated by the 18 mills.

Less clearly visible in the "state" and "local" revenue breakout immediately after Proposal A is the fact that the new school finance system subjected "local" property tax revenues to strict controls. Given these controls, the "local" property taxes, especially the 18-mill non-homestead tax, were effectively state-level taxes. Existing constitutional limits on property tax growth were added to by both constitutional and statutory changes that accompanied the new school financing system. The new tax limitations pertain to both the rate and base components of the local property taxes authorized for school operations. Further, the new system provided little opportunity for local voters to supplement funding derived through the per-pupil foundation grant (i.e., combination of state aid and the "required" non-homestead local property taxes.)

State limitations capped the maximum rate of the local operating tax for local schools at 18 mills for most districts. For intermediate school districts, the rates of the three property taxes used to support programming and services (i.e., general operating, special education, and vocational-technical education) were subject to separate caps based on the rates levied before Proposal A (i.e., 1.5 or 1.75 times the 1993 rate, depending on the specific tax). While local and intermediate school district property tax rates were capped as to their maximum level, they were subject to the "Headlee" tax rate rollback provisions of the Michigan Constitution contained in Article IX, Section 31.[6] Subjecting these taxes to this constitutional provision meant that the maximum rates, after being initially approved by the local voters, were not guaranteed indefinitely. Instead, tax rates could be reduced based on tax base growth and remain at their lower level until voters approved an "override" vote of the previous tax rate rollback. For local districts, adding to the sense of centralization is the fact that, under the foundation program, it is assumed that the full 18-mill tax is being levied and state aid funding is distributed on this assumption; however, in many cases, a portion of these mills have been rolled back pursuant to state law. Thus, while the state sets the per-pupil funding level and the required tax effort to achieve this funding amount each year, state law effectively prevents local districts from receiving their full foundation amount when tax rates have been reduced and the state does not make up for the previous rate rollbacks.

> Taken together, the direct (e.g., shift from local to state revenues) and indirect (e.g., new tax limitations and limited opportunity to supplement) effects of centralization resulted in a school finance system that, for all intents and purposes, is best characterized as almost entirely state-run in terms of the level of operating revenues available each year.

Existing and new tax base growth limitations contributed to the level of centralization in the new school finance system. Constitutional tax base growth limitations at the unit-wide level, already in place as a result of the Headlee amendment, were added to by Proposal A's tax base growth cap at the individual parcel level. Proposal A instituted a per-parcel growth limitation, which effectively controlled the growth potential of the tax base at the local level.

Proposal A permitted very little supplementation of existing resources with other operating taxes, which added to the amount of centralization present in the system. Only traditionally high-spending local districts were able to levy "hold harmless" millages to maintain the above-average per-pupil resource levels; however, these millages were strictly controlled by state law. During a brief transition period (tax years 1994 to 1996), all local schools were able to levy "enhancement" millages at the district level, with the proceeds of such a tax retained entirely by the district. This tax was replaced by a regional tax (intermediate school district), beginning in tax year 1997, that involved tax base sharing among districts and required tax revenues to be shared equally on a per-pupil basis. Under both "enhancement" millage authorizations (pre- and post-1997), the maximum rate was capped in state law at three mills, thus limiting the potential level of revenue supplementation. Intermediate school districts were not provided with any additional source options to supplement existing resources following the Proposal

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A reforms, but they were provided additional room to raise tax rates above those in effect in 1993 for all three existing sources.

Taken together, the direct (e.g., shift from local to state revenues) and indirect (e.g., new tax limitations and limited opportunity to supplement) effects of centralization resulted in a school finance system that, for all intents and purposes, is best characterized as almost entirely state-run in terms of the level of operating revenues available each year. This centralization is apparent both when operating revenues are viewed in the aggregate at the statewide level and when they are examined at the individual district level. Despite the fact that "local" property taxes are levied, collected, and retained by individual districts, the amount of these resources is controlled by tax base and tax rate limitations established in the Michigan Constitution and contained in state law. As a result, the "local" resources under the current funding mechanism could be described more accurately as "state-controlled" revenues. When these "local" school operating property taxes are considered to be outside of the control of local officials, the breakout of "state" and "local" operating funding is much different – state-controlled revenues (directly or indirectly) comprise nearly 85 percent and local revenues comprise only six percent (**Chart 4**).

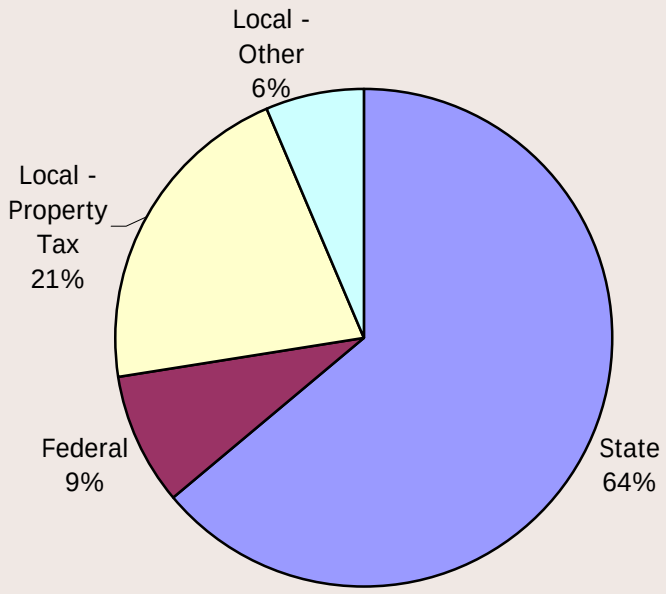
Adding to centralization, or at least the perception thereof, is the constitutional requirement that any law to increase school operating property taxes must be approved by three-fourths of each chamber of the Michigan Legislature. Proposal A did not define the term "school district operating taxes" and neither the legislature nor the courts have attempted to do so since the requirement was added to the Michigan Constitution.[7] Therefore, while the legislature can authorize an increase in the maximum tax rates for local and intermediate districts, doing so requires a super-majority vote which is more difficult to achieve.

State Revenue Limit

Shifting responsibility to the state level for education funding caused Michigan to approach, and slightly exceed, the constitutional state revenue limit in the years following Proposal A. Prior to the school finance reforms in FY1993, Michigan was $3.2 billion, or 19 percent, below the limit contained in Article IX, Section 26 of the 1963 Constitution. As noted above, there was no effort to modify the limit, as allowed under the provisions of Section 26, to accommodate the new financing system for K-12 education. The entire $3.2 billion gap between actual and allowable state revenues was eliminated with the increase in the various state taxes to fund schools.

In the first full year operating under Proposal A (FY1995), Michigan exceeded the limit by $110 million, or about 0.5 percent, the first time that the cap had been surpassed since the provision was added to the constitution in 1978. In the mid-1980s, the state approached the limit but never exceeded it.

Chart 4
School Operating Revenues by Source: FY2008



Source: National Public Education Financial Survey

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The fact that the revenue cap was reached is evidence that further state support of the new school finance system was not possible without invoking changes to the limit itself.

The gap between actual revenue collections and the constitutional cap grew slightly over the next three years and was $640 million in FY1998. The cap was reached and slightly exceeded in FY1999 and FY2000, due to strong major tax revenue growth in these years. The experience of these two years prompted a series of phased-in tax rate reductions for Michigan businesses and individuals. These tax cuts, coupled with the concurrent general slowing of the economy in late 2000 and early 2001, caused actual state revenues to be $2.4 billion below the constitutional limit for FY2001. The gap between the limit and actual revenue receipts grew each year as the earlier tax cuts and subsequent ones, along with slow economic, limited revenue growth. State revenues were $5.3 billion below the cap in FY2007, before a series of general tax increases were enacted in late 2007 that narrowed the gap. In FY2009, actual revenue collections were $7.7 billion below the Section 26 limit as the economy soured again.

Spending Decisions Largely Untouched

Although the school finance reforms concentrated revenue-raising decisions at the state capitol in Lansing, spending decisions remained the province of local school districts with one significant exception. Responsibility for employer-paid retirement benefit funding was affected in a material way. In the post-Proposal A era, local school administrators and locally-elected school boards continued to be responsible for determining annual budgets and allocating state-determined resources among competing needs within districts. Local personnel are responsible for determining pay and benefits for current employees.

Prior to the implementation of Proposal A, the State of Michigan and public school districts shared in the financing of the employers' shares of contributions to Michigan Public School Employees Retirement System (MPSERS). Those contributions, expressed as a percentage of active employee payrolls, prefunded the actuarial costs of the defined benefit plan provided to public school employees plus the costs of health benefits for retirees on a pay-as-you-go basis. However, Proposal A changed the fiscal relationship between the state and local schools, by passing the full responsibility for financing the employers' contributions to the locals.

The new arrangement required the entire annual retirement contribution to be financed through a district's foundation allowance. This meant that this new fiscal responsibility was in direct competition with other spending pressures faced by school districts (wages and health insurance for current employees, fuel and utility costs, etc.). A district's ability to meet annual increases mandated by changes in the retirement contribution rate would be largely contingent on annual changes in the foundation allowance provided to the individual district. Every year, a system-wide contribution rate is determined for MPSERS, which is the same for each district and applied to each districts' active payroll; however, under the foundation allowance program, at least during the initial years following Proposal A's adoption, annual increases in per-pupil funding varied among the individual districts. Annual changes in the retirement rate are contingent on a number of factors, including the performance of the retirement investment portfolio relative to actuarial assumptions; the number of retirees drawing benefits; and the costs of health care increases. Annual changes in an individual district's foundation allowance were the result of policy decisions by state lawmakers. In an environment where a district's payroll and the retirement rate increase year-over-year, its foundation allowance would have to increase by the same combined percentage amount (assuming no change in enrollment) to ensure that the same percentage of the district's overall resources are available to finance retirement benefits from one year to the next. In such a scenario, if the foundation allowance does not rise by this amount, resources would have to be re-allocated from other budget components to satisfy the retirement contribution for the year.

At the same time that Proposal A created a very centralized revenue, full responsibility for retirement funding was added to local districts' budgets, which effectively reduced the spending discretion at the local level. The real prospect that the retirement contribution rate would increase in future years (as it did in the first couple of years following Proposal A), meant that the per-pupil foundation allowance would have to rise commensurately to ensure that retirement contributions did not require greater shares of overall local budgets.

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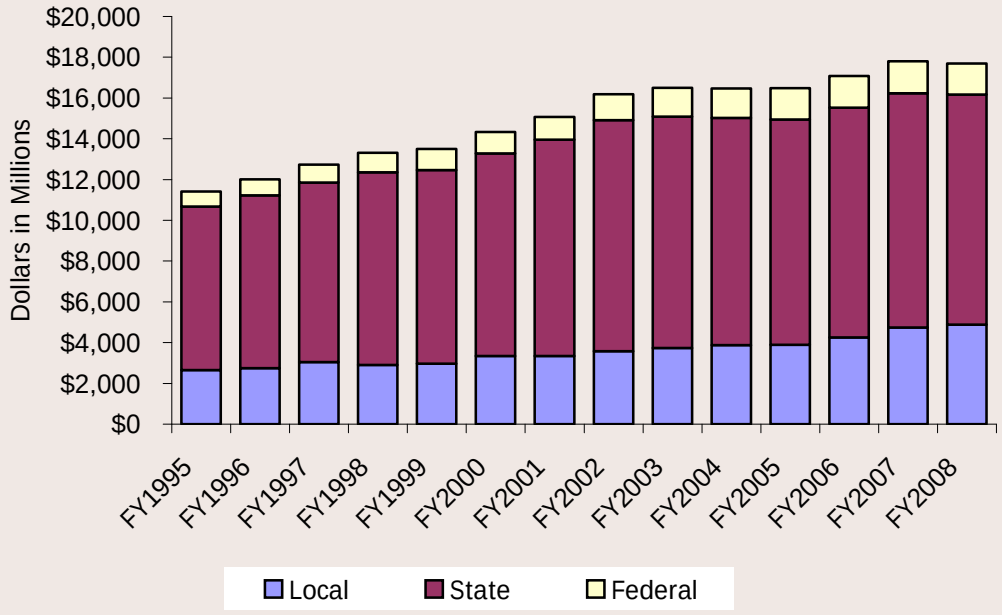
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Education Finances Since Proposal A

Since the adoption of Michigan's current education finance system, state and local operating revenues, both in the aggregate and at the individual source level, have varied depending on the time frame of interest. The annual amount of revenues from federal sources has also varied: Because federal dollars represent, in the aggregate, a relatively minor share of the total and their use is restricted by federal law and rules, the main focus here is on state and local operating revenue performance.

Between FY1995 and FY2008, the total amount of operating revenues from all sources (state, local and federal) increased from $11.4 billion to $17.7 billion, an increase of 55 percent, (See **Chart 5**).[8] This equates to a compound average annual growth rate of 3.4 percent over the 13-year period.[9] Total operating revenues grew at the same annual rate (3.4 percent) as Michigan personal income (a broad measure of economic activity in the state) and faster than the U.S. Consumer Price Index (a broad measure of the cost of goods and services), which increased at an average annual rate of 2.7 percent. Overall, operating revenues for Michigan schools in the aggregate, since the adoption of Proposal A, appear to have performed well based on these average annual calculations. This picture changes when the period is divided into distinct time frames and when operating revenues are scaled on a per-pupil basis by major revenue source (state versus local). Also, the performance of school revenues varies depending on the type of tax that is examined, e.g. property, income, sales, etc.

Chart 5
Operating Revenues by Source: FY1995 to FY2008

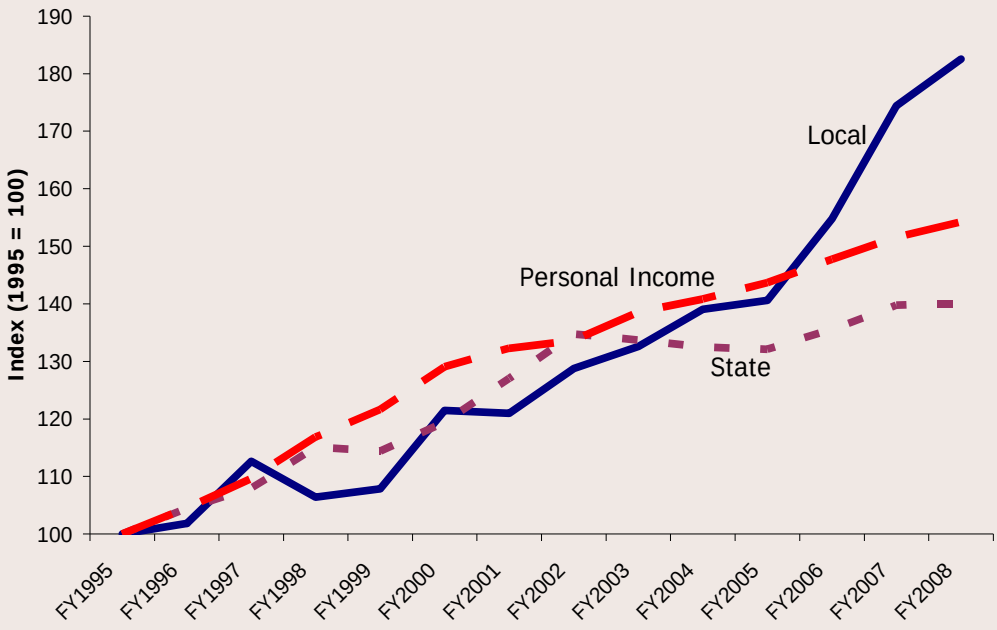


Source: National Public Education Financial Survey

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Chart 6
Growth of State and Local Operating Per Pupil Revenues and Personal Income



Source: National Public Education Financial Survey; U.S. Department of Commerce; U.S. Department of Labor.

A better understanding of the resources available to educate children can be obtained by examining the revenues from state and local sources on a per pupil basis. **Chart 6** illustrates state and local per-pupil revenues and compares their growth to personal income growth over the period. While both major sources tended to track overall economic activity in the state in the early years following Proposal A, their paths diverge markedly beginning in FY1998. Growth of local per-pupil revenues remained strong through much of the early 2000s and accelerated in recent years, largely due to concomitant enrollment declines. On the other hand, state revenues, more acutely tied to overall economic activity in the state, basically plateaued in FY2002 and rose only minimally in recent years as a result of declining student enrollments.

The preceding discussion was designed to provide a very global picture of public education finances since Proposal A. The remainder of this section focuses, in more detail, on specific issues important to this global picture. The next section reviews Michigan's economic performance since 1995, the most important factor influencing state revenue growth. Next, public education spending is contrasted with the other spending financed by the General Fund. Attention is then given to the performance of both state and local revenue sources over the last 15 years. Finally, drawing on previous work conducted by CRC, a projection of public education finances in the future is presented.

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Michigan's Economic Performance

State and local government finances have to be considered in the context of Michigan's economic performance. Economic activity affects public finances in a variety of ways, but the most visible is on the revenue side of public budgets. Taxes, which comprise the majority of resources for public budgets, are based on economic activity (consumption and payrolls) and wealth (property values). Taxes that are based on consumption or payroll activity are more sensitive to changes in economic performance than taxes based on wealth. These consumption and payroll taxes, collectively, provide the majority of resources for the State of Michigan's two main budgets, the General Fund and the School Aid Fund. As previously noted, property taxes play a much larger role in financing local government services in Michigan. Although diminished, property taxes continue to provide a significant level of operating assistance for local schools. As a revenue source, these taxes tend to be more stable relative to consumption and income taxes. This stability has helped moderate the volatility associated with the major state taxes supporting public education in Michigan. Tax revenue volatility general refers to cyclicality - the relationship between revenues and the business cycle.

Under Michigan's highly-centralized education finance system, the performance of the Michigan economy is a key determinant in the level of resources available each year, especially in light of the dominant role played by consumption and income taxes.

Under Michigan's highly-centralized education finance system, the performance of the Michigan economy is a key determinant in the level of resources available each year, especially in light of the dominant role played by consumption and income taxes. Economic performance over the past 15 years (1995 through 2009) can be divided into three distinct time frames. State-source education revenues mirrored the performance of the broader economy during each period, which they were designed to do under the Proposal A financing system. The first period (1995 through 2000) was characterized by steady and stable economic growth, measured in terms of employment levels and the amount of income earned. In contrast, during the second period (2001 through 2008), employment levels declined and annual income growth slowed in nominal terms and in some years declined in real terms. Although Michigan was affected by the mild 2001 recession during this period, the fundamental economic problem which directly influenced public education finances centered on the complete transformation of the auto industry. The third and most recent period (2009 through today) is marked by a continuation of the job losses and income declines of the previous period, but at an accelerated rate because of the severe national recession that officially began in December 2007. The recessionary effects have been compounded by the fact that Michigan's economy continues to undergo a massive "rebalancing" (i.e., concentrated shift away from its traditional manufacturing base).

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Table 5
Michigan Wage and Salary Employment: 1995 to 2010*

Year	Employment Level (thousands)	Annual Change	Annual Percent Change
1995	4,269		
1996	4,352	83	1.9%
1997	4,439	87	2.0%
1998	4,513	74	1.7%
1999	4,585	72	1.6%
2000	4,676	91	2.0%
2001	4,564	(112)	(2.4%)
2002	4,487	(77)	(1.7%)
2003	4,416	(71)	(1.6%)
2004	4,399	(17)	(0.4%)
2005	4,389	(10)	(0.2%)
2006	4,326	(63)	(1.4%)
2007	4,267	(59)	(1.4%)
2008	4,162	(105)	(2.5%)
2009	3,876	(286)	(6.9%)
2010*	3,830	(46)	(1.2%)

Source: U.S. Department of Labor

* May 2010 Consensus Revenue Estimate

No single metric captures the entirety of a state's economic performance. However, two broad measures, when taken together, can paint a fairly clear picture of what is taking place in a state economically. Generally, measures of employment and income (both on total and per-capita bases) are used to describe the health of Michigan's economy over the years. **Table 5** summarizes the employment picture in Michigan. The variation in the annual change figures reveal the three separate periods previously noted. Michigan's total employment level grew each year between 1995 and 2000, averaging 1.8 percent per year. After peaking at 4.7 million jobs in 2000, the yearly total employment figure dropped to just under 4.2 million jobs by 2008, representing an annualized rate of decline of 1.3 percent. The employment pictured worsened during the 2008 recession as Michigan job losses accelerated and employment levels dropped almost another 300,000 jobs, or nearly seven percent, between 2008 and 2009. Current projections are for employment levels to continue to decline, but at a much lower annual rate in 2010 (-1.2 percent).

The Michigan employment situation looked very similar to the U.S. job market during the 1995 through 2000 period and early into the 2001 through 2005 period. Coming out of the brief 2000-2001 recession, the U.S. job market rebounded in 2004, but the Michigan employment level continued to decline throughout the mid- to late-2000s. The significant job losses in the 10-year period that began in 2001 has caused Michigan's job base to mirror what it was in the mid-1980s. While both U.S. and Michigan employment levels are off from their June 2000 peaks, Michigan has lost nearly 18 percent of its jobs compared to the nation, which has lost 0.7 percent.

The loss of such a significant number of jobs is devastating for individuals and families. It is also important from a public finance perspective for two reasons. First, and most obvious, is the loss of eco-

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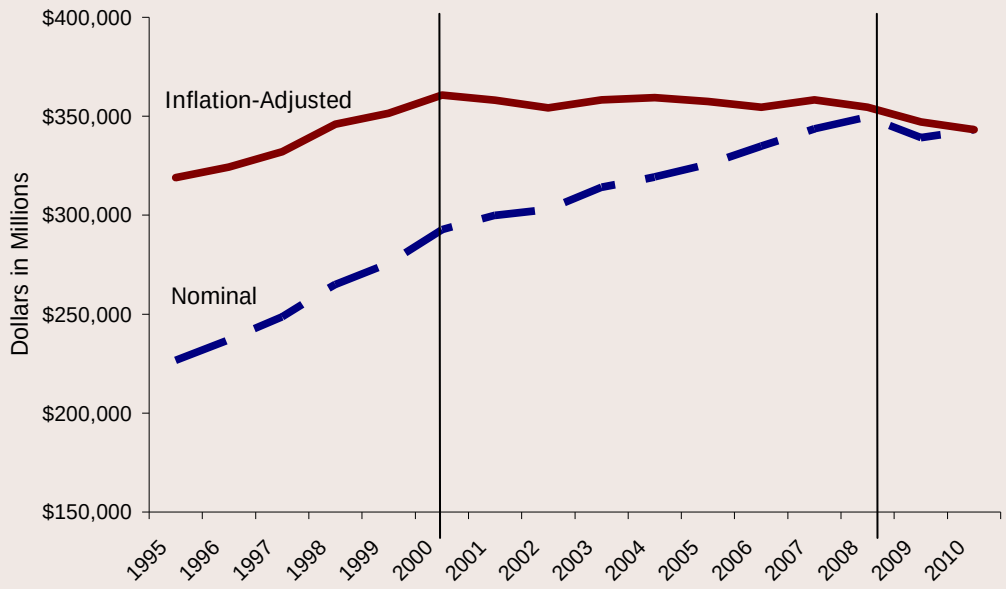
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nomic activity associated with the jobs. A reduction in the number of jobs directly translates into lower payroll tax receipts because fewer taxpayers are employed. Second, without jobs, residents change their consumption behavior, including items that are subject to taxation. Declines in consumption directly result in lower sales and use tax receipts. In Michigan, both income and sales taxes finance public education.

Changes in wage and salary employment are reflected in the personal income generated in the state. The metric of personal income, which includes wages and salaries, captures the overall health of a state's economy. **Chart 7** presents Michigan income over the entire period in nominal and real (inflation adjusted or constant 2010 dollars) terms. The three sub-periods (1995 to 2000, 2001 to 2007, and 2008 to present) are delineated by the change in the direction and/or slope of the respective line in the chart. Through 2000, both real and nominal personal income saw positive annual changes. Beginning in 2001 and extending through 2007, growth in actual income slowed while real income stagnated, basically exhibiting flat growth During the most recent period, both actual and real income levels experienced annual declines.

Average per-capita personal income is a useful metric for comparisons among states or with the nation

Chart 7
Michigan Personal Income: 1995 to 2010
Real and Nominal

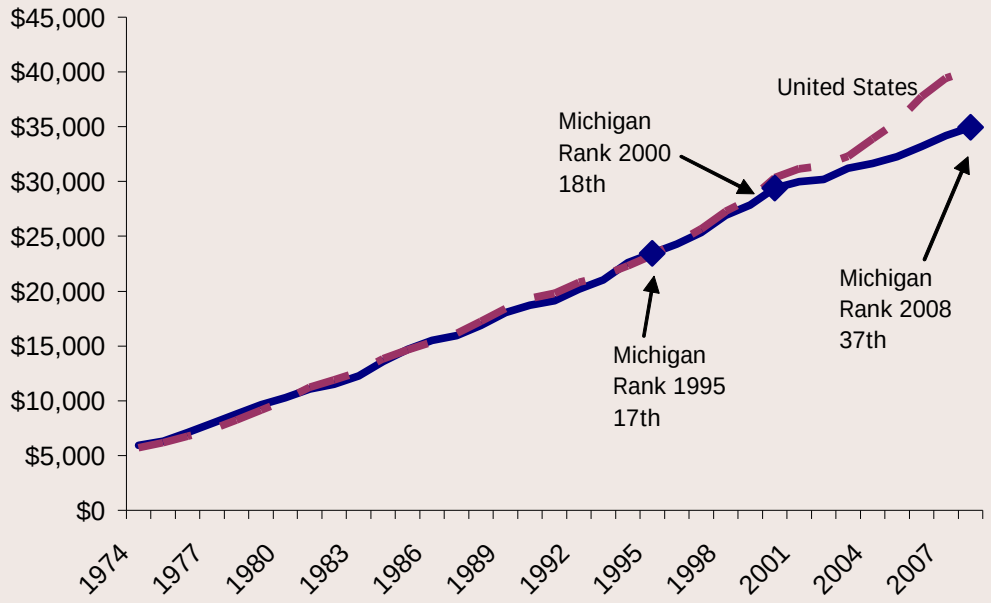


Source: U.S. Department of Commerce; May 2010 Consensus Revenue Estimate

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Chart 8
Michigan and U.S. Per Capita Personal Income: 1974 to 2008



Source: U.S. Department of Commerce

as a whole. Michigan's position relative the U.S. average is shown in **Chart 8**. This 35-year period includes Michigan's experience under the current education finance system created by Proposal A as well as the finance system that preceded it.

Following the adoption of Proposal A in 1994, Michigan's per-capita income national rank was 17th, which was minimally above the national average. Over the next five years the state's position slipped marginally to 18th among the 50 states; by 2000, Michigan's per-capita income was three percent below the U.S. figure. Since that time, a growing gap has developed between Michigan and U.S. per capita personal income, causing Michigan's position to drop to 37th in 2008. Michigan went from being a state in the top one-third in terms of individual wealth in 1995, following the adoption of the current school finance system, to one that is in the bottom fourth of all states. Michigan's per-capita personal income in 2008 is 13 percent below the national average figure and the state's ranking is expected to fall further in response to the 2008 recession.

Absent significant changes to the bases or rates of major taxes in Michigan, the new ranking is going to require a "re-calibration" of public service levels.

The implications of Michigan's slide relative to the nation are significant. First, after being a relatively "wealthy" state for most of the last 35 years, Michigan now finds itself a relatively "poor" state. Second, Michigan's current status is likely to represent a new reality rather than a temporary condition. To regain its previous ranking will require the Michigan economy to expand at a significantly faster rate than the rest of the U.S. Coupled with the effects of the recent recession, Michigan's current status most likely represents a new normal or baseline. Third, Michigan's lower per-capita figure suggests that residents' "ability to pay" for public services through taxes is diminished. Absent significant changes to the bases or rates of major taxes in Michigan, the new ranking is going to require a "re-calibration" of public service levels.

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The changes observed in Michigan's economic performance between 2000 and 2008 are largely foundational as opposed to cyclical. A massive shift away from manufacturing, which had been building for years, accelerated during the early years of the new century and effectively transformed the underlying economic base upon which state taxes depend. At the same time, the state was not immune from the effects of two national recessions since 2000, the most recent one considered to be the longest and most severe in 70-plus years. The combined economic effects of the structural changes and the two recessions on Michigan's economy have been profound. For Michigan's public education finance system, economic activity is the primary determinant of overall revenue levels since the turn of the century.

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State Revenue Performance

For the purposes of this report, state on-going resources available to schools include dedicated major taxes (sales/use, income, and property) as well as minor taxes (alcohol, tobacco, and others), annual transfers from the General Fund, and lottery proceeds deposited in the School Aid Fund (SAF). On-going revenues do not include federal resources, which state policy makers have little discretion over, or those non-recurring state resources that have been provided from time-to-time to augment permanent funding. Since the adoption of the school finance reforms, total state-source, on-going SAF revenues grew from $7.7 billion to $11.5 billion, an increase of 51 percent, from FY1995 to FY2008. This amounts to an average annual rate of change of 3.2 percent, above the 2.5 percent annual rate of change in the U.S. CPI over the same period. The aggregate revenue growth is influenced by a host of factors including, the performance of the underlying economy, changes in tax rates, changes in tax bases, and the addition of new taxes earmarked to finance schools.

In relation to broad measures of overall economic activity during this period, SAF revenues grew at a pace slightly below the average annual growth rate of Michigan personal income (3.4 percent). As was the case with total school operating revenues, when SAF revenue growth is viewed over the entire 13-year period at a macro level, it appears to have fared relatively well. However, this picture changes when the component pieces of the Fund are dissected and the larger period is broken into constituent parts and the various forces at work during each sub-period are examined.

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Table 6 looks at individual SAF revenues and their annualized growth rates over the entire period and over two distinct periods, compared to inflation and economic growth. [Note: FY1997 was the first full year of the current income tax earmarking provision and therefore is selected as the starting point for comparisons rather than FY1995, the first year of Proposal A's implementation.] The selection of FY2001 as the "break point" to divide the two sub-periods is not arbitrary, but based upon the performance of Michigan's economy, before and after this point. The robust economic growth that characterized Michigan during the mid- to late-1990s subsided by the start of FY2001 with the onset of a short, national recession. Because the underlying state economic activity upon which SAF revenues are based was very different for these two periods, it is appropriate to examine the two periods separately. A discussion of more recent revenue performance (FY2009 to today) follows a review of the first two sub-periods.

Table 6
School Aid Fund Revenue Annualized Growth Rates: FY1997 to FY2008

Revenues	FY1997 to FY2000	FY2001 to FY2008	FY1997 to FY2008
State Taxes	6.2%	2.0%	3.1%
Lottery Transfer	1.7%	3.4%	2.1%
General Fund Transfer	4.6%	-31.6%	-18.5%
Total State School Aid Fund Revenue	5.9%	1.5%	2.7%
Michigan Personal Income	5.6%	2.2%	3.1%
U.S. CPI	2.2%	2.8%	2.7%

Source: Michigan Department of Education

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Table 7
State Tax Revenue Annualized Growth Rates: FY1997 to FY2008

Revenues	FY1997 to FY2000	FY2001 to FY2008	FY1997 to FY2008
Sales / Use Tax	5.4%	0.9%	2.1%
State Education Tax	6.1%	4.9%	5.5%
Income Tax	7.5%	1.1%	2.7%
Subtotal Major Taxes	**6.0%**	**1.7%**	**2.9%**
Tobacco Taxes	3.4%	1.5%	1.8%
Real Estate Transfer Tax	10.1%	-5.5%	-1.1%
Michigan Business Tax*	NA	NA	NA
Other**	16.8%	0.1%	4.6%
Total Taxes**	**6.2%**	**2.0%**	**3.1%**
Michigan Personal Income	5.6%	2.2%	3.1%
U.S. CPI	2.2%	2.8%	2.7%

* Earmarking of a portion of Michigan Business Tax began in FY2008, so annual growth rate unavailable; however, amounts of this tax are included in collections for FY2008.

** No adjustment for restructuring of state business taxes, which affected collections of the State Education Tax, Michigan Business Tax, and Other categories beginning in FY2008.

Source: Michigan Department of Education

Revenue Growth of SAF Taxes: FY1997 to FY2008

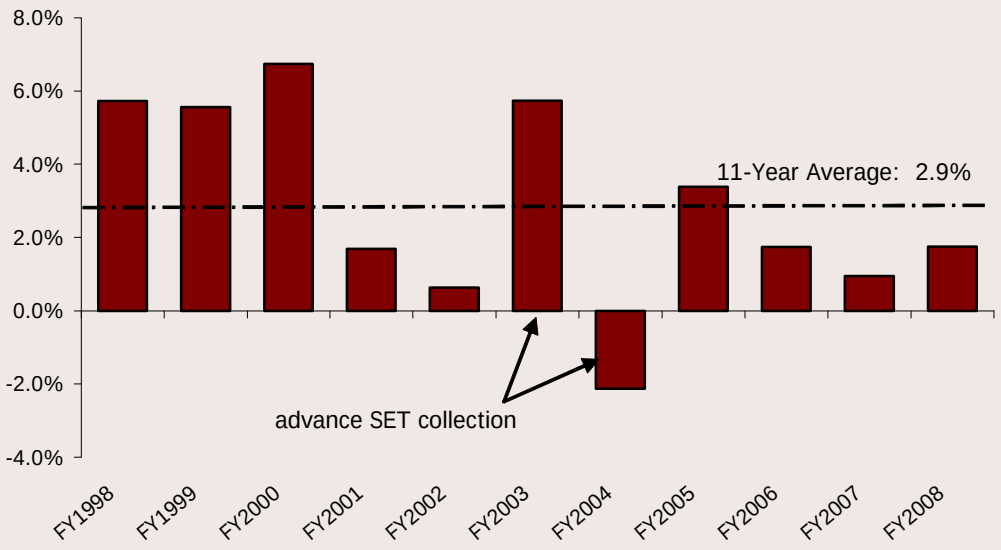
The bulk of the state tax revenues dedicated to finance education in Michigan come from three major sources: consumption, property, and individual income taxes. These represent the major on-going resources for public education, while other smaller amounts have contributed to the SAF to varying degrees over the years. On average, these three taxes collectively account for $9 of every $10 in total state taxes going to the SAF each year. Given their importance to the overall level of on-going state revenue available each year, specific attention is directed at how these taxes have performed over the period FY1997 to FY2008 (See **Table 7**).

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Chart 9 depicts, in the aggregate, year-over-year changes in the major SAF tax collections and shows the two distinct periods, pre- and post-FY2001. Over the entire period, SAF receipts from the major taxes grew 36 percent in the aggregate, or at an annualized rate of 2.9 percent. Through FY2000, however, the average annual growth rate was slightly more than double (6 percent), before slowing considerably for the remainder of the period. Receipts from the major taxes grew 1.7 percent per year from FY2001 to FY2008. Largely as a result of advancing the collection of the 6-mill State Education Tax (SET), major tax receipts grew nearly 6 percent year-over-year in FY2003 and subsequently declined 2 percent in FY2004.[10] When revenue growth is examined over the period FY2001 through FY2008, the one-time nature of the SET collection date change does not influence the annualized growth rate computed for the entire period, but it does materially affect the rates observed for two years. These intra-period annual rates are of less concern in this analysis as the focus here is the long-term growth of on-going major tax sources. It is worth noting that only one year after FY2001 (FY2005) exhibited a year-over-year increase that exceeded the annualized growth rate for the entire 11-year period (ignoring the one-time effects of the SET changes).

Chart 9
Year-Over-Year Change in Total Major* SAF Tax Revenue: FY1998 to FY2008



* Sales/Use, Income, State Education Tax

Source: Michigan Department of Education

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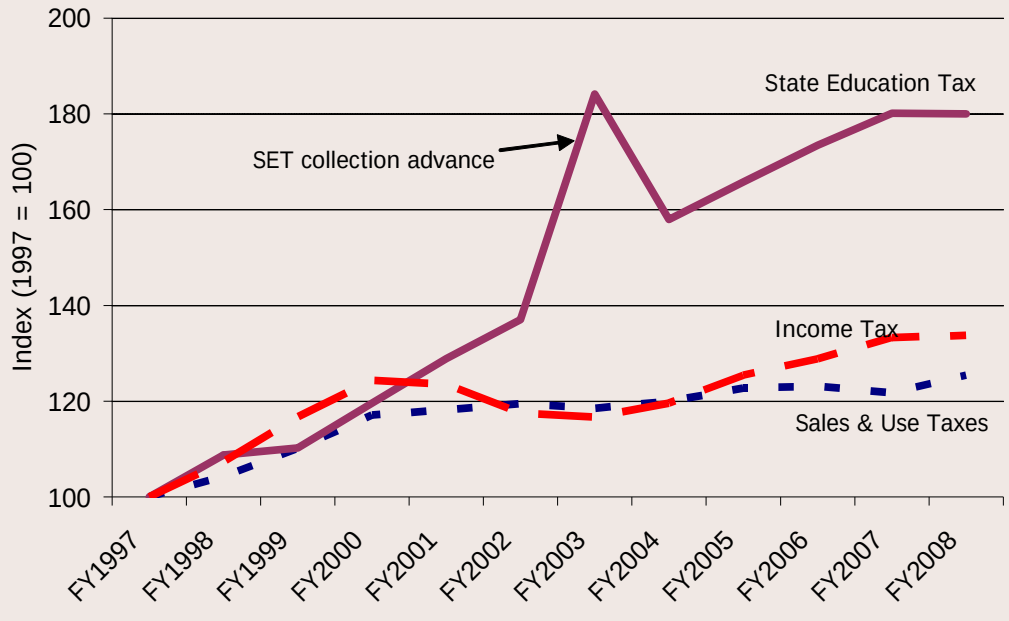
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Chart 10 illustrates the growth (index: FY1997 = 100) of the three major SAF taxes individually to show differences in their performances. Through FY2000, the performance of the individual taxes mirrored one another for the most part, showing consistent robust annual growth. Beginning in FY2001 and continuing through FY2008, the growth patterns of the consumption and income taxes look similar to each other, but very different from the growth in the 6-mill SET, which showed uninterrupted stable growth. The average annual growth rate of the SET was 5.5 percent over the entire period, compared to 2.1 percent for the sales and use taxes and 2.7 percent for the income tax. Receipts from the SET, again ignoring advance collections in FY2003, were buoyed by the relative stability that accompanies the property tax in general as well as a healthy real estate market that boosted property values in Michigan over the period.

Consumption tax and income tax receipts were relatively stable in the post-FY2000 period. Both taxes exhibited at least one episode of year-over-year declines, with SAF-dedicated income tax revenues showing declines in three consecutive years (FY2001 through FY2003). During this period, while total income tax receipts were negatively affected by the tax rate reductions enacted, the fiscal effects of the tax policy changes were entirely borne by the state's General Fund and the School Aid Fund allocation was shielded. Absent major tax policy changes during the FY2001 to FY2003 period affecting SAF taxes, the income tax and consumption tax revenue declines observed in the early 2000s were attributable mainly to the onset of the 2000-2001 national recession.

Chart 10
Growth of Major SAF-Dedicated Taxes: FY1997 through FY2008



Source: Michigan Department of Education

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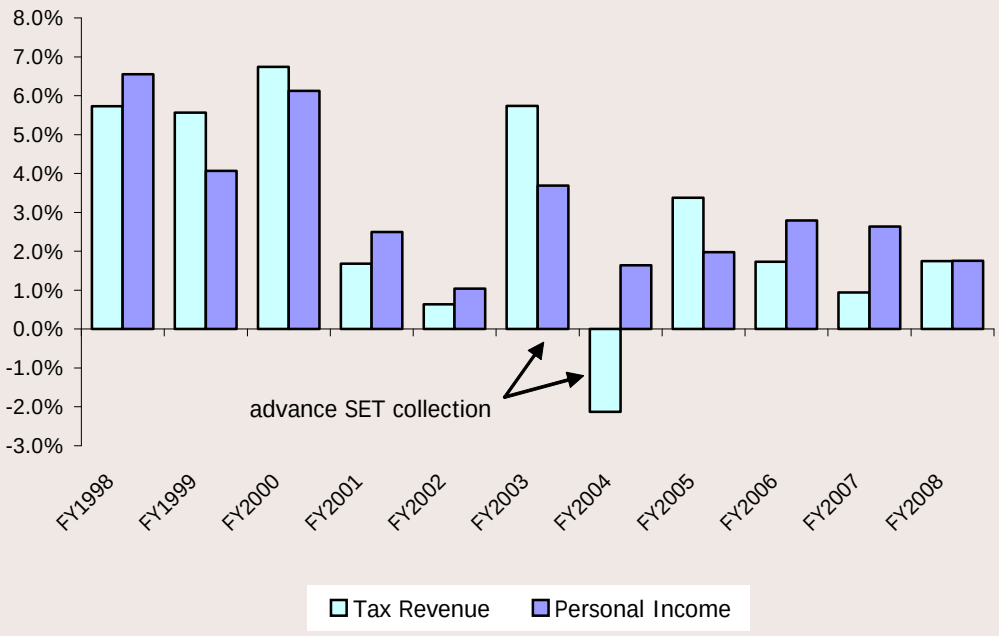
Changes in annual tax receipts, in the aggregate, generally paralleled the changes observed in the broader economy, as measured by Michigan personal income (See **Chart 11**) throughout the period. The degree of annual change, however, varies over the two different periods. Through FY2000, annual increases in tax revenue receipts generally met or exceeded changes in economic activity in the state. Both economic growth and annual changes in tax receipts eclipsed the four percent level each year. The national recession and its effects on tax receipts became evident in FY2001, when annual growth rates are halved. Following the FY2001 decline, Michigan's sustained economic malaise was further evidenced in the personal income annual growth rates between 2002 and 2008, which averaged 2.2 percent.

Other State Taxes

In addition to the major SAF taxes, state education revenues available each year also depends on the performance of minor state taxes earmarked to the SAF, which account for 10 percent of the total tax picture. These minor taxes consist of all or a portion of the receipts from the following taxes: liquor excise, cigarette, other tobacco, real estate transfer, Michigan business, industrial facilities, casino, commercial forest, and other special taxes. Of these, tobacco taxes make up about half (4.5 percent of the total) of all other SAF taxes. In the aggregate, the non-major SAF taxes have performed better than the major taxes, but their relatively small share of total revenues inhibits their ability to affect materially the overall growth rate of total SAF revenues.

Revenues from this group of taxes increased from $700 million to $1.2 billion (70 percent) from FY1997 to FY2008, which translates to an average annual growth rate of 5.0 percent. This was almost twice the growth in the inflation rate during the same period and exceeded the annualized growth rate in Michigan personal income. The annualized growth

Chart 11
Year-Over-Year Change in Major SAF Tax Revenue and Personal Income: FY1998 to FY2008



Source: Michigan Department of Education; U.S. Department of Commerce

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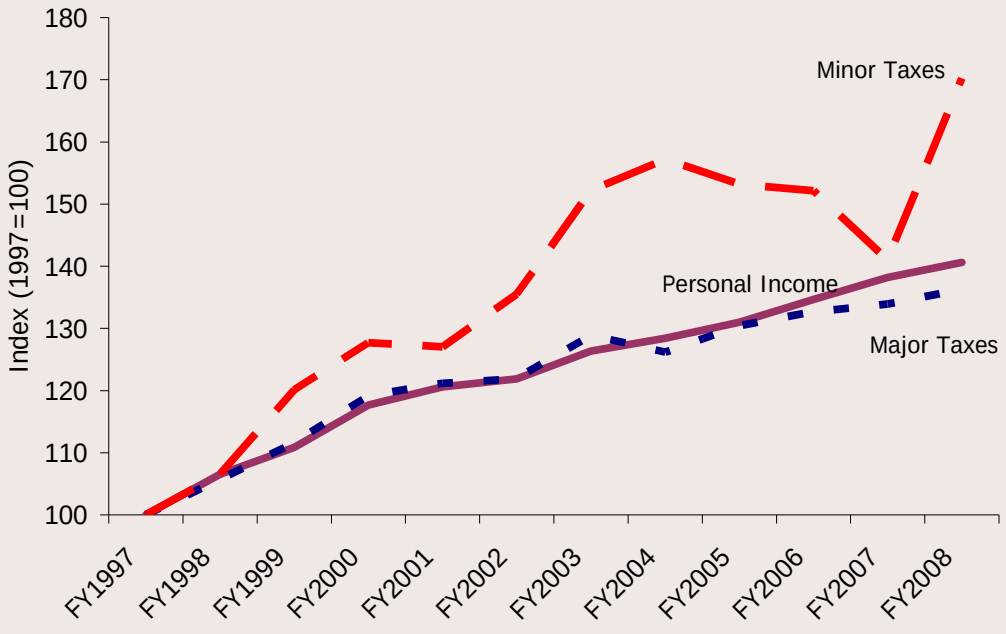
rate for these taxes as a group, at least measured against the economy and inflation, is somewhat misleading as it benefited from two important tax policy changes, both of which impacted the disposition of Michigan Business Tax (MBT) receipts to the SAF beginning in FY2008 (discussed below).

Comparing the growth of SAF major and minor taxes to changes in Michigan personal income reveals that receipts from the smaller taxes did not grow in concert with state economic activity (**Chart 12).** Minor taxes, as a group, exhibited the greatest amount of volatility between FY2005 and FY2008. After declining for three consecutive years in a row, a spike in revenue receipts occurred in FY2008 as a result of major state business tax policy changes (discussed below).

Over the entire period, growth of the minor SAF taxes was fueled by a number of factors different from those which affected major tax receipts. Of particular note, minor tax growth benefited from a number of tax rate increases and the adoption of new taxes, factors which did not contribute to the performance of the major SAF taxes since Proposal A. A series of tobacco tax increases in 2002 and 2004 were largely responsible for buoying the growth trend between FY2002 and FY2004, at least for this declining revenue source. Beginning in FY2004, tobacco tax receipts have declined each year along with collections from the industrial facilities and real estate transfer taxes, contributing to the subsequent decline in SAF receipts. Tobacco tax receipts have declined, on average, 3.5 percent annually since FY2004, indicative of the steady, long-term decline in tobacco use.

Significant changes in Michigan's business tax system, combined with new tax earmarking provisions, contributed to the FY2008 revenue spike. The series of changes affected school financing in markedly different ways. The first change did not affect

Chart 12
Growth of SAF-Dedicated Major and Minor Taxes and Personal Income: FY1997 through FY2008



Source: Michigan Department of Education; U.S. Department of Commerce

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the amount of education resources, but it did change the "state" / "local" revenue mix - state tax revenues replaced local tax revenues on a dollar-for-dollar basis. The second tax policy change responsible for the growth in minor tax growth in FY2008 involved a tax increase.

Regarding the shift from local to state resources, as part of the state's efforts to modify the business tax climate, numerous personal property tax exemptions were enacted that negatively affected state and local school tax revenues. To safeguard education from these reductions, a new revenue earmark of the MBT was enacted. The tax policy changes involved sizeable shifts in revenue-raising responsibility from the local to the state level but had no net impact on overall education finances. (See Tax Restructuring box.) The business tax re-write reduced local education funds by $342 million (full-year basis) and increased SAF revenues by an equal amount, thereby contributing to the sharp up-tick in minor tax receipts observed in FY2008 and to the strong growth rate for this category over the entire FY1997 to FY2008 period. The earmark of MBT revenue to the SAF also accounts for the exemptions of industrial personal property from the State Education Tax and the Industrial Facility Tax.

The amount of the MBT earmark to the School Aid Fund was expanded when the MBT surcharge was adopted (Public Act 145 of 2007). This changed effectively replaced, dollar-for-dollar, the tax revenues that would be collected under the new services tax (Public Act 93 of 2007). The law to expand the Use Tax base to services was repealed before taking effect on December 1, 2007. To hold schools harmless from the tax policy changes, the amount of the projected revenues ($250 million on a full-year basis) was added to the existing MBT earmark. These resources represented new, additional funds for public education in Michigan.

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Business Tax Restructuring Effects on School Finances

As part of Michigan's broad business tax restructuring efforts in 2007, certain personal property was exempted from state and local property taxes dedicated to finance education services. In order to protect schools from the revenue losses associated with the property tax changes, a portion of the annual revenues derived from the newly-created Michigan Business Tax (MBT) were dedicated to the School Aid Fund, beginning in FY2008. The changes were designed to provide property tax relief to Michigan-based businesses without harming local school finances.

Tax law changes, effective for the 2008 tax year, exempted industrial personal property from the 18-mill local school operating tax, the 6-mill SET, and the portion of the Plant Industrial Facility Tax (PA 198 of 1974) attributable to the SET and local school operating taxes.[i] As a result of these changes, all industrial personal property in Michigan is exempt from school operating property taxes (state and local). Commercial personal property also is now exempt from 12 mills of the required 18-mill local operating tax. Commercial personal property did not receive the exemption from the SET that industrial property received. Combined, these changes were estimated to reduce state and local property tax revenues dedicated to finance education by $479 million on a full-year basis (FY2009 estimate). A fixed-amount statutory earmark of Michigan Business Tax revenue was designated to the School Aid Fund to hold schools harmless from these changes in FY2008 and FY2009, with the amount increasing with inflation beginning in FY2010 and beyond.

Subsequent tax policy changes increased the level of MBT revenues earmarked to the SAF. These revenues were intended to offset the loss of use tax revenues dedicated to the SAF resulting from the repeal of a 2007 law that expanded the base of the tax to include certain services. The additional SAF revenues were available from the creation of a tax surcharge to be applied to taxpayers' MBT tax liability. The SAF earmark was increased to $729 million for FY2009, with this amount set in statute to grow with inflation beginning in FY2010. The increase in the earmark, $250 million in FY2009, represented new, additional money provided to schools. Further changes in Michigan's tax law effectively reduced the SAF earmark of MBT revenue by an amount exactly equal to the SAF's share of use tax collections on Medicaid managed care organizations (PA 440 of 2008), estimated at $112 million in FY2009.

The aggregate fiscal impact of the business tax changes and the associated earmarking provisions was intended to be revenue neutral for schools. Beyond this universal policy objective of the business tax changes, the modifications also had two other notable repercussions on school finances. First, the elimination of local property tax revenues and their replacement with an equal amount of state tax revenues represented further "centralization" of Michigan's education revenues. The respective shares of the overall financing responsibility were altered with the "state" component increasing and the "local" piece declining.

The second notable implication for school finances relates to the fixed nature of the MBT earmark to the School Aid Fund and its indexed growth factor. This provision in the business tax policy changes of 2007 is expected to provide additional stability to K-12 revenue, both in the short term as well as over the long run. In the short-run, indexing MBT revenue growth to the inflation rate rather than tying school revenues to economic activity shields school finances from the inherent volatility that accompanies MBT receipts. (Note: The MBT consists of a both a business income tax and modified-gross receipts tax.) In much the same way that the state's General Fund shouldered the full effects of the phased-in individual income tax rate reductions as a result of the earmarking provisions, the General Fund will experience the full effects of MBT revenue volatility while schools are protected. For example, General Fund MBT deposits are expected to decline 26 percent in FY2010 in response to the economy, but the SAF earmark will fall less than one-half of one percent. Over the longer-term, the indexing provision is likely to cause school revenues to increase faster than they would have if industrial personal property was still part of the state and local property tax bases. Changes in the inflation rate are likely to increase faster, at least in the long-term, than the annual growth in personal property tax receipts.

Overall, the 2007 tax policy changes that restructured Michigan's business taxes further centralized education finances at the state level, at least for K-12 districts; shielded annual school revenues from economic volatility affecting state tax receipts; and enhanced long-term stability of SAF revenue growth.

[i] Public Acts 37 to 39 of 2007.

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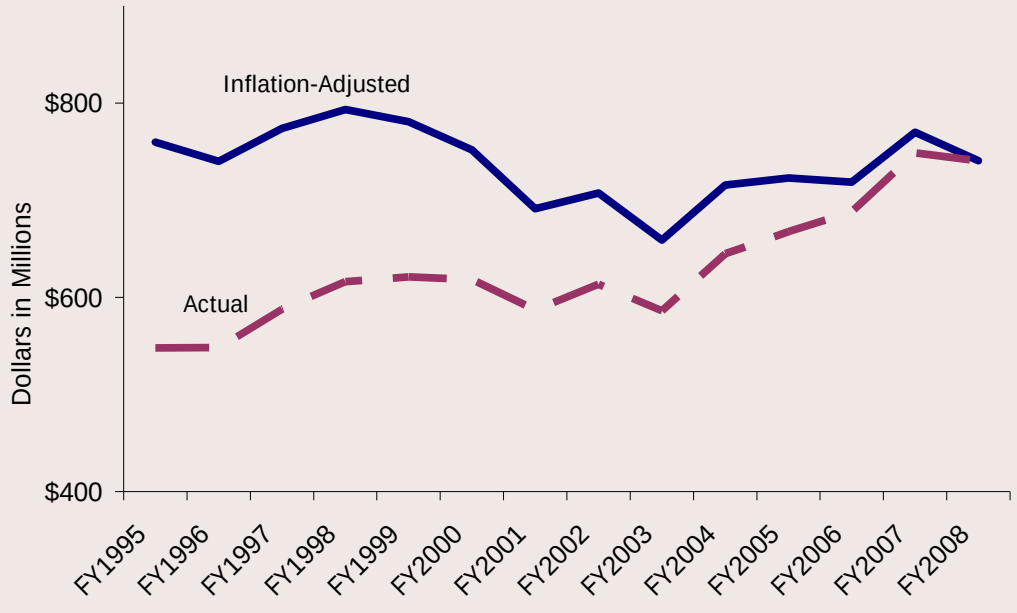
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Other On-going State Revenues: Lottery and General Fund

Lottery profits have consistently accounted for about 6 percent of the total state-source School Aid Fund revenues since Proposal A, although the specific amount has varied from year-to-year. Despite the popular misconception that the lottery contributes significantly to the funding of public education in Michigan, it actually amounts to a relatively small piece of the state contribution and an even smaller component when local operating revenues are incorporated and the entire funding picture is considered. Net lottery revenues contributed $741 million to school operational funding in FY2008. These statutorily-dedicated revenues have grown at an average annual rate of 2.3 percent, about equal to inflation from FY1995 to FY2008. This average rate, however, hides considerable year-to-year variation, as reflected in **Chart 13**. In recent years, inflation-adjusted lottery receipts have increased modestly; however, the inflation-adjusted FY2008 amount remains below the FY1995 level following a number of years of flat or negative growth.

Unlike the annual growth of major SAF taxes, lottery proceeds do not mirror changes in Michigan economic activity as measured by personal income. Year-over-year lottery sales increases (and therefore profits) tend to occur with the introduction of new games.[11] In recognition of this, the State of Michigan continuously introduces new gaming opportunities to maintain interest and sales. Since Proposal A's adoption, lottery games have experienced significant growth in competition for discretionary gaming dollars in Michigan. Today there are 19 Native American casinos in operation along with three Detroit casinos. This compares with eight Native American gaming establishments when Proposal A was adopted. Despite this considerable competition, lottery profits have been able to maintain modest annual growth since FY2004.

Chart 13
SAF Lottery Revenues: Actual and Inflation-Adjusted (FY2008 Dollars): FY1995 through FY2008



Source: Michigan Department of Education; U.S. Department of Commerce

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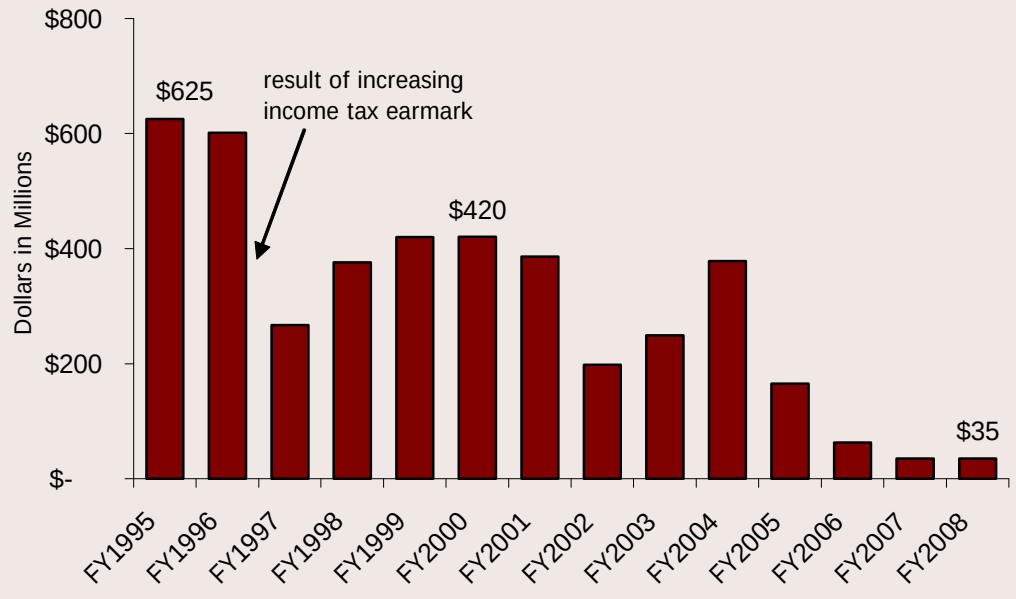
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In FY 1997, the amount of income tax revenues earmarked to the School Aid Fund was increased, and this increase was accompanied by an equal reduction in the amount transferred from the General Fund that year in order to hold the SAF harmless. Following the enactment of the income tax earmark, the General Fund transfer increased each year, peaking at $420 million in FY2000. The General Fund transfer has subsequently been reduced and is now approximately $35 million.

Historically, the annual allocation from the state's General Fund was intended to serve multiple objectives. First, a portion of the resources was used to pay certain education-related costs assignable to the General Fund, which for budgetary reasons are included in the annual SAF budget.[12] Second, General Fund dollars transferred to the SAF reflected the priority that state elected officials placed on public education vis-à-vis other competing programs. Thus, changes in total state education support were not determined solely by the changes in earmarked taxes. Third, continuation of the annual General Fund grant in the post-Proposal A period suggested that dedicated state taxes are not sufficient to support schools.

Beginning in the early 2000s, a general budgetary shift occurred with respect to the amount of the General Fund contribution to the SAF. Over the intervening years, the amount of General Fund resources transferred to the SAF was reduced, to the extent that the General Fund now does very little to supplement dedicated state education revenues (See **Chart 14**). The reduction of General Fund support to the SAF over the past nine years is a direct product of the on-going fiscal challenges facing the General Fund budget (see General Fund Budget Challenges).

Chart 14
General Fund Allocations to School Aid Fund: FY1995 through FY2008



Source: Michigan Department of Education

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Other Non-recurring State Resources

From time to time since Proposal A, School Aid Fund expenditures have been financed by state resources other than earmarked taxes, lottery proceeds, and the annual contribution from the General Fund. In some years, non-recurring state resources have been used to supplement on-going resources to help maintain spending levels, especially the per-pupil foundation grant. This practice was employed as a response to the reduction in dedicated SAF taxes resulting from the 2000-2001 recession. In other years, the extraordinary resources were used to finance new state public education obligations resulting from the Michigan Supreme Court's *Durant* decision in 1997. The use of these non-recurring resources has been excluded from the discussion regarding state revenue performance because they were always intended to represent one-time monies, rather than on-going resources, and their inclusion here would distort the picture of school finance being presented in this analysis.

Few sources of non-recurring funds have been used to support operational expenditures of the SAF, although when these funds have been provided the amounts have been significant. In FY2003, state debt (School Bond Loan Fund) restructuring provided an additional $131 million in one-time SAF revenues. State of Michigan reserves have been used too, including the transfer of $350 million from the Economic and Budget Stabilization Fund, the state's rainy day fund, in FY2002. This transfer was used to support SAF spending in both FY2002 and FY2003 and help manage through the economic downturn of the period, primarily with the goal of preserving the per-pupil foundation allowance. While the transfer shielded the per-pupil grant from a statutorily-required prorated reduction in FY2002, it was insufficient to avoid such reductions in FY2003 and FY2004. (Those reductions equated to $74 per student.)

In June 1997, the Michigan Supreme Court issued its decision on the long-standing case, *Durant et. al., v State of Michigan*. At issue was an unfunded mandate claim made by plaintiff school districts against the State of Michigan pursuant to Article IX, Section 29 of the Michigan Constitution. Specifically, the school districts in the case challenged the level of state support for special education services provided at the local level. The schools prevailed in the case, and the Supreme Court provided a financial settlement to the schools. The State of Michigan also negotiated a financial settlement to school districts not directly plaintiffs in the *Durant* case and therefore not eligible to receive a portion of the payment ordered by the Supreme Court. As a matter of fairness, the state sought a financial solution for both plaintiffs and non-plaintiffs, but the specifics for each group differed.

Payments were structured in a number of ways, including lump-sum and annual, depending whether a school was a "plaintiff" or a "non-plaintiff" district. To finance some of the required payments, the School Aid Fund received a series of annual transfers, of various amounts, from the state's rainy day fund from FY1998 to FY2003. Unlike the $350 million transfer in FY2002 to support current school operations, the rainy day fund transfers associated with the *Durant* decision were used to pay for damages incurred by local school districts as a result of past under-funding by the State of Michigan and were not intended to support on-going expenditures at the local level. [Note: A lump sum payment totaling $212 million in FY1998 to "plaintiff" districts did not include restrictions on the use of the funds. "Non-plaintiff" districts received a series of annual payments beginning in FY1999; however, unlike the payments to the "plaintiff" districts, the state placed restrictions on the use and timing of the payments received by "non-plaintiffs".] According to the Senate Fiscal Agency, a total of $414 million from the state's rainy day fund was transferred to the SAF to finance the various provisions of the *Durant* decision from FY1998 to FY2003.

The use of these non-recurring resources, particularly with respect to on-going SAF expenditures, allowed education spending to increase at a faster rate than the on-going earmarked SAF taxes when the economy slowed. No doubt, these resources were critical pieces to the overall school finance picture when they were employed; however, they do not represent monies that are available over the long-term. Including them in the discussion and figures presented in this report would result in a picture of school revenues (both annual levels and growth rates) that is artificially high.

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General Fund Budget Challenges

The State of Michigan has a long history of supporting public education with General Fund resources. These resources always played the minority role in the context of the state's overall funding responsibility, with the SAF-dedicated revenues playing the majority role. Despite this minority role, the level of General Fund dollars going to support education each year has never been immune to the challenges faced by the state's General Fund budget. This reality existed prior to the Proposal A reforms and remains true today.

General Fund support of public education cannot be examined in isolation but must be understood in the context of the state's competing needs and obligations. Earmarking provisions and other budgetary practices segregate the General and School Aid Fund budgets in theory; ultimately, however, annual appropriation decisions involving these two major funds are made simultaneously by policy makers. Each year, policy makers face seemingly infinite competing demands for finite state resources, and as a general rule, the entirety of the state budget is under consideration at the same time in the development of the annual state spending plan.

This brief summary provides a backdrop against which state education funding provided through the SAF has operated during the eight-year period, FY2000 to FY2008.

- Total General Fund revenues dropped by $471 million, or 4.8 percent, from FY2000 to FY2008.
- Over the period of FY2000 to FY2003, on-going General Fund tax receipts declined by $1.8 billion (19.2 percent).
- Adjusted for inflation, total General Fund revenues declined by $2.6 billion (21.7 percent) and tax receipts dropped by $2.5 billion (21.6 percent) between FY2000 and FY2008.
- Individual income tax receipts (largest revenue source) remained unchanged, despite a rate increase (3.9 percent to 4.35 percent) effective for FY2008.
- Single business tax receipts (second largest source) declined $507 million (21.8 percent) from FY2000 to FY2007

The on-going revenue challenges of the first half of the decade resulted from the economic decline associated with the 2001 recession as well as aggressive cuts in the personal income and single business tax rates. Other tax policy actions that contributed to the rapid decline in General Fund revenues between FY2000 and FY2003, included tax base reductions in the personal income, sales, and single business taxes.

As the economy and tax policy changes reduced General Fund revenues, state policy makers struggled to maintain required budget balance. General Fund spending was reduced, but not at the same rate as on-going revenues. To support this end, on-going spending in the General Fund was supplemented with nearly $6 billion in one-time resources between FY2000 and FY2006.[1] The heavy use of one-time resources initially reflected the lag in adopting permanent expenditure reductions, but later became a key component of the annual budget balancing equation as revenues continued their decline.

Despite severe struggles to achieve budget balance in previous years, the fiscal challenges facing the General Fund reached a public crescendo in the early fall of 2007. Facing an estimated $1.8 billion shortfall in FY2008, state government was temporarily shut down on October 1, 2008, when the requisite state appropriations were not passed by the start of the new fiscal year. The FY2008 budget was balanced with $1.1 billion in increased tax revenues.

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[i] Citizens Research Council of Michigan. *State Budget "Balance" for FY2007 Achieved with $1 Billion in Additional Non-Recurring Resources.* State Budget Note. June 2007.

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Cost-Shifting Items to the SAF Budget.

Another policy shift affecting the SAF and the General Fund has occurred in recent years. This shift does not appear in the figures presented in **Chart 14**, although its effect on annual state education revenues is the same as the decrease in the General Fund contribution to the SAF. Beginning in the mid- 2000s, a series of program transfers have been made that effectively required the SAF to pick up the financing costs of programs previously financed by other state dollars, most often General Fund resources. These programs were previously administered by other state agencies and funded in their respective budgets and subsequently transferred to the annual School Aid Fund budget via annual budget decisions. Nearly all of these transfers were made to address General Fund budget shortfalls. While the appropriateness of each item transferred to the SAF can be debated, the bottom line is that these budget decisions have resulted in more demands being placed on the finite annual resources available in the SAF.

The House Fiscal Agency reports that the FY2010 costs of the transferred programs total $209 million.[i] One of the largest transfers is the cost of borrowing to meet SAF cash flow needs (e.g., mainly associated with the receipt of state tax revenues and the timing of payments to schools).[ii] Beginning in FY2007 and again in FY2008, a portion ($22.8 million each year) of the total cost was shifted back to the SAF and by FY2009, this amount doubled to $45 million. The State of Michigan issued short-term debt in FY2003 through FY2006 to meet its cash needs, including those of SAF; however, in those years the General Fund covered all of the borrowing costs.

Other major items where financing responsibility has been transferred to the School Aid Fund include: *Durant* settlement debt financing ($39 million), School Bond Loan Redemption ($40 million), and reimbursement to renaissance zones ($26 milion).

Annual legislative determinations, primarily driven by shortfalls in the General Fund budget, have resulted in reduced annual General Fund transfers to the SAF. These direct reductions in state support for education have been exacerbated by a steady increase in the new costs that the SAF must pick up.

[i] House Fiscal Agency, *School Aid Programs Formerly Funded from GF/GP or BSF and Department Transfers*, unpublished, October 2009.

[ii] In recent years, the State of Michigan has been issuing short-term debt to finance, in part, its combined major fund (General and School Aid Fund) cash needs throughout the year. This borrowing is permitted under Article IX, Section 14 of the Michigan Constitution. This external borrowing occurs in addition to the internal borrowing within the state's Common Cash Fund in order to meet the state's cash obligations throughout the year. Because of the incongruence between the timing of tax receipts and monthly School Aid Fund payments, the Fund is required to borrow from both internal and external sources to meet its obligations. A more complete discussion of the state's cash flow borrowing experience can be found in the CRC publication, *Michigan's Deteriorating Cash Position*, Note 2007-2, May 2007.

Revenue Performance over the 2008 Recession

The 2008 recession that officially began in December 2007 has adversely affected the growth of all state taxes through FY2009.[13] The fiscal effects of the "Great Recession" are expected to continue in FY2010 with lingering effects into FY2011. For many observers of State of Michigan finances, most notably local and intermediate school districts and their constituents, the substantial declines in state education revenues became a flashpoint issue because of the budget reductions that accompanied the sharp drop in state revenues in FY2009 and the moderate decline that is currently projected for FY2010. The magnitude of the annual reductions in on-going state revenues in FY2009 had not been seen in the post-Proposal A era, indicating that the school finance system has entered uncharted waters.

Michigan's weak revenue growth from FY2001 to FY2008 is attributable to the mild 2001 recession and economic restructuring in Michigan. In contrast, the revenue performance for FY2009 and FY2010 is attributable to forces occurring outside of the state, the product of a very severe national recession. Given the recession's severity, the annual changes in FY2009 and FY2010 are not viewed as an indication of the start of a long-term trend. Current official FY2011 revenue estimates (combined General and School Aid Funds) project a reversal of the annual changes observed for the previous two years and a modest increase (2.8 percent) in baseline rev-

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enue growth. "Baseline" revenues reflect receipts before the incorporation of tax and budgetary adjustments and reflect the revenues resulting from underlying economic activity.

Although the annual FY2009 and FY2010 revenue growth rates are not indicative of a long-term trend, they will have the effect of "re-setting" state revenues, for both the General and School Aid Funds, at markedly lower levels. In the years to come, the Great Recession will have established a new base level from which state revenues will grow going forward. Because of the temporary nature of the most recent economic downturn and the steep annual declines in state revenue, it is instructive to examine state revenue performance since FY2001 in two distinct periods, FY2001 to FY2008 and afterwards.

Table 8 tracks state education revenues from FY2001 to FY2008 compared to FY2009 actual figures and current estimates for FY2010.[14] The relatively weak annual growth rates observed over the earlier eight-year period stand in stark contrast to the yearly changes in FY2009 and projected for FY2010, when both years show outright revenue declines. [Note: The data presented are adjusted to account for the personal property tax exemptions associated with the business tax changes effective 2008 and affecting MBT deposits to the SAF in FY2008 and beyond. These adjustments to the data are necessary in order to compare across the two periods because they artificially increased state revenues and reduced local revenues by an equal amount.] The declines in state funds over this two-year period were partially offset by the availability of non-recurring federal funds from the stimulus (See *American Recovery and Reinvestment act of 2009* on p. 37).

Table 8
State School Aid Revenue Changes: FY2001 to FY2010
(Dollars in Millions)

	FY2001	FY2008	Average annual growth rate	FY2009	Annual change	FY2010	Annual change
Sales / Use Tax	$5,075.9	$5,387.4	0.9%	$4,793.2	-11.0%	$4,865.7	1.5%
Income Tax	1,955.3	2,117.7	1.1%	1,895.3	-10.5%	1,815.3	-4.2%
State Education Tax	1,489.6	2,079.7	4.9%	2,040.6	-1.9%	1,893.0	-7.2%
Michigan Business Tax*	NA	205.0	NA	250.0		250.0	
Real Estate Transfer Tax	252.9	169.8	-5.5%	125.3	-26.2%	127.0	1.4%
Tobacco Taxes	383.1	424.7	1.5%	410.4	-3.4%	387.3	-5.6%
Liquor Taxes	28.4	36.9	3.8%	37.6	1.9%	38.2	1.6%
Industrial Facilities Tax	131.3	86.1	-5.8%	41.8	-51.5%	47.8	14.4%
Casino Gaming Tax	75.4	112.1	5.8%	108.1	-3.6%	109.6	1.4%
Other	15.2	17.1	1.7%	16.3	-4.7%	16.2	-0.6%
Total Taxes	9,407.1	10,636.5	1.8%	9,718.6	-8.6%	9,550.1	-1.7%
Lottery Proceeds	587.0	740.7	3.4%	724.5	-2.2%	723.0	-0.2%
Total State Revenues	9,994.1	11,377.2	1.9%	10,443.1	-8.2%	10,273.1	-1.6%

* FY2008, FY2009, and FY2010 figures are adjusted to account for the personal property tax exemptions included in the business tax changes effective 2008. Figures exclude MBT revenue designed to replace, dollar-for-dollar, lost local personal property tax revenues effective 2008.

Source: FY2001 through FY2008, Michigan Department of Treasury; FY2009 and FY2010, Consensus Revenue Estimates as of May 2010 (adjusted by CRC).

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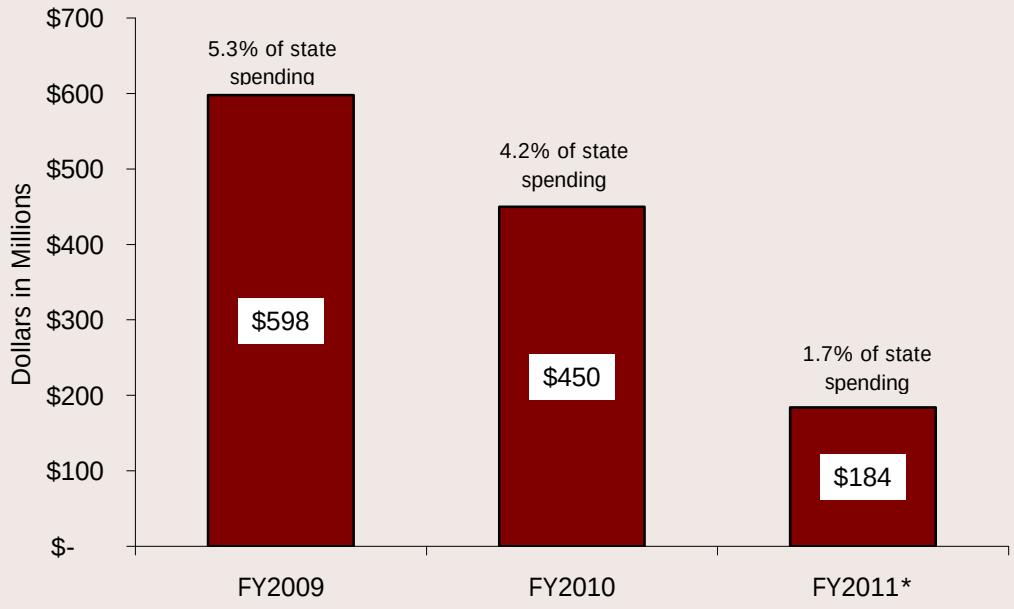
From FY2008 to FY2009:

- All state education revenues declined from their previous year levels, with an overall decline of $934 million or 8.2 percent. This compares with an average annual growth rate of 1.9 percent in the previous period.
- Of the major taxes, sales/use tax and income tax receipts declined 11 percent and 10.5 percent, respectively. State education tax collections fared better than the overall rate, but still declined 1.9 percent from FY2008. All three taxes had positive annual growth rates from FY2001 to FY2008.
- The real estate transfer tax fell 26.2 percent year-over-year. This was the only tax that had negative growth in the FY2001 to FY2008 period, falling 5.5 percent per year on average.
- Lottery proceeds are expected to fall 2.2 percent after showing modest growth of 3.4 percent per year over the previous period.

From the reduced base in FY2009, revenues are estimated to decline further in FY2010, largely due to continued economic struggles nationally and in Michigan. Specifically, year-over-year projected changes suggest:

- Two of the three major tax revenue sources (income and property) will fall and aggregate tax revenue from all sources will decline $170 million (1.6 percent).
- Income tax receipts will decline by $80 million (4.2 percent) as the state continues to shed payroll jobs.
- State education tax will decline by $147.6 million (7.2 percent), largely as a result of the declining real estate market.
- Tobacco taxes will drop again (5.6 percent), reflective of the continued decline in tobacco use.
- Lottery proceeds will remain basically stagnate at their prior year level, reflective of the limited discretionary income that residents have and competition from other gaming.

Chart 15
ARRA Funds Used to Achieve SAF Budget Balance: FY2009 through FY2011



* Based on Enacted FY2011 budget (Public 110 of 2010).

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American Recovery and Reinvestment Act of 2009

The revenue declines in FY2009 and FY2010 will not be fully reflected in the level of education services delivered in Michigan over this period. These shortfalls will be partially offset by the availability of temporary federal assistance provided through the American Recovery and Reinvestment Act of 2009 (ARRA). The ARRA legislation was enacted in the early part of 2009 and the federal resources are designed to help states mitigate cuts to public services and maintain required state budget balance over a three-year period, 2009 through 2011. Specifically, a significant portion of the $878 billion in ARRA resources targets education service providers at both the K-12 and higher education levels. The ARRA education funds are distinct from the on-going federal resources that many Michigan schools receive through the annual state School Aid Fund budget in two primary ways. First, ARRA resources are provided on a temporary basis and in a single lump sum for states to use beginning in 2009. Second, a significant portion of the funding is discretionary, in contrast to on-going federal funds that are generally restricted to specific purposes. (Note: The Michigan Department of Education reports that it will receive $2.6 billion in ARRA grants in total, one-half of which is discretionary education funding. The remainder will be used to support existing federal programs, notably Individuals with Disabilities Education Act ($401 million), Title I – Improving the Academic Achievement of the Disadvantaged ($390 million), and other smaller grant programs. [i])

With respect to undesignated funding, ARRA provides the State of Michigan with a formula allocation of $1.6 billion to support its general budgetary needs. Of this total, $1.3 billion is earmarked by federal law to finance public education services at the K-12 and postsecondary levels. Michigan's application for this funding designated a little more than $1.2 billion for K-12 education in FY2009, FY2010, and FY2011 and $68 million for public universities in FY2010.[ii] Some restrictions accompany the funds, but generally few "strings" accompany the funding and they may be used to support ongoing budget items at the local school level. Because of this freedom, these federal resources are indistinguishable from state revenues provided to local schools through the School Aid Fund and individual schools will determine how best to use these resources, keeping in mind their temporary nature.

In nominal terms, the amount of ARRA education money was not spread equally over the three years, but was "front-loaded" ($600 million) to help address the revenue decline in FY2009. The School Aid Fund budget relied on $450 million in FY2010 and the remainder ($184 million) in FY2011. The use of significant amounts of non-recurring ARRA dollars in FY2009 and FY2010 had the effect of postponing the fiscal impact associated with declines in SAF revenue declines in those years. The $600 million used in FY2009 accounted for 5.3 percent of the School Aid Fund budget and the $450 million currently set-aside for FY2010 is equal to 4.2 percent of the projected SAF budget expenditures. The remaining ARRA dollars available in FY2011 represent less than half the amount available in FY2010 (**Chart 15**).

In August 2010, additional temporary federal resources through the Education Jobs Fund (Public Law 111-226) were made available to the states to maintain and create public education jobs in the 2010-11 school year. A total of $10 billion is available for distribution to the states and Michigan's projected share of the total is $318 million. At the time of this writing, state officials are in the process of applying for the additional resources and determining how to distribute them to individual local districts in FY2011. While these decisions will influence the funding received at the local level in FY2011, both in the aggregate and on a per-pupil level, the specifics are unknown at this time. However, at a system-wide level, the additional funding will be added to the $184 million in ARRA funding currently programmed for FY2011, thus raising the amount of temporary federal resources to $500 million and increasing the portion of state education spending supported by non-recurring resources from 1.7 percent to 4.4 percent.

[i] Michigan Department of Education, *ARRA Monitoring*, presentation to Michigan State Business Officials Workshop on June 9, 2010. www.msbo.org/library/Presentations/2010BizMgr/ARRA.pdf

[ii] House Fiscal Agency. *American Recovery and Reinvestment Act Funding and Michigan's State Budget*. December 2009.

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Local Property Tax Revenues

The 1990s school finance reforms reduced substantially the role played by locally-generated revenues in the overall financing of public elementary and secondary education. In percentage terms, the roles of state and local operating revenues were reversed after the adoption of the 1994 constitutional amendment and the associated statutory changes. On a rough order of magnitude, the local responsibility for financing the operating costs of local school districts was reduced from nearly two-thirds in FY1994 to about one-quarter in FY1995. For Michigan's intermediate school districts (ISDs), which also provide specific, targeted education services (notably special education), Proposal A and its statutory reforms did not result in the same shifts in funding responsibility between levels of government.

From an operating revenue perspective, local revenues remain an important component of the overall financial picture for public education; however, the performance of local tax revenue plays a much less important role in the amount of funding that an individual district receives under the Proposal A financing scheme. Property tax revenues continue to represent the largest share of the local component of school operational funding, accounting for $9 of every $10 in locally-generated resources. Although these resources are a key component of the per-pupil foundation allowance program, the state controls the amount of the grant for each district and supplies the resources to account for the difference between the grant and the locally-raised property taxes. Thus, local property tax performance does not directly determine the per-pupil revenues received in a local district under the centralized revenue structure. [Note: For intermediate school district, local property tax performance still plays an important role in determining per-pupil revenue levels each year.] **Appendix A** provides a very brief descriptive overview of local school operating property taxes in Michigan available to local and intermediate school districts. We do not discuss the role of property taxes in financing capital expenditures in this report.

At the time of their enactment, these constraints were deemed necessary to address taxpayer resistance to past repeated requests to raise local school operating tax rates. Also, it was argued that state efforts to correct per-pupil revenue inequities through a centralized revenue system would be partially undone if local districts could seek additional revenues through higher property taxes.

By design, the new financing system placed tight limits on the ability of local school districts to generate additional revenues locally, specifically from the property tax. At the time of their enactment, these constraints were deemed necessary to address taxpayer resistance to past repeated requests to raise local school operating tax rates. Also, it was argued that state efforts to correct per-pupil revenue inequities through a centralized revenue system would be partially undone if local districts could seek additional revenues through higher property taxes.

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Operating Property Tax Revenue Performance

The property tax is the dominate own-source operating revenue for local and intermediate districts. Other local revenue sources that support school operations to varying degrees include food service, investments, and other miscellaneous revenues. Local operating property tax revenues have exhibited consistent and steady growth since the adoption of Proposal A. This consistency results from the general stability that the property tax exhibits over turbulent economic times vis-a-vis income and consumption taxes. Furthermore, this stability is also due to the various constitutional tax limitations that effectively cap property tax revenue growth for all units of local government, including schools.

Local Districts

Local operating property tax revenues, including the 18-mill, "hold harmless", and enhancement taxes, grew from $2.0 billion in FY2001 to $2.7 billion in FY2008, an aggregate increase of 39 percent, which equates to an annualized rate of 4.9 percent (**Table 9**). Annualized growth rates of the major and minor state taxes going to education were 1.7 percent and 4.3 percent, respectively, over the same period. Local property taxes fared extremely well compared to economic activity over the period as state personal income increased 2.2 percent per year. Tax receipts also outpaced increases in general prices (changes in the U.S. CPI averaged 2.4 percent per year over the same period).

In FY2009, property tax collections for operations were significantly affected by enactment of the Michigan Business Tax and related legislation, which provided certain exemptions from the 18-mill tax to industrial and commercial property. In that year there was a 9.1 percent net reduction in local property tax revenue, from $2.7 billion to $2.5 billion. This local revenue reduction was offset by increases in state funds dedicated to education in FY2008 and FY2009.

Table 9
Growth of Local and State Education Operating Taxes
(Dollars in Millions)

	Local Property Tax*	Change	Major** State Taxes	Change	Minor*** State Taxes	Change	Total Operating Taxes	Change
FY2001	$1,951.4		$8,520.8		$886.3		$11,358.5	
FY2002	2,060.3	5.6%	8,575.0	0.6%	945.3	6.7%	11,580.7	2.0%
FY2003	2,153.1	4.5%	9,066.8	5.7%	1,061.9	12.3%	12,281.8	6.1%
FY2004	2,197.2	2.0%	8,873.6	-2.1%	1,096.8	3.3%	12,167.7	-0.9%
FY2005	2,334.9	6.3%	9,173.6	3.4%	1,068.8	-2.6%	12,577.2	3.4%
FY2006	2,451.8	5.0%	9,332.7	1.7%	1,061.3	-0.7%	12,845.8	2.1%
FY2007	2,586.1	5.5%	9,420.3	0.9%	984.0	-7.3%	12,990.3	1.1%
FY2008	2,697.0	4.3%	9,584.8	1.7%	1,187.5	20.7%	13,469.2	3.7%
FY2009	2,452.6	-9.1%	8,730.7	-8.9%	1,468.5	23.7%	12,651.8	-6.1%
FY2010****	2,508.6	2.3%	8,582.1	-1.7%	1,452.8	-1.0%	12,543.5	-0.9%
Annual Rate	2.8%		0.1%		5.4%		1.1%	

* Includes three operating property taxes – basic 18-mills, "hold harmless", and regional enhancement

** Includes State Education, Sales and Use, and Income taxes

*** Includes all minor taxes dedicated to the School Aid Fund (excludes General Fund and lottery proceeds)

**** Estimates based on May 2010 revenue estimates

Source: Michigan Department of Education; Michigan Department of Treasury

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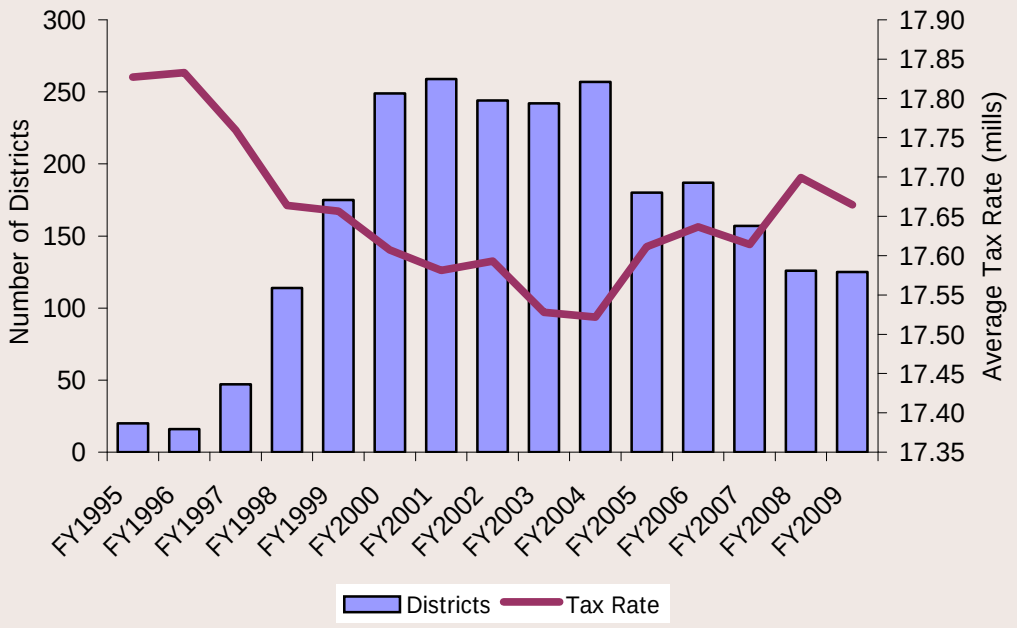
Property tax collections are projected to grow by 2.3 percent in FY2010, a much lower rate than was experienced in the period FY2001 through FY2008.

Following the adoption of Proposal A and largely as a result of the strength of the housing market and resultant growth in property values in Michigan, a number of local and intermediate school districts have experienced "Headlee rollbacks". [Note: Article IX, Section 31 of the 1963 Michigan Constitution requires property tax rates (including schools) to be "rolled back" when the growth in assessed value, excluding new construction, exceeds the growth in inflation.] As shown in **Chart 16**, initially only a few local districts were subject to constitutional tax rate reductions, but the number gradually increased. By FY2001, a total of 259 districts (47 percent of all districts statewide) in Michigan were levying fewer than 18 mills. [Note: This includes a small number of districts that were doing so prior to Proposal A and were "grandfathered" under the new financing system.]

The gradual increase in the number of districts levying fewer than 18 mills on non-homestead property is reflected in the statewide average tax rate for this local property tax. As more local districts experience millage rate rollbacks, the average figure declines, as depicted in **Chart 16**. The average figure bottomed out in FY2004 (tax year 2003) at 17.52 mills. In FY2009, the statewide average is up slightly at 17.66 mills, but still below the maximum limit.

In recent years, the number of districts levying fewer than 18 mills has declined. This is explained by a couple of factors. First, as authorization for the local school operating property tax expires, electors are asked to renew the tax at the full 18-mill rate.[15] A second reason is the approval, at the local level, of millage rate increases intended to "override" the previous Headlee rollback.[16] When these questions gain approval at the local level, the rate can be returned to the maximum 18 mills. For FY2009, 125 districts, less than half as many as FY2004, levied

Chart 16
Local Districts Levying Less than 18 Mills on Non-Homestead Property and Average Tax Rate



Source: Michigan Department of Education

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the local school operating tax at a rate below the maximum 18 mills.

Intermediate School Districts

The centralization of school finances at the state government level did not affect intermediate school districts (ISDs) as severely as it did local school districts. Although amounts vary across districts, as a group, ISDs continue to receive the majority of their funding from local sources, in much the same way as they did before Proposal A.[17] Considerable variation in property taxation exists among ISDs, something that predated Proposal A. The variation in local tax effort among ISDs explains some of the service discrepancies that exists statewide. The variation in ISD services is fully explained in a separate report, *Public Education Governance in Michigan*.[18] In FY2008, local resources comprised 60 percent of all ISD funding statewide, followed by 18 percent from state sources, and 22 percent from federal sources. Federal sources constitute a larger share of overall ISD finances compared to local districts because of the leading role ISDs play in the provision of special education services. Again, considerable variation exists among ISDs as to the component shares of each district's total budget. As is the case with local districts, the major own-source revenue available to ISDs is the property tax.

The centralization of school finances at the state government level did not affect intermediate school districts as severely as it did local school districts.

ISDs have authority to levy property taxes for: 1) general operations, 2) special education operations, and 3) vocational education operations. Authorization to levy dedicated taxes for special education or for vocational education, and as part of the school finance reform for increased general operating millages, requires voter approval. The maximum rate for each purpose is capped and all ISD tax rates are subject to Headlee tax rate rollback provisions of the Michigan Constitution.

The 57 ISDs across the state rely on the three different taxes to varying degrees. The revenue growth experienced statewide, and at the district-level, depends on a number of factors, including the rates levied for each tax and changes in the tax base within each community.

Beginning in 1995 and as part of the new financing system, a cap on the general operating tax rate that an ISD can levy was established at 1.5 times the number of mills allocated to the ISD in 1993. All districts in FY2001 levied the tax, but considerable variation existed among the rates ranging from 0.0727 mills (Livingston Educational Services Agency) to 0.4675 mills (Muskegon Area ISD). The average rate statewide was 0.2184 mills, an amount which has remained fairly constant over the years.

Statewide in FY2009, the general operating tax generated almost $63 million, an increase of 48 percent over the aggregate yield in FY2001 (See **Table 10**), despite the fact that the average tax rate declined very slightly over the period to 0.2121 mills. This shrinkage was the result of tax rate rollbacks required because of tax base growth. Growth in the total ISD tax base between FY2001 and FY2009 was 52 percent. Growth in the base (48 percent) and yield (52 percent) over the period substantially exceeded changes in the rate of inflation, which rose only 17 percent over the eight-year period.

Receipts from the general operating tax increased at a very strong and steady rate between FY2001 and FY2008, averaging 5.5 percent per year. This growth was fueled by the increase in the value of property. The year-over-year change in FY2009 was much lower (1.3 percent), a reflection of a slowdown in the escalation of property values statewide (1.1 percent). Early estimates of tax yields for FY2010 indicate a very small decrease (-0.2 percent) statewide; however, this moderate reduction hides some significant variation in the experiences at the individual district level. Again, changes reflect the declining tax bases. Although the statewide total taxable value for ISD millages is projected to decline a very modest 0.6 percent, changes at the district level range from an increase of 13.7 percent (Gogebic-Ontonagon) to a decline of 3.6 percent (Genesee).

Given ISDs' primary role to provide special education services both directly and indirectly through constituent school districts, it is not surprising that the special education property tax is the largest revenue source, yielding a little over $1 billion in FY2009

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Table 10
Intermediate School District Property Tax Bases and Yields
FY2001 to FY2010 (est.): Selected Years
(Dollars in Millions)

	Taxable Value	General Operating Millage	Special Education Millage	Vocational Education Millage	Total Yield
FY2001	$236,240	$42.3	$531.3	$122.7	$696.3
FY2005	301,486	$52.6	$862.4	$166.7	$1,081.7
FY2008	354,763	$61.6	$1,026.2	$199.0	$1,286.8
FY2009	358,723	$62.5	$1,037.8	$202.1	$1,302.4
FY2010 – est.	356,725	$62.4	$1,032.8	$201.8	$1,296.9
Annualized Growth Rates					
FY2001 to FY2008	6.0%	5.5%	9.9%	7.2%	9.2%
FY2009	1.1%	1.3%	1.1%	1.6%	1.2%
FY2010	-0.6%	-0.2%	-0.5%	0.0%	-0.4%

Source: Michigan Department of Education

and accounting for 80 percent of ISDs' total property tax collections. The statewide average rate for this tax was 2.54 mills, up from 2.40 mills in FY2001.

The Revised School Code limits an individual district's special education millage rate to 1.75 times the number of mills levied in 1993, so the maximum allowable rates vary across the state. To increase the rate above the level in effect in 1993 requires a local vote. In FY2009, all 57 districts levied this tax, with the lowest rate 0.6371 mills (Iosco Regional Education Services Agency) and the highest rate 5.6264 mills (Jackson ISD). Growth in special education property tax yields has been significant, nearly doubling between FY2001 and FY2009. This growth is a function of tax rate increases as well as growth in the property tax base. In comparison to the average general operating millage rate, which declined nearly 3 percent between FY2001 and FY2009, the statewide average special education tax rate increased from 2.40 mills to 2.54 mills, 6 percent, over the same period. The increase in the statewide average figure is evidence that ISDs have sought, and gained local approval for, rate increases above the levels in place in 1993. As was noted with the general operating tax, yields from the special education tax levy grew much slower in the most recent period (only 1.1 percent in FY2009), compared to nearly 10 percent per year on average between FY2001 and FY2008. Special education property tax accounts for the robust growth of overall ISD property taxes in recent years.

In contrast to local school district finances that are dependent on the performance state taxes, ISDs fared relatively well between FY2001 and FY2009 when state revenue growth stagnated. Looking forward, however, the revenue picture facing ISDs is likely to change with the challenges facing the property tax. Statewide figures suggest that all three ISD property tax levies will decline in FY2010 in response to falling tax bases, yielding an aggregate decline in property tax revenues (See **Table 10**).

While all ISDs levied the general operating and special education taxes in FY2009, only 31 districts levied the vocational education millage for area-wide programming in that year. Of this group, over one-half (18 districts) levied the tax at a rate in excess of 90 percent of the maximum allowed. For those districts close to the maximum rate, raising tax rates to compensate for falling property values may not be an option. (See *Raising ISD Property Tax Rates* box on p. 43.) Also, those districts that were not levying the tax in 1993 are faced with a hard cap on the maximum rate allowed (1 mill), while those that were levying the tax prior to Proposal A can increase the maximum rate by 1.5 times the millage rate in 1993.

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Raising ISD Property Tax Rates

All units of local government will experience fiscal challenges resulting from deteriorating property tax bases in the coming years; however, within the school community, ISDs will be particularly hard hit by falling property values and the attendant property tax yields because of their heavy reliance on this revenue source to support operations. Deterioration of the tax base will require tax rate increases to maintain revenue levels, or districts will have to pare back services to meet depressed revenue collections. State law authorizes ISDs to increase tax rates above those in place upon Proposal A's adoption, subject to local voter approval and subject to limitations.

Like so many local governments in Michigan, intermediate school districts have been affected to varying degrees by property tax rate rollbacks that have occurred automatically in response to escalating property tax bases in the past [Note: Headlee tax rate rollbacks of ISD tax rates are observed in the distribution of tax rates for FY2001 and FY2009.] In FY2001, the average district was levying the general operating tax at 93.3 percent of the maximum voter-approved rate and only one district was levying at the maximum (**Chart 17**).[1] By FY2009, the average operating millage rate statewide had declined to 90.6 percent of the maximum and no districts were at their authorized cap.

Headlee tax rate rollbacks affected special education millages in the same way between FY2001 and FY2009. In FY2001, the average rate for these millages statewide was 92.1 percent of the maximum and by FY2009, districts were levying at 90.4 percent of the maximum rate (**Chart 18**). Assuming districts have not done so already, the reduced tax rates resulting from the Headlee rollbacks effectively provide room for nearly all districts to increase rates, subject to voter approval, up to the levels previously authorized. Initially, rates will only be able to be raised, or restored, to the level previously authorized, i.e. via an "override" vote. However, fully restoring the "rolled back" rates may not be sufficient to make up for the decline in property tax values.

For districts with little or no room currently under voter-approved maximum rates to make up for the potential losses stemming from property values, Proposal A provided a mechanism to increase the maximum tax rate for each of the three taxes levied by ISDs. Very few districts have taken this action so far, so most have considerable room under the Proposal A rate limitation for the general operating, special education, and vocational education millages. This will allow districts to respond to falling property values by increasing rates, a response that may or may not be politically acceptable.

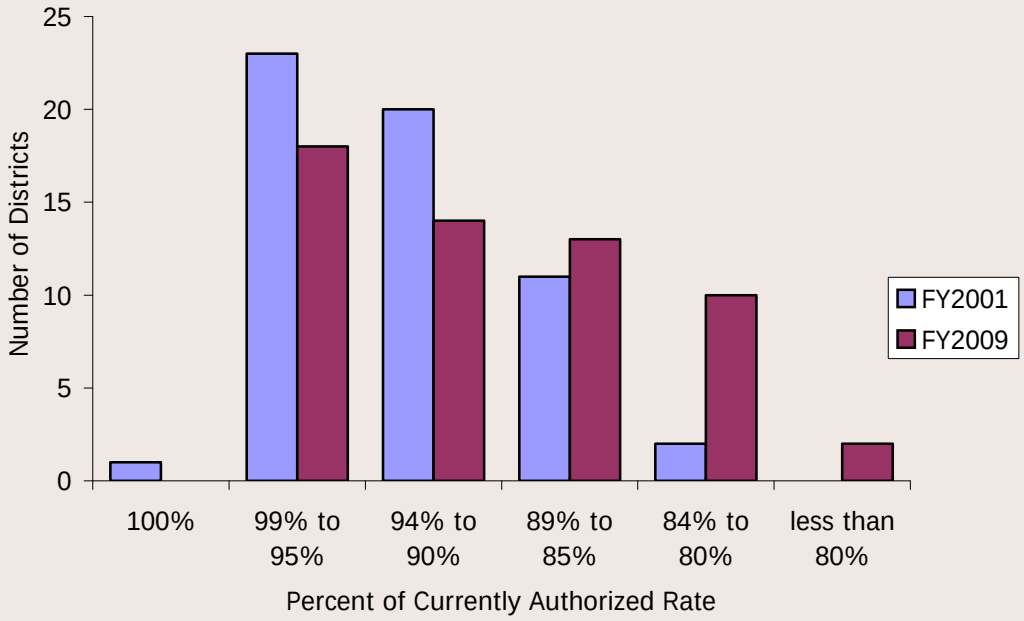
Thus far, few ISDs have sought voter approval to increase the general operating or the special education millage rates above those in effect when Proposal A took effect. When districts have sought to increase the maximum tax rate allowed, the special education tax rate has been increased. A total of 17 ISDs have taken the necessary steps to ask voter approval to raise the maximum special education rate allowed under state law, which means nearly three-fourths of the all districts remain well below the state statutory maximum rate allowed under Proposal A (i.e., 1.75 times 1993 rate). In one-third (six districts) of the cases where voters have been asked to raise the rate above the 1993 rate, the rate was raised to the statutory maximum (1.75 times 1993 rate). In five of the six districts, the FY2009 special education millage rate was at least 95 percent of the respective maximum rate. For these five districts, the option of raising tax rates in response to declining property values over the coming years will be constrained by the statutory caps adopted as part of the Proposal A reforms.

[1] To obtain the information regarding ISD millage rates, the Citizens Research Council of Michigan, working with the Macomb Intermediate School District, collected information from all 57 ISDs. Districts provided information pertaining to authorized millage rates and actual millage rates for three fiscal years, FY1994, FY2001, and FY2009. FY1994 represented the "base year" for purposes of determining the statutory limitations on tax rates for general operations, special education, and vocational education. Rates, both authorized and actual, for FY2001 and FY2009 were analyzed to determine how much room, if any, individual districts had under both the currently authorized limitation as well as the state-imposed limitation. Data from this survey is available, upon request, from CRC.

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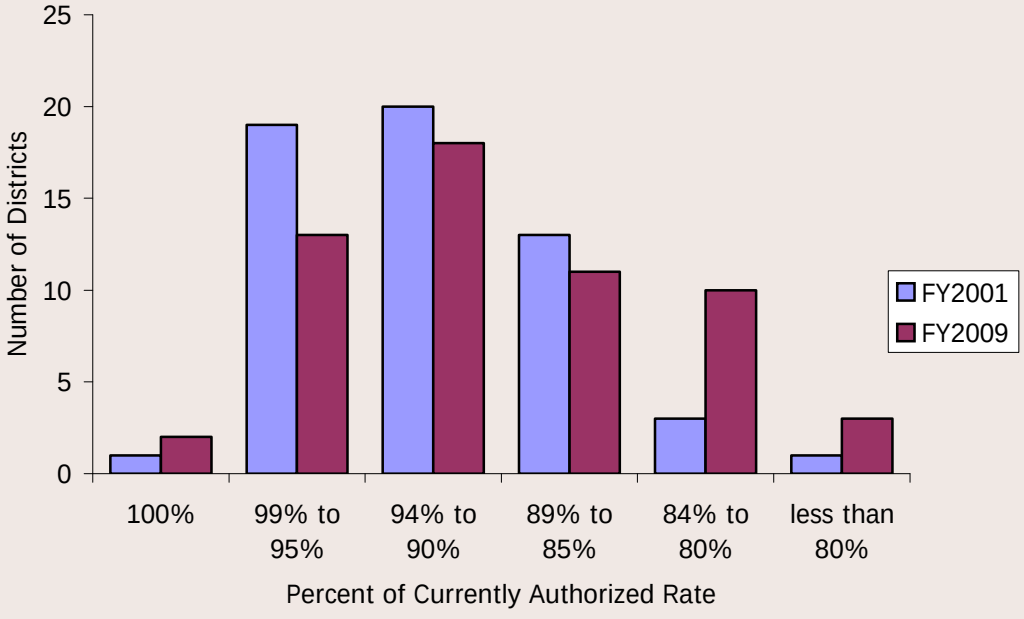
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Chart 17
ISD Operating Property Tax Levies: FY2001 and FY2009



Source: CRC Survey of ISDs

Chart 18
ISD Special Education Property Tax Levies: FY2001 and FY2009



Source: CRC Survey of ISDs

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Public Education Spending

As previously noted, the primary focus of this paper is the revenue side of the public education ledger. The broad purpose is to examine the resources, state and local, available to support public education in Michigan and the performance of these revenues since the passage of Proposal A. As part of CRC's efforts to explore school finances in a comprehensive manner, a separate analysis of school spending issues and pressures will be forthcoming. In light of the discussion about the manner in which revenues for education are obtained in Michigan, it is instructive to provide the reader with a primer on the expenditure side. To this end a general picture of public education spending and how it contrasts with state General Fund spending can be helpful.

While the majority of financial support for public education comes through the State of Michigan's annual School Aid Fund (SAF) budget, the nature and scope of education spending financed by the SAF is different than much of the programs and services financed by the other major budget,General Fund. These differences are important in the context of understanding the cost drivers within school budgets as well as how they compare with the drivers affecting other General Fund expenditures each year. Examining the unique nature of public education spending is also helpful when consideration is given to reducing expenditures at the local or intermediate district level. Because of the high concentration of personnel spending, the options for effecting major spending reductions are limited. Personnel costs tend to be "sticky" in the short-term and immediate reductions are difficult to achieve because multi-year collective bargaining agreements determine overall employee compensation.

Nature and Scope of Spending

Even though the vast majority of school revenues originate from state taxes which are appropriated through the annual State of Michigan budget, local and intermediate school district budgets bear little resemblance to the larger state budget. Less than 20 percent of the total annual expenditures made by the State of Michigan finance programs operated directly by the state. Over 80 percent of all funds appropriated in the budget each year are distributed for services delivered by organizations other than state departments and agencies in functional areas where the State of Michigan is responsible for service provision, either directly or indirectly. A large portion of state government's role as a "contract manager" to other sub-state entities is mandated in the 1963 Michigan Constitution (Article IX, Section 30), which requires that a minimum of 49 percent of state-source revenues each year must be paid to units of local government.[i]

In contrast to the state budget, the vast majority of school expenditures finance programs operated directly at the local or intermediate district level. This contrast is clearly seen in the share of personnel costs that comprise school budgets compared to the state budget. For example, the Michigan Civil Service Commission reports that approximately 11 percent of total State of Michigan expenditures in FY2009 ($44.3 billion) financed the classified payroll of state employees, a percentage that has remained fairly constant for the last 10 years.[ii] This compares with nearly 80 percent of total school operating spending ($17.3 billion) dedicated to personnel expenses for the same period. Personnel-related expenditures include payroll costs, group health insurance liabilities, and retirement (pension and other post-retirement benefits) contributions. Personnel costs in any given year are contingent on a number of factors, including the number of employees, increases in pay, changes in benefits, and required contributions to finance retiree benefits.

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[i] Article IX, Section 30 of the 1963 Michigan Constitution, added as part of the "Headlee Amendment" in 1978, requires the state to maintain the proportion of state spending to local units in at least the same proportion as that which was in effect in FY1979, the base year. The base year proportion was originally computed to be 41.61 percent. Effective with FY1993, a recalculation was made of the base year proportion as a consequence of a settlement agreement reached on the County of Oakland v State of Michigan lawsuit, which was settled in 1991. The recalculated base year proportion is 48.97 percent.

[ii] Michigan Civil Service Commission, *Thirtieth Annual Workforce Report FY2009*.

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Employee Payroll

Between FY2000 and FY2009, the number of full-time equivalent (FTE) positions reported by all school entities (local and intermediate school districts and public school academies) in Michigan fell from 210,027 FTE positions to 207,910 FTE positions, representing a very modest 1.0 percent drop (See **Table 6**). Comparing the changes by service provider reveals significant variation in personnel level over this period.

The number of FTEs in traditional local districts declined by almost 14,000 positions (-7 percent), while ISDs, in the aggregate, gained 6,700 positions (81 percent). It is likely that a number of factors can explain the two different stories. The fiscal challenges present at the local district level during this period, coupled with personnel effects that accompany declining student enrollments at the district level, account for some of the decline. To some degree, overall ISD finances were not as acutely affected by the downturn in state revenues earlier in the decade because of the large role played by local property taxes, thus personnel levels were not reduced. Similarly, although not immune to the effects of declining student numbers, aggregate ISD funding levels were not adversely affected to the same degree as local districts from the shifting demographics. Finally, it is possible that some of the ISD employment gains could be attributed to a shift in program responsibility (e.g., special education services), from the local to the intermediate district level. The fiscal constraints on local districts (declining state revenues and restrictions on local revenue supplementation) may have resulted in certain districts shedding service delivery and transferring responsibility to the ISD. The transfer of special education services to the ISD level may have been facilitated further by how the state reimbursed districts for special education costs following the *Durant* case in 1998.

The near-doubling (96 percent) of FTE levels from FY2000 to FY2009 within the charter community was almost entirely in response to the growth of the number of charter schools in the state and attendant enrollment increases. According to pupil headcount figures reported by the State of Michigan, enrollments at charters increased from 46,833 students in FY2000 to 103,444 students in FY2009, an increase of 120 percent. In contrast, the traditional K-12 district enrollment levels declined by 6.4 percent during the same time, from 1,617,010 students in FY2000 to 1,513,604 students in FY2009.

By far, teachers (non-special education) represent the largest portion of the overall education workforce accounting for 37 percent of the total FTE count for all reporting entities in FY2009. At the ISD level, teachers only represent two percent of the total workforce and special education (instructional, administrative, and support) accounts for 47 percent. Teaching positions dominate within the traditional local and charter school landscape. The average salary for the teachers statewide climbed 27 percent, from $49,044 in FY2000 to $62,272 in FY2009, an increase that outpaced changes in Michigan per-capita personal income over a similar period (16 percent) and changes in the U.S. CPI (20 percent).[iii]

[iii] Data from the Michigan Department of Education annual publication, Bulletin 1014.

Table 11
Changes in Public Education Employment Levels: Selected Years
Full Time Equivalent (FTE)

	Local Districts	ISDs	PSAs	Total
FY2000	196,588	8,311	5,127	210,027
FY2004	185,158	12,054	7,046	204,258
FY2009	182,824	15,045	10,041	207,910
Change 2000 to 2009	(13,765)	6,735	4,914	(2,116)
	-7.0%	81.0%	95.8%	-1.0%

Source: Center for Educational Performance and Information

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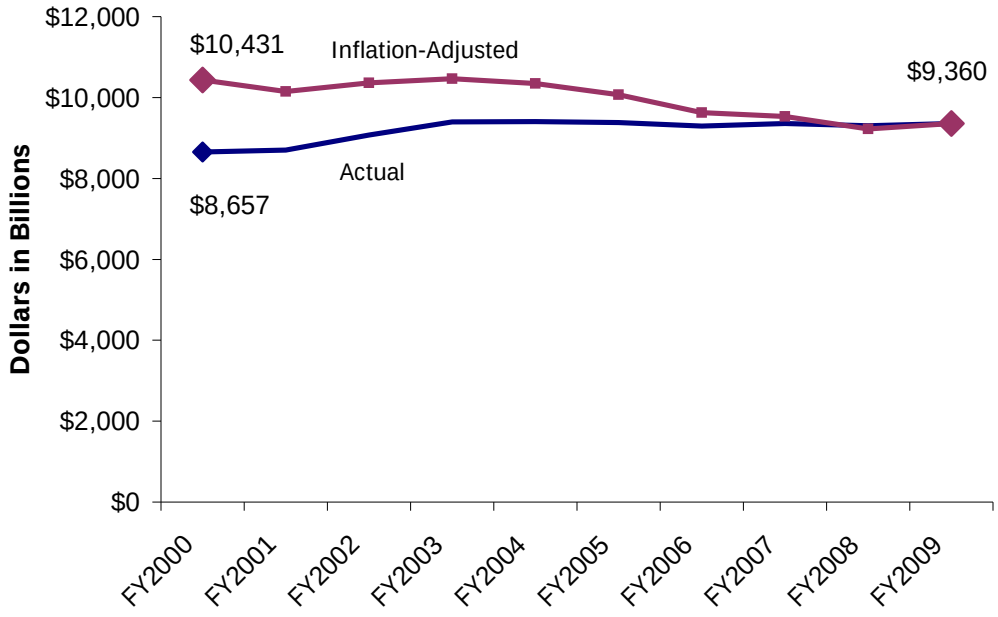
Expenditures for all school employees' salaries totaled $8.7 billion in FY2000 and $9.4 billion in FY2009. After rising consistently through FY2004 ($9.4 billion), payroll figures have remained fairly flat since. Even though FTE positions decreased, the cost of paying each employee grew due to salary and benefit cost increases. After adjusting payroll expenditures for inflation, the cost declined by 10.3 percent between FY2000 and FY2009, while FTE positions declined by 1.0 percent during the same period. **Chart 19** compares actual school employee payroll expenditures with inflation-adjusted expenditures between FY2000 and FY2009. Not included in this chart is the employers' costs of required taxes (Medicare and Social Security), which is a fixed amount of payroll (7.65 percent currently). These amounted to a little over $700 million in FY2009 and have grown commensurate with growth in payroll.

Group Insurances

In addition to payroll, other major employee-related expenses of public education providers are fringe benefits, the largest of which is health care insurance for current employees and their families. The level and type of benefits are determined at the individual school district level for the most part, and are subject to collective bargaining. In most instances, the cost of the insurance is shared by both the employer and the school employee; however, the relative shares paid by each vary across school districts and charter schools. Health insurance represents the second-largest personnel expenditure and a rapidly growing component of education budgets at all levels.

In FY2009, the total amount spent on group insurances (primarily health insurance) was $2.1 billion, almost one-quarter of the base payroll figure for the year. This

Chart 19
Public Education Payroll Expenditures: FY2000 to FY2009



Source: National Public Education Financial Survey; U.S. Department of Commerce

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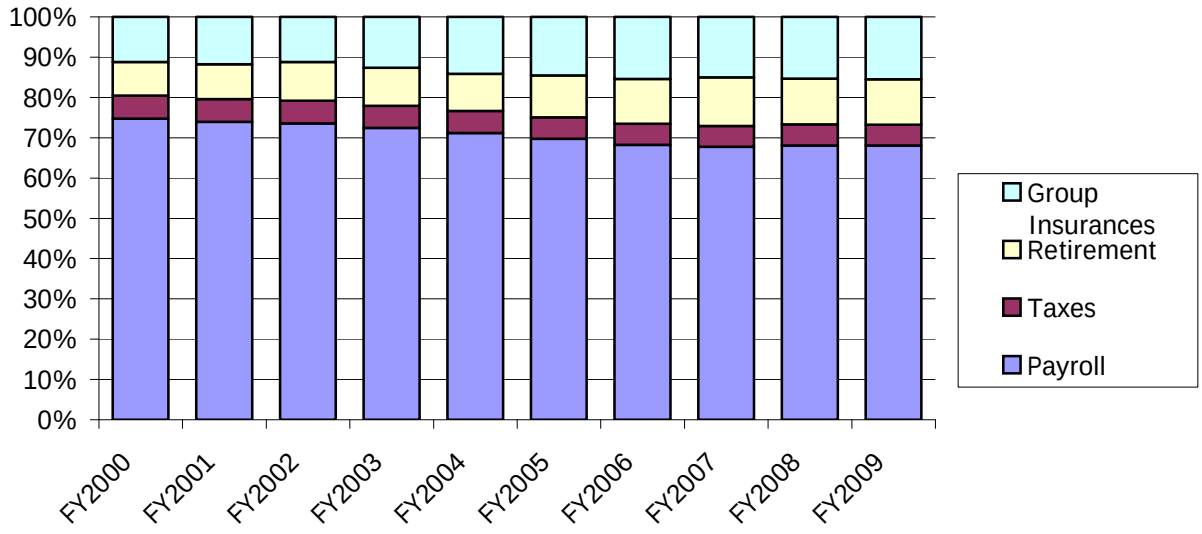
component has become an increasingly larger portion of the total employee compensation picture for schools as it has grown from $1.3 billion in FY2000, a 64 percent increase (See **Chart 20**). The cost of insurance has increased faster than any other employee-related expense during the period. This growth has occurred despite a reduction in the number of employees and in direct response to the price inflation associated with health care.

Retirement Benefits

Spending required to satisfy retirement benefits (pensions and health insurance) increased nearly 60 percent between FY2000 ($970 million) and FY2009 ($1.5 billion). Employer-paid retirement contribution amounts are calculated based on a percent of active payrolls to finance three things: 1) future pension benefits of current employees (normal cost); 2) unfunded liabilities of the pension system; and 3) health care benefits for current retirees. Normal cost is the amount needed to cover the present value of benefits earned by system members in each fiscal year and unfunded liabilities are liabilities that are not covered by assets held by the system's investment funds. In FY2009, the required contribution rate for all three components was 16.5 percent of payroll. Additional contributions required to satisfy the investment losses in the retirement portfolio for 2001 and 2002 caused the total pension component to rise from $572 million in FY2000 to $911 million in FY2009.

The growth in annual spending for retiree health was moderated to some extent through the use of reserves, which resulted in the contribution rate for this component rising from 4.6 percent of active payroll in FY2000 to 6.8 percent of active payroll in FY2009. Reserves were used to augment annual contributions for a three-year period (FY2004 to FY2006). In nominal terms, schools spent $637 million in FY2009 to finance the actual costs of retiree health, up from $398 million in FY2000. As a result of the rapid growth rate of retiree health and pension contributions, the retirement share of the overall school personnel budget increased from 8.4 percent in FY2000 to 11.3 percent in FY2009 (See **Chart 20**). A number of factors account for the rise in the employer

Chart 20
School Personnel Expenditures: FY2000 to FY2009



Source: National Public Education Financial Survey.

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contribution rate required to finance retiree health costs: 1) increased number of retirees; 2) decreased number of active employees; 3) shrinking active payroll base; and 4) general cost increases of health care services (See **Table 12**). Prospectively, if these factors continue to exhibit the same growth rates, the retiree health component of school budgets will become even larger, pulling current dollars away from other school spending.

As of September 30, 2009, there were 268,208 active members in the school retirement system and 171,922 retirees and beneficiaries receiving benefits. The number of active members has been declining since FY2003 while the number of retirees has steadily increased, meaning that, each year, there are fewer active employees to finance the benefits of more retirees. The reported payroll, the base of employer contributions, fell each year from FY2005 through FY2007, before increasing slightly in FY2008 (See **Table 12**).

Unlike the other employee-related costs facing schools, school districts have no control over the retirement contribution rate, which is set annually by the State of Michigan along with the benefit level. Because there has been no pre-funding of the retiree health benefit, current budget dollars have to be used to finance this benefit. In contrast, the pension benefits promised by the retirement system are pre-funded to satisfy future obligations; however, this component is sensitive to the performance of the systems' investments relative to actuarial assumptions.

Other Spending

After accounting for employee-related expenses, the remaining 20 percent, or about $3.5 billion, of the total operating expenditures ($17.3 billion in FY2009) comprise a number of smaller categories, the largest of which include transportation, athletics, and food. Traditionally, this cost grouping has risen at rates below the annual growth rates observed for employee/retiree health spending, but above the annual growth in inflation (U.S. CPI).

Table 12
Michigan Public School Employees' Retirement System: FY2000 through FY2009

	Active Members	Retirees and Beneficiaries	Ratio of Retiree to Active	Reported Payroll (Dollars in Millions)
FY2000	312,699	126,115	1:2.5	$8,984.7
FY2001	318,538	130,790	1:2.4	9,264.2
FY2002	326,350	135,277	1:2.4	9,707.3
FY2003	326,938	139,814	1:2.3	10,043.9
FY2004	322,494	145,378	1:2.2	10,407.1
FY2005	316,151	151,706	1:2.1	10,206.0
FY2006	308,233	157,163	1:2.0	9,806.5
FY2007	295,984	162,844	1:1.8	9,851.5
FY2008	278,642	167,265	1:1.7	9,958.1
FY2009	268,208	171,922	1:1.6	Not Available

Source: Michigan Public School Employees' Retirement System, Annual Actuarial Valuation Report

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Fiscal Outlook for Public Education

In addition to the fiscal challenges posed by Michigan's near-decade-long economic malaise, which have been exacerbated by the Great Recession, public education finances also face another serious long-term problem. Since the early 2000s, the state has failed to come to grips with the dual structural deficits affecting its major operating funds, General Fund and School Aid Fund. Such deficits are defined by a situation where a government's growth in expenditures consistently outpaces its growth in revenues. Instead of fixing the problems facing the two funds in a permanent, long-term fashion, the state has relied on a series of "stop gap" measures. Until adoption of the FY2008 state budget, annual budget balance in the two funds had been accomplished largely through such actions as delaying paying required obligations, using non-recurring revenue sources, and transferring resources from other funds to support spending in the General and School Aid Funds.[19] Despite a series of general tax increases in 2007 that generated new revenues to support the FY2008 budget, the structural problems remained largely unresolved.

Education spending was projected to grow at a rate of 4.7 percent annually, while revenues (state and local operating) were projected to grow 3.0 percent per year, resulting in a gap of 1.7 percentage points, or about $400 million each year on average.

In the spring of 2008, the Citizens Research Council issued a report entitled *Michigan's Fiscal Future,* which included, among other things, a series of projections about the performance of public education finances (state and local) for the period FY2009 through FY2017. Revenue projections based on the current financing system and a specific economic scenario were paired with projections about the spending pressures expected to face education service providers (local and intermediate school districts) over the same period. When the projections of spending pressures and revenues were combined, an increasing gap appeared representing the future structural deficit facing public education in the state. Education spending was projected to grow at a rate of 4.7 percent annually, while revenues (state and local operating) were projected to grow 3.0 percent per year, resulting in a gap of 1.7 percentage points, or about $400 million each year on average. These projections are revisited below in summary format to illustrate the long-term challenges facing the current system of financing public education. The figures are not estimates of what will happen in the arena of public education finances over the coming years, but instead represent illustrations of the factors and forces facing education budgets in the future and the likely outcomes that might materialize when reasonable estimates of revenues and spending are combined. It is not the purpose of this paper to pursue an update of *Michigan's Fiscal Future* or to provide the most up-to-date projections of school finances, rather the discussion below is intended to illustrate, in some quantifiable form, the long-term fiscal challenges facing public education.

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Revenue Projections

The revenue projections included in *Michigan's Fiscal Future* were based on a long-term view of the Michigan economy. The economic picture presented in the report was not a prediction of the performance of the Michigan economy, but rather it illustrated how the state's economy might be expected to perform under a set of assumptions about the national economy and those industries especially important to Michigan. A key assumption underlying the economic projections was that the national economy would experience a 10-year period of uninterrupted growth (2007 to 2017). In this sense, the economic scenario attempted to portray long-term trends for the Michigan economy, not necessarily the short-term ups and downs associated with the business cycle or the occurrence of a more severe economic recession. The 2008 recession and its effects on the Michigan economy and the resultant state revenue impacts were not considered in the development of the long-term projections presented by CRC in the 2008 report.

It is assumed that the long-term relationships associated with the income-, consumption-, and business-based taxes dedicated to financing education remain intact, again regardless of the recession, and that these relationships will largely determine the future growth potential of state revenues.

There is little doubt that the recession has had significant impacts on all state revenues, including the major income and consumption taxes dedicated to finance public education. Education revenues declined nearly $1 billion from FY2008 to FY2009 (ignoring the effect of state business tax restructuring). The fiscal effects of the recession are expected to be felt through calendar years 2010 and into 2011, reducing state education funding in FY2010. In terms of the long-term picture facing school funding, the recession has reduced the base from which future revenues will grow. It is not expected that the recession will affect the long-term (beginning in FY2012) growth trends of the individual taxes dedicated to the SAF, as these relationships are not materially affected by the ups and downs of the business cycle. In this sense, the long-term relationships between the economy and major taxes covered in *Michigan's Fiscal Future* are still applicable today.

The long-term revenue projections made by CRC in 2008 were based on the relationships, both historically and prospectively, between the Michigan economy and the major state taxes including those dedicated to the SAF. It is assumed that the long-term relationships associated with the income-, consumption-, and business-based taxes dedicated to financing education remain intact, again regardless of the recession, and that these relationships will largely determine the future growth potential of state revenues. Over the shorter-term (two to three years) and coming out of the recession, it is likely that income and consumption taxes may experience slightly stronger growth as economic activity "ramps up" in the state; however, these are not expected to materially affect the long-term growth rates. [Note: Because the amount of the earmarked Michigan Business Tax revenues going to the SAF each year is indexed to growth in the inflation rate under current statutory provisions, the long-term relationship between the state's main business tax and the economy does not impact education finances.]

One area where school tax growth rates, at least in the near-term, may deviate from the original CRC projections is the property tax. The *Michigan Fiscal Future* report did not contemplate what has transpired with property values in the state. The original report had identified declining home prices and property values as a potential concern to the projected growth rates; however, it was assumed that it would be some time, if at all, before such declines affected taxable values and property tax receipts.

The assumed long-term growth rate of the State Education Tax (SET) was 4.25 percent, which was greater than the rate of any other SAF tax. This robust rate was based on the historical performance and stability of the property tax in Michigan; however, a number of economic variables have caused property values in the state to deteriorate substantially since the original analysis, thus driving down receipts. Although property values in some com-

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munities began falling sooner than others, the gap that gradually developed over time between state equalized value (50 percent of "market" or "true cash" value) and taxable value (the basis used to calculate property tax liability) shielded tax revenues from declines. Today, in much of the state, the gap between the market value and the taxable value has been eliminated, and declining property values are being reflected in the property tax receipts at all levels, including the statewide SET. As a result, SET revenues are expected to experience year-over-year declines for some time, before reversing course and showing some marginal growth in the out-years.

CRC's 2008 report also included assumptions about the performance of local school operating property tax revenues that have proven to be too optimistic given what has occurred with these taxes in recent years and what is expected to occur over the next few years. The projections were based on this revenue source growing 3 percent per year during the forecast period, FY2009 to FY2017. This rate was slightly lower than the original SET growth rate primarily because of the different bases of each tax. Local school taxes exclude homestead property (mostly residential) from their bases, property that traditionally grew more robustly than non-homestead property. A complete revision to the original property tax revenue growth rates (both state and local) is beyond the scope of this endeavor; however, it is important to recognize that the expected rates for both the SET, which accounts for about 18 percent of total state school taxes, and the local operating taxes, are over-estimated in the short-term. Reducing the rates of growth for both taxes would have the effect of lowering the overall revenue growth rate and increasing the structural gap, especially over the short-term when property tax receipts are expected to decline year-over-year.

Table 13 presents the projected annual growth rates for each major state education tax and the minor taxes as a group. CRC's original projections included annualized rates for the other public education revenues, including federal aid (4.0 percent), lottery proceeds (2.0 percent), and local property tax revenues (3.0 percent).

Based on the assumptions about the historical relationships and performance of Michigan state and local education revenues, it was determined that the school finance system was capable of producing operating revenue growth at an annualized rate of 3 percent from FY2009 to FY2017. This rate is above the experience in the period leading up to the forecast, FY2001 to FY2007, and was justified on the grounds of an improved economic climate relative to the earlier period. While the economic picture in FY2009 to FY2010 did not materialize as previously envisioned in the *Michigan's Fiscal Future* report, the underlying relationships between the taxes supporting public education and the economy are still relevant. As the national economy begins to recover and grow coming out of the Great Recession, it is

Table 13
Projected Growth Rates of Major and Minor SAF Taxes, FY2012 to FY2017

Tax	Growth Rate
Major	
Sales	3.00%
Personal Income	3.25%
Michigan Business	2.50%
Use	3.00%
State Education	4.25%
Minor (tobacco, casino, real estate transfer, etc.)	-0.10%
Total State Taxes	3.10%

Note: Original projections included in CRC Report 349, *Michigan's Fiscal Future*, 2008.

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assumed that projected rates of growth are reasonable approximations of what the school finance system is capable of producing.

Spending Projections

In much the same way that the revenue projections for *Michigan's Fiscal Future* were developed by examining historic relationships and observing actual performance, growth in past spending was analyzed to arrive at projections for spending pressures for FY2009 to FY2017. In the earlier discussion of the general cost structure of public education, it was noted that the largest component of K-12 spending is employee compensation (about 80 percent of total). Salaries and wages account for about 59 percent of the total operating costs of local schools and fringe benefits comprise another 21 percent. The two largest fringe benefit components, health insurance and retirement, have grown at rapid rates since FY2000. A continuation of these cost breakouts and spending trends were projected forward to develop a picture of the spending pressures that would confront public education in the future.

The growth in salary expenses took into account a number of factors, including the effects of salary increases from longevity and schedule adjustments and general cost of living adjustments. The salary projections also accounted for the employee turnover and enrollment declines that will be reflected partially in reduced future workforce levels. Overall, *Michigan's Fiscal Future* report reflected annualized growth of 3.3 percent during the forecast period for school employee salaries. Pension contributions were expected to increase at the same rate as payrolls, because these benefits are prefunded (i.e., long-term stable rate) and the annual amount is expressed as a percentage of payroll.

Future spending pressures faced by schools will be driven by health care costs for both retirees and current employees. CRC's original work estimated that health care costs for retirees would rise by nearly 12 percentage points per year for two primary reasons: 1) the number of individuals eligible for the benefits was expected to increase 3 percent annually (because there has been no pre-funding, this will drive costs higher); and 2) retiree health costs will be affected by the cost of health care in general, which was assumed to rise 9 percent per year throughout the forecast, an assumption used throughout the *Michigan's Fiscal Future* report. Overall, the report assumed that the spending pressures facing schools over the eight-year period, FY2009 to FY2017, would average 4.7 percent per year, compared to 3 percent per year growth on the revenue side.

Future spending pressures faced by schools will be driven by health care costs for both retirees and current employees.

Recent changes to the Michigan Public School Employees Retirement System (MPSERS) likely will influence the long-term spending growth rates originally estimated by CRC. The changes to MPSERS requiring increased employee contributions to the system, along with provisions to require new employees to participate in a "hybrid" retirement system, will reduce employers' annual contributions to the system compared to what they would have been absent the modifications. Estimates of the long-term savings to employers from these reforms are substantial; however, it is unclear how the underlying long-term growth rate of retirement contributions will be specifically affected. Shifting a portion of the required annual contribution to the employee reduces the portion of the overall cost burden on the employer, but it likely has little effect on the future growth path of the cost component in the aggregate. However, the shift to a combined defined benefit/defined contribution plan for all new employees covered by MPSERS will have the effect of lowering the future growth rate of the employers' contributions to the system relative to what would have occurred if the defined benefit plan were retained for new employees.

The immediate effect of the reforms is to reduce the costs that public education employers will carry on their books for retirement contributions. This will help districts meet the near-term revenue challenges brought about by the economic downturn and the

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reduction in the overall level of resources available to schools to provide services. However, long-term challenges still face public education funding.

In the same way that the future growth rates of property taxes have been affected by what has transpired since the publication of the *Michigan's Fiscal Future* report, changes to school retirement funding will affect the future growth of this spending category. Whereas more up-to-date projections of property tax growth will have the ultimate effect of reducing the overall future revenue growth rate, modifications to the estimates surrounding future retirement contributions changes will have the same effect on spending side of the equation. Given the different impacts of these changes, the net result, while unknown at this time, is likely to leave intact some aspect of a structural deficit facing public education.

Long-term Structural Imbalance

Deficit projections are the difference between projected revenues and projected spending pressures. The annual deficits contained in the *Michigan's Fiscal Future* report were derived by calculating the difference between the growth rates in revenues and spending pressures for public education. The long-term deficit calculations for public education revealed that there is a 1.7 percentage point difference between the annual growth rate of operating revenues (3.0 percent) and the annual growth rate of spending pressures facing schools (4.7 percent), amounting to an average annual gap of $400 million during the forecast period (FY2008 to FY2017) (See **Table 14**). CRC concluded that these annual estimates would recur unless structural changes are made in revenue and/or program policies. Because of the compounding effect of the structural imbalance, the annual deficits accumulate each year and reach $3.6 billion in the final year of the forecast. The multi-year nature of the structural problem reveals a growing gap between revenues and spending pressures, which suggests that a long-term solution to achieving on-going, sustainable balance between projected revenues and expenditures is needed.

Table 14
Projected Growth in Total Public Education Revenues and Spending: FY2008 to FY2017
(Dollars in Millions)

	Operating Revenues	Spending Pressures	Cumulative Deficit	Annual Increment
FY2008	$17,729	$17,729	$0	
FY2009	18,095	18,444	(349)	($349)
FY2010	18,584	19,281	(697)	($348)
FY2011	19,153	20,152	(1,000)	($303)
FY2012	19,741	21,092	(1,351)	($351)
FY2013	20,349	22,083	(1,734)	($383)
FY2014	20,977	23,129	(2,152)	($418)
FY2015	21,627	24,234	(2,606)	($454)
FY2016	22,300	25,401	(3,101)	($495)
FY2017	22,995	26,636	(3,641)	($540)
Annualized Growth Rate	3.0%	4.7%		

Note: Original projections included in CRC Report 349, *Michigan's Fiscal Future*, 2008.

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Evaluation of Michigan's Education Revenue System

During its relatively short lifespan thus far (16 years), Michigan's education finance system has experienced both the "best of times" and the "worst of times". Furthermore, as the preceding discussion highlighted, the fiscal outlook for public education is far from rosy as components on both the spending and revenue side of the budget ledger will contribute to ongoing fiscal imbalance between projected available funds and spending pressures.

Immediately following the reforms in 1994 and through the start of the 2000s, state revenues performed relatively well compared to general measures of economic growth and annual changes in prices, exceeding these metrics in most years. On the local revenue side, despite the enactment of additional property tax limitations as part of Proposal A and their smaller role in the post-reform era, property tax yields exhibited strong and consistent growth. Coming out of this initial period and beginning in 2001, state education finances basically stagnated while local property tax revenues continued to show year-over-year growth, providing some relief to the poor performance of the major state taxes. State revenues during this second period were influenced by the 2001 recession and the major restructuring of the Michigan auto sector. Although the recession was mild by historical standards, the combined effects of the slowdown in U.S. economic output and the massive changes in the auto sector resulted in a Michigan economy that continuously lost jobs, people, and real income throughout the period.

The "Great Recession" that began in late 2007 and most likely ended sometime in the summer of 2009, has shed light on the volatility of the revenue system and has engendered considerable public attention to and interest in the various issues involved in education finance. The economic downturn has hammered baseline state revenue performance in three consecutive fiscal years (FY2008 through FY2010) and marginal growth is estimated for the upcoming fiscal year (FY2011). Under the current financing structure, the fiscal health of Michigan's 551 traditional local school districts and 232 public school academies is directly tied to state revenue performance. Michigan's 57 intermediate school districts are less reliant on state revenues; however, they have not been immune to state revenue struggles. The combination of shrinking state revenues and districts' inability to raise additional funds locally has proved challenging for districts to achieve and maintain required budget balance, especially during the recession. In nearly two-thirds of local districts, continuous annual enrollment losses have exacerbated the fiscal challenges accompanying state revenue declines. With limited options available to supplement existing state and local resources, local districts largely have focused on the spending side of the budget to reach solutions to the school funding problems resulting from the current system. Clearly, the experience in recent years suggests that the education financing system has endured the "worst of times", at least from the perspective of Michigan's local school districts.

Prospectively, the picture of how Michigan's school finance system will respond in the future is slightly clearer than it has been in recent years. For the most part, early indications suggest that the economic downturn has bottomed out and that the most severe damage to the state economy and state revenues has already taken place.

Prospectively, the picture of how Michigan's school finance system will respond in the future is slightly clearer than it has been in recent years. For the most part, early indications suggest that the economic downturn has bottomed out and that the most severe damage to the state economy and state revenues has already taken place. However, despite some signs of state revenue growth for two of three major SAF sources on the near horizon, local school districts are still sorting out the damages caused by the downturn and its effects on local budgets. Districts are also preparing for the impacts that will accompany the loss of significant levels of one-time federal resources provided to prop up local budgets

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during the downturn. Furthermore, past experience suggests that a full state recovery (economic and revenue), in the best of circumstances, is still far off.

Unfortunately, as the picture surrounding state revenues stabilizes and begins to show signs of improvement, the future performance of state and local property taxes faces uncertainty, making the overall outlook for education finances less clear. Unlike state revenues which are largely dependent on the economic performance of the state economy, local property tax revenues across school districts will not be impacted uniformly, but to varying degrees depending on the interaction of property tax limitations and economic factors influencing property values at the district level. Despite this variation among districts, the general short-term growth trend (three to five years) of property tax receipts is downward. Under Michigan's guaranteed per-pupil foundation allowance program, if state revenues do not grow sufficiently to account for the lost property tax revenue, schools will continue to face the prospect of future state aid reductions. Coming out of this period of revenue decline, existing state property tax limitations will constrain revenue growth, in effect prolonging a return to current-year levels.

As state policy makers consider the myriad issues surrounding school finance, both for the near-term and the long-term, the varied and contrasting experiences of Michigan's school finance system over the past 16 years provide valuable insights into how the system reacts to various economic, demographic, and legal factors. Such observations serve a dual purpose. First, they help provide information to evaluate the system and its components. Second, these observations provide direction and suggestions for reform, should policy makers seek to implement changes in the near future.

The following discussion summarizes the main policy achievements of Michigan's school finance system and highlights some of the system's shortcomings. Examining any public finance system in isolation rather than in the context of the world it operates in has little practical usefulness and offers little direction for suggested changes. Therefore, the problematic issues raised by the current finance system are presented in the context of changes to Michigan's economy, population, and the overall condition of public finances since the mid-1990s.

Looking at the stated objectives of Michigan's school finance reforms under Proposal A, it can be concluded that the system has been extremely successful at accomplishing certain goals and relatively successful in other areas. Despite these accomplishments, the fiscal challenges confronted by the system in recent years threaten to reverse some of the achievements gained unless direct changes are made.

Successes of Proposal A

There are a number of individual measures that can be employed to evaluate any public finance system. Evaluations can be based on the grounds of efficiency, equity or fairness, transparency, and accountability, in addition to other important factors. Another equally important approach is to examine how a system has fared relative to its stated policy objectives and the degree to which improvement has been realized with respect to individual measures of interest. Looking at the stated objectives of Michigan's school finance reforms under Proposal A, it can be concluded that the system has been extremely successful at accomplishing certain goals and relatively successful in other areas. Despite these accomplishments, the fiscal challenges confronted by the system in recent years threaten to reverse some of the achievements gained unless direct changes are made.

The Proposal A reforms set out to provide broad property tax relief to Michigan residents and were highly successful in this regard. Although school operating property taxes remain part of the overall financing scheme for public education, they play a smaller role. The shift in financing responsibility from the property tax to sales and income taxes ended Michigan's ranking as one of the highest property tax states. The reduction in property taxes to sup-

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port schools had a "re-balancing" effect on the overall state and local tax picture. As a result, Michigan's tax composition (mix of major taxes) in the post-reform years more closely mirrored the average U.S. state.

In order to achieve certain public policy objectives on a statewide basis, it was deemed necessary first to centralize decision-making authority regarding local school finances at the state level. Under the previous localized system, funding decisions were made at the district level by administrators, school boards, and voters. This system resulted in large disparities in per-pupil funding among school districts. Under Proposal A, a shift in decision-making authority accompanied the shift in the financing responsibility. Proposal A and its statutory components reversed the traditional roles played by local- and state-level taxes in order to provide state government with the resources, and therefore the authority, to address public policy goals, such as more equal per-pupil funding.

Unlike property tax relief which occurred almost immediately following the reforms, reducing per-pupil funding differences took some time to achieve; however, significant strides were made in the early years and later through policies that sought to "level up" low-revenue districts.

A corollary to the shift in financing responsibility was an increase in state taxes. Specifically, the Michigan Constitution was amended to increase the sales and use taxes by two percentage points to 6 percent, with the resultant revenue dedicated to education. Other statutory tax changes accompanied the rate increases of the consumption taxes and led to more state taxes being dedicated to education. When the entire state tax landscape is considered, the reforms resulted in a greater level of tax earmarking in general. In FY1993, about 34 percent of Michigan state tax revenue was dedicated to finance specific programs compared to 57 percent in FY1995. Focusing on just those state resources going to education, a higher degree of earmarking was also achieved through a reduction in the role that discretionary General Fund dollars played and an increase in earmarked revenues, both constitutional and statutory.

School finance centralization provided state-level policymakers with the authority and resources to address concerns surrounding per-pupil revenue disparities across the state. First, a new minimum level of funding was established and cemented in the state constitution. This equalization provided immediate relief to a number of chronically low-spending districts. Second, the new system provided a better mechanism to reduce inter-district revenue disparities, which were increasing under the old system. Although the state government employed mechanisms to equalize per-pupil funding among districts under the old system, it was extremely expensive to achieve high degrees of equalization among the 550-plus school districts. Under the previous system, state law makers had limited ability to control revenues generated at the local level, and they were unwilling to raise state resources to eliminate significant differences among local districts. In the post-reform era, the majority of education funding was under the direct control of state policy makers and they were able to embark on a corrective policy course to address per-pupil funding inequities.

The reforms sought relative per-pupil funding equity, not absolute equity, and thus the goal was to narrow, not eliminate, the gap that existed between districts. Unlike property tax relief which occurred almost immediately following the reforms, reducing per-pupil funding differences took some time to achieve; however, significant strides were made in the early years and later through policies that sought to "level up" low-revenue districts. More recently, the elimination of certain supplemental state aid payments to the higher-revenue "hold harmless" school districts (Sec. 20j payments) effectively resulted in further per pupil equity gains. In contrast to the "leveling up" approach, funding equity was achieved by reducing per-pupil funding at the top of the scale when the Sec. 20j payment funding was eliminated by gubernatorial veto.

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Another key objective of Proposal A that was made possible through centralizing school finances concerned the implementation of public school academies (charter schools). Charters provided elements of choice and accountability to the traditional education system. Under the old finance model, it was difficult to fund charters because these entities lacked the taxing authority that generated the majority of school operating revenues, (i.e., local property taxes). With state taxes providing the bulk of the revenues and the state government controlling the purse strings, combined with the adoption of a per-pupil model for distributing school revenues, it was much easier for the state to fund charter schools.

Revenue Performance Issues

Michigan's school finance system has both short- and long-term implications for state and local revenue growth and the future potential thereof. In the near term, state revenue will continue to be most directly impacted by the economic activity in the state and the nation. Similarly, property taxes for all entities will be affected by the fall out from the housing market downturn which has, and will continue to, reduce housing values. Short-term revenue performance is also affected by legal or statutory factors, such as state tax policy changes that have current-year and near-term revenue impacts or tax limitation provisions affecting local property tax receipts. It is estimated that the amount of state and local tax revenues available for public education operations in the current year, FY2010, is over $900 million below the level that was available in FY2008.

The sustainability of public education is based on the long-term growth potential of the system that generates essential resources. Over a longer time horizon, growth of both state and local education revenues is determined by structural aspects of the financing system as it currently exists, which can be both economic and legal in nature.

The financing system must also general adequate revenues, both at the individual district level and across the entire public education system. Funding adequacy, at least in an absolute sense, is a very subjective concept because of the inherent differences that exist across the many districts, local and intermediate. Districts are not homogenous and vary in terms of their student characteristics and needs (e.g., high-cost versus low-cost), costs of doing business (e.g., mainly personnel costs), enrollment levels (e.g., both the aggregate level as well as yearly fluctuations), and the environment in which local schools operate (e.g., parental and community involvement and support for education).

Assessments of system-wide adequacy can logically flow from evaluations that examine whether or not district-level adequacy has been achieved. In this sense, it can be reasoned that if adequacy exists within each school district, then the system, as a whole, is funded adequately. Another, and much more simplistic, way to look at system-wide adequacy, at least in the short-term, is to examine changes in resource levels from one year to the next. This approach does not address the longer-term implications or prospects of funding adequacy and ignores the more complex task of defining "adequacy". Regardless of how adequacy is defined, current resources are not adequate to support the spending level from FY2008. Therefore, anyone who is interested in supporting education at the FY 2008 level, or is interested in supporting education at an even higher level, will find the current level of funding inadequate. Those who believe that state spending in FY 2008 was more than adequate, will be more comfortable with the current lower level of revenues.

The 16-year history of operating under the current K-12 revenue structure highlights a host of issues that were not present under the localized revenue system that existed before Proposal A. Further, major economic, demographic, and legal factors, old and new, have influenced revenues in ways not contemplated by the architects of the system. Currently, Michigan public school revenues are being affected by both short- and long-term factors. Understanding the different influences on revenues at both the state and local level is critical to gain an understanding of the nature of the perceived problem at issue as well as to affect corrective changes to the system prospectively.

Near-Term Revenue Volatility

In the near-term, the primary factor influencing the revenue performance of Michigan's school financing system is the broader economy. This is especially relevant for state taxes, which comprise the major-

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ity of the funding for education. While the economic downturn of the early 2000s provided the first test of the current financing structure during a business cycle contraction, that experience did not compare to the most recent downturn in either duration or depth. The recent experience can be used to shine light on different characteristics and dimensions of Michigan's school finance system that were previously unobserved. For example, the 2008 recession highlights the acute relationships between changes in economic growth and tax revenues for each individual tax source, as well as the entire school finance system. Evidence of the relationships is most apparent in the performance of personal income and consumption taxes in FY2009 and FY2010.

Tax revenue volatility, in broad terms, refers to fluctuations over time in tax receipts. Although fairly simple in concept, volatility is complex and entails various characteristics. Fluctuations can come in all sizes (modest to steep) and durations (infrequent to frequent). Revenue fluctuations that are of the most interest to policy makers generally relate to those closely related to the business cycle. In this sense, volatility attempts to measure how revenues respond to fluctuations in state economic activity.

Revenue volatility is concerned with changes in the short-term and can be thought of as the inverse of revenue stability, which is more concerned with long-term growth rates. To measure revenue stability, economists compare the *growth* of tax revenues to the *growth* in the economy (usually personal income). Volatility, on the other hand, is measured by comparing the *changes* in the growth rates of revenues and personal income. Generally, studies have found that income tax revenues are more responsive to changes in economic growth than revenues from consumption-based taxes (sales and use taxes in Michigan). These studies find that income tax (personal and business) receipts fluctuate more widely with economic changes than do sales taxes, but the differences are marginal.[20] In contrast, property tax revenues (both state and local) are the least responsive to economic fluctuations.[21] Michigan relies on all three of these taxes to finance public schools.

Over the short-term, estimates of tax revenue sensitivity to the business cycle vary. Corporate income taxes are the most variable followed by personal income, sales (excluding food), sales (including food), and adjusted gross income taxes. Major excise taxes, gasoline and liquor, are the least sensitive to cyclical economic changes.[22] These general relationships are observed in the performance of Michigan state and local school operating taxes relative to state economic activity over the recent recession (See **Table 15**).

Table 15
State and Local School Operating Taxes and Personal Income
(Dollars in Millions)

Tax	FY2008	FY2009	Percent Change	FY2010*	Percent Change
Consumption Taxes	$ 5,387	$ 4,793	-11.0%	$ 4,866	1.5%
Personal Income Tax	2,118	1,895	-10.5%	1,815	-4.2%
Property Taxes (state and local)	6,064	5,796	-4.4%	5,699	-1.7%
Business Tax	341	729	113.8%	727	-0.3%
Other Taxes	847	739	-12.7%	726	-1.8%
Total Taxes	$ 14,756	$ 13,953	-5.4%	$ 13,832	-0.9%
MI Personal Income	$349,612	$339,219	-3.0%	$343,289	1.2%

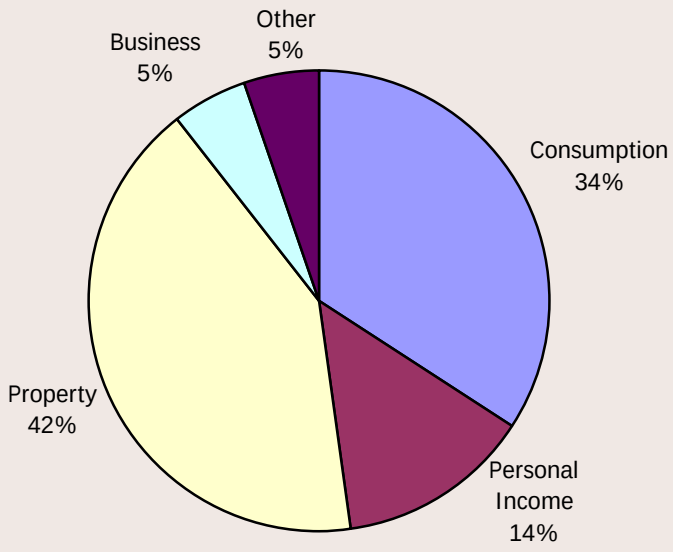
* Based on May 2010 Consensus Revenue Estimates

Source: Michigan Department of Treasury; Michigan Department of Education; U.S. Department of Commerce

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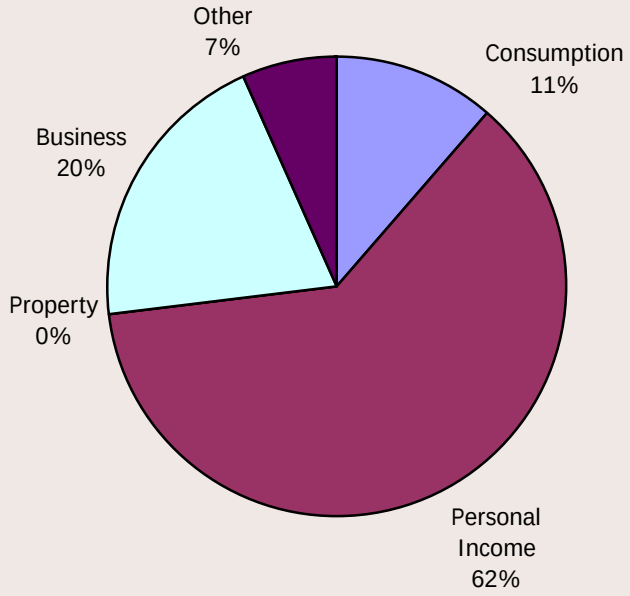
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Chart 21
State and Local Education Operating Taxes by Source: FY2009



Source: Michigan Department of Education; Michigan Department of Treasury

Chart 22
State of Michigan General Fund Taxes by Source: FY2009



Source: Michigan Department of Treasury

Relationships between the business cycle and each tax source help explain the performance of each tax; however, the short-term performance, or volatility, of the overall financing system is determined by the composition of taxes. Stated another way, the degree of revenue volatility facing Michigan schools can be influenced by the mix of major taxes: consumption, property, and income. To provide some context regarding Michigan school finance tax composition, school operating taxes from all sources are compared to the mix of taxes supporting the State of Michigan General Fund (See **Charts 21** and **22**).

The tax revenue volatility observed in Michigan public school finances over the FY2008 to FY2010 period, and reported in **Table 15**, was considerably less than the experience of the General Fund taxes over the same period. In FY2009, baseline state General Fund tax revenues, (adjusted for tax policy changes, such as the income tax rate increase) fell 14 percent compared to a decline of only 5.4 percent in total state and local operating revenues (controlled for tax changes associated with personal property tax exemptions). Michigan's education finance system is less volatile than the General Fund due to the balanced mix of taxes used to support schools and the heavier reliance on property taxes (state and local).

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Economists often use the analogy of a "three-legged stool" to describe a balanced public finance system, where each leg of the stool represents one of the major tax categories. Balance in this scenario is achieved when the legs are of roughly equal length. Balance among these three major taxes ensures that a finance system is diversified and relatively broad-based, which ensures that all types of individuals, firms, income, and economic activity share in the burden of financing public services. While balance may not be appropriate if the objective is to ensure the greatest degree of revenue growth during an economic expansion, it can be efficacious to guard against wide swings in revenues during an economic decline by diversifying exposure to different taxpayers and segments of the economy. Tax composition can reduce volatility and help guard against wide fluctuations in public finances in the short-run, but modifying the make-up of taxes in any substantive way is generally a long-term endeavor.

Both on its own, and in comparison to the state's General Fund, Michigan's school funding system exhibits substantial "balance", as no single source dominates the mix by occupying a majority share.

Both on its own, and in comparison to the state's General Fund, Michigan's school funding system exhibits substantial "balance", as no single source dominates the mix by occupying a majority share. The largest single source (42 percent of the total) supporting education is the property tax (state and local), which has been the most consistent and steady revenue source until recently. The General Fund, in contrast, does not receive property tax revenue. From a revenue volatility vantage point, school funding is more heavily weighted towards the two major revenue sources (property and consumption taxes) that are least affected by economic fluctuations. [Note: Income taxes, individual and corporate, are the most sensitive to economic conditions.] Together, property (state and local) and sales and use taxes account for three-fourths of the overall tax picture supporting school operations. In contrast, the most volatile tax source (income tax) makes up over 60 percent of the General Fund picture, but only 14 percent of school revenues. The differences in tax mixes between the General Fund and education funding explain, in part, the variations in volatility over the recent recession.

Revenue volatility is problematic for public financing systems for a number of reasons. The first and most obvious impact of volatility is the large dollar variations that result. Michigan's school finance system grappled with this problem in FY2009 and FY2010, and flat revenue growth estimated for FY2011 suggests that the sharp revenue declines in these two years will not be alleviated immediately. Also, significant swings in the level of resources can lead to problems in fiscal planning and management. Even if large drops in revenue are accurately predicted, which is difficult to do with absolute certainty, managing them can be extremely difficult as public programs, especially education services, are predicated on stable revenue streams. Making short-term corrections in planned spending to address revenue shortfalls is not necessarily an expedient exercise. School costs are largely fixed in the short-term due to the large role played by personnel costs (salaries and fringe benefits). Timing is also affected by the presence of multi-year collective bargaining agreements that control large shares of annual compensation spending in schools.

Responding to Volatility: Potential Options

Revenue volatility arising from an historic recession has diminished the state and local operating revenues available to schools. FY2010 estimated school operating tax receipts (state and local) are projected to be $925 million below the FY2008 level (See **Table 15**). This shortfall has been addressed, at least temporarily, in FY2009 and FY2010 mainly through the use of federal recovery funding available to Michigan, amounting to a little more than $1 billion for the two years combined. Approximately $600 million was used in FY2009 to stave off per-pupil reductions and respond to a 5.4 percent decline in the level of state and local revenues. Despite the use of another $450 million in federal resources in FY2010, a $165 per-pupil reduction in state aid was enacted as part of the state budget. The federal resources will be nearly exhausted by the end of FY2010, leaving less support for education services entering

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FY2011. State education taxes are currently projected to grow by less than one percent in FY2011, leaving aggregate school operating support for that year still well below the level experienced in FY2008.

Extraordinary Sources of Revenue

In theory, cyclical fluctuations in revenue can be mitigated through the use of reserves or transfers from other sources. Although sizeable state education tax reserves were built up during the economic expansion of the mid- to late-1990s, they were exhausted to maintain spending levels in some years and to moderate spending reductions in other years following the recession of the early 2000s. Entering the current recession (FY2009 school budget year), the state was not positioned to counteract the downturn in on-going state education resource levels through the use of built-up, dedicated education reserves.

The use of fund balances to finance current programs may be a prudent mechanism for managing through short-term fiscal strains brought about by the effects of the business cycle. Experience and access to fund balance reserves vary from school district to school district, which effectively negates using this approach on a statewide basis.

Similarly, the Economic and Budget Stabilization Fund, the state's rainy day fund designed to help smooth declines in state revenue, had amassed $1.3 billion by FY2000, before it was tapped to help support state spending for general operations as well as public education. A $350 million transfer in FY2002 helped address a revenue shortfall in the School Aid Fund. Rainy day fund reserves were effectively exhausted in FY2003, leaving it unable to help with current revenue shortfalls.[23]

While it is technically feasible to divert additional General Fund resources to schools, the policy direction in recent years has been to reduce the general tax subsidy for public education in order to attend to other state budget challenges. In fact, additional actions have taken place to cost-shift items from the General Fund to the School Aid Fund to help achieve budget balance. The annual General Fund subsidy to the School Aid Fund was reduced each year since FY2004, falling from $378 million to its "irreducible minimum" today. Currently, the General Fund pays for those education programs it is required to fund and nothing more. Given the current status of the General Fund budget, increased levels of general tax support for schools appears unlikely.

Local schools may have reserves or fund balances that they have accumulated. The use of fund balances to finance current programs may be a prudent mechanism for managing through short-term fiscal strains brought about by the effects of the business cycle. Experience and access to fund balance reserves vary from school district to school district, which effectively negates using this approach on a statewide basis. Also, there are a number of considerations associated with the use of school district reserves on a widespread basis or over an extended period of time. A statewide professional organization, the Michigan School Business Officials, suggests that key factors in determining the appropriate use of fund balances at the individual district include the unique mix of state and local revenues, tax collection timing in each district, historical use of fund balance and overall trends, near-term future obligations, and trends with respect to student enrollments.[24] This group suggests, based on these considerations and the potential for mid-stream state aid reductions, that an acceptable fund balance for districts to maintain is at least 15 percent of total spending. A recent survey of school districts revealed continued reliance on fund balances to manage through revenue declines, with an aggregate reduction of 32 percent of districts' overall fund balance during FY2010 and a projection that 47 percent of the remaining reserves will be used in FY2011.[25]

Sustained periods of weak or no-growth in the major on-going revenue sources will quickly exhaust temporary, non-recurring resources or draw them down to minimally-acceptable levels. In an environment of long-term funding uncertainty, schools must be more frugal with their use of fund balance to manage over the short term because future prospects are not bright for restoring these resources to

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previous levels. Given the duration of the economic challenges in Michigan, many school districts have been using this mechanism for a number of years already out of necessity. A continuation of the practice is less likely as reserves are exhausted.

Most recently, state revenue volatility has been addressed through use of temporary federal funds provided through the American Recovery and Reinvestment Act (ARRA) of 2009. Prospectively, federal discretionary resources such as ARRA cannot be relied on to help moderate revenue volatility associated with Michigan's school finance system. ARRA resources were provided to the states largely because of the severity of the economic downturn in 2008 and 2009 and its effects on public budgets. Future, year-over-year state revenue declines will have to be managed through cuts or the use of state or local reserves, if such resources exist.

Entering FY2011, increasing taxes is one approach to address the combined state and local revenue reductions that occurred between FY2008 and FY2010. The options available under this approach are limited and largely the province of state policy makers because of the highly centralized nature of the school finance system and the restrictions on local revenue supplementation.

Temporary State Tax Increases

Entering FY2011, increasing taxes is one approach to address the combined state and local revenue reductions that occurred between FY2008 and FY2010. The options available under this approach are limited and largely the province of state policy makers because of the highly centralized nature of the school finance system and the restrictions on local revenue supplementation. An approach based on increasing state tax revenues can follow one of two paths.

The first is an increase in the rate(s) of one or more of the existing taxes dedicated to public education. Such a rate increase might be structured to be temporary in nature and provide for a gradual phase-out as on-going revenue growth accelerates during the expected recovery. The State of Michigan used such temporary tax rate increases to respond to the fiscal challenges resulting from the recession of the 1980s. In 1982 and 1983 the income tax rate was temporarily increased to build up cash reserves and to support on-going spending initially; however, by 1986 the rate was phased down to the original rate in 1981.[26] More recently, cigarette tax increases in 2002 and 2004 were enacted to address revenue shortfalls in the School Aid Fund. While the current governor has proposed a number of revenue responses to address school funding issues, thus far, a legislatively agreeable state response to increase school operating revenues has not been formulated.

The second revenue-centric approach would involve a tax restructuring scenario whereby both rates and bases of current taxes are affected. Generally, states employ tax restructuring to address longer-term policy issues, such as revenue stability and growth issues as opposed to near-term revenue concerns. Restructuring may be employed to "re-balance" the mixture of taxes, which was one objective of Proposal A in 1994. While not the primary goal of tax restructuring, such efforts can be designed to explicitly address near-term revenue concerns as a secondary objective. The near-term revenue impacts can result in increasing, decreasing, or maintaining the current level of resources for schools. The governor's FY2011 budget recommendation contemplated such a scenario, which resulted in a net tax increase in the immediate-term ($554 million), with nearly all the added revenues dedicated to finance schools. Under the proposal, and within three years of its implementation, the governor's recommended new state tax scheme is revenue-neutral.[27]

Local Revenues

Centralization effectively prohibits a local response to state revenue reductions, at least in the near-term. Despite the sizeable and important role that local property tax revenues play in the overall financing scheme for schools, constitutional and statutory provisions effectively fix the rates and bases of these taxes at their current levels, providing little room for local revenue supplementation. Where state law does permit supplementation (i.e., ISD enhance-

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ment millages), the mechanism requires up-front costs (e.g., election and outreach) and the amount that can be raised is limited (up to three mills). Furthermore, such a response is difficult to implement in the near-term and over the period in which revenue volatility is most pronounced. Also, the enhancement millage is generally, but not universally, viewed as a fiscal tool designed to "enhance" existing resources over a longer period of time, as opposed to a tool for responding to short-term revenue swings.

School operating taxes, whether for local school districts (e.g., 18-mill non-homestead) or intermediate school districts (e.g., special education), will be adversely affected in the near-term by the declining value of property tax assessments. As noted previously, property assessments and taxable values have been falling throughout the state. This is a phenomenon affecting all types of local government including general purpose (e.g., cities, counties) as well as special purpose (e.g., local schools) entities. The decline in values is expected to accelerate in the near term and become more pervasive statewide, adding to the level of fiscal distress for many local governments.

For local governments with the authority and room under previously-approved tax rate limitations, tax rate increases are an option to manage through the period of declining property tax bases. However, for public school operations, especially local districts, rates are generally fixed in state law and there is no option to address the tax base decline via an increase in property tax rates. Furthermore, because of how the foundation allowance works and the "guaranteed" nature of this per-pupil grant, there would be little incentive at the local level to raise millage rates even if the option were available. With the exception of restoring previous Headlee "roll backs", there is no financial incentive for local districts to raise additional funding locally under the state-controlled foundation allowance.

Unlike local districts that have few options and little incentive to act individually to address declining property tax revenues, intermediate school districts (ISDs) can respond by asking for tax rate increases. Some ISDs will be able to seek millage increases if they have room under existing tax rate caps; however, this will require voter approval, which is not guaranteed. Current and future tax base declines will be directly reflected in school operating levies, both locals and ISDs. Since Proposal A's adoption in 1994, school operating tax levies have consistently exhibited strong, positive growth in annual tax levies; however, for many school districts in Michigan, this experience will cease in the coming years, placing more fiscal pressure on state revenues to maintain current per-pupil revenue guarantees.

Since Proposal A's adoption in 1994, local school operating tax levies have consistently exhibited strong, positive growth in annual tax levies. For many school districts in Michigan, this experience will cease in the coming years.

Long-Term Revenue Issues: Stability and Adequacy

Over the long-run and in an environment of moderate economic growth, such as that envisioned in CRC's 2008 report, *Michigan's Fiscal Future,* cited earlier, the business cycle's effects on state and local school revenues would not be as noticeable and short-term volatility would not be the primary concern surrounding the school financing system. Stability and predictability of the revenue stream, however, will be chief concerns in the future. The stability concerns of today are much different than those of the early 1990s, before the adoption of the current school financing system. Today, the concerns center on the long-term prospects for growth, whereas 20 years ago public education providers had to contend with the prospect that local voters would reject, at the ballot box, local school millages that provided the majority of operating funds. While Proposal A did provide some stability in the form of a baseline level of resources, it did nothing explicitly to address the future growth of these resources. Entering a period of economic recovery following the Great Recession, a closer examination of the growth potential in school finance is warranted.

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In addition to stability and predictability, many education reformers and policy makers have suggested that public education finance systems should produce a level of resources each year to educate children that can be deemed "adequate". While a universal definition of "adequacy" has not been developed, a number of states have been able, through various methods (e.g., "cost out" studies), to satisfy state-specific legal definitions of the term.[28] In some states, legislatures or executive branch entities, have taken steps to define what is included in an "adequate" education.

"Adequacy" lawsuits in other states generally have been based on language in state constitutions that suggests a certain quality of education, e.g. "thorough", "efficient", or "uniform". The Michigan Constitution does not prescribe a certain quality level for Michigan schools, but instead defers to the legislature to "maintain and support a system of free public elementary and secondary schools as defined by law." (Article VIII, Section 2) Clearly, the Michigan Legislature is tasked with providing a free education to Michigan children; however, the quality of education is not addressed in the state's basic law. To date, Michigan has not been vulnerable to legal challenges to its school finance system based on "adequacy" claims. Absent clear legal language (constitutional or statutory) to help define what is meant by an "adequate" education in Michigan, and because of the highly subjective nature of the term and other related concepts, it is very unlikely that the school finance system will be found to be "inadequate".

This report does not endeavor to fully explore the concept of educational adequacy, but rather to highlight the relationship between the term and other desired characteristics of a school finance model, namely stability. Regardless of how the term "adequacy" is defined in Michigan, a school finance system that results in stable and predictable revenue growth will help promote an adequate level of resources each year. This is not to suggest that a stable and predictable school finance system in Michigan will automatically result in one that is adequate. At the same time, it is difficult to envision how an adequate finance system, once the term is defined, can be premised on something other than a stable revenue base.

Revenue stability is often a desired objective of public finance because of the relatively predictable and consistent nature of the demand for public services over time as well as the predictable nature of spending.

Why Stability?

Revenue stability is often a desired objective of public finance because of the relatively predictable and consistent nature of the demand for public services over time as well as the predictable nature of spending. Unlike the demand for private goods and services which tends to ebb and flow with market forces, the demand for public services is generally the same from one year to the next. Demand for public services is also largely unaffected by economic recessions. Unlike the private sector where consumer demand for goods and services often diminishes with the downturn in the business cycle, citizens continue to demand basic public services from government regardless of the condition of the underlying economic base upon which the services are financed. The demand for government services is largely driven by factors disconnected from changes in the business cycle. In some cases, services provided by government are "countercyclical" in nature. This means that when the business cycle sours, demand for a program, and therefore employment in that program, rises (e.g., unemployment insurance, job training). Demand for higher education, especially at the community college level, tends to rise with a slowdown in economic activity. Individuals return to school to seek new skills and job re-training for future employment opportunities when the economy rebounds.

The difference between public and private entities suggests that a greater level of revenue stability is desired in public finance systems. For example, the demand for basic public elementary and secondary education services (measured by the number of children in the system) is generally consistent and tends to exhibit gradual rather than abrupt changes over time.

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The nature and scope of public spending also help explain the need for stability in on-going revenues. Generally, the services provided by governments are labor intensive, and prices can be considered "sticky", at least in the short-run. Schools, for example, have continuing long-term salary and other compensation liabilities that comprise upwards of 80 percent of total operating expenses. Furthermore, public budgets are developed and adopted months before actual revenues are known and elected officials make spending decisions on expected revenue growth. Thus, greater degrees of revenue stability and predictability help to avoid the task of having to make major fiscal adjustments over short periods of time.

Revenue stability is also an important characteristic for public finance systems at the sub-federal level because, unlike the federal government, states and localities must adhere to strict balanced budget requirements. Operating in an environment where revenues fluctuate wildly and annual levels can be unpredictable, public entities must respond by cutting services or increasing tax rates, options which are generally unpopular. Government budgets are based on assumptions of predictable and steady growth.

Revenue stability can be thought of in terms of a long-term trend line, with specific attention to the direction (e.g., increasing or decreasing) and the annual rate of change of the line (e.g., slow, moderate, etc.). Revenue stability is a relative, not an absolute, term. As such, changes in revenue are often compared to changes in other measures. Two common, but distinct, ways to look at revenue stability include, 1) comparing the growth in the resource level with growth in the overall economy, and 2) comparing revenue growth with the growth in costs associated with providing education services. Both metrics carry with them inherent advantages and disadvantages.

Tying long-term revenue growth to changes in economic growth is appealing because this measure relates directly to taxpayers' (individuals and firms) ability to pay. Increases in economic growth, as measured by personal income, suggest a greater ability to pay over time, while decreases intimate the opposite.

Tying long-term revenue growth to changes in economic growth is appealing because this measure relates directly to taxpayers' (individuals and firms) ability to pay. Increases in economic growth, as measured by personal income, suggest a greater ability to pay over time, while decreases intimate the opposite. Linking the two has the advantage of reducing the frequency that elected officials have to raise tax rates to ensure a desired rate of revenue growth. In theory, and assuming all else constant, if the tax base grows in concert with economic activity in the state, tax rates will not have to be adjusted to ensure stable revenue growth.

A second perspective on revenue stability acknowledges that the costs of providing public education services do not, necessarily, ebb and flow with the ups and downs of the broader economy. Under such a scenario, it is argued that revenue growth should keep pace with the increases in cost pressures that underlie education spending. Education spending is largely concentrated in personnel costs, the growth of which do not directly track overall changes in state economic activity. Because compensation costs are influenced by a host of factors not directly related to the economy, a better measure for revenue growth might be inflation. A common measure, the Consumer Price Index (CPI), tracks the average price of goods and services purchased by households. Although generally acknowledged as an approximate measure of inflation, it is worth noting that the service mix included in the CPI is not the same as the mix of public education services. Although there are several other price indices, including ones that may be more appropriate to the factors that drive education spending, this report defers to the most common metric of price inflation and the one that is most readily available.

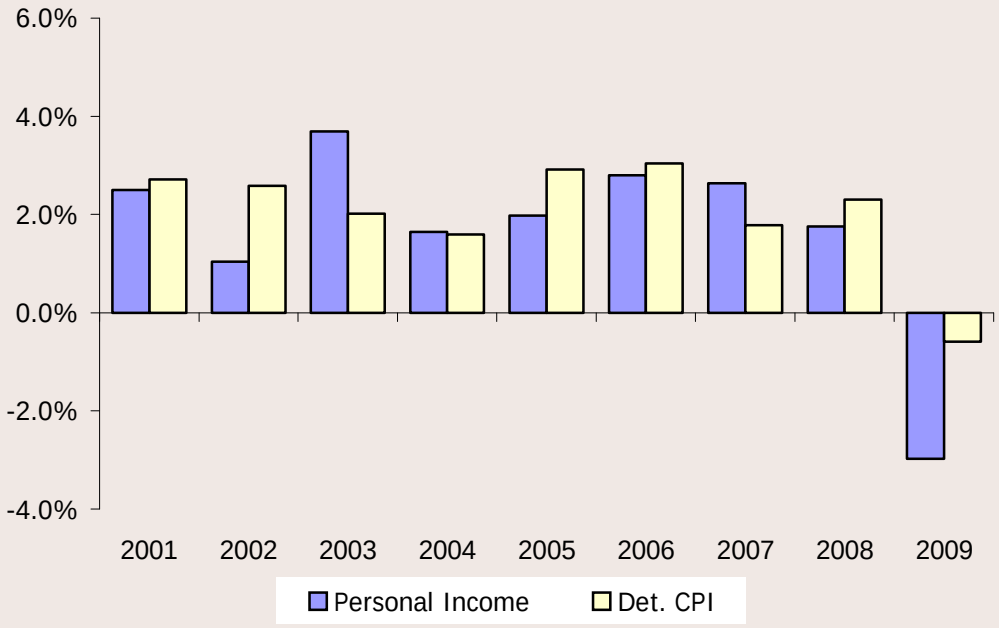
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Chart 23
Annual Changes in Michigan Personal Income and Detroit Consumer Price Index: 2001 to 2009



Source: U.S. Department of Commerce; U.S. Department of Labor

Annual changes in Michigan economic activity, as measured by personal income, and inflation, as measured by the Detroit CPI, for the last eight years are reflected in **Chart 23.** In both cases this period was marked by low annual growth rates. Prior to the declines in both measures that occurred in 2009, from 2000 through 2008, the annualized growth rates for personal income and inflation were 2.2 percent and 2.3 percent, respectively. These growth rates are below those historically observed in Michigan. Also, the recent period is unique in that inflation has very slightly out-paced economic growth, something that, if continued over the long-run, portends serious problems for the state as it indicates the state will continually become poorer. Over a much longer timeframe in Michigan (1970 to 2008), annual personal income growth (5.8 percent per year) outpaced changes in the Detroit CPI (4.3 percent per year). A return to the longer-term relationship (i.e., economic growth exceed inflation) can be expected prospectively.'

A stable education finance system is one that provides long-term revenue growth that approximates economic growth. Over the short term, as evidenced in **Chart 23**, personal income is more volatile than inflation which some might view as a disadvantage; however, over the long-run, economic growth provides a greater level of growth potential and therefore stability. Also, as a benchmark for revenue growth, economic growth ties directly to a state's ability to finance public education services, something a price index, such as the CPI, does not.

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Prospects for Long-Term Revenue Stability

The connection between Michigan's economy and the state government's tax structure has weakened since the late 1990s, a trend which is expected to continue if corrective tax modification actions are not taken. The long-term challenges affecting state and local education revenues are rooted in these weakening connections as well as in state tax limitations (i.e., primarily dealing with property taxation) that accompanied Proposal A's passage and those that pre-date Proposal A. Solutions to the long-term revenue stability challenges that plague education finance will require attention to the structural components of Michigan's school finance system. While an improved economic climate will increase state revenue levels above where they have been recently, the underlying relationship between tax receipts and the economy will be unaffected by the economic recovery. Future growth will be determined by these relationships. It is not the goal of this analysis to assess whether public education spending is too high or too low in the current and near-term environment. Such a question is ultimately political in nature and under the purview of elected policy makers. Instead, the objective here is to highlight whether or not the system of education financing, as it currently exists, is capable of generating a level of on-going revenue that grows with the economy over the long run.

Structural factors have caused state tax revenues to lag behind general measures of economic activity, a problem not unique to state education taxes. These factors also affect the state's General Fund budget, which further exacerbates the stability concerns surrounding education funding problems. Earlier in this report, state-dedicated education revenues were examined in depth and it was clearly illustrated that from FY2001 through FY2008, measures of economic activity in Michigan outpaced the growth in personal income tax revenues, sales and use tax revenues, and other minor tax revenues, all of which play key roles in Michigan's school finance model (summarized again in **Table 16**).

The prospects for long-term revenue stability in Michigan education finances will depend on the relationships between the financing system and the underlying economy (i.e., the system's various tax bases). Regardless of the type of tax or the level of government responsible for levying it (e.g., property taxes are levied at both the state and local levels), these

Table 16
Changes in Broad Economic Measures and SAF Tax Revenues: FY2001 to FY2008
(Dollars in Millions)

	FY2001	FY2008	Percent Change	Annual Rate
Tax Revenues				
Sales and Use Taxes	$5,076	$5,387	6.1%	0.9%
Personal Income Tax	1,955	2,118	8.3%	1.1%
State Education Tax*	1,490	2,153	44.5%	5.4%
Other Minor Taxes*	886	896	1.1%	0.2%
Personal Income	$299,903	$349,612	16.7%	2.2%
Real Personal Income**	$171,963	$170,752	(0.7%)	(0.1%)

* Adjustments were made to the FY2008 figures to account for the Michigan Business Tax and personal property tax changes that affected receipts in FY2008 to allow for comparison across years.

** Income deflated by Detroit CPI (1982-84 dollars)

Sources: Bureau of Economic Analysis; Michigan Department of Education; CRC calculations.

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relationships will play the most important role in determining the annual resources available to schools each year. The intricacies of the relationships vary depending on the individual tax instrument. Although this report concentrates on these relationships during a period of very low economic growth in the state (2001 to 2008) and during a very severe recession (2009 and 2010), it is expected that, prospectively and over the longer-term, the relationships between the major taxes supporting schools and the Michigan economy will continue to weaken despite improvements in the economy in the near-term and a return to the historical relationship between economic growth and inflation.

Emerging from this most recent period, Michigan economic activity is not expected to approach the long-term trend line, but it is likely that growth will exceed the recent dismal experience. From 1970 to 2008 Michigan's real personal income grew at an annualized rate of 1.6 percent, compared to a decline of 0.1 percent in the recent period (2001 to 2008). Prospectively over the near-term, real state economic growth is not likely to approach the experience between 1970 and 2008; however, it is also cannot remain in the negative territory for too long because of the serious financial implications to the state's residents and public service providers. In real terms, a return to positive economic growth is expected.

The further weakening of the relationships observed between state economic activity and state tax receipts can be understood by examining experiences to date. Broadly defined and categorized, the mismatch between economic growth and tax revenue growth observed since the adoption Proposal A is explained by three primary factors. The most observable explanatory factor includes policy changes that targeted the rates and/or bases of the major SAF taxes. Examples include adopted reductions to the sales and use tax bases. The second primary factor, which is not nearly as noticeable as direct tax policy modifications, relates to gradual shifts in consumer behavior over time. In general, the shifts in behavior pertain to general questions such as "What is being consumed today compared to the past?" and "How are consumers making purchases today compared to the past?" Finally, a third contributing factor to the slow-growth in state-level education tax receipts, at least relative to the economy, is explained by changes in Michigan's demographic make-up. Specifically, the aging of Michigan residents and the tax treatment of these individuals has acted to constrain the growth of dedicated education revenues, which is expected to continue.

Policy actions that either directly or indirectly affect the rates or bases of state education taxes are responsible for the observed mismatch between changes in economic activity and earmarked tax revenues of the School Aid Fund.

Tax Policy

Policy actions that either directly or indirectly affect the rates or bases of state education taxes are responsible for the observed mismatch between changes in economic activity and earmarked tax revenues of the School Aid Fund. Tax policy changes are not limited to the most recent time period, but can be viewed over the longer 16-year period since Proposal A. Policy changes have the dual effect of reducing the annual tax revenue growth rate, as well as reducing the level of receipts following policy implementation. In some cases, as with the individual income tax rate reductions that began in 1999, policy makers included provisions to shield school funding from the immediate revenue losses associated with the policy change. This change did not affect the long-term relationship between the income tax and future growth potential of SAF-earmarked income tax receipts. More recently, state efforts to reform business taxation in Michigan resulted in the elimination of certain personal property from the base of taxation, both for state and local property taxes dedicated to schools. Safeguards were included in this effort to protect education funding from the revenue loss that would occur at both the local and state level by earmarking a portion of the new Michigan Business Tax (MBT) to the SAF. In this instance, the immediate fiscal impact for schools was neutral; however, future growth of the new MBT earmark was tied to growth in the inflation rate which has

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the potential to grow at a faster rate than the value of personal property (i.e., the previous tax base). Clearly, any overt legislative action that results in lowering the rate or shrinking the base of one or more of the SAF taxes will have a deleterious effect on overall tax receipts. Furthermore, such actions also have the potential to affect the future growth potential of the Fund.

One approach to examine the effects of tax policy changes on state revenue collections at the macro level is to look at changes in the bases of major taxes over time. Shrinking the tax base of a major tax will depress the growth potential of the tax if base exemptions, as a percentage of overall economic activity, grow at a rate that exceeds the base subject to taxation. In such cases, tax revenues will trail economic growth, unless tax rates are adjusted regularly to account for the "lost" revenue. The Michigan Department of Treasury provides the information to examine such tax base changes. Annually, as part of the executive budget submittal, Treasury issues a report documenting the tax revenue foregone as a result of preferential provisions such as credits, deductions, exemptions, deferrals, exclusions, or preferential tax rates.[29] These tax provisions are collectively referred to as tax expenditures. These tax provisions can be viewed as spending because they target specific public programs; however, unlike direct state spending, it is a form of indirect state spending that occurs through the state's tax code. Unlike direct spending which is authorized via the appropriations process, tax expenditures do not, as a general rule, undergo annual scrutiny in the budget process. Tax expenditures, in some cases, are subject to legislative review as a result of sunset provisions or required reporting. Tax rate reductions do not qualify as tax expenditures and the reported data do not attempt to discern the impact on different state funds, e.g., General Fund, School Aid Fund, etc.

While tax expenditures, such as the treatment of services, represent substantial levels of economic activity that are not captured in the state's tax system, their use and justification must be considered in a broader context.

The most recent report, published in 2010, estimates the lost state and local tax revenue for FY2010 at $36.4 billion. Over 90 percent of the tax expenditures for the year result from policies affecting the three major tax categories: consumption, individual income, and property taxes. Each major tax is affected differently by the mix of credits, exemptions, and deductions. Sales and use taxes account for nearly all of the tax expenditures within the consumption tax category (i.e., general and selective taxes) and the single largest item is the statutory exemption of services from the tax base. For the individual income tax, adjustments to income account for the largest tax expenditure and within this item, retirement and pension income make up the majority. Property tax expenditures are largely attributable to the homestead property tax exemption, a key component of Proposal A property tax relief.

The growth in the aggregate level of tax expenditures reported by Treasury over time has been substantial. Examining the period FY2000 to FY2010 reveals that the total cost of these items grew 78 percent, from $20.4 billion to $36.4 billion. One item that receives considerable attention with respect to school finance matters relates to the treatment of services consumption in the sales and use tax bases. This item accounted for a major piece of the overall growth in the tax expenditure picture during the 10-year timeframe. Tax expenditures in this area more than doubled from $4.3 billion in FY2000 to $10.1 billion in FY2010. Over the same period, sales and use tax revenues, in the aggregate, are expected to *decline* by nearly $475 million. Because of the earmarking provisions associated with sales and use taxes, the growth of the consumption tax base is important to discussions about the future potential growth in education funding. While tax expenditures, such as the treatment of services, represent substantial levels of economic activity that are not captured in the state's tax system, their use and justification must be considered in a broader context. Including some items, such as health services, in the tax base will result in a growth rate that approximate changes in

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economic activity; however, there are a number of issues that accompany any such change.

In 2002, a detailed report commissioned by a group of statewide associations representing school administrators and school boards quantified the impact of specific state tax policy changes on Michigan education finances, state and local, since the adoption of Proposal A.[30] The report concluded that newly initiated, post-Proposal A tax changes (primarily involving reductions to tax bases) had major impacts on both local and state-dedicated education funding. It estimated the combined effect on education revenues resulting from all tax changes dealing with the individual income tax, consumption taxes (sales and use), state and local property taxes, economic incentives, and other taxes. In nominal terms, for FY2002 alone, the projected revenue loss to state and local K-12 finances was $550 million. And, since Proposal A, these changes had accumulated to $2 billion. Nothing has been done in a comprehensive manner to update or replicate the findings of the report; however, it is reasonable to assume that the annual impact on education funding estimated for FY2002 has not declined.

While this report did quantify the revenue impacts from such changes, noting that some policies included provisions to shield education finances from adverse fiscal effects (e.g., income tax rate reductions and renaissance zone exemptions), it did not attempt to quantify the effects that these policies had on the growth rates of the state or local taxes. Commenting on the prospective effects of the various policies identified, the 2002 report concluded that many of the changes, by themselves, do little to affect the overall potential for growth. However, the accumulation of numerous minor modifications to the state's tax code "can dramatically reduce the growth potential of the earmarked taxes over time by eliminating items entirely from the base of a tax or by limiting the base included for taxation."

The 2002 study also pointed out that the fiscal effects of tax changes on education funding, whether direct or indirect, must be understood in the broader context of what constitutes "good" tax policy. For example, many argue that Michigan's provisions that index the personal exemption available under the income tax to inflation, although negatively affecting General Fund and School Aid Fund receipts, represent a "good" tax policy on the grounds that they preserve the value of the exemptions and safeguard them against erosion over time. Taken individually, many of the changes (explicit or implicit) implemented since Proposal A meet the general standards of fairness and equity and therefore constitute "good" tax policy on those grounds. However, in an age of declining public resources for K-12 education and given their cumulative impact on the resources available, additional attention should be given to the tenets of "good" tax policy related to adequacy and sufficiency. Prospectively, the report concludes, that contemplated changes to the state's tax code should be evaluated using the full spectrum of criteria associated with "good" tax policy: equity, stability, and adequacy.

Changing Consumer Behavior

In addition to changes in Michigan's tax code, growth in annual state revenues is affected by changes in consumption patterns. These changes concern two distinct questions, "What is being consumed?" and "How is consumption occurring?" With respect to the first question, today, consumers are purchasing relatively more services and fewer goods. Stated another way, the services sector is the area of fastest growth in the economy. Michigan is not uniquely affected by this change nor is this a recent phenomenon. The shift to a "service preference" represents a longer-term trend occurring throughout the United States. In Michigan, however, the shift in consumer behavior effectively creates a mismatch between what is going on in the economy and the tax receipts generated from the economic activity. Michigan does not apply direct consumption taxes to many services, opting instead to rely most heavily on tangible goods purchases to determine overall sales and use tax revenues.[31] The shift in consumer preferences coupled with Michigan's current tax structure will further exacerbate the mismatch between the growth in tax receipts (consumption taxes) and economic activity (personal income).

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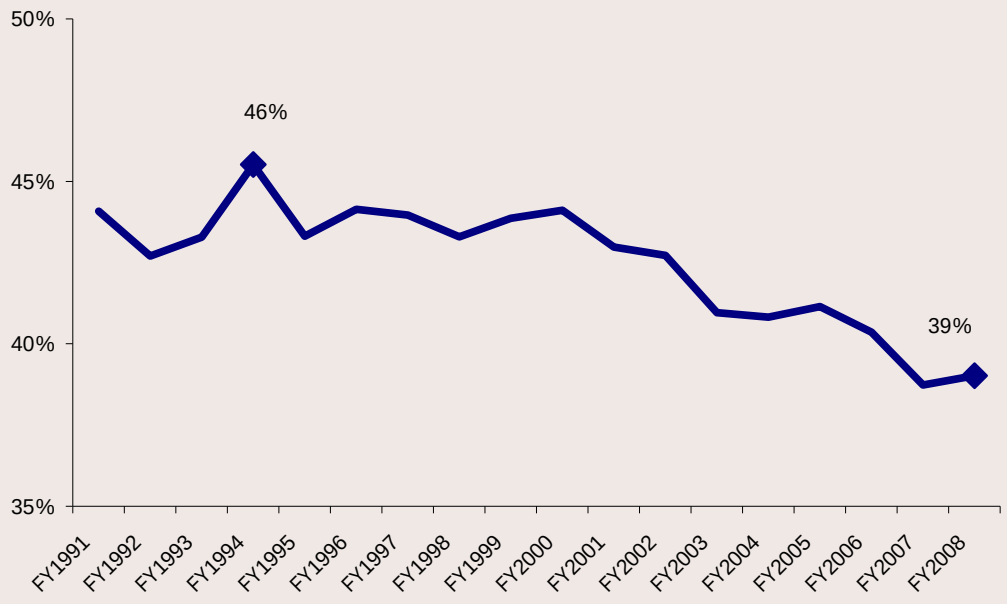
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The combination of this longer-term trend with Michigan's current tax structure creates a unique fiscal challenge for school finances because of the significant earmarking of consumption taxes to the School Aid Fund (73 percent of sales tax receipts and 33 percent of use tax receipts). The gradual shift in consumer preferences is evident in the decline in the share of total economic activity subject to consumption taxes in Michigan. To highlight the possible fiscal effect of this shift in consumer behavior on state tax collections, consider the data presented in **Chart 24**. Assuming that the mix of taxable/exempt sales in FY1994 were applied to current personal income data for 2008, the SAF revenue from state consumption taxes would have been $900 million greater in FY2008.

The gradual shift in consumer preferences is evident in the decline in the share of total economic activity subject to consumption taxes in Michigan.

The migration towards greater consumption of services vis-à-vis durable goods is observed in the changes in wages over time, by major industry. Total wages constitute about 70 percent of Michigan's personal income and provide a glimpse of where economic activity in the state is taking place.

Chart 24
Taxable Sales as Percent of Personal Income: FY1991 to FY2008



Source: State of Michigan, Comprehensive Annual Financial Reports; U.S. Department of Commerce

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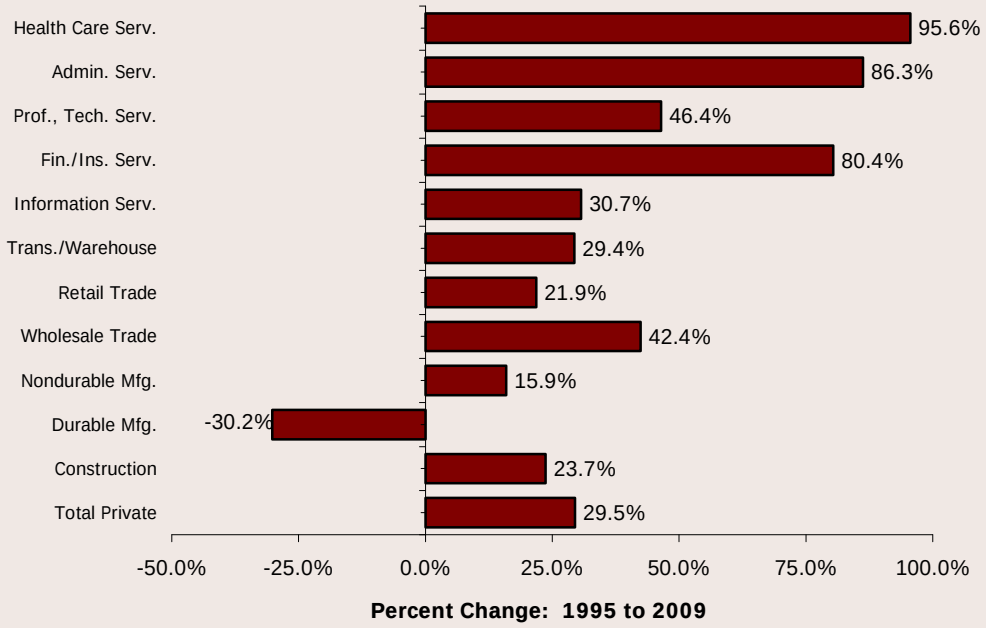
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Between 1995 and 2009, the state's service sector (e.g., health care, administrative, professional and technical, financial and insurance) grew well in excess of its manufacturing sector (durable and nondurable goods) (**Chart 25**). Wage earnings in the health care services sector grew over three times (96 percent) as much as total private sector wages (30 percent) during the period. As a result of the disparate wage growth across industries, the service sector occupies a larger share of the overall economy and the goods-producing sector a relatively smaller portion. Although not reflected in the chart here, data for the period shows that manufacturing comprised 32 percent of total private wage earnings in 1995 and declined to 19 percent in 2009, while the health care services sector grew from 10 percent to 16 percent of total wages over the same period. During the 1995 to 2009 period, Michigan's tax structure remained unchanged relative to the compositional adjustments in the economy.

Shifting consumer preferences relative to "how" consumption occurs also constrains revenue growth for schools. The growth in consumption tax revenue is largely dependent on tangible goods purchases from businesses located in Michigan because the state lacks an effective way to collect use tax on tangible goods purchased from sellers outside of the state. Remote and Internet sales are expanding more rapidly than traditional "brick and mortar" store sales. As a result, the sales and use tax bases in Michigan are being slowly eroded by the increase in remote sales, which is contributing to the slide observed in **Chart 24**. Because the State of Michigan lacks authority to require firms that do not have nexus in the state to collect sales taxes on purchases made by consumers in this state, a significant and increasing amount of economic activity each year escapes taxation.[32] The issue relates to the commerce clause of the U.S. Constitution and Michigan lawmakers lack the power to craft a state-specific response to this issue.

Chart 25
Wage Earnings Growth by Private Sector Industry: 1995 to 2009



Source: U.S. Department of Commerce

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The inability to effectively tax remote sales activity inhibits the growth potential of SAF revenues. A recent report by the Michigan Department of Treasury estimates that the sales and use tax revenue loss associated with consumer remote sales in Michigan was $308 million in FY2008 and was expected to grow to $355 million by FY2011.[33] These figures represent the aggregate revenue impact; however, because the SAF receives the largest distribution of combined sales and use taxes, it would experience the majority of the revenue gain if this activity were subject to direct taxation.

Aging of Michigan's Population

Michigan's demographic makeup also explains some of the disconnect between tax receipt growth and economic growth observed over the last 10 years. Quite simply, the state is getting older, proportionately, and the state's tax structure tends to treat its older residents more favorably than its younger residents. This is the case with respect to the individual income tax when exemptions, adjustments, and credits are viewed through an age-specific lens. Also, because the purchasing preferences of older residents are somewhat different than their younger counterparts and given the structure of the sales and use taxes, consumption taxes tend to fall more heavily on younger residents. Assuming no changes in state tax policy with respect to "senior preferences" or modifications to the consumption tax base, a continuation of the aging trend observed over the past decade will further constrain revenue growth for schools.

Although Michigan's total population figure has barely moved from the start of the last decade (an expected increase of less than one-half of one percent), the composition has changed markedly. While the overall population is the same, Michigan's senior population (65 years old and over) grew over seven percent since 2000, thus comprising a larger share of the total population in 2009 (13 percent compared to 12 percent). Across the U.S., the senior population also increased since the beginning of the decade (13 percent); however, the total figure also increased such that this cohort represents roughly the same percentage of the total today as it did nearly ten years ago (about 12 percent). Demographic projections call for the 65 and over cohort in Michigan to continue to grow in nominal terms and as a percent of the total population for the foreseeable future.[34] As a result, the over-65 age group is expected to constitute 17 percent of the state's population in 2017, up from 13 percent today.

From a public finance perspective, the aging of Michigan's population poses serious threats to the potential to provide stable funding for education services in the future. Michigan's income tax currently provides special treatment for residents 65 years old and over, including full exemption of social security income and all public pension income, along with an additional special exemption for seniors ($2,300-single in 2009) on top of the standard personal exemption ($3,600-single in 2009). For private pensioners, a very generous exemption is provided ($45,120-single and $90,240-married in 2009). Seniors also benefit from a number of special credits (e.g., homestead property tax, home heating, and renters' tax). As more and more residents qualify for income tax exemptions, the base of the income tax is further depleted, which negatively affects the growth rate. The School Aid Fund is directly impacted by reductions in the gross collections resulting from the tax base narrowing; however, current law holds the Fund harmless from the fiscal effects of the various senior-specific income tax credits. Credits reduce the level of revenue available to the General Fund and, therefore, its ability to supplement dedicated education revenues.

According to a 2006 report by the Center on Budget and Policy Priorities citing previous research conducted on the topic, Michigan led all states with the most-generous income tax preferences when the effective income tax rates for elderly and non-elderly residents were compared for each state. Within the Great Lakes region, Michigan preferences were nearly double those of the other states.[35] It was estimated that the difference between the effective tax rates of elderly and non-elderly individuals earning less than $200,000 was 2.17 percentage points in Michigan compared to 0.64 percentage points for the nation as a whole. Regionally, the closest state to Michigan was Wisconsin, which had a difference of 1.1 percentage points between the effective income tax rates for the two groups.

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Conclusions and Options

Realigning Education Finances with the Michigan Economy: Enhancing Long-Term Stability

While Michigan's school finance system underwent a major transformation in the mid-1990s, the state tax structure upon which the system is based largely resembles what existed 40 years ago. The state's economy has evolved considerably over the last 40-year period and has experienced monumental changes associated with the state's manufacturing base during the last decade. The state's economy will continue to evolve with the attraction and development of new industries and changes in consumer preferences. As a result of current tax policy, major sources of state taxes increasingly do not respond to growth in the overall economy. Re-connecting the weakened relationship between the state's financing structure and the overall economy will require restructuring Michigan's consumption and income taxes. Without state revenue restructuring, the delivery of public education services will have to be re-calibrated to match a revenue system that grows more slowly in the future, because the option to influence overall revenue growth via the local property tax is extremely constrained.

The stability of state revenues would be enhanced if major components of the service-based economy, particularly consumer services, were folded into the base of Michigan's consumption taxes.

In addition to repairing and restoring a stronger relationship between education revenues and the broader economy, policy makers might consider the various, and complex, relationships between the property tax and property tax limitations contained in Michigan's Constitution and state laws. These interactions will prevent education revenues from fully benefiting from future investment and growth in real property. Attention to major tax sources (consumption, income, and property) is prudent, but consideration also should be directed at those minor sources that provide schools with, proportionately fewer, but still very essential, resources.

Sales and Use Taxes

Michigan's consumption-based taxes (sales and use) represent the single largest state source of financing for public schools. The base of these taxes is almost entirely the sale and use of tangible property, with a limited number of services subject to taxation. With the continued shift away from the consumption of goods toward more and more services, the growth in tax yields are expected to continue to lag growth in the economy. While the sales tax rate was increased with the adoption of Proposal A, there has been virtually nothing done to expand the tax base. Further rate increases would provide additional revenue, but Michigan already has the seventh highest sales tax rate of the 45 states levying the tax according to the Federation of Tax Administrators.[36] Raising the rate might place Michigan businesses at a competitive disadvantage. The stability of state revenues would be enhanced if major components of the service-based economy, particularly consumer services, were folded into the base of Michigan's consumption taxes.

In the national perspective, Michigan is somewhat of an outlier in terms of service taxation. According to the Federation of Tax Administrators, Michigan taxes 26 of a possible 168 services identified, placing it in the bottom 25th percentile of states.[37] Within a regional perspective, only Illinois (24 services) and Indiana (17 services) tax fewer services than Michigan.

The effect on the tax base of including all services would be substantial because the dollar value of services not taxed exceeds the value of goods and services currently taxed. A reconstituted tax base with a significant services component would grow

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faster than the current sales and use tax bases, however, the final selection of services to include in the tax base will ultimately determine the growth potential. Certain service sectors, such as medical services, are expected to experience faster growth rates than other sectors. Exclusion of higher-growth sectors from the tax base would affect the potential for growth in the future. Adding services to the current tax base can provide an opportunity to reduce the current tax rate by some amount and provide a revenue-neutral starting point. The failed 2007 attempt to include certain services in the consumption tax base highlighted the sensitive nature of expanding the sales tax to services and determining which services to tax.

Economic research on the topic of expanding the sales tax base confirms that adding services to the mix will result in tax revenue growth that more closely tracks economic growth.

A tax restructuring plan that includes consumer services in the sales tax base can be fashioned in a way that increases revenues, decreases revenues, or results in no net change upon implementation.

A broad-based consumption tax is likely to enhance revenue stability and preserve the long-term sales tax yield. It would also provide some protection during recessionary periods against wide fluctuations in revenue that occur as a result of a goods-dominated tax. Michigan's experience over the 2008 recession (e.g., sales tax falling 10 percent in FY2009) is evidence of the volatility of the current tax base. Currently, Michigan's sales tax base is heavily reliant on the purchase of "big ticket" items (e.g., autos, appliances, and furniture), the consumption of which declines sharply during an economic downturn. The consumption of services does not fall as precipitously during a recession. On the flip side, during periods of economic growth and expansion, the stability of service consumption will act to temper the revenue spikes that occur when "big ticket" purchases are made.

Economic research on the topic of expanding the sales tax base confirms that adding services to the mix will result in tax revenue growth that more closely tracks economic growth. A 2006 study that examined state tax activity from 1970 to 1999 found that states with broader sales tax bases (i.e., included services) had higher sales tax elasticities, meaning that growth in sales tax revenues more closely approximated growth in the state economies.[38]

In 2008, CRC estimated the future revenue growth potential of a hypothetical sales tax base that included all services with the exception of business-to-business transactions.[39] This exercise resulted in a much broader sales tax base than that included in Michigan's short-lived 2007 experiment with a services tax. Also, the enhanced tax base assumed in CRC's 2008 report was much broader than the tax base contemplated in Governor Granholm's 2010 service tax proposal, which also called for a 0.5 percentage point rate reduction. The hypothetical tax base developed by CRC included health care services, a large and growing sector of the services field, whereas both the 2007 tax base expansion and the Governor's recent proposal excluded this segment. As noted earlier in the discussion of tax expenditures, the health care sector has grown substantially since the adoption of Proposal A. As previously indicated, wage earnings for the sector in Michigan nearly doubled (96 percent) from 1995 to 2009, compared to 30 percent growth for the entire private sector.

The scenario developed by CRC produced a service tax base equal in size to about two-thirds of the current-law tax base, largely because of the inclusion of health care. As a result of the substantial widening of the base, a sizeable rate reduction (from 6 percent to 3.6 percent) was necessary to produce a "revenue neutral" starting point. The new, re-constituted tax base increased the projected annual sales tax growth rate by 0.8 percentage points, prospectively. A re-structuring plan that couples a broader sales tax base with a reduced rate complies with an oft-cited principle in tax policy that favors taxes that have the widest bases and lowest rates possible.

While in concept there may be considerable support and justification to adopt a broad-based sales tax in

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Michigan that includes most, if not all, consumer services, re-configuring the tax base entails a host of complex issues that demand attention before tax restructuring is implemented. In general, administrative cost considerations (both for taxpayers and state government), equity (horizontal and vertical), definitional issues (e.g., what constitutes a service?), economic principles (e.g., how are markets affected?), and administrative matters would have to be addressed. Nationally, the move to greater services taxation is occurring gradually and major state attempts to fold services into the sales tax base have not garnered much success.[40]

Over the long run, growth in consumption taxes will also be affected by the broad shift how Michigan residents make purchases. The explosion in the amount of Internet and other remote sales that escape state consumption taxation is not a recent phenomenon uniquely affecting Michigan. Rather, this represents a shift in consumer behavior that has been going on for some time and impacts all levels of government with authority to collect consumption taxes on the sale of goods. In Michigan, as in other states, efforts have been progressing for a number of years to capture consumption taxes (use tax) from remote sellers to Michigan residents. Thus far, the state's only viable response has been the development of and participation in a voluntary system involving businesses outside of Michigan transacting with Michigan residents. Although purchasers are liable for use tax on Internet and "remote sales", full compliance in this voluntary system has not been realized. It is unlikely that the Internet and "remote sales" economic activity will be folded into the activity that is subject to consumption taxation in Michigan to the fullest extent possible without further action by the U.S. Congress.

The total level of General Fund resources available each year is one factor used by the legislature in determining the ability to supplement dedicated state resources to support public elementary and secondary education services. Therefore, the structural factors affecting the growth in personal income tax receipts affect the stability of education finances over the long-run.

Income Tax

The annual growth of personal income tax receipts plays a major role in the financing of public education, directly and indirectly. Through state tax earmarking provisions, these resources currently represent the third largest component of the School Aid Fund, behind the sales tax and the 6-mill state property tax, and are expected to grow to be the second largest source as state property tax revenues decline over the next couple years. In addition, income tax revenues are the single largest component of the General Fund. As previously noted, the total level of General Fund resources available each year is one factor used by the legislature in determining the ability to supplement dedicated state resources to support public elementary and secondary education services. Therefore, the structural factors affecting the growth in personal income tax receipts affect the stability of education finances over the long-run.

Growth in Michigan personal income tax receipts dedicated to the School Aid Fund has trailed personal income growth since the early 2000s. Similarly, growth in General Fund income tax receipts has fallen behind income growth, but to a greater degree due in part to the weak connections between the tax and the economy, and also as a result of rate reductions and growth in credits. The General Fund was disproportionately affected by the income tax rate reductions phased-in over a period of years in the late 1990s and early 2000s. The School Aid Fund was insulated from these rate reductions through provisions in state law. Ignoring the tax rate changes currently scheduled for the individual income tax, the underlying growth potential of baseline income tax receipts is contingent on the interaction of deductions, exemptions, and credits. Changing the projected growth pattern of income tax receipts in a material way will entail a modification to one or more of these income tax components.

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Michigan's personal income tax has proven less responsive to economic changes than the income taxes levied by other states. Enhancing the responsiveness is a complex endeavor and can take a number of approaches. A major structural difference between Michigan's income tax and those of other states is the current constitutional prohibition (Article IX, Section 7) on graduated rates. Michigan is one of seven states that use a flat rate structure, while thirty-four other states levy a broad-based personal income tax using a graduated-rate structure. [Note: Seven states do not levy an income tax and two states levy the tax only on dividends and interest income.] The federal government also employs a multi-rate income tax. Michigan's current flat rate for 2010 is 4.35 percent, and is scheduled to decline by 0.1 percentage point each year beginning on October 1, 2011, and until October 1, 2015, when it will be 3.9 percent.

If Michigan were to substitute a graduated income tax for its current flat rate tax, considerable additional growth in revenues (School Aid Fund and General Fund) could be realized. A restructuring of this nature could be fashioned to provide a net tax increase or decrease upon implementation, or it could be designed to be revenue-neutral initially.

The concept of graduating the income tax rate is relatively straightforward – as taxable income rises, the tax rate applied to successively higher increments of income also rises. Generally speaking, income taxes that have various rates are considered "progressive", meaning that a person's tax liability, as a fraction of their income, rises with income. A progressive tax structure is contrasted with a "proportional" structure, where everyone pays the same percentage of income in tax, regardless of income. In a broad sense, one tax structure is deemed to be more progressive than another if the average tax rate (tax liability as percentage of income) increases faster with increased income.

Looking at states that use a progressive income tax, the number of brackets employed and the rates charged vary considerably and therefore it can be concluded that there is no "typical" tax structure nationally. According to the Federation of Tax Administrators, two states have ten or more brackets (Hawaii and Missouri), but most states have three to six brackets.[41] In the Great Lakes region, Illinois and Indiana use a flat rate structure, and Minnesota, Ohio, and Wisconsin have progressive tax structures.

Income growth over much of the last half-century, nationally and in Michigan, has been concentrated in high income earners. Generally, income tax receipts under a graduated rate structure, assuming the same level of income growth, grow at a faster rate in a progressive rate structure than under a flat rate structure. If Michigan were to substitute a graduated income tax for its current flat rate tax, considerable additional growth in revenues (School Aid Fund and General Fund) could be realized. A restructuring of this nature, while it would require a change in the Michigan Constitution, could be fashioned to provide a net tax increase or decrease upon implementation, or it could be designed to be revenue-neutral initially.

Another method to achieve greater growth potential would involve expanding the base to include income that is currently untaxed. The pensions of former public employees are entirely exempt and pensions of former private sector employees are mostly exempt from Michigan's individual income tax. The value of these pensions, although not reflected in personal income statistics, is expected to grow at rates at least one and one-half times as fast as other sources of taxable income due in large measure to the state's aging population. The addition of this growing base would increase the growth potential of the income tax as a source of financing for K-12 schools and the General Fund. Folding private pension income into the income tax base could be accomplished statutorily; however, public pensions currently enjoy constitutional protection against taxation. Equity concerns would suggest that private and public pension income be treated equally from a tax policy perspective.

Currently-programmed income tax rate reductions will affect General Fund revenue stability, beginning

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in FY2012. While education finances are isolated from the direct effects of the five-year, phased-in 0.45 percentage point rate cut, the fiscal impact to the General Fund will result in fewer discretionary dollars being available to supplement education services each year. A pause or elimination of the income tax rate reduction will enhance the stability of state revenues in the future.

State Education Tax

Revenues from the 6-mill State Education Tax (SET) did not perform as poorly as other major and minor state revenues when compared to economic measures from FY2001 to FY2008. This is not surprising given the fact that property taxes are less dependent on changes in broad measures of income to determine tax receipts. Property values exhibited strong growth throughout much of the seven-year period, which in turn produced similar annual levy increases for the SET. This is not expected to continue in the near-term due to a host of factors related to the bursting of the housing market "bubble", mortgage defaults, tax foreclosures, out-migration of Michigan residents, over-supply of residential property, and adjustments to commercial and industrial property values. As a result, levies from the SET and all other property taxes in Michigan are expected to decline in the coming years. [Note: CRC's May 2008 long-term assumptions regarding SET revenue performance over the 2007 to 2017 period (average annual growth rate of 4.25 percent) were clearly too optimistic given the myriad factors affecting property values in the intervening years.]

In the current and near-term environment, property assessments will continue to fall and drive down taxable values throughout the state. Although some areas of the state are harder hit than others, it is important to remember that the SET is a state-level tax and the effective base is all property in Michigan. The decline in this "statewide" tax base is expected to last three to five years; however, this short-term erosion of the tax base has long-term fiscal consequences because of the tax limitations contained in Proposal's A constitutional provisions. Proposal A's taxable value cap will dampen the recovery in the tax base and prolong the amount of time before previous tax levies are seen again. Proposal A restricts the growth on individual parcels to the lesser of inflation or five percent. All else being equal, this cap will limit the growth in the SET tax base from existing property to the rate of inflation, regardless of the strength of the recovery in the real estate market and resultant increase in property values statewide.

To modify the projected growth path of SET receipts coming out of the period of declining property assessments would require a statutory change in the tax rate or changes to the Michigan Constitution, to alter the modified acquisition value system of property valuation, which controls the growth of the base.

To modify the projected growth path of SET receipts coming out of the period of declining property assessments would require a statutory change in the tax rate or changes to the Michigan Constitution, to alter the modified acquisition value system of property valuation, which controls the growth of the base. Changing the assessment cap may be viewed as unpalatable given the fact that it was a major tenet of Proposal A's property tax relief provisions. Further, the assessment cap applies to all local property and a SET-only solution would be highly problematic. Each mill of the SET could be expected to yield roughly $300 million in the current year. Unless future rate increases were calibrated to account for the projected declines in the tax base in the coming years, the yield will fall in each year that the tax base declines. Thus, increasing the rate would provide temporary stability to the state revenue stream, but does very little to change the long-term growth potential of the SET.

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Local Operating Property Taxes

In the post-Proposal A period, local property taxes continue to play a key role in financing school operations, both for local and intermediate school districts. Intermediate school districts rely heavily on property taxes to support operations; structural challenges facing this revenue source in the near- and long-term take on greater importance for these entities compared to local districts. All local operating taxes are subject to Proposal A's assessment cap, which will constrain tax revenue growth coming out of the period of declining assessments. Assuming everything else being equal, the cap on assessments holds the growth in tax base for most schools to the lesser of the rate of inflation or five percent, in exactly the same way that the base of the SET is affected by the per-parcel cap.

In addition to the per-parcel growth cap, local operating taxes are also subject to tax limitations that predate Proposal A. The 1978 Headlee amendment to the Michigan Constitution requires that, if the existing property tax base of a local government (e.g., school district) increases faster than the rate of inflation, the maximum authorized tax rate must be reduced or "rolled back" by a commensurate amount so as to produce the same property tax levy as would have been obtained from the old base. In a period of declining bases of local operating taxes (18-mill non-homestead tax or any other local operating tax), this tax limitation is moot. However, coming out of the period of declining assessments and taxable values, this limitation, in combination with Proposal A's per-parcel cap, will inhibit future revenue growth.

The rollback provision of the Headlee amendment can be triggered by the transfer of certain properties. A recovery in real estate markets is likely to be reflected in an increased number of properties being transferred. When ownership of enough properties, or of a few high-priced properties, is transferred, taxable values for those individual properties "pop up" to 50 percent of the true cash value. When these "pop ups" are added to the tax rolls, the tax base of some school districts will grow at rates faster than inflation. In such a case, a rate rollback is initiated and reduced rates applied to all properties. The net result will be that growth in the property tax levy is held below the growth in inflation.

Coming out of the current period of declining property values, the interaction of the Headlee amendment and Proposal A's assessment cap will forestall recovery in the tax bases of school districts, effectively prolonging the effect of the current housing market downturn. A statutory response is available, despite the fact that both tax limitations are contained in the Michigan Constitution. The interaction of the cap on assessments and the Headlee rate rollback is determined in the statutory definition of property tax base "growth", which includes both the per-parcel inflationary factor as well as the "pop up" effect. Redefining tax base "growth" to exclude "pop ups" would allow the tax base of existing property to grow at a rate that approximates, or slightly exceeds, inflation. This would add stability to future local property tax revenues.

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Another avenue to address future growth in local operating taxes for local districts would involve further centralization of the finance system by shifting property taxes currently levied at the local level to the state level. The 18-mill local operating tax is effectively a state-level tax given the statutory limits placed on the maximum rate allowed (e.g., lesser of 18 mills or 1993 tax rate) and the tight limitations on tax base growth (Headlee and Proposal A provisions discussed earlier). Making the 18-mill tax a state-levied tax, similar to the SET, would exclude the tax from Headlee rollback provisions because state taxes are not subject to automatic rate reductions triggered by base adjustments. Such a shift toward greater centralization would eliminate some election costs at the local level associated with both "Headlee override" votes as well as constitutionally-required millage "renewal" votes. Override votes can occur more frequently than renewal requests. These votes occur at the request of the local school

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district in order to restore all, or a portion, of the previous millage rate reduction.

Consideration might also be given to the possibility of exempting local and intermediate school district property taxes from the Headlee rollback provisions. This would require constitutional changes; however, it would comport with some peoples' general understanding of how the 18-mill foundation allowance property tax was intended to work.

Revenue generated from the 18-mill non-homestead property tax (or whatever the level was for those districts levying less than 18 mills in 1993) is collected and retained locally and is dedicated to the foundation allowance within each district. For purposes of calculating the state portion of a district's foundation allowance payment each year, state law requires that this payment be based on the assumption that a millage rate reduction has not occurred. In other words, the state assumes that the full 18 mills (or 1993 rate, whichever is less) is being levied locally when it determines its share of a district's foundation allowance payment each year, regardless of the actual rate levied.[42] Given the workings of the foundation allowance program (i.e., local dollars first), the practical effect of this provision is that a district that does not have authorization to levy the full 18-mill tax will not receive the full amount of local revenue to support its per-pupil foundation allowance and therefore does not receive the full amount of its per-pupil foundation to support operations. For districts affected by the rollback provisions of Article IX, Section 31 of the Constitution, this shortfall in the local revenue component of the foundation allowance is not offset by higher state aid payments. These "lost" dollars cannot be recaptured in future years and can accumulate to amount to significant funds for schools.

Under a tax restructuring scenario, each local district could be guaranteed the tax levy at the full 18-mill rate (or corresponding 1993 level if less) each year, which in turn would add some degree of revenue stability to the system. Some argue this was the intent of Proposal A and such a shift would honor the integrity of the original foundation allowance concept. The base of this tax would remain the same and receipts would continue to be directed to the local foundation allowance. For intermediate school districts, the full amount of previously-authorized millage rates would be guaranteed.

Another option, short of full exemption from the Headlee rollback provisions, involves the restoration of the Headlee tax rate "rollup" provision. This would not require a constitutional change, but would necessitate a statutory modification. Prior to Proposal A, the General Property Tax Act (Public Act 206 of 1893) allowed tax rates (for all units of government) to rollup to previously-authorized, voter-approved maximum levels in years in which property assessment growth lagged the inflation rate. Basically, if previous years' Headlee rollbacks had reduced tax rates below the originally-authorized maximum level, a formula in state law permitted tax rates to automatically increase without a vote of the local electorate, up to the maximum level. The tax rate increases in such cases were not allowed to result in tax yields that exceeded inflation.

Another option, short of full exemption from the Headlee rollback provisions, involves the restoration of the Headlee tax rate "rollup" provision.

State law changes that accompanied Proposal A (Public Act 145 of 1993) effectively eliminated the option of Headlee rollups during the current period of declining property values and tax bases. Under current state law, local and intermediate school districts must obtain voter approval to return operating tax rates to the levels previously authorized if tax rate rollbacks had occured. While some districts are at the statutory maximum for the various operating property taxes (e.g., 18-mill foundation, ISD general operations, ISD special education, and ISD vocational education), a great many are currently levying rates well below the maximum allowed. These districts will have to obtain voter approval to raise tax rates in response to declining tax bases in the coming years. Revenue stability, during times of falling property values, would be enhanced if state law provided for the automatic rate increases, not to exceed previously-approved maximum rates, and capped by the constitutional inflationary limit on the tax yield.

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Tobacco Taxes

The overall growth, and therefore stability, of education revenues also is affected by the structure of minor taxes dedicated to financing schools. The performance of these taxes, as previously noted, is contingent on factors largely independent from economic activity in the state. The performance of these taxes, if stagnant or negative, will constrain the positive growth of other major taxes. These minor tax sources constitute a small portion of the overall funding going to schools therefore their potential to affect the overall growth rate is somewhat limited. However, despite their limited role, a case can be made for structural changes to select minor tax sources.

To modify the growth rate of cigarette taxes as a future revenue source for schools will require a transition from a *unit* or *excise* tax to an *ad valorem* tax or one based on the value (price) of the product sold.

In Michigan, nearly $1 billion in tobacco tax receipts (cigarette and other tobacco products such as cigars, loose tobacco, and smokeless tobacco) were received in FY2009. Schools, through the School Aid Fund earmark, receive 42 percent each year of the cigarette tax proceeds ($410 million in FY2009). These funds account for four percent of total taxes going to the School Aid Fund in FY2009; however, tax receipts declined 16 percent since FY2003 (when they represented five percent of total) in response to declines in tobacco use and consumption. This trend is expected to continue into the future. Because of the current structure of cigarette taxation and without tax rate increases, continued consumption declines will limit tax yields and hamper the overall stability of education funding, as this source of funding declines. While rate increases can generate additional resources in the short term, consumption patterns will determine the long term growth rate of this revenue source.

To modify the growth rate of cigarette taxes as a future revenue source for schools will require a transition from a *unit* or *excise* tax to an *ad valorem* tax or one based on the value (price) of the product sold. [Note: Non-cigarette tobacco taxes are ad valorem in nature. Currently, the tax on other tobacco products is levied at 32 percent of the wholesale price and the proceeds dedicated to the General Fund and the Medicaid Benefits Trust Fund.] Initially, the ad valorem rate could be set to provide the same revenue that the current unit tax raises. Alternatively, the rate might be structured to generate additional resources initially to make up for the erosion in the tax base that that has occurred in recent years with consumption declines. Any policy discussion about transitioning to an ad valorem tax would likely consider the public health, tax regressivity, and tax evasion issues that accompany tobacco taxation in general.

Another option to enhance overall revenue stability that involves the current cigarette tax would be to eliminate this source from the School Aid Fund and redirect the proceeds to another state fund. The revenues could be replaced, dollar-for-dollar, with the proceeds from another tax source that responds to economic growth (i.e., portion of sales or income taxes). Eliminating this negative growth tax source from school funding, while at the same time replacing the revenues with a positive growth source, would better align overall revenue growth with the economy.

Local Revenue Supplementation

In general, local governments in Michigan (general- and special-purpose) are constrained both in the *types* of taxes that they can use and in the tax *rates* that they are permitted to levy to finance public services. Furthermore, as previously noted, state constitutional and statutory provisions control the upper bound of annual growth in property tax bases, both at the individual and unit-wide level. The property tax is the most important revenue source available to local governments and it is constrained by both rate and base limitations contained in state law. The current system of strict state fiscal regulation of local government finances limits taxation options available to all types of local governments, including local and intermediate school districts. Although unique in a number of respects from other types of local government, public education finances have to be understood in the broader context of Michigan state-local government fiscal relationships.

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Michigan's current education finance system considerably restricts the ability of local and intermediate school districts to pursue additional, locally-generated operating revenues. In a period of rising state funding and rising property values, which was the case following Proposal A's adoption, such restrictions could be merited given concerns that such local authority, if acted upon, might result in inter-district per-pupil revenue disparities and counteract the state policy objective to curtail such inequities. In the current and near-term environment, annual state revenues have been falling and revenue growth going forward is likely to be minimal. At the same time, local operating property tax revenue growth is slowing in nearly all communities across the state and declining in many. Providing authority for local and intermediate school districts to address the current revenue declines by supplementing current revenues, if districts so choose, might provide a mechanism to manage through the current period and provide future stability. While there are numerous ways to authorize greater options for local revenue supplementation, the most likely option to pursue involves the current "enhancement" property tax.

Modifying or eliminating the current ISD-wide enhancement millage to provide additional flexibility for districts are options that could be pursued. First, replacing the regional tax with a district-specific enhancement option (up to 2 or 3 mills), similar to that available immediately following Proposal A's adoption, would provide a mechanism to deal with falling state and local resources. Concerns over widening the "equity gap" among districts could be addressed if the local millage yield is based on the average regional or statewide property value. The current ISD-wide millage results in tax base sharing to equalize revenues at the per-pupil level. A similar level of equalization could occur if the additional dollars generated by districts with above-average property values were directed to a regional- or state-level pot to be used to supplement millages levied by districts with below-average property values.

A second option might involve the retention of the current ISD-wide millage concept, but with modification to eliminate the current approval threshold. Currently, state law requires that the question be placed on the ballot only if one or more constituent districts, representing a majority of students of the ISD, request it. Millage passage requires approval from a majority of the electors in the ISD, including electors in districts that did not request the millage originally.

An alternative approach might retain the provision regarding the necessary steps to gain access to the ballot (i.e., request by district(s) representing majority of students in ISD); however, what would change is that approval to levy the millage would be granted only to those constituent districts that passed the millage. The potential concern is that this could reverse some of the equity gains if only the high-revenue districts are successful in securing additional local revenues; however, it will promote further per-pupil equity if the low-spending districts avail themselves of the option. Caution would also have to be paid to the level and duration of such millages to guard against a long-term, sustained erosion of Proposal A's per-pupil funding equity gains.

The proceeds of new, local operating revenues might be earmarked for certain services. Consideration might be given to options that provide local and intermediate school districts with limited authority to seek millages for "optional" programs, such as transportation and athletics. While outside of the classroom, these services play an important role in the overall education and development of Michigan school children.

Current state law establishes the maximum tax rates that ISDs can levy for general operations, special education and vocational education. These limits were established in a different environment, and most likely, based on assumptions that have recently proven to be false (i.e., sustained and consistent property value escalation). Although the caps on these rates did allow rate increases over time, the question arises whether these caps should be reviewed periodically, especially in light of the fact that the financing system is nearing 20-years-old. A number of districts have managed to secure voter approval to increase rates and many more are expected to do so in the coming years in response to falling property values. A review and potential adjustment to the maximum ISD tax rates might provide future stability to district funding levels, especially for those that have exhausted their ability to raise rates

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Appendix A

School Operating Property Taxes: Brief Overview

From an operating revenue perspective, traditional local school districts (excluding intermediate school districts and public school academies) have available to them local property tax revenue from three primary sources. Intermediate school districts have access to three separate local millages to support their operations, but public school academies can not, by law, levy property taxes. Of the three sources available to traditional K-12 districts, two are available to all districts and one tax is available only to a small subset of districts with traditionally higher per-pupil spending. Voter authorization is required to levy any of the three taxes. The first source is the 18-mill property tax or what most people refer to as the basic operating tax. The second operating property tax is available only to 51 districts that had per-pupil revenue in excess of $6,500 in FY1994, commonly called a "hold harmless" millage. Both the "hold harmless" and 18-mill property taxes must be dedicated to the foundation allowance program. Finally, all districts are eligible to share equally in the revenue from a three-mill enhancement millage, assuming voters approve such a regional tax. These very rare taxes (only three districts currently levy) must be levied across an entire intermediate school district and the resultant proceeds shared on a per-pupil basis, regardless of the origins of the tax revenues. These three sources represent the entire universe of local operating property taxes under the current school finance system.

Foundation Allowance 18-Mill Tax

A major change accompanying the school finance reforms of the mid-1990s was the adoption of a foundation allowance program as the primary mechanism for distributing general assistance to local school districts. This system replaced the previous power equalization method of determining state aid allocations. Under the foundation program, effective for the first time in FY1995, the state guarantees each district a basic level of per-pupil funding. As is the case with foundation grant programs in other states, the Michigan model requires a certain degree of local tax effort. In Michigan's case, state law sets the maximum tax rate and the tax base for this local property tax, leaving little room for local taxing discretion.

Some have maintained that although technically a local property tax, this tax more accurately resembles a state property tax similar in many respects to the State Education Tax (SET). The argument supporting this position is based on the fact that both the base and rate of the tax are set in state law and the only "local" aspect of the tax relates to the fact that the proceeds are retained locally for the per-pupil foundation allowance program. Recall, under Michigan's previous school finance system, school operating tax rates were determined at the local school district level through elections, subject only to state tax rate limitations. While the two taxes do share some similarities, enactment of the SET did not require voter approval and it is not subject to tax rate rollbacks pursuant to 1963 Michigan Constitution.

The Revised School Code allows each local school district to levy an operating tax at the rate of 18 mills or the number of mills levied in 1993, whichever is less. The proceeds are strictly dedicated to support a district's per-pupil foundation allowance. The Code further provides an exemption from this tax for certain property, generally referred to as the homestead exemption.[43] Initially, the original 18-mill exemption applied to certain residential and agricultural property, but over time this exemption was extended to other types of property.[44] The remaining property subject to the tax is generically referred to as non-homestead property. Generally, this is property that is classified as business (commercial, industrial, and utility) and residential property that is not owner-occupied (i.e., second residences, rentals).[45]

The 18-mill non-homestead property tax is subject to the millage rate reduction provisions of Article IX, Section 31 of the Michigan Constitution. Section 31 requires a reduction in the maximum authorized rate of a tax (including school operating) if the base of the tax is broadened by redefinition or if the assessed valuation of property as finally

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equalized increases by more than the rate of inflation. In essence, this tax limitation requires property tax rate reductions to counteract the growth in the property tax base, excluding new construction, that exceeds the growth in inflation. The effect of the limitation is to hold the growth in the property tax revenue yield on existing property equal to the growth in inflation.

Following enactment of the school finance reforms and the establishment of 18-mill tax, 536 of the 556 school districts levied the full 18-mill tax. Of the 20 districts levying less than 18 mills in 1994, 13 did so because their 1993 school operating millage rate was less than the mandated 18-mill level. The remaining seven districts levied fewer mills either because they chose to or as a result of an automatic rate reduction.

"Hold Harmless" Tax

The Michigan school finance reforms of the 1990s were designed, in part, to address the per-pupil revenue inequities across districts. One explicit policy approach to address these disparities was to provide larger increases to districts with lower per-pupil revenues compared to the increases provided to higher-revenue districts. Also, it was decided that equity would not be achieved by reducing the amounts received by higher revenue districts. A corollary to the "raising the bottom" approach adopted in the reforms involved allowing certain districts to raise additional revenue through a local property tax to support higher revenue. For those eligible districts, this "hold harmless" tax is in addition to the 18-mill non-homestead local school operating property tax.

The per-pupil revenue threshold to qualify as a "hold harmless" district in FY1995 was $6,500. Districts with combined state and local revenue above this amount were eligible to levy, with voter approval, an additional property tax sufficient to ensure that the higher per-pupil revenue amount was achieved. State law requires that the "hold harmless" tax first be applied to the homestead property tax roll, up to a total of 18 mills. If the revenue yield from such a levy is insufficient for meeting a district's per-pupil revenue level, then the tax must be levied equally on both homestead and non-homestead property.

In much the same way that the 18-mill operating tax is strictly controlled by state law, the Revised School Code contains three limitations on the rate of "hold harmless" tax or its yield. Specifically, qualifying districts are able to levy the tax at a rate sufficient to produce a total state and local revenue figure equal to the amount available to the district in FY1995. This provision ensures that a "hold harmless" district receives at least as much in total resources under the new financing system as it did before Proposal A. Second, the rate must be reduced in any year if the per-pupil revenue yield from the tax exceeds the lesser of the dollar increase in the basic foundation allowance or the increase in inflation, which might occur in an environment of rapidly rising tax bases. This provision prevents the growth in the tax from exceeding the growth in inflation in order to avoid further widening the per-pupil funding gap between "hold harmless" districts and those receiving the basic level of per-pupil funding. Finally, a hard cap was instituted that prevents the tax rate from exceeding the level determined by the state for 1994, the first year of the tax.

Upon enactment of the school finance reforms in 1994, 51 districts had per-pupil revenue levels above the $6,500 level in FY1995 and were authorized to levy the "hold harmless" local property tax. However, before the tax was levied in 1994 for the FY1995 budget, the State School Aid Act was amended to effectively reduce the number of districts that would be required to levy this tax in order to maintain their higher revenue level. The amendments provided state supplemental payments in lieu of and equal to the local property revenue that would have been received from the "hold harmless" millage for two groups of high-revenue districts: 1) districts that would have to levy less than one-half of one mill (0.5 mills), and 2) low-population districts (defined as those with 350 or fewer students). For these eligible districts, the state provides a supplemental payment from the School Aid Fund equal to the amount that each district would have received from the "hold harmless" levy at the local level. As a result of the changes to the state law enacted sub-

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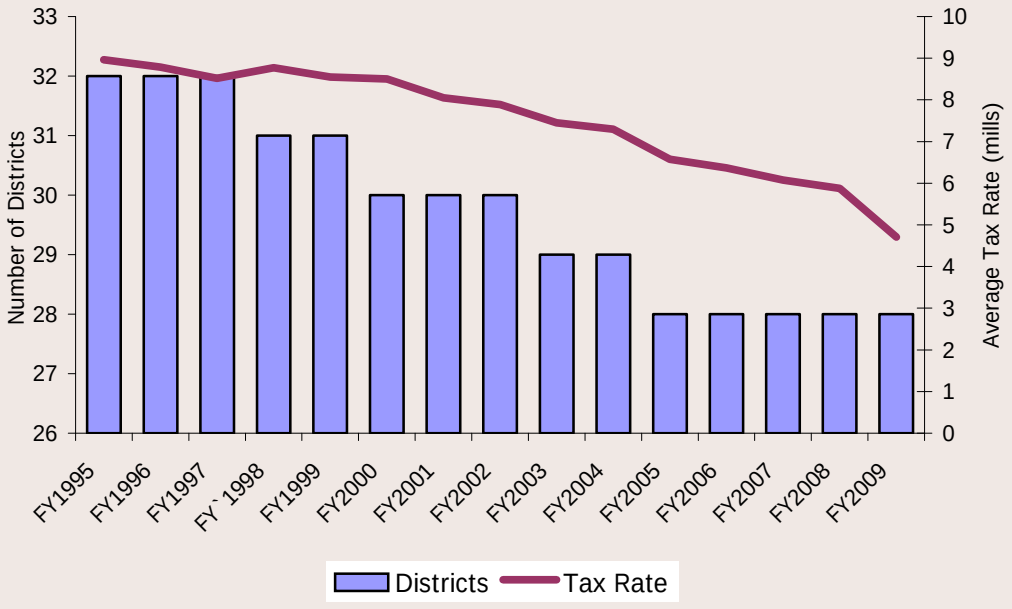
sequent to original Proposal A reforms, only 32 districts collected the tax in the first year (1994) of its existence (See **Chart 26**). In 1994, the rates levied ranged from 21.88 mills in Southfield (Oakland County) to 0.7 mills in East Lansing (Ingham County), with an average figure of 8.97 mills among all eligible districts.

The number of districts levying the tax has declined from a total of 32 in FY1995 to 28 in FY2009.[46] Over the same period, the average rate among these districts has decreased to 4.71 mills, from 8.97 mills originally, as a result of growth in the property tax base upon which the tax is applied and a recent tax policy change. The average rate dropped from 5.88 mills to 4.71 mills in FY2009 (20 percent) as a result of a law change that effectively moved commercial and industrial personal property into the homestead category of property for purposes of school operating taxes.[47] This shift provided property tax relief from the 18-mill non-homestead school operating tax, but simultaneously subjected the property to the "hold harmless" tax, which is levied on homestead property first. The shift only affected property in school districts levying the "hold harmless" tax.

Enhancement Millage

The third type of school operating property tax available to K-12 districts is commonly referred to as an enhancement millage. The state authorization for this tax levy changed soon after the passage of the school finance reforms. Initially, the tax was a district-wide levy, which allowed individual districts to seek a maximum rate of three mills for a maximum of three years. As with the 18-mill and "hold harmless" operating property taxes, this tax is subject to voter approval. Authorization to levy a district-wide enhancement millage existed for a transitional period only, FY1995 through FY1997 (tax years 1994 through 1996). Beginning in FY1998, the tax had to be levied on a regional basis.

Chart 26
Districts with Hold Harmless Millages and Average Tax Rate: FY1995 through FY2009



Source: Michigan Department of Education

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Current state law requires local-option enhancement millages to be levied at the intermediate school district level. The maximum rate is three mills for up to a period of 20 years. The tax is assessed against all property within the district. Before asking local voters within the intermediate district to approve such a tax increase, a resolution requesting the tax must be approved by constituent districts accounting for a majority of the students within the intermediate district (excluding public school academies).

The proceeds from an enhancement millage must be distributed to the constituent districts within the intermediate district on a per-pupil basis and may be used for local school operations. Public school academies are not eligible to receive the proceeds from the tax. Three districts currently levy such a tax: Kalamazoo Regional Educational Services Agency (1.5 mills first authorized in 2005), Monroe Intermediate School District (0.9866 mills first authorized in 1997), and Midland County Educational Service Agency.

Intermediate School District Millages

The centralization of school finances at the state government level did not affect intermediate school districts (ISDs) as severely as it did local school districts. Although amounts vary across districts, as a group ISDs continue to receive the majority of their funding from local sources, in much the same way as they did before Proposal A.[48] Considerable variation in service provision (both type and extent) exists among ISDs, which explains some of the funding discrepancies between entities. The variation in ISD services is fully explained in a separate chapter on the subject in the first report in this series, *Public Education Governance in Michigan*.[49] As an example of the still-prominent role played by the local resources, in FY2008, these comprised 60 percent of all ISD funding statewide, followed by 18 percent from state sources, and 22 percent from federal sources. Federal sources constitute a larger share of overall ISD finances compared to local districts because of the leading role ISDs play in the provision of special education services. Again, considerable variation exists among ISDs as to the component shares of each district's total budget. As is the case with local districts, the major own-source revenue available to ISDs is the property tax. Because of the majority role played by local resources at the ISD level, the property tax remains the primary funding source for district operations, unlike local K-12 districts.

ISDs have authority to levy property taxes for: 1) general operations, 2) special education operations, and 3) vocational education operations. General operating property taxes continued after adoption of Proposal A of 1994 subject to the processes in place for tax allocation boards (in 13 counties) and for separate tax limitations (in 70 counties). Authorization to levy dedicated taxes for special education or for vocational education, and as part of the school finance reform for increased general operating millages, requires voter approval. The maximum rate for each purpose is capped and all ISD tax rates are subject to Headlee tax rate rollback provisions of the Michigan Constitution.

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Sinking Funds

The Revised School Code authorizes local school districts, with voter approval, to levy up to five mills for up to 20 years to create a "sinking fund". Public school academies are prohibited from levying a sinking fund millage. Despite some popular misunderstandings to the contrary, sinking funds are not available to be used for operating purposes. Thus, sinking fund tax levies cannot be considered operating taxes in the context of Michigan education finances.

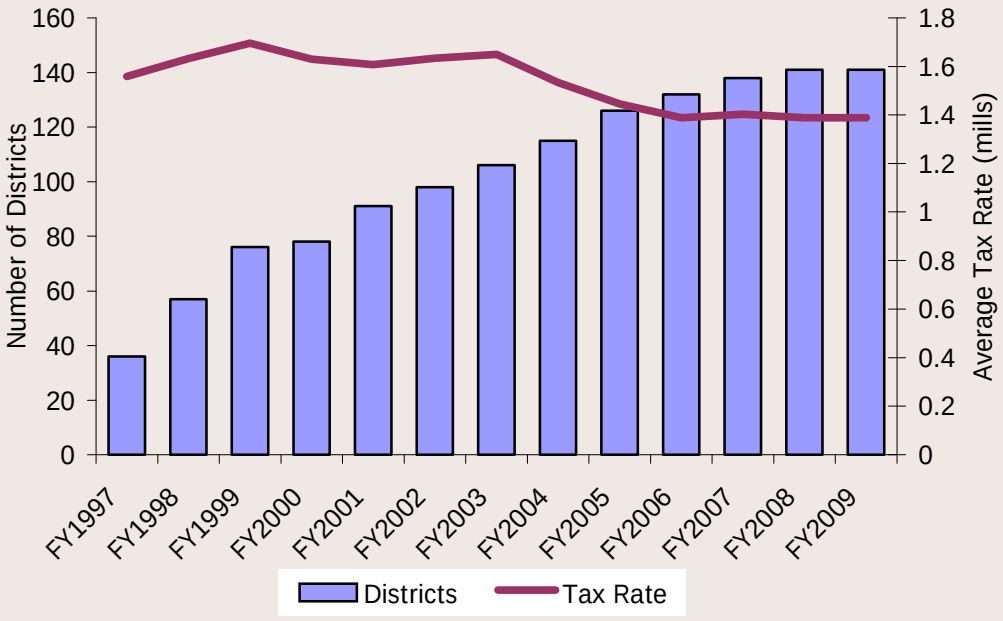
State law narrowly defines the allowable uses of the proceeds from sinking fund levies. The Revised School Code limits the use of sinking funds to the "purchase of real estate for sites for, and the construction or repair of, school buildings." Generally, sinking funds are considered a method of financing capital improvements without having to issue long-term debt, which is the traditional mechanism for funding such projects. However, some projects that may be financed through the issuance of debt may not be financed through the use of sinking fund proceeds.[i] The authorization provided to local districts to levy a sinking fund millage pre-dates the Proposal A reforms of the mid 1990s.

The use of sinking funds among districts has increased since the adoption of school finance reforms in the mid-1990s. A single definitive reason for this observed growth is not clear; however, it is likely that school districts use this method as a cost-conscious alternative to traditional debt issuance to finance capital expenditures. It is also likely that the reduction in school operating property taxes that accompanied Proposal A provided communities with room under constitutional tax limits (e.g., 50 mills) to levy sinking fund millages, among other uses.

The number of districts statewide levying sinking fund millages grew steadily from FY1997 (36 districts) to FY2007 (138 districts), before reaching a plateau and remaining constant in recent years (See **Chart 27**). In

[1] The Michigan Department of Treasury maintains a listing of eligible projects that may be financed with the proceeds from sinking fund millages. A couple notable omissions from the listing include technology equipment and software, although wiring and installation are permissible uses of sinking fund dollars, and transportation services (e.g., bus equipment purchases). Local school districts with sinking fund millages are required under The Revised School Code to have an independent audit conducted each year to ensure that fund proceeds are used according to state law.

Chart 27
Districts with Sinking Fund Millages and Average Tax Rate: FY1997 through FY2009fr



Source: Michigan Department of Education

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FY2009, 141 districts (out of the 551 districts with taxing authority) levied a sinking fund millage. The average millage rate among these districts was 1.39 mills, down from the average figure in FY1997 (1.56 mills) (See **Chart 26**). The range of millage rates in FY2009 varied from the statutory-maximum five mills (Inkster) to a low of 0.24 mills (Suttons Bay).

In FY2010, according to data reported by the Michigan Department of Treasury, a total of $124.7 million was raised for sinking funds statewide.[ii] This represents more than double the amount that was raised from sinking fund millages in FY2002 ($56.8 million).[iii] This growth is a product of the number of districts levying a tax and the increase in the tax base of these districts over time.

Districts that levy a sinking fund millage appear to use this mechanism of capital financing as a partial alternative to bonded debt. Districts with sinking fund levies have an average of 3.17 mills for debt retirement, compared to 4.46 mills for all other districts. The combined average sinking fund and debt retirement millage in districts using sinking funds is just slightly higher (4.56 mills) than in districts that do not have a sinking fund millage (4.46 mills). Further evidence that sinking funds may be used in lieu of traditional debt-financing is seen in the number of districts that do not levy any debt retirement millage. In FY2010, 24 of the 142 districts with sinking fund millages do not levy debt millage, or about 17 percent of the districts in this grouping. For those districts not using sinking funds in FY2010 (410 districts), 12.4 percent (51 districts) do not levy debt millage.

A sinking fund millage can be a cost-effective method to finance capital improvements because it does not entail the costs associated with bonded debt (e.g., interest expense, debt issuance costs, etc.). As opposed to using debt-financing to pay for a capital improvement, sinking funds provide districts with a "pay-as-you-go" alternative. Although sinking funds provide flexibility with respect to capital projects, they cannot be used to support on-going operational costs such as routine maintenance.

[ii] Michigan Department of Treasury, analysis of sinking fund millages and tax bases for FY2010, unpublished date provided by Howard Heideman, Office of Revenue and Tax Analysis, February 2010. This represents revenue received by school districts and does not include tax revenue "captured" by tax increment finance districts and renaissance zones.

[iii] Michigan School Business Officials (MSBO) study conducted by Robert Kleine, 2002. Accessed on MSBO website February 2010.

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Endnotes

[1] The State of Michigan's fiscal year runs from October 1 to September 30 of the following year. Many units of local government in the state, including local and intermediate school districts, have fiscal years that begin on July 1 and run through June 30 of the next year.

[2] Senate Fiscal Agency, *State Revenue Limit (Article IX, Section 26)*, www.senate.michigan.gov/sfa/Revenue/StateRevenueLimit.PDF

[3] Additionally, Proposal A made changes to two other sections of the Michigan Constitution, unrelated to school finance reform. First, the ballot proposal amended Article IX, Section 5, to require that utility property be taxed at a rate equal to the statewide average rate of other "commercial, industrial, and utility" or business property. Previously, this property was taxed at the statewide average rate instead of the actual rate or the jurisdiction in which the property is located. Second, Proposal A provided a new earmark (6 percent) of tobacco product taxes to health care improvements (Article IX, Section 9).

[4] Data include all public K-12 education services, including those provided by K-12 school districts (traditional public and public school academies) and intermediate school districts. Data obtained through the National Public Education Financial Survey is collected by the Michigan Department of Education and reported to the National Center for Educational Statistics (NCES).

[5] The Kalkaska School District closed 10 weeks early in the early spring of 1993 after voters rejected three separate attempts to raise additional school operating funds to help fund a reported $1.5 million deficit for that school year.

[6] The Headlee Amendment refers to a multi-part amendment to the 1963 Constitution, which added Sections 25 to 34 to Article IX. "Headlee" refers to the primary proponent of the amendment, Richard Headlee. The rate rollback provision (Section 31) requires that when the growth in assessed value of property jurisdiction-wide, excluding new construction and improvements, exceeds the growth in inflation then the millage rate must be "rolled back" so that the growth in tax receipts does not exceed changes in the inflation rate.

[7] Citizens Research Council of Michigan, *Proposal A: Questions Regarding School Property Taxes*, Council Comments 1028, June 1994.

[8] This report relies on the National Public Education Financial Survey data, to show operating revenues for K-12 and intermediate school districts. This is the only known source that provides operating revenues broken down by source.

[9] Throughout this paper, annual rates of growth are used to describe the performance of revenue, income, wages, prices, and other variables between two points in time. When the terms "annual growth rate", "annualized rate", and others are employed in the text of the paper, the mathematical computation behind these terms is the compound annual growth rate (CAGR). This metric is different than the arithmetic mean, which simply takes the average of annual rates observed over a period of time.

[10] Originally, the 6-mill State Education Tax was collected about equally on the summer and winter tax bills by local governments responsible for collecting the tax on behalf of the State of Michigan. State law changes were enacted in response to weak SAF revenue growth during FY2002 that changed the collection date for this tax. The changes advanced the collection of the tax entirely to the summer tax bill (July) begging in 2002, effectively pulling forward into FY2002 revenue that would have been received in FY2003. As part of the change, the state law reduced the tax for the July 2002 bill to 5 mills. Overall, the change resulted in a one-time cash-infusion for the SAF of $475 million.

[11] Senate Fiscal Agency, *Doesn't the State Lottery Fund the Schools?,* State Notes, December 2009.

[12] With respect to K-12 education-related costs that are the obligation of the General Fund in the FY10 budget, four items account for almost three-quarters of the total annual General Fund transfer ($30.2 million). The largest single item ($9.2 million) is provided per state law to reimburse the School Aid Fund for lost property tax revenue associated with the establishment of renaissance zones. The next largest item ($7.6 million) is intended for competitive school readiness programs. Finally, the General Fund supports a portion ($5.2 million) of the total costs of the operations of the Center for Educational Performance and Innovation and Michigan Virtual High School. Senate Fiscal Agency. *Summary of PA 121 of 2009 School Aid Budget for FY2010*. October 2009.

[13] The National Bureau of Economic Research, the most-cited organization for dating the business cycle, announced in November 2008 that the U.S. economy slipped into recession in December 2007. Although the NBER has not officially announced an end to the most recent recession, many economists believe that the recession ended sometime in the late summer of 2009.

[14] Estimates are based on the May 2009, Consensus Revenue Estimating Conference. Detailed data provided by the Michigan Department of Treasury.

[15] Article IX, Section 6 of the Michigan Constitution sets a maximum period of 20 years that electors can authorize ad valorem taxes on real and tangible personal property. Generally, local school districts authorize the 18-mill tax for periods much shorter than the constitutional maximum.

[16] Article IX, Section 25 of the Michigan Constitution requires voter approval to increase property tax rates above those specified in Constitution, including those affected by the rollback provisions of Section 31.

[17] Citizens Research Council of Michigan. *Public Education Governance in Michigan*. Report 359. January 2010.

[18] Ibid.

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[19] Citizens Research Council of Michigan. *State Budget "Balance" for FY2007 Achieved with $1 Billion in Additional Non-Recurring Resources.* June 2007.

[20] Dye, Richard F. (2004). "State Revenue Cyclicality." *National Tax Journal,* vol. 57, no. 1.

[21] White, Fred C. (1983). "Trade-Off in Growth and Stability in State Taxes." *National Tax Journal,* vol. 36, no. 1.

[22] Sobel, Russell S., and Randall G. Holcombe (1996). "Measuring the Growth and Variability of Tax Bases Over the Business Cycle." *National Tax Journal,* vol. 49, no. 4.

[23] Senate Fiscal Agency, *Economic and Budget Stabilization Fund Transfers, Earnings and Fund Balance FY 1977-78 to FY2007-08*, March 2009.

[24] Michigan School Business Officials, *Fund Balance and Related Issues*, webpage document (www.msbo.org), March 2010.

[25] Michigan School Business Officials, Testimony of David Martell, Executive Director, Michigan House Education Committee re: HB 5963 (www.house.michigan.gov/SessionDocs/2009-2010/Testimony/Committee5-3-25-2010-4.pdf), March 18, 2010.

[26] Citizens Research Council of Michigan. *The State Fiscal Plan.* Council Comments No. 941. June 1983.

[27] House Fiscal Agency, *Review and Analysis of FY2010-11 Executive Recommendation*, March 2010.

[28] The trend toward adequacy litigation began with the 1989 landmark decision in *Rose v. Council for Better Education*, in which the Kentucky Supreme Court declared the state's entire school system unconstitutional and inadequate to fulfill the education "rights" of Kentucky schoolchildren.

[29] Michigan Department of Treasury, *Executive Budget Appendix on Tax Credits, Deductions, and Exemptions FY2010*, February 2010.

[30] Doug Drake. *A Review and Analysis of Michigan Tax Policies Impacting K-12 Finances.* Michigan Association of School Administrators, Michigan Association of School Boards, and Michigan Association of School Business Officials. June 2002.

[31] According to a 2007 survey of states conducted by the Federation of Tax Administrators, Michigan taxes very few services. Of the total 168 unique services identified in the survey, Michigan directly taxes 26 of total, or about 15 percent. The average number of services taxed by states as of July 1, 2007, was 56.

[32] "Nexus" is defined as a minimum physical presence in a state that would allow a business to be subject to a state's tax system and required to collect and remit taxes.

[33] Michigan Department of Treasury, Office of Revenue and Tax Analysis, Tax Analysis Division. *Michigan Sales and Use Taxes 2008.* December 2009.

[34] Citizens Research Council of Michigan, *Michigan's Fiscal Future*, Report 349, May 2008.

[35] Elizabeth McNichol, Center on Budget and Policy Priorities, *Revisiting State Tax Preferences for Seniors*, May 2006.

[36] Federation of Tax Administrators, *State Sales Tax Rates and Food & Drug Exemptions*, February 2010.

[37] Federation of Tax Administrators, *Survey of Services Taxation – Update*. July 2008.

[38] Donald Bruce, William F. Fox, and M.H. Tuttle, "Tax Base Elasticities: A Multi-State Analaysis of Long-Run and Short-Run Dynamics", *Southern Economic Journal,* October 2006.

[39] Citizens Research Council of Michigan, *Michigan's Fiscal Future*, Report 349, May 2008.

[40] Center on Budget and Policy Priorities, "Expanding Sales Taxation of Services: Options and Issues," July 2009.

[41] Federation of Tax Administrators, *State Individual Income Taxes*, February 2010.

[42] The State School Aid Act.

[43] As currently written, The Revised School Code exempts property classified as a "principal residence" from the tax. Historically, this exemption was considered the "homestead" exemption; however, its name was changed to "principal residence" to avoid confusion with a popular income tax credit called "homestead". The designation of "principal residence" applies only to the residential classification of real property and generally refers owner-occupied property.

[44] Initially, the 18-mill exemption applied to property that qualified as a "homestead" or "principal residence". Over time, the 18-mill tax exemption has been expanded, in total or in part, to include other types of property, including qualified agricultural property, qualified forest property, supportive housing property, commercial personal property, and industrial personal property.

[45] Changes to state law in 2007 generally intended to restructure the overall business tax climate in Michigan resulted in exemptions from 18-mill tax for industrial personal property (full exemption) and commercial personal property (exempt 12 mills).

[46] The following districts, which initially levied the tax in 1994, did not levy the tax in 2008: Covert, Jefferson, Melvindale, and Watersmeet Twp. These districts abandoned the tax at different times over the years.

[47] Public Act 37 of 2007 exempted industrial personal property from the full 18-mill non-homestead property tax and provided a partial exemption (up to 12 mills) to commercial personal property. Treating the property in this manner effectively subjected these property classifications to the "hold harmless" millages in those districts eligible to levy such a tax, which is levied first on homestead property.

[48] Citizens Research Council of Michigan. *Public Education Governance in Michigan.* Report 359. January 2010.

[49] Ibid.

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EXHIBIT 3

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
56903	Academic and Career Education Academy	Midland County Educational Service Agency	Education & Training Connections	Mrs. Michelle Zielinski	(989) 631-5202	michellez@aceaofmidland.org
82921	Academy for Business and Technology	Eastern Michigan University	Leona Group	Dr. Paul Merritt	(313) 581-2223	paul.merritt@leonagroup.com
82738	Academy of International Studies	Central Michigan University	Hanley Harper Group	Ms. Dawn Lynk-Jones	(313) 873-9900	djones@academyofinternationalstudies.com
50911	Academy of Warren	Bay Mills Community College	CS Partners	Mr. Eric Graves	(586) 552-8010	egraves@academyofwarren.net
63916	Academy of Waterford	Bay Mills Community College	Education Management & Networks (EMAN)	Mr. Robert Hooper	(248) 674-1649	robert.hooper@emanschools.net
82998	ACE Academy (SDA)	Central Michigan University	edtec central, LLC	Ms. Monica Martin	(313) 433-5641	monica-martin@edtec.net
82717	Achieve Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Jen Conley	(734) 397-0960	78.jconley@heritageacademies.com
63914	Advanced Technology Academy	Lake Superior State University	Technical Academy Group	Mr. Barry Hawthorne	(313) 625-4700	bhawthorne@atafordpas.org
63901	AGBU Alex-Marie Manoogian School	Central Michigan University	Self-managed	Ms. Dyana Kezelian	(248) 569-2988	dkezelian@manoogian.org
82955	Allen Academy	Ferris State University	PIE Academic Management	Mr. DeAngelo Alexander	(313) 898-6444	deangelo.alexander@allenacademydetroit.com
35902	Alternative Educational Academy of Iosco County	Iosco RESA	Self-managed	Mrs. Tina Williams	(989) 362-2575	twilliams@ioscoresa.net
65900	Alternative Educational Academy of Ogemaw County	C.O.O.R. ISD	Iosco RESA	Mr. Dana McGrew	(989) 362-3006	dmcgrew@ioscoresa.net
82730	American International Academy	Lake Superior State University	Self-managed	Mr. Thomas White	(734) 895-7974	t.white@americanintlacademy.com
82981	American Montessori Academy	Bay Mills Community College	CS Partners	Dr. Ticheal Jones	(734) 525-7100	tjones@charterschoolpartners.com
81904	Ann Arbor Learning Community	Eastern Michigan University	Charter HR Educational Services	Ms. Abby Kuhn	(734) 477-0340	abby@annarborlearningcommunity.org
13901	Arbor Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	agumper@fbrcs.org
81909	Arbor Preparatory High School	Bay Mills Community College	PrepNet	Ms. Ana Salazar	(734) 961-9700	asalazar@arborprep.com
50905	Arts Academy in the Woods	Macomb ISD	Self-managed	Mr. Michael Mitchell	(586) 294-0391	mmitchell@artsacad.net

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
63915	Arts and Technology Academy of Pontiac	Bay Mills Community College	CS Partners	Mrs. Septembra Williams	(248) 452-9309	swilliams@atappontiac.com
39909	Augusta Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	agumper@fbrcs.org
13904	Battle Creek Area Learning Center	Kellogg Community College	Self-managed	Mr. Timothy Allard	(269) 565-4783	tallard@lakeviewspartans.org
13900	Battle Creek Montessori Academy	Ferris State University	MI Choice	Ms. Jessica Eldridge	(248) 904-6517	jessicaeldridge@michoicebcma.com
09903	Bay City Academy	Lake Superior State University	Mitten Educational Management	Mr. Kurt Grangood	(231) 584-2080	grangoodk@northcentralacademy.net
09901	Bay-Arenac Community High School	Bay-Arenac ISD	Self-managed	Mrs. Erin Sullivan	(989) 893-8811	sullivane@bachs.us
11903	Benton Harbor Charter School Academy	Ferris State University	Choice Schools Associates	Mr. Tim Harris	(269) 925-3807	timharris@choiceschools.com
70904	Black River Public School	Grand Valley State University	Charter HR Educational Services	Mr. Shannon Brunink	(616) 355-0055	bruninks@brpsk12.org
82971	Blanche Kelso Bruce Academy	Wayne RESA	Evans Solutions	Mr. Blair Evans	(313) 656-2600	bevans@bkbacademy.org
33915	Blended Learning Academies Credit Recovery High School	Ferris State University	ITS Education Management Group	Dr. Tim Brannan	(517) 214-1880	tim.brannan@comcast.net
74914	Blue Water Middle College	St. Clair County RESA	Self-managed	Mr. Peter Spencer	(810) 989-5805	spencer.pete@sccresa.org
63917	Bradford Academy	Bay Mills Community College	Choice Schools Associates	Ms. Cheryl Paull	(248) 251-0000	cherylpaull@choiceschools.com
82705	Branch Line School	Saginaw Valley State University	Advance Educational Services	Mrs. Jennifer Wilkins	(734) 335-0663	jenw@branchlineschool.org
82983	Bridge Academy	Ferris State University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
25909	Burton Glen Charter Academy	Northern Michigan University	National Heritage Academies	Ms. Denesha Rawls-Smith	(810) 744-2300	21.dsmith@heritageacademies.com
41908	Byron Center Charter School	Grand Valley State University	Charter HR Educational Services	Mr. Thomas Berriman	(616) 878-4852	tberriman@byroncentercharter.org
82745	Caniff Liberty Academy	Oakland University	Education Management & Networks (EMAN)	Dr. Mark Gable	(313) 872-2000	mark.gable@emanschools.net
82968	Canton Charter Academy	Central Michigan University	National Heritage Academies	Mrs. Kelie Fuller	(734) 453-9517	39.kfuller@nhaschools.com
82711	Canton Preparatory High School	Grand Valley State University	PrepNet	Mr. Matthew Chesney	(734) 404-6776	mchesney@cantonprep.com
82752	Capstone Academy Charter School (SDA)	Detroit City School District	edtec central, LLC	Ms. Monica Martin	(248) 582-8100	monica-martin@edtec.net

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
51903	Casman Alternative Academy	Manistee ISD	Self-managed	Ms. Michelle VanVoorst	(231) 723-4981	svanvoorst@manistee.org
81902	Central Academy	Central Michigan University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
82918	Cesar Chavez Academy	Saginaw Valley State University	Leona Group	Mr. Javier Garibay	(313) 361-8689	javier.garibay@leonagroup.com
82923	Chandler Park Academy	Saginaw Valley State University	Scholastic Solutions	Mrs. Diane Fisher	(313) 715-3057	diane_fisher@sbcglobal.net
41920	Chandler Woods Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Joe Hammond	(616) 866-6000	22.jhammond@nhaschools.com
15902	Charlevoix Montessori Academy for the Arts	Saginaw Valley State University	Charlevoix Educational Management, LLC.	Mrs. Phoebe Gohs	(231) 547-9000	pgohs@nwa.edu
72901	Charlton Heston Academy	Lake Superior State University	Midwest Management Group, Inc.	Mr. David Patterson	(989) 632-3390	dpatterson@charltonhestonacademy.com
47902	Charyl Stockwell Academy	Central Michigan University	CS Partners	Ms. Deborah Skolnik	(810) 632-2200	dskolnik@csaschool.org
44901	Chatfield School	Saginaw Valley State University	Chatfield Management Corporation	Mr. Matthew Young	(810) 667-8970	myoung@chatfieldschool.org
82996	Clara B. Ford Academy (SDA)	Ferris State University	CS Partners	Dr. Beverly Baroni	(313) 436-0020	Beverly-Baroni@cbfacademy.com
33901	Cole Academy	Central Michigan University	MEP Services	Mr. Brian Shaughnessy	(517) 708-3512	shaughnessyb@coleacademy.org
82919	Commonwealth Community Development Academy	Eastern Michigan University	Self-managed	Mr. Cullian Hill	(313) 366-9470	chill@cwdacademy.com
15901	Concord Academy - Boyne	Lake Superior State University	Lakeshore Educational Management, Inc.	Mrs. Rebekah Leist	(231) 582-0194	rleist@concordboyne.org
24901	Concord Academy - Petoskey	Lake Superior State University	Lakeshore Educational Management, Inc.	Mr. Robert Ollar	(231) 439-6800	bollar@concordpetoskey.com
50902	Conner Creek Academy East	Ferris State University	MEP Services	Mr. Charles Meredith	(586) 779-8055	meredithc@connercreekeast.org
82741	Cornerstone Health and Technology School	Grand Valley State University	Cornerstone Charter Schools	Mrs. Kalyani Bhatt	(734) 812-8583	kalyani.bhatt@cornerstonecharters.org
11901	Countryside Academy	Central Michigan University	Self-managed	Ms. Lyn Sperry	(269) 944-3319	lsperry@countrysideacademy.org
82991	Covenant House Academy Detroit	Grand Valley State University	Youth Vision Solutions	Mrs. Antoinette Cunningham	(517) 410-0621	acunningham@chayvs.org
41900	Covenant House Academy Grand Rapids	Grand Valley State University	Youth Vision Solutions	Ms. Antoinette Cunningham	(313) 558-9022	acunningham@chayvs.org
82969	Creative Montessori Academy	Wayne RESA	Choice Schools Associates	Ms. Nicole Robinson	(734) 284-5600	nicolerobinson@choiceschools.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
41918	Creative Technologies Academy	Ferris State University	Self-managed	Mr. Daniel George	(616) 696-4905	dgeorge@ctachargers.org
63921	Crescent Academy	Bay Mills Community College	CS Partners	Mrs. Cherise Cupidore	(248) 423-4581	ccupidore@charterschoolpartners.com
41916	Cross Creek Charter Academy	Central Michigan University	National Heritage Academies	Mr. Joseph Nieuwkoop	(616) 656-4000	11.jnieuwkoop@heritageacademies.com
54901	Crossroads Charter Academy	Grand Valley State University	HR Charter Consulting LLC	Ms. PAM DUFFY	(231) 796-9041	duffyp@ccabr.org
38901	Da Vinci Institute	Central Michigan University	Self-managed	Ms. Sandy Maxson	(517) 796-0031	sandy.maxson@davincik12.org
82947	David Ellis Academy	Detroit City School District	Bardwell Group	Ms. theresa ellis	(313) 450-0642	tesrd@aol.com
82994	David Ellis Academy West	Bay Mills Community College	Bardwell Group	Mrs. Sylvia Brown	(248) 809-6138	Sylbrown@bardwellgroup.com
17903	DeTour Arts and Technology Academy	Lake Superior State University	Self-managed	Mrs. Brooke Maciag	(906) 297-2011	bmaciag@eupschools.org
82929	Detroit Academy of Arts and Sciences	Oakland University	Self-managed	Mr. Maurice Morton	(313) 259-1744	mmorton@daask12.com
82700	Detroit Achievement Academy	Grand Valley State University	Self-managed	Ms. Sharon Yaecker-Roesser	(313) 409-8589	Sharon@detroitachievement.org
82925	Detroit Community Schools	Bay Mills Community College	Self-managed	Ms. Sharon McPhail	(313) 537-3570	smcphail@detcomschools.org
82714	Detroit Delta Preparatory Academy for Social Justice	Ferris State University	Equity Education	Ms. Pauline Nagle	(313) 977-9178	pnagle@eqeducation.org
82945	Detroit Edison Public School Academy	Oakland University	New Paradigm For Education	Mr. Ralph Bland	(313) 833-1100	rbland@detroitedisonpsa.org
82979	Detroit Enterprise Academy	Grand Valley State University	National Heritage Academies	Ms. Chanavia Patterson	(313) 823-5799	61.cpatterson@heritageacademies.com
82739	Detroit Innovation Academy	Central Michigan University	Y-ES	Ms. Pauline Nagle	(313) 977-9178	pnagle@eqeducation.org
82722	Detroit Leadership Academy	Central Michigan University	Equity Education	Ms. Pauline Nagle	(313) 977-9178	pnagle@eqeducation.org
82974	Detroit Merit Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Sandra Terry-Martin	(313) 331-3328	45.smartin@heritageacademies.com
82985	Detroit Premier Academy	Grand Valley State University	National Heritage Academies	Mr. James Kinsey	(313) 945-1472	68.jkinsey@nhaschools.com
82704	Detroit Public Safety Academy	Eastern Michigan University	Leona Group	Mr. Isaiah Pettway	(313) 587-0956	isaiah.pettway@leonagroup.com
82953	Detroit Service Learning Academy	Lake Superior State University	Self-managed	Mr. Shannon Smith	(313) 541-7619	smith.shannon@detroitsla.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82930	Dove Academy of Detroit	Oakland University	Choice Schools Associates	Mr. Chris Matheson	(313) 366-9110	chrismatheson@choiceschools.com
63910	Dr. Joseph F. Pollack Academic Center of Excellence	Eastern Michigan University	Human Resource Experts	Mrs. Jamila Whitaker	(248) 569-1060	jwhitaker@pacek-8.org
11905	Dream Academy	Bay Mills Community College	Leona Group	Mr. Lacey James	(269) 926-1587	lacey.james@leonagroup.com
70906	Eagle Crest Charter Academy	Central Michigan University	National Heritage Academies	Mr. Jack DeLeeuw	(616) 786-2400	8.jdeleeuw@nhaschools.com
25916	Eagle's Nest Academy	Grand Valley State University	North Flint Reinvestment Corporation	Dr. Reginald Flynn	(810) 965-1514	northflint@yahoo.com
63936	Early Career Academy	Grand Valley State University	ITT Educational Services	Dr. Phyllis Noda	(248) 524-1800	pnoda@earlycareeracademy.com
81910	East Arbor Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Tanesha Newby	(734) 484-5506	93.tnewby@heritageacademies.com
74900	East Shore Leadership Academy	Northern Michigan University	Bold Education Connections	Ms. Deanna Keller	(810) 294-8040	DKeller@eastshoreleaders.com
82915	Eaton Academy	Central Michigan University	HP School Services	Mrs. Kenis Wallevand	(248) 390-0917	kwallevand@hpschoolservices.com
33902	El-Hajj Malik El-Shabazz Academy	Central Michigan University	Self-managed	Ms. Angela Rodriguez	(517) 267-8474	ar879702@gmail.com
13902	Endeavor Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Angela Wyckoff	(269) 962-9300	14.awyckoff@nhaschools.com
82744	Escuela Avancemos	Detroit City School District	Sanga Consulting, Inc.	Ms. Carmen Munoz	(313) 596-0079	cmunoz@theeaacademyk5.org
39908	Evergreen Academy	Grand Valley State University	Foundation for Behavioral Resources	Ms. Allison Gumper	(269) 731-5775	agumper@fbrcs.org
41905	Excel Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Dan Bartels	(616) 281-9339	2.dbartels@heritageacademies.com
82707	Experiencia Preparatory Academy	Northern Michigan University	CS Partners	Dr. Risha Ring	(313) 262-6861	Rring@XPAprep.org
63926	Faxon Language Immersion Academy	Grand Valley State University	PIE Management (HR Only)	Mrs. Rosie Cohen	(248) 702-6272	r.cohen@faxonacademy.com
82997	Flagship Charter Academy	Central Michigan University	National Heritage Academies	Ms. Faren D'Abell	(313) 933-7933	74.fdabell@nhaschools.com
47903	FlexTech High School	Central Michigan University	CS Partners	Mr. Ryan Gillis	(810) 844-3366	rgillis@flextech-hs.org
39907	Forest Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	allison@forest-academy.org
81906	Fortis Academy	Bay Mills Community College	National Heritage Academies	Mr. Ira Kleiman	(734) 572-3623	55.Ikleiman@heritageacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
63923	Four Corners Montessori Academy	Oakland University	Choice Schools Associates	Ms. Chris Schoenherr	(248) 542-7001	chrisschoenherr@choiceschools.com
73909	Francis Reh PSA	Northern Michigan University	Leona Group	Ms. Kate Scheid-Weber	(989) 753-2349	kate.scheid@leonagroup.com
63935	Frederick Douglass International Academy	Ferris State University	Hanley Harper Group	Mr. Rashid Faisal	(248) 953-2003	rfaisal@fdi-academy.org
82987	Frontier International Academy	Bay Mills Community College	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
82731	GEE Edmonson Academy	Detroit City School District	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
82732	GEE White Academy	Detroit City School District	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
25900	Genesee STEM Academy	Saginaw Valley State University	Light Street Education	Ms. Rita Cheek	(810) 407-8782	rita.cheek@gstema.org
82937	George Crockett Academy	Northern Michigan University	Leona Group	Mrs. Monique Woodland-Phillips	(313) 896-6078	monique.woodland-phillips@leonagroup.com
82963	George Washington Carver Academy	Highland Park City Schools	Midwest Management Group, Inc.	Ms. Sharon Taylor	(313) 865-6024	staylor@gwcarveracademy.org
82725	Global Heights Academy	Grand Valley State University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
50904	Global Preparatory Academy	Central Michigan University	Choice Schools Associates	Ms. Nicole Woods	(586) 575-9500	nicolewoods@choiceschools.com
81900	Global Tech Academy	Eastern Michigan University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
25903	Grand Blanc Academy	Eastern Michigan University	CS Partners	Mrs. Patty Wood	(810) 953-3140	pwood@grandblancacademy.org
41921	Grand Rapids Child Discovery Center	Grand Rapids Public Schools	Self-managed	Mr. John Robinson	(616) 459-0330	robinsonj@childdiscoverycenter.org
41927	Grand Rapids Ellington Academy of Arts & Technology	Lake Superior State University	GREAAT Schools, Inc.	Mrs. Cynthia Springer	(616) 551-3049	springerc@greaat.com
82757	Grand River Academy	Grand Valley State University	National Heritage Academies	Mr. Alan Harper	(313) 595-6936	73.aharper@nhaschools.com
41930	Grand River Preparatory High School	Grand Valley State University	PrepNet	Ms. Koree Woodward	(616) 261-1800	kwoodward@prepnetschools.com
28902	Grand Traverse Academy	Lake Superior State University	Full Spectrum	Mrs. Susan Dameron	(231) 995-0665	damerons@mygta.us
41911	Grattan Academy	Saginaw Valley State University	MJ Management Services	Mrs. Elizabeth Kreiner	(616) 691-8999	lkreiner@grattanacademy.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
63907	Great Lakes Academy	Eastern Michigan University	Employees Only	Mr. Aaron Williams	(248) 334-6434	williamsa@greatlakesacademy.org
33914	Great Lakes Cyber Academy	Central Michigan University	Connections Education	Mrs. Heather Ballien	(517) 381-5062	hballien@connectionseducation.com
63922	Great Oaks Academy	Bay Mills Community College	National Heritage Academies	Mr. Damon Williams	(586) 427-4540	66.dwilliams@nhaschools.com
25914	Greater Heights Academy	Central Michigan University	Midwest Management Group, Inc.	Ms. Lisa Leimeister	(810) 768-3860	leimeisterl@greaterheightsacademy.org
82733	Hamilton Academy	Detroit City School District	Educational Partnerships, Inc.	Dr. Jefferson Hamlin	(248) 712-4923	jhamlin@edpartners.net
82977	Hamtramck Academy	Bay Mills Community College	National Heritage Academies	Mr. Michael Griffie	(313) 368-7312	52.mgriffie@nhaschools.com
82986	Hanley International Academy	Grand Valley State University	Romine Group	Ms. Shameka McPherson	(313) 875-8888	SMcPherson@hanleyacademy.org
82926	Henry Ford Academy	Wayne RESA	Self-managed	Ms. Cora Christmas	(313) 982-6193	cchristmas@hfa-dearborn.org
82703	Henry Ford Academy: School for Creative Studies (PSAD)	Grand Valley State University	Creative Urban Education, Inc.	Mrs. Nanette Gill	(313) 695-1723	ngill@hfli.org
82749	Highland Park Public School Academy System	Highland Park City Schools	Leona Group	Ms. Carmen Willingham	(313) 957-3005	carmen.willingham@leonagroup.com
30901	Hillsdale Preparatory School	Hillsdale ISD	Henway Consulting, LLC	Mr. Robert Henthorne	(517) 437-4625	Robert.Henthorne@hillsdaleprep.org
63911	Holly Academy	Central Michigan University	Self-managed	Ms. Julie Kildee	(248) 634-5554	KildeeJ@hollyacademy.org
81901	Honey Creek Community School	Washtenaw ISD	Self-managed	Mr. Al Waters	(734) 994-2636	awaters@hc.wash.k12.mi.us
82942	Hope Academy	Eastern Michigan University	BDFI Educational Services	Dr. Ronald Williams	(313) 934-0054	rwilliams@hopeacademydistrict.org
41926	Hope Academy of West Michigan	Ferris State University	Integrity Education Services	Ms. Heidi Cate	(616) 977-4917	hcate@lighthouseacademyschool.org
82957	Hope of Detroit Academy	Ferris State University	Leona Group	Mr. Ali Abdel	(313) 897-8720	ali.abdel@leonagroup.com
50903	Huron Academy	Ferris State University	CS Partners	Mr. Mark Talbot	(586) 446-9170	talbotm@huronacademy.org
70909	ICademy Global	Lake Superior State University	Innovative Educational Services	Ms. Brook Drooger	(616) 610-0031	brook.drooger@innocademy.com
70908	Innocademy	Lake Superior State University	Innovative Educational Services	Mrs. Brook Drooger	(616) 610-0031	brook.drooger@innocademy.com
03900	Innocademy Allegan Campus	Lake Superior State University	Innovative Educational Services	Mrs. Brook Drooger	(616) 610-0031	brook.drooger@innocademy.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
23903	Insight School of Michigan	Central Michigan University	K12	Mr. Marcus Moore	(240) 461-9924	marcmoore@k12.com
25905	International Academy of Flint	Central Michigan University	SABIS	Mrs. Kendra Giles	(810) 600-5223	Kgiles@sabis.net
73912	International Academy of Saginaw	Bay Mills Community College	SABIS	Mr. Daniel Chisholm	(989) 921-1000	dchisholm@sabis.net
82747	International Preparatory Academy - MacDowell Campus	Detroit City School District	SABIS	Mr. Christopher Lindsay	(313) 494-8141	clindsay@sabis.net
23901	Island City Academy	Central Michigan University	Advance Educational Services	Mr. William Warren	(517) 663-0111	wawarren@islandcity.org
38900	Jackson Preparatory & Early College	Jackson College	Self-managed	Mr. Shane Malmquist	(517) 768-7093	shane.malmquist@jacksonpec.org
82728	Jalen Rose Leadership Academy	Central Michigan University	American Promise Schools	Mr. Russell Harris	(313) 397-3333	harrisr@jrladetroit.com
63933	Jefferson International Academy	Central Michigan University	Hanley Harper Group	Dr. Elizabeth Ruff	(248) 682-5000	dr.e.a.ruff@jeffersoninternationalacademy.com
17901	Joseph K. Lumsden Bahweting Anishnabe Academy	Northern Michigan University	Self-managed	Dr. Theresa Kallstrom	(906) 635-5055	tkallstrom@jklschool.org
82958	Joy Preparatory Academy	Ferris State University	Leona Group	Mrs. Fran Gardulescu	(313) 340-0023	fran.gardulescu@leonagroup.com
47901	Kensington Woods Schools	Central Michigan University	Employees Only	Mr. Markus Muennix	(517) 545-0828	mmuennix@kwoods.org
63938	Keys Grace Academy	Madison District Public Schools	Kalasho Empowerment of Young Scholars	Ms. Rhonda Foumia	(248) 939-0663	Rhondaf919@aol.com
82976	Keystone Academy	Bay Mills Community College	National Heritage Academies	Mrs. Keturah Godfrey	(734) 697-9470	46.kgodfrey@heritageacademies.com
63934	Kingsbury Country Day School	Saginaw Valley State University	CS Partners	Mr. Tom Mecsey	(248) 628-2571	tmecsey@kingsburyschool.org
41914	Knapp Charter Academy	Grand Valley State University	National Heritage Academies	Mr. David Turcotte	(616) 364-1100	7.dturcotte@heritageacademies.com
39900	Lakeside Charter School	Kalamazoo RESA	Sequel Youth Services of Michigan	Mr. John Thompson	(269) 381-4760	john.thompson@sequelyouthservices.com
74903	Landmark Academy	Saginaw Valley State University	Summit Management Consulting	Mrs. Debby Wilton	(810) 982-7210	wiltond@landmarkacademy.net
33910	Lansing Charter Academy	Bay Mills Community College	National Heritage Academies	Mr. Alvin Ward	(517) 882-9585	81.award@heritageacademies.com
63918	Laurus Academy	Bay Mills Community College	National Heritage Academies	Mr. Raul Calderon	(248) 799-8401	54.rcalderon@heritageacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
45901	Leelanau Montessori Public School Academy	Suttons Bay Public Schools	Self-managed	Mrs. Rebecca Creighton	(231) 271-8609	creightonr@leelanaumontessori.org
82723	Legacy Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Letoskey Carey	(313) 368-2215	88.lcarey@heritageacademies.com
63920	Life Skills Center of Pontiac	Bay Mills Community College	edtec central, LLC	Ms. Monica Martin	(248) 582-8100	monica-martin@edtec.net
23900	LifeTech Academy	Eaton Rapids Public Schools	Engaged Education	Mr. Thomas Ackerson	(517) 325-5469	tackerson@lifetechacademy.org
47900	Light of the World Academy	Grand Valley State University	GPS	Ms. Margaret Ameel	(586) 212-1412	m.ameel@globalpsychology.net
41922	Lighthouse Academy	Ferris State University	Integrity Education Services	Ms. Heidi Cate	(616) 949-2287	hcate@lighthouseacademyschool.org
25907	Linden Charter Academy	Central Michigan University	National Heritage Academies	Ms. Deonna Washington	(810) 720-0515	23.dwashington@heritageacademies.com
53900	Mackinac Preparatory Academy	Baldwin Community Schools	Foundation Learning	Mr. Justin Schmitt	(970) 258-0518	justin.schmitt@foundationlearning.org
50901	Macomb Academy	Central Michigan University	Self-managed	Mr. Andrew Wise	(586) 228-2201	awise@macombacademy.net
50914	Macomb Montessori Academy	Lake Superior State University	MI Choice	Ms. Ashley Ogonowski	(586) 359-2138	ashleyogonowski@michoicemma.com
25911	Madison Academy	Bay Mills Community College	Romine Group	Mrs. Joddi Mills	(810) 655-2949	JMills@madison-academy.org
82742	Madison-Carver Academy	Grand Valley State University	Cornerstone Charter Schools	Mrs. Kalyani Bhatt	(734) 812-8583	kalyani.bhatt@cornerstonecharters.org
13903	Marshall Academy	Ferris State University	Midwest School Services	Mr. Brent Swan	(269) 781-6330	swanb@marshallacademy.org
82910	Martin Luther King, Jr. Education Center Academy	Detroit City School District	Self-managed	Dr. Constance Price	(313) 341-4944	cprice6360@aol.com
82924	Marvin L. Winans Academy of Performing Arts	Saginaw Valley State University	Solid Rock Management Company	Dr. Randy Hayward	(313) 873-7625	rhayward@winans.spfs.k12.mi.us
50906	Merritt Academy	Saginaw Valley State University	Romine Group	Mr. Nathan Seiferlein	(586) 749-6000	nseiferlein@merritt-academy.org
82967	Metro Charter Academy	Grand Valley State University	National Heritage Academies	Mrs. Shelli Wildfong	(734) 641-3200	36.swildfong@heritageacademies.com
33911	Michigan Connections Academy	Ferris State University	Connections Education	Mr. Bryan Klochack	(517) 597-5390	bklochack@connectionseducation.com
82751	Michigan Educational Choice Center	Education Achievement Authority of Michigan	Performance Academies	Ms. Stephanie Widner	(313) 820-0809	swidner@performanceacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
51905	Michigan Great Lakes Virtual Academy	Manistee Area Public Schools	K12	Mr. Kendall Schroeder	(231) 794-5999	kschroeder@k12.com
63924	Michigan Mathematics and Science Academy	Grand Valley State University	Concept Schools	Mr. Oguzhan Yildiz	(586) 920-2163	yildiz@mmsaonline.org
63927	Michigan School for the Arts	Oakland University	Creative School Services	Dr. Carl Byerly	(248) 338-2787	cbyerly@michiganschoolarts.org
82907	Michigan Technical Academy	Central Michigan University	Matchbook Learning Solutions, Inc.	Dr. Amy Galloway Swann	(313) 537-9311	amy@matchbooklearning.com
41925	Michigan Virtual Charter Academy	Grand Valley State University	K12	Mr. Andrei Nichols	(616) 309-1600	annichols@k12.com
33904	Mid-Michigan Leadership Academy	Central Michigan University	SABIS	Dr. Sephira Shuttlesworth	(517) 485-5379	sshuttlesworth@sabis.net
56902	Midland Academy of Advanced and Creative Studies	Central Michigan University	Midland Charter Initiative	Dr. Kathryn Shick	(989) 496-2404	kathrynshick@gmail.com
11904	Mildred C. Wells Preparatory Academy	Bay Mills Community College	Leona Group	Mr. Charlie Lovelady	(269) 926-2885	charlie.lovelady@leonagroup.com
63928	Momentum Academy	Lake Superior State University	Romine Group	Mr. Kevelin Jones	(248) 336-5600	KJones@ihavemomentum.org
37902	Morey Montessori Public School Academy	Central Michigan University	Choice Schools Associates	Mr. Eric Johnson	(989) 866-6741	ericjohnson@choiceschools.com
50908	Mt. Clemens Montessori Academy	Bay Mills Community College	CS Partners	Mr. Casey Rakowski	(586) 465-5545	mtcma@comcast.net
81908	Multicultural Academy	Bay Mills Community College	Universal Management LLC	Ms. Elizabeth Parks	(734) 677-0732	eparks@macademyk8.com
61906	Muskegon Covenant Academy	Grand Valley State University	Self-managed	Mr. Jim VanBergen	(231) 720-3100	jvanbergen@mcovenantacademy.org
61905	Muskegon Heights Public School Academy System	Muskegon Heights School District	Self-managed	Mrs. Alena Zachery	(231) 660-2883	azachery@mhtigers.org
61900	Muskegon Montessori Academy for Environmental Change	Ferris State University	MI Choice	Ms. Alisha DuBois	(231) 766-7500	alidubois@michoicemmaec.com
55901	Nah Tah Wahsh Public School Academy	Northern Michigan University	Self-managed	Mr. Tom Miller	(906) 466-2952	tom.miller@hannahvilleschool.net
82905	Nataki Talibah Schoolhouse of Detroit	Central Michigan University	Nataki Educational Services	Mrs. Samara Etheridge	(313) 531-3720	setheridge@natakitalibah.org
58901	New Bedford Academy	Ferris State University	MJ Management Services	Mr. Greg Sauter	(734) 854-5437	gsauter@newbedfordacademy.com
82962	New Beginnings Academy	Central Michigan University	MEP Services	Ms. Kenya Crockett	(734) 481-9001	kcrockett@newbeginningsacademy.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
41901	New Branches Charter Academy	Central Michigan University	Self-managed	Ms. Teresa Larkin	(616) 243-6221	teresalarkin@choiceschools.com
82713	New Paradigm College Prep	Grand Valley State University	New Paradigm For Education	Mr. Ralph Bland	(313) 215-4617	ralph@npfenow.org
82734	New Paradigm Glazer Academy	Detroit City School District	New Paradigm For Education	Mr. Ralph Bland	(313) 833-1100	RBland@detroitedisonpsa.org
82735	New Paradigm Loving Academy	Detroit City School District	New Paradigm For Education	Mr. Ralph Bland	(313) 833-1100	RBland@detroitedisonpsa.org
82758	New School High	Central Michigan University	Self-managed	Ms. Cynthia Burnstein	(734) 386-6601	cburnstein@newschoolhigh.org
41929	Nexus Academy of Grand Rapids	Central Michigan University	Connections Education	Principal Daniel McMinn	(616) 458-4992	dmcminn@connectionseducation.com
33913	Nexus Academy of Lansing	Central Michigan University	Connections Education	Mr. Charles Carver	(734) 358-9775	ccarver@connectionseducation.com
63930	Nexus Academy of Royal Oak	Central Michigan University	Connections Education	Mr. Michael Foley	(248) 593-8440	mfoley@connectionseducation.com
50913	Noor International Academy	Central Michigan University	Hamadeh Educational Services, Inc.	Ms. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
73910	North Saginaw Charter Academy	Central Michigan University	National Heritage Academies	Ms. Sarah Simpson	(989) 249-5400	24.ssimpson@nhaschools.com
52901	North Star Academy	Northern Michigan University	Self-managed	Mr. Joseph Kukulski	(906) 226-0156	jkukulski@nsacd.com
25904	Northridge Academy	Ferris State University	Leona Group	Mrs. Latricia Brown-Coates	(810) 785-8811	latricia.brown-coates@leonagroup.com
39903	Oakland Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	allison@oakland-academy.org
63931	Oakland FlexTech Academy	Central Michigan University	CS Partners	Ms. Sarah Pazur	(248) 471-6799	spazur@oaklandflextech.org
63912	Oakland International Academy	Saginaw Valley State University	Education Management & Networks (EMAN)	Mr. Larry Cowger	(313) 285-8990	larry.cowger@emanschools.net
63909	Oakside Scholars Charter Academy	Bay Mills Community College	National Heritage Academies	Ms. Kathleen Grinwis	(616) 304-6601	16.kgrinwis@heritageacademies.com
17902	Ojibwe Charter School	Bay Mills Community College	MEP Services	Ms. Stephanie Vittitow	(906) 248-2530	svittitow@bmocs.org
82956	Old Redford Academy	Central Michigan University	Innovative Teaching Solutions	Mr. Robert Brooks	(313) 766-7615	rbrooks@oldredford.com
03902	Outlook Academy	Allegan Area Educational Service Agency	Self-managed	Mr. Rick Cain	(269) 673-2161	rcain@alleganaesa.org
12901	Pansophia Academy	Central Michigan University	CS Partners	Ms. Jamie Mueller	(517) 279-4686	jmueller@pansophia.us

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
38902	Paragon Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Ben Kriesch	(517) 750-9500	15.bkriesch@nhaschools.com
39905	Paramount Charter Academy	Bay Mills Community College	National Heritage Academies	Mrs. Jodi Donkin	(269) 553-6400	16.jdonkin@nhaschools.com
82737	Pathways Academy	Detroit City School District	Innovative Educational Services	Ms. Michelle Parham	(313) 209-3804	mparham@pathwaysdetroit.com
82904	Plymouth Educational Center Charter School	Central Michigan University	Human Resource Experts	Mrs. Kenise Wallevand	(313) 831-3280	hpss@plymouthed.org
82743	Plymouth Scholars Charter Academy	Bay Mills Community College	National Heritage Academies	Mr. Walter Reese	(734) 459-6149	94.wreese@nhaschools.com
63906	Pontiac Academy for Excellence	Saginaw Valley State University	Charter School Services of Michigan	Mr. William Jackson	(248) 745-9420	jacksonw@pontiacacademy.org
71902	Presque Isle Academy II	Cheb-Otsego-Presque Isle ESD	Self-managed	Mr. Earl Bassett	(989) 733-6708	pia@presqueisleacademy.com
50909	Prevail Academy	Bay Mills Community College	National Heritage Academies	Ms. Colleen Furman	(586) 783-0173	53.cfurman@nhaschools.com
82718	Quest Charter Academy	Central Michigan University	National Heritage Academies	Mr. Ralph Garza	(313) 299-0534	83.rgarza@heritageacademies.com
50912	Reach Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Lorianne Dedomenico	(586) 498-9171	77.ldedomenico@nhaschools.com
82727	Regent Park Scholars Charter Academy	Lake Superior State University	National Heritage Academies	Ms. Crystal Byse	(313) 371-1300	90.cbyse@heritageacademies.com
82759	Regents Academy	Redford Union Schools, District No. 1	Global Alliance Collaborative Group	Dr. Paula Watkins	(248) 703-5919	pwwatkins@gacgroup.org
23902	Relevant Academy of Eaton County	Eaton RESA	Self-managed	Ms. Jennifer Varney	(517) 541-8949	jvarney@relevantacademy.org
37901	Renaissance Public School Academy	Central Michigan University	CS Partners	Mrs. Lisa Bergman	(989) 773-9889	lbergman@renaissancepsa.com
25910	Richfield Public School Academy	Bay Mills Community College	Advance HR	Mrs. Pamela Haldy	(810) 736-1281	phaldy@richfieldpsa.org
41919	Ridge Park Charter Academy	Lake Superior State University	National Heritage Academies	Mr. Emory Wyckoff	(616) 222-0093	18.ewyckoff@heritageacademies.com
50915	Rising Stars Academy	Center Line Public Schools	Self-managed	Mrs. Debbie Prentiss	(586) 405-9473	risingstar.prentiss@gmail.com
41928	River City Scholars Charter Academy	Bay Mills Community College	National Heritage Academies	Ms. Brennecke Hinojosa	(616) 248-3390	95.bhinojosa@nhaschools.com
82975	Riverside Academy	Central Michigan University	Global Educational Excellence	Mr. Mohamad Issa	(734) 662-7050	mohamad@gee-edu.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82948	Ross-Hill Academy	Detroit City School District	777 Management Company	Dr. Nellie Williams	(313) 922-8088	nhwms777@yahoo.com
82748	Rutherford Winans Academy	Detroit City School District	Solid Rock Management Company	Mr. Reginald Scott	(313) 873-7627	rscott@solidrock-management.com
73911	Saginaw Learn to Earn Academy	Saginaw ISD	SVRC Industries	Dr. Heather Thompson	(989) 399-8775	hthompson@svrcindustries.com
73908	Saginaw Preparatory Academy	Saginaw Valley State University	Leona Group	Ms. Molly Rundell	(989) 752-9600	molly.rundell@leonagroup.com
63900	Sarah J. Webber Media Arts Academy	Lake Superior State University	Educational Management Solutions	Mr. James Graves	(248) 972-9100	jamesgraves65@yahoo.com
81905	South Arbor Charter Academy	Central Michigan University	National Heritage Academies	Mrs. Kim Bondy	(734) 528-2821	19.kbondy@heritageacademies.com
82729	South Canton Scholars Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Sabrina Terenzi	(734) 398-5658	92.sterenzi@nhaschools.com
81912	South Pointe Scholars Charter Academy	Northern Michigan University	National Heritage Academies	Ms. Nancy Kouba	(734) 484-0118	96.nkouba@heritageacademies.com
82755	Southwest Detroit Community School	Grand Valley State University	Lighthouse Academies, Inc.	Ms. Sherrie Buchzeiger	(313) 782-4422	sbuchzeiger@lhacs.org
74911	St. Clair County Intervention Academy	Port Huron Area School District	Romine Group	Mr. Troy Peyerk	(810) 966-1649	tpeyerk@intervention-academy.org
82941	Star International Academy	Oakland University	Hamadeh Educational Services, Inc.	Mrs. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
82736	Starr Detroit Academy	Central Michigan University	Starr Commonwealth Educational Services	Mr. Ralph Burrell	(313) 649-2200	melissa.ross@starracademy.org
09902	State Street Academy	Bay Mills Community College	Access Point Educational H.R.	Mrs. Joy Wagner	(989) 684-6484	jwagner@statestreetacademy.org
50916	Success Mile Academy	Grand Valley State University	Charter Schools USA	Mr. Thomas Gladieux	(586) 353-2108	tgladieux@successmileacademy.org
82916	Summit Academy	Central Michigan University	MEP Services	Ms. LEANN HEDKE	(734) 379-9786	LHEDKE@SUMMIT-ACADEMY.COM
82938	Summit Academy North	Central Michigan University	MEP Services	Ms. LEANN HEDKE	(734) 379-9766	LHEDKE@SUMMIT-ACADEMY.COM
82995	Taylor Exemplar Academy	Bay Mills Community College	National Heritage Academies	Ms. Julie Zirille	(734) 941-7742	72.jzirille@heritageacademies.com
63925	Taylor International Academy	Central Michigan University	Renaissance School Services	Mrs. Sara Joyce	(248) 354-1500	sjoyce@taylorinternationalacademy.com
82756	Taylor Preparatory High School	Grand Valley State University	PrepNet	Ms. Aquan Miles	(313) 668-2100	amiles@taylorprephs.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82928	The Dearborn Academy	Central Michigan University	American Institutional Management Services, Inc. (AIMS, Inc.)	Mrs. Afrin Alavi	(313) 982-1300	aalavi@thedearbornacademy.org
28904	The Greenspire School	Traverse City Area Public Schools	Self-managed	Mr. Kevin Kelly	(231) 421-5905	kevin.kelly@greenspireschool.org
82706	The James and Grace Lee Boggs School	Eastern Michigan University	Nataki Educational Services	Ms. Amanda Rosman	(313) 408-7235	amanda.boggsschool@gmail.com
25912	The New Standard Academy	Saginaw Valley State University	Romine Group	Ms. Jenna Darnell	(810) 787-3330	jdarnell@newstandardflint.org
49901	Three Lakes Academy	Bay Mills Community College	Self-managed	Mrs. Susan Pann	(906) 586-6631	spann@eup.k12.mi.us
61904	Three Oaks Public School Academy	Bay Mills Community College	Choice Schools Associates	Ms. Monecia Vasbinder	(231) 767-3365	monecialvasbinder@choiceschools.com
61902	Timberland Academy	Grand Valley State University	National Heritage Academies	Mrs. Angelia Coleman	(231) 767-9700	9.acoleman@heritageacademies.com
82933	Timbuktu Academy of Science and Technology	Detroit City School District	Magnum Educational Services	Ms. Cha-Rhonda Edgerson	(313) 823-6000	edgersonc@gmail.com
82754	Tipton Academy	Lake Superior State University	Romine Group	Ms. Suzanne March	(734) 261-0500	smarch@tipton-academy.org
82973	Trillium Academy	Central Michigan University	Romine Group	Ms. Angela Romanowski	(586) 731-5300	angela@therominegroup.com
58902	Triumph Academy	Bay Mills Community College	National Heritage Academies	Ms. Amy Tansel	(734) 240-2610	56.atansel@nhaschools.com
82950	Universal Academy	Oakland University	Hamadeh Educational Services, Inc.	Mrs. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
82982	Universal Learning Academy	Bay Mills Community College	Hamadeh Educational Services, Inc.	Mrs. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
82702	University Preparatory Academy (PSAD)	Grand Valley State University	Detroit 90/90	Ms. Danielle Jackson	(313) 269-5616	danielle.jackson@uprepschools.com
82701	University Preparatory Science and Math (PSAD)	Grand Valley State University	Detroit 90/90	Ms. Danielle Jackson	(313) 887-1613	danielle.jackson@uprepschools.com
82724	University Yes Academy	Bay Mills Community College	Inspired Education	Ms. Lesley Redwine	(313) 949-7276	lesleyredwine@newurbanlearning.org
70905	Vanderbilt Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Holly Hillary	(616) 820-5050	5.hhillary@heritageacademies.com
41910	Vanguard Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Mark Dejong	(616) 538-3630	3.mdejong@heritageacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
74912	Virtual Learning Academy of St. Clair County	St. Clair County RESA	Self-managed	Mrs. Denice Lapish	(810) 455-4025	lapish.denice@sccresa.org
41909	Vista Charter Academy	Bay Mills Community College	National Heritage Academies	Ms. Heather Guerra	(616) 246-6920	4.hguerra@nhaschools.com
82716	Vista Meadows Academy	Bay Mills Community College	CS Partners	Ms. Darrlyn Harrison	(313) 240-4347	Darrlyn-Harrison@vistameadowspsa.com
82940	Voyageur Academy	Ferris State University	American Promise Schools	Mr. Joseph Tenbusch	(313) 964-2539	tenbuschj@jrladetroit.com
82746	W-A-Y Academy	Lake Superior State University	W-A-Y (Widening Advancements for Youth)	Dr. Alexander Cintron	(313) 444-9292	alex.cintron@wayprogram.net
70901	Walden Green Montessori	Central Michigan University	Advance Educational Services	Mr. Mark Neidlinger	(616) 842-4523	markneidlinger@waldengreenschool.org
41915	Walker Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Steve Bagley	(616) 785-2700	6.sbagley@heritageacademies.com
63913	Walton Charter Academy	Northern Michigan University	National Heritage Academies	Ms. Mona Boersma	(248) 371-9300	26.mboersma@nhaschools.com
82970	Warrendale Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Vondra Glass	(313) 240-4200	41.vglass@nhaschools.com
82719	Washington-Parks Academy	Grand Valley State University	Cornerstone Charter Schools	Mrs. Kalyani Bhatt	(734) 812-8583	kalyani.bhatt@cornerstonecharters.org
81903	Washtenaw Technical Middle College	Washtenaw Community College	Self-managed	Dr. Karl Covert	(734) 973-3410	kacovert@wccnet.edu
63929	Waterford Montessori Academy	Saginaw Valley State University	American Montessori Center	Mr. Jeremy Gilliam	(248) 674-2400	jgilliam@waterfordmontessori.org
25915	WAY Academy - Flint	Lake Superior State University	W-A-Y (Widening Advancements for Youth)	Dr. Alexander Cintron	(313) 444-9292	alex.cintron@wayprogram.net
82710	WAY Michigan	Central Michigan University	W-A-Y (Widening Advancements for Youth)	Dr. Alexander Cintron	(313) 444-9292	alex.cintron@wayprogram.net
41923	Wellspring Preparatory High School	Bay Mills Community College	PrepNet	Mrs. Jessica Knoth	(616) 235-9500	jknoth@wellspringprep.com
70902	West MI Academy of Arts and Academics	Grand Valley State University	Advance Educational Services	Mrs. Cathy Cantu	(616) 844-9961	ccantu@westmichiganacademy.org
41904	West MI Academy of Environmental Science	Central Michigan University	Choice Schools Associates	Mr. Scott Morgan	(616) 791-7454	scottmorgan@choiceschools.com
41924	West Michigan Aviation Academy	Bay Mills Community College	CS Partners	Mr. Patrick Cwayna	(616) 446-8886	pcwayna@westmichiganaviation.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82959	West Village Academy	Central Michigan University	Midwest Management Group, Inc.	Mrs. Coletta Counts	(313) 274-9200	ccounts@westvillageacademy.org
82943	Weston Preparatory Academy	Oakland University	CS Partners	Mr. Philip Yaccick	(313) 387-6038	pyaccick@westondetroit.com
33906	White Pine Academy	Saginaw Valley State University	AXIOS Inc.	Mr. Keven Numinen	(517) 589-8961	knuminen@whitepineacademy.com
30902	Will Carleton Charter School Academy	Hillsdale ISD	Helicon Associates	Mrs. Colleen Gadwood	(517) 437-2000	wcagadwood@yahoo.com
41917	William C. Abney Academy	Grand Valley State University	Self-managed	Mr. Damon Pitt	(616) 552-7001	dpitt@thewcaa.org
33909	Windemere Park Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Yvonne Thomas	(517) 327-0700	27.ythomas@heritageacademies.com
56901	Windover High School	Midland County Educational Service Agency	Education & Training Connections	Mrs. Gina Wilson	(989) 832-0852	gwilson@windover.org
25902	Woodland Park Academy	Central Michigan University	Advance Educational Services	Mr. Jeremy Brown	(810) 695-4710	jbrown@wp-academy.org
28901	Woodland School	Saginaw Valley State University	Advance Educational Services	Mr. Nathan Tarsa	(231) 947-7474	ntarsa@woodlandschool.ws
82913	Woodward Academy	Central Michigan University	Self-managed	Ms. Hollie Stange	(313) 961-2108	hstange@woodwardpsa.com
81911	WSC Academy	Lake Superior State University	Work Skills Corporation	Mrs. Portia Davis Mann	(734) 794-0218	Mannp@wsc-academy.org
39906	Youth Advancement Academy	Kalamazoo RESA	Ombudsman	Mrs. Amber Long	(586) 552-3881	amberlong@ombudsman.com

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EXHIBIT 4

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Agriculture				
110-79-2250	Pesticide Certification And Enforcement	$49,500.00	$0.00	$49,500.00
110-79-3908	Grants to Local Soil Conservation Districts	1,000,000.00	0.00	1,000,000.00
110-79-3936	Act 327 Municipal Grants	0.00	1,745,600.00	1,745,600.00
	Total for Agriculture	$1,049,500.00	$1,745,600.00	$2,795,100.00
Commerce				
110-63-1054	Fire Protection Grants	$0.00	$6,375,000.00	$6,375,000.00
110-63-1057	Michigan Equity Program	24,264,118.00	0.00	24,264,118.00
110-63-1205	Grand Rapids Symphony	237,500.00	0.00	237,500.00
110-63-6107	Local Mobile Home Inspections	0.00	198,902.00	198,902.00
110-63-9412	Liquor Law Enforcement	0.00	5,009,790.00	5,009,790.00
	Total for Commerce	$24,501,618.00	$11,583,692.00	$36,085,310.00
Community Colleges				
110-33-1946 through 7742000	Community Colleges	$238,608,926.00	$0.00	$238,608,926.00
110-33-9015	Job Training and Retraining Investment Fun	3,120,000.00	0.00	3,120,000.00
110-33-9020	At Risk Student Success Program	3,282,400.00	0.00	3,282,400.00
	Total Junior Community Colleges	$245,011,326.00	$0.00	$245,011,326.00
Corrections				
110-47-1801	ADP-Assumption of County Probation Staff	$373,500.00	$0.00	$373,500.00
110-47-2201	Assumption of County Probation Staff	20,580,800.00	0.00	20,580,800.00
110-47-2249	Community Corrections Grants	8,100,000.00	0.00	8,100,000.00
Various accounts	Public Service Work Projects	10,808,300.00	0.00	10,808,300.00
	Total for Corrections	$39,862,600.00	$0.00	$39,862,600.00
Education				
110-31-2251	National School Lunch Gen Funds	$2,196,174.67	$0.00	$2,196,174.67
110-31-2252	Driver Education Grants	0.00	6,078,293.41	6,078,293.41
110-31-2254	School Lunch OP Lunches Free/Reduced	2,032,100.00	0.00	2,032,100.00
110-31-2255	School Breakfast Above Fed Reim	320,229.95	0.00	320,229.95
110-31-2256	Motorcycle Safety Fees Grants	0.00	409,399.03	409,399.03
110-31-3154	Cable Television Grants	125,000.00	0.00	125,000.00
110-31-4506	Essential and Employability Assessment	246,356.12	0.00	246,356.12
110-31-4560	Early Childhood Programs Grant	1,345,000.00	0.00	1,345,000.00
110-31-4566	School Age Child Care	40,721.42	0.00	40,721.42
110-31-7250	American Indian Tuition	801,258.00	0.00	801,258.00
110-31-7251	MI Education Opportunity Grant	$808,281.00	$0.00	$808,281.00
110-31-7257	Michigan College Work Study	1,672,187.00	0.00	1,672,187.00
110-31-7259	Independent Student Program P/T	1,227,304.00	0.00	1,227,304.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-31-7261	Competitive Scholarship	$1,664,038.00	$0.00	$1,664,038.00
	Total for Education	$12,478,650.16	$6,487,692.44	$18,966,342.60
Judiciary				
110-05-2000	Grants to Counties for Probate Judges' Salari	$4,578,077.25	$0.00	$4,578,077.25
110-05-2002	Recorder's Court Judges' Salaries	1,763,654.42	0.00	1,763,654.42
110-05-3000	Circuit Courts	11,066,080.36	0.00	11,066,080.36
110-05-3010	Retirement	1,275,400.00	0.00	1,275,400.00
110-05-3100	Judicial Salary Standardization	21,150,725.39	0.00	21,150,725.39
110-05-3200	Third Circuit Court Judges' Salaries	12,041,446.55	0.00	12,041,446.55
110-05-3250	Wayne County Clerk Reimbursement	4,136,856.45	0.00	4,136,856.45
110-05-3400	Recorder's Court -Felony Division	9,754,781.97	0.00	9,754,781.97
110-05-5000	36th District Court	816,225.62	14,082,019.04	14,898,244.66
110-05-5001	District Court Judges Salaries	14,403,657.99	0.00	14,403,657.99
110-05-6000	Court of Claims - State Litigation	565,800.00	0.00	565,800.00
110-05-8900	Community Dispute Resolution	0.00	1,625,817.06	1,625,817.06
110-05-9200	Circuit Judges Travel	86,864.49	0.00	86,864.49
110-05-9400	Probate Judges Travel	32,144.76	0.00	32,144.76
110-05-9600	District Judges Travel	92,202.89	0.00	92,202.89
	Total for Judiciary	$81,763,918.14	$15,707,836.10	$97,471,754.24
Labor				
110-80-8219	Community Action Agencies	$1,174,197.00	$0.00	$1,174,197.00
110-80-8241	Displaced Homemaker	$75,442.00	0.00	75,442.00
110-67-2830	Safety Education and Training	157,500.00	0.00	157,500.00
	Total for Labor	$1,407,139.00	$0.00	$1,407,139.00
Library of Michigan				
110-03-6001	State Aid to Libraries	$10,671,800.00	$0.00	$10,671,800.00
110-03-6002	Detroit Public Library	5,700,600.00	0.00	5,700,600.00
110-03-6003	Subregional State Aid	242,000.00	0.00	242,000.00
110-03-6004	Wayne County Library for the Blind and Physically Handicapped	47,300.00	0.00	47,300.00
	Total for Library of Michigan	$16,661,700.00	$0.00	$16,661,700.00
Management and Budget				
110-07-1732	Firefighter Overtime	$730,600.00	$0.00	$730,600.00
110-07-5537	Prosecutor Reimbursement Victims Rights	1,239,861.00	1,500,100.00	2,739,961.00
110-07-6057	Office of Facilities	$194,389.02	$0.00	$194,389.02
110-07-6502	Office of Services to Aging Administration	36,900.00	0.00	36,900.00
110-07-6511	Community Services	7,309,500.00	0.00	7,309,500.00
110-07-6512	Nutrition Services	7,700,700.00	0.00	7,700,700.00
110-07-6513	Senior Volunteer Services	583,987.00	223,096.00	807,083.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-07-6514	Senior Citizen Centers Staffing	$1,140,700.00	$0.00	$1,140,700.00
110-07-6518	Michigan Pharmaceutical Program	0.00	167,440.00	167,440.00
110-07-6520	Respite Care Program	0.00	325,767.00	325,767.00
	Total for Management and Budget	$18,936,637.02	$2,216,403.00	$21,153,040.02
Mental Health				
110-39-1131	Foster Grandparents	$1,872,400.00	$0.00	$1,872,400.00
110-39-1153	Consumer Involvement Program	103,583.00	0.00	103,583.00
110-39-1155	Mentally Ill Special Needs	2,964,639.00	0.00	2,964,639.00
110-39-1449	Homelessness Grant	642,951.75	0.00	642,951.75
110-39-1633	Private Nursing Homes and Alternative Services Program	1,023,145.68	0.00	1,023,145.68
110-39-1718	Pilot Prevention Projects	1,221,728.79	0.00	1,221,728.79
110-39-2910	CMH Prior Year Settlement	0.00	4,235,367.04	4,235,367.04
110-39-2930	Community Residential Services-Mentally Ill Children	51,731.00	0.00	51,731.00
110-39-2931	Community Residential Services-Mentally Ill Adults	442,756.00	0.00	442,756.00
110-39-2933	Community Residential Services-Developmentally Disabled Services - Mentally Ill Children	9,344,192.00	0.00	9,344,192.00
110-39-2951	CMH Critical Needs Services	2,897,990.00	0.00	2,897,990.00
110-39-2952	Community Demand Beds	4,204,050.76	0.00	4,204,050.76
110-39-2955	Family Support Subsidy	11,345,260.13	0.00	11,345,260.13
110-39-2965	Community Mental Health Programs	348,585,396.44	571,482.00	349,156,878.44
110-39-2972	CMH Programs - Clinical Services	171,278,575.91	0.00	171,278,575.91
110-39-2995	CMH Grant Fund	0.00	6,586,717.17	6,586,717.17
110-39-3134	OBRA	9,483,751.32	0.00	9,483,751.32
	Total for Mental Health	$565,462,151.78	$11,393,566.21	$576,855,717.99
Military Affairs				
110-51-2011	Contractual Services, Supplies & Materials	$46,122.00	$0.00	$46,122.00
	Total for Military Affairs	$46,122.00	$0.00	$46,122.00
Natural Resources				
110-75-2207	Natural Resources Heritage	$0.00	$3,797.00	$3,797.00
110-75-2431	Public Access Sites	0.00	4,124.00	4,124.00
110-75-2511	Park Operations	4,500.00	0.00	4,500.00
110-75-2625	Tourism Development	$356,660.00	$0.00	$356,660.00
110-75-2732	Underground Storage Tank Program	0.00	11,708.00	11,708.00
110-75-2801	Administration	390.00	0.00	390.00
110-75-2812	Farmland, Resource Inven & Office Mgmt	0.00	21,385.00	21,385.00
110-75-2999-001	Urban Waterfront Recreation Program	1,266,000.00	0.00	1,266,000.00
110-75-4565	Superfund Cleanup	52,279.00	0.00	52,279.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-75-4811	Surveillance	$2,198.00	$0.00	$2,198.00
110-75-6001	Swamp/Tax Reverted Lands	8,832,134.00	0.00	8,832,134.00
110-75-6002	Purchased Lands	7,058,000.00	1,361,376.00	8,419,376.00
110-75-6003	Commercial Forest Reserve	2,107,228.00	0.00	2,107,228.00
110-75-6007	Purch Lands-Senior Citizen Reimbursement	2,240,000.00	0.00	2,240,000.00
110-75-6010	Air Pollution Grants	1,187,742.00	350,000.00	1,537,742.00
110-75-6011	Snowmobile Local Grants	0.00	146,115.00	146,115.00
110-75-6012	Off Road Vehicle Grants	0.00	102,015.00	102,015.00
110-75-6022	Local Recreation Grants	84,810.00	0.00	84,810.00
110-75-6038	Saginaw Bay Water Quality Initiative	67,500.00	0.00	67,500.00
110-75-6043	Inland Fisheries Resources	0.00	96,200.00	96,200.00
110-75-6049	Septage Waste Compliance	0.00	110,175.00	110,175.00
110-75-6050	Scrap Tire Program	0.00	58,820.00	58,820.00
117-75-2131	Alcona Co., Harrisville Breakwater Extensio	0.00	6,662.00	6,662.00
117-75-2132	Berrien Co.-New Buffalo Transient Mooring	0.00	448,575.00	448,575.00
117-75-2133	Leelanau Co., Northport Upgrade	0.00	30,213.00	30,213.00
117-75-2135	Sanilac County Port Sanilac Mooring Facilit	0.00	31,474.00	31,474.00
117-75-2136	Antrim City Elk Rapids Restroom/Shower	0.00	7,500.00	7,500.00
117-75-2137	Charlevoix Co.,E Jordan Diversion Wall/Dre	0.00	200,000.00	200,000.00
117-75-2138	Charlevoix Co.,St.James Twp Facility Upgra	0.00	131,792.00	131,792.00
117-75-2139	Ludington Revetment Repairs	0.00	133,002.00	133,002.00
117-75-2141	Marquette Co., Marquette Lower Harbor Mo	0.00	908,597.00	908,597.00
117-75-2144	Presque Isle Co.,Rogers City Marina Expans	0.00	53,095.00	53,095.00
117-75-2316	Allegan Co.,Village of Douglas	0.00	10,405.00	10,405.00
117-75-2333	Radio Island - City of St. Joseph	0.00	8,150.00	8,150.00
117-75-2334	Ottawa County Riverside Park,Robinson Tw	0.00	52,500.00	52,500.00
117-75-2337	Grants-in-Aid-Various Counties	0.00	33,500.00	33,500.00
117-75-2699-618	Bay County Pinconning Boat Launch	0.00	23,604.00	23,604.00
117-75-2789-000	Emergency Repairs-Various Counties	0.00	1,084.00	1,084.00
117-75-3092-000	Emerg Repairs-Various Co.-Harbors&Docks	0.00	15,900.00	15,900.00
117-75-4092-000	Engineering Studies - Various Counties - Harbors and Docks	0.00	10,725.00	10,725.00
117-75-5099-002	Preliminary Engineering Lump Sum Harbor Development	0.00	9,968.00	9,968.00
123-75-6007	Grants to Counties	0.00	2,854,311.00	2,854,311.00
129-75-1090-XXX	Various Land Acquisition Projects	0.00	5,026,295.00	5,026,295.00
129-75-6007-6012	Various Public Rec Fac Develop	0.00	2,864,331.00	2,864,331.00
	Total for Natural Resources	$23,259,441.00	$15,127,398.00	$38,386,839.00
Public Health				
110-35-1352	Cancer Prevention & Control	$0.00	$18,706.00	$18,706.00
110-35-1354	Employee Wellness Program	0.00	1,561,733.00	1,561,733.00
110-35-1361	Health Ed, Promotion & Research	18,473.00	0.00	18,473.00
110-35-1380	Chronic Disease Prevention	0.00	577,911.00	577,911.00
110-35-1381	Tobacco Free Michigan	$0.00	$451,682.00	$451,682.00
110-35-1385	School Health Curricula	2,000,000.00	0.00	2,000,000.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-35-2253	Local Public Health Infrastructure	$825,300.00	$0.00	$825,300.00
110-35-2256	Indian Health Care	21,637.00	0.00	21,637.00
110-35-2263	State/Local Cost Sharing	17,079,200.00	0.00	17,079,200.00
110-35-2279	Refugee Health Program	29,600.00	0.00	29,600.00
110-35-3461	Community Substance Abuse	18,334,800.00	1,853,583.00	20,188,383.00
110-35-3462	Program Enhancement, Evaluation	187,966.00	0.00	187,966.00
110-35-3463	Substance Abuse Prevention Education	183,200.00	0.00	183,200.00
110-35-3466	Medicaid Reimbursement	318,363.00	0.00	318,363.00
110-35-3467	State Disab Assistance Program	470,413.00	0.00	470,413.00
110-35-4251	Pregnancy Prevention Program	1,312,606.00	1,312,606.00	2,625,212.00
110-35-4271	MIC Local Agreements	246,144.00	0.00	246,144.00
110-35-4281	Family Planning Local Agreements	1,349,130.00	0.00	1,349,130.00
110-35-4283	Adolescent Health Care	1,196,975.00	0.00	1,196,975.00
110-35-4284	EPSDT	1,568,685.00	0.00	1,568,685.00
110-35-4289	Prenatal Care Outreach	2,600,246.00	0.00	2,600,246.00
110-35-4356	Case Management Services	1,235,628.00	0.00	1,235,628.00
110-35-6762	AIDS Counseling & Testing	0.00	679,000.00	679,000.00
110-35-6771	Local AIDS Referral & Care	0.00	292,501.00	292,501.00
110-35-6773	Sexually Trans Dis.-Local Agreements	400,000.00	0.00	400,000.00
110-35-6778	Immunization Local Agreements	0.00	482,190.00	482,190.00
110-35-6779	AIDS Education & Outreach	0.00	53,298.00	53,298.00
	Total for Public Health	$49,378,366.00	$7,283,210.00	$56,661,576.00
School Aid Fund				
122-31-1999	School Aid Fund Total Expenditures	$4,219,150,652.59	$6,487,692.44	$4,225,638,345.03
122-31-2267	Federal Special Education	(62,606,855.05)	0.00	(62,606,855.05)
122-31-2164	Partnership for New Education	(5,000,000.00)	0.00	(5,000,000.00)
122-31-2242	University Schools	(175,000.00)	0.00	(175,000.00)
122-31-2243	Math/Science Centers	(181,949.00)	$0.00	(181,949.00)
122-31-2259	Adult Education Alternative Training	(3,320,788.00)	0.00	(3,320,788.00)
122-31-2292	Retirement Contribution Pass-through	(22,305,600.00)	0.00	(22,305,600.00)
122-31-9990	Write Off Accounts Receivable	(454,390.46)	$0.00	(454,390.46)
	Total for School Aid Fund	$4,125,106,070.08	$6,487,692.44	4,131,593,762.52
Social Services				
110-43-3254	Supplemental Security Income	$20,763,540.00	$0.00	$20,763,540.00
110-43-3252	State Disability Assistance Payments	1,595,923.00	0.00	1,595,923.00
110-43-3255	State Family Assistance	$895,617.00	$0.00	$895,617.00
110-43-3375	Indigent Medical Care Program	1,180,200.00	0.00	1,180,200.00
110-43-3350 through 3358	Medicaid to CMH Clients	65,141,900.00	0.00	65,141,900.00
110-43-7225	County Juvenile Officers	1,637,138.00	0.00	1,637,138.00
110-43-7251	Child Care Fund	32,735,500.00	0.00	32,735,500.00
110-43-7275	Adoption Subsidies	35,425,224.00	0.00	35,425,224.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-43-8160	State Incentive Payments	$565,164.00	$3,202,848.00	$3,768,012.00
	Total for Social Services	$159,940,206.00	$3,202,848.00	$163,143,054.00
State				
110-23-3710	Election Admin. and Services	$42,900.00	$0.00	$42,900.00
110-23-3711	Fees to Local Units	27,800.00	0.00	27,800.00
110-23-3712	Voter ID Card Reimbursement to Locals	284,500.00	0.00	284,500.00
	Total for State	$355,200.00	$0.00	$355,200.00
State Police				
110-55-1125	Truck Safety Program Grants	$0.00	$1,283,445.00	$1,283,445.00
110-55-1127	Secondary Road Patrol	983,742.00	3,340,400.00	4,324,142.00
110-55-2253	Law Enforcement Officers Training Council	0.00	452,666.00	452,666.00
110-55-2712	Fire Fighters Training Council	215,658.00	0.00	215,658.00
110-55-2744	Fire Investigation Training for Locals	49,695.00	0.00	49,695.00
	Total for State Police	$1,249,095.00	$5,076,511.00	$6,325,606.00
Transportation				
114-59-5001	Air Services	$0.00	$402,410.00	$402,410.00
114-59-5586-through 5826	Airport Programs - Aeronautics Fund	0.00	733,614.00	733,614.00
116-59-4029	Bureau of Transportation Planning Grants to Regional Planning Councils	0.00	217,487.00	217,487.00
116-59-8710	Forest Roads	0.00	5,000,000.00	5,000,000.00
116-59-8730	Rural County Urban System Construction - Economic Development Fund	0.00	2,008,204.00	2,008,204.00
116-59-8740	Urban County Congestion Construction - Economic Development Fund	0.00	12,176,831.00	12,176,831.00
116-59-8750	Rural County Primary Construction - Economic Development Fund	0.00	8,055,571.00	8,055,571.00
116-59-8783	Grants to Local Programs	0.00	78,000,000.00	78,000,000.00
116-59-8790-000	Critical Bridge Program - Critical Bridge Fund	0.00	946,032.00	946,032.00
119-59-6533	Transfer to Cities and Villages	0.00	220,368,905.00	220,368,905.00
119-59-6535	Transfer to Cities and Villages	0.00	1,418,999.00	1,418,999.00
119-59-6532	Transfer to County Road Commissions	0.00	386,542,807.00	386,542,807.00
119-59-6534	Transfer to County Road Commissions	0.00	3,733,833.00	3,733,833.00
120-59-9999	Bus Transit - Other Grants	0.00	22,838,015.00	22,838,015.00
120-59-7517	Urban/Nonurban Statutory Operating	0.00	94,931,950.00	94,931,950.00
120-59-7903	Detroit/Wayne County Port Authority	0.00	225,000.00	225,000.00
120-59-7905	Marine Passenger Services	0.00	727,120.00	727,120.00
	Total for Transportation	$0.00	$838,326,778.00	$838,326,778.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Treasury				
110-27-9316	Senior Citizen Cooperative Housing Tax Exemption Program	$9,905,223.67	$0.00	$9,905,223.67
110-27-9325	Convention Facility Development Fund Distribution	0.00	30,949,548.52	30,949,548.52
110-27-9330	Airport Parking Fund	0.00	8,859,811.39	8,859,811.39
110-27-9430	Lands Transferred to Federal Government	18,082.49	0.00	18,082.49
110-27-9460	Health and Safety Fund Grants	0.00	25,567,569.67	25,567,569.67
110-27-9456	Sales Tax Distribution	0.00	476,506,958.10	476,506,958.10
110-27-9457	Personal Income Tax - Counties	0.00	130,892,171.77	130,892,171.77
110-27-9462	Single Business Tax Distribution	0.00	162,331,913.96	162,331,913.96
110-27-9458	Personal Income Tax - Cities, Townships, Vi	0.00	231,314,754.52	231,314,754.52
110-27-9459	Single Business Tax Inventory	0.00	109,513,394.82	109,513,394.82
	Total for Treasury	$9,923,306.16	$1,175,936,122.75	$1,185,859,428.91
	GRAND TOTAL	$5,376,393,046.34	$2,100,575,349.94	$7,476,968,396.28

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EXHIBIT 5

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Schedule C-1

DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account Numbers		Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Agriculture - 791					
02270	2600	Ground Water and Freshwater Protection	$0	$208,356	$208,356
03908	1000	Grants to Local Soil Conservation Districts	999,990	0	999,990
03905	1000	Michigan Festivals	4,700	0	4,700
03936	2800	Act 327 Municipal Grants	0	1,745,600	1,745,600
		Total for Agriculture	$1,004,690	$1,953,956	$2,958,646
Commerce - 631					
18001		Fire Protection Grants	$0	$6,375,000	$6,375,000
18002		Michigan Equity Program	24,759,259	0	24,759,259
10006		Local Mobile Home Inspections	0	193,021	193,021
13003		Liquor Law Enforcement	0	4,997,283	4,997,283
		Total for Commerce	$24,759,259	$11,565,304	$36,324,563
Community Colleges					
		Community Colleges	$241,205,500	$0	$241,205,500
		Job Training and Retraining Investment Fund	3,213,600	0	3,213,600
		At Risk Student Success Program	3,380,900	0	3,380,900
		Community Colleges - Capital Outlay	$26,553,622.67	$0.00	26,553,623
		Total Junior Community Colleges	$274,353,623	$0	$274,353,623
Corrections					
22260	0001	Assumption of County Probation Staff	$31,304,365	$0	$31,304,365
19333	0001	Comm Corrections Probation Res Services	$8,463,970	$0	$8,463,970
19334/19335	0001	Community Corrections Grants & Assistance	9,243,831	0	9,243,831
Various accounts		Public Service Work Projects	10,160,114	$0.00	10,160,114
		Total for Corrections	$59,172,280	$0	$59,172,280
Education - 313					
02251	0110	National School Lunch Gen Funds	$2,201,554	$0	$2,201,554
02252	0520	Driver Education Grants	0	6,763,921	6,763,921
02254	0110	School Lunch OP Lunches Free/Reduced	1,968,625	0	1,968,625
02255	0110	School Breakfast Above Fed Reim	307,654	0	307,654
02256	1448	Motorcycle Safety Fees Grants	0	71,873	71,873
03154	0110	Cable Television Grants	125,000	0	125,000
04506	0110	Essential and Employability Assessment	28,000	0	28,000
04560	0110	School Age Child Care	854,599	0	854,599
		Total for Education	$5,485,431	$6,835,793	$12,321,225
Judiciary					
02000	1001	Circuit Ct. Judges Salaries	$58,178,166	$0	$58,178,166
03100	1001/1010	Wayne Co Clerk	3,909,568	386,432	4,296,000
03200	1001/1009/1010	Third Circuit Court Judges' Salaries	5,657,683	5,702,175	11,359,858
03300	1001/1009	Wayne County Clerk Reimbursement	1,705,789	373,848	2,079,637
03400	1001/1009/1010	Recorder's Court -Felony Division	7,626,672	1,523,348	9,150,020
05000	1001/1005/1009	36th District Court	(500,933)	14,849,253	14,348,320
08000	1001	Community Dispute Resolution	356,121	0	356,121
08700	1020	Drunk Driving Caseflow Assistance	0	1,509,182	1,509,182
09300	1010	Outstate Trial Court Reimbursement	0	10,424,064	10,424,064
		Total for Judiciary	$76,933,067	$34,768,302	$111,701,369
Library of Michigan - 930					
06001	0001	State Aid to Libraries	$12,934,400	$0	$12,934,400
06002	0001	Detroit Public Library	5,871,600	0	5,871,600
06003	0001	Subregional State Aid	249,300	0	249,300
06004	0001	Wayne County Library for the Blind	48,700	0	48,700

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
		and Physically Handicapped			
		Total for Library of Michigan	$19,104,000	$0	$19,104,000
Management and Budget - 071/078					
05537	0110/4586	Prosecutors Reimbursement-Victims Services	$1,052,662	$2,000,100	$3,052,762
01732	0110	Overtime to Firefighter	730,600	0	730,600
74028	0110	Township of Madison	$149,629.50	$0.00	149,630
01096	0110	Iron Co. Road Commission	$150,000.00	$0.00	150,000
		Total for Management & Budget	$2,082,891	$2,000,100	$4,082,991
Office of Aging - 073					
06502	0812	Office of Services to Aging Administration	48,506	0	48,506
06511	0812/1029	Community Services	10,035,854	21,512,474	31,548,328
06512	0812/1025	Nutrition Services	8,254,531	500,000	8,754,531
06513	0812	Senior Volunteer Services	538,861	223,096	761,957
06514	0812	Senior Citizen Centers Staffing	1,139,897	0	1,139,897
06518	1428	Michigan Pharmaceutical Program	0	222,116	222,116
06520	0812	Respite Care Program	164,043	0	164,043
		Total for Aging	$20,181,692	$22,457,686	$42,639,378
Mental Health					
01131		Foster Grandparents	$1,872,400	$0	$1,872,400
01153		Consumer Involvement Program	114,366	0	114,366
01155		Mentally Ill Special Needs	2,522,379	0	2,522,379
01449		Homelessness Grant	600,616	0	600,616
01718		Pilot Prevention Projects	1,524,680	0	1,524,680
02730		Comm Res Srvs - MI Child	29,968	0	29,968
02731		Community Residential Services-MI Adults	1,091,974	0	1,091,974
02733		Community Residential Services-DD	23,123,400	0	23,123,400
02951		CMH Critical Needs Services	1,998,183	0	1,998,183
02952		Community Demand Beds	4,194,308	0	4,194,308
02953		Respite Care	0	2,499,977	2,499,977
02953		Communities First - Pilot	41,069	0	41,069
02955		Family Support Subsidy	11,647,471	0	11,647,471
02965		Community Mental Health Programs	493,934,361	0	493,934,361
02995		CMH Grant Fund	0	7,800,301	7,800,301
03134		OBRA	6,547,567	0	6,547,567
		Total for Mental Health	$549,242,741	$10,300,278	$559,543,019
Michigan Jobs Commission - 801					
01007	7001	Wurtsmith Base Conversion Authority	$65,000	$0	$65,000
01009	7001	K. I Sawyer Base Conversion Authority	103	0	103
01804	0812	Economic Expansion Operations	214,366	0	214,366
06006	7001	Regional Network Services	26,200	0	26,200
06007	4056	State Research Fund	14,242	0	14,242
08001	7001	Development Finance Program	66,500	0	66,500
08241	0812	Displaced Homemakers	22,600	0	22,600
08243	0812	Supplemental Asst Subgrantees	343,389	0	343,389
09550	0812	Vocational Rehab Independent Living	79,506	0	79,506
09552	0812	Personal Care Attendants	101,000	0	101,000
09562	0812	Vocational Rehab Client Services	161,575	0	161,575
		Total for Michigan Jobs Commission	$1,094,481	$0	$1,094,481
Military Affairs - 511					
02011	1000	Payment in Lue of Local Land Taxes at Camp Grayl	$46,329	$0	$46,329
		Total for Military Affairs	$46,329	$0	$46,329

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Natural Resources - 751					
01101	0001	Administrative Services	$37,596	$0	$37,596
01121	0001	Field Administration	1,513	0	1,513
01606	0528	Records and services	0	18	18
02107	0513	Timber Harvest	0	44	44
02128	0513	Forest management Initiative	0	620	620
02211	0515		0	650	650
02301	0515		0	270	270
02316	0515		0	12,360	12,360
02321	0515		0	69	69
02326	0515		0	14	14
02336	0515		0	23,665	23,665
02401	0001/0543/0544		105	180	285
02625	0001		17,703	0	17,703
02808	0001		22	0	22
02818	0001		190	0	190
02828	0001		7,597	0	7,597
03116	0515		$0	$250	$250
03311	0001		495	0	495
04510	0559		0	400	400
04541	0508		0	9	9
04561	0508		0	37,866	37,866
04706	0001		0	1,200	1,200
04721	0001/0548		50	30	80
04811	0001		4,483	0	4,483
05501	0001		7,218,404	0	7,218,404
05502	0001/0536		6,621,086	369,626	6,990,712
05503	0001		2,795,497		2,795,497
06007	0581		0	2,679,584	2,679,584
06010	0001/0504		1,177,204	965,445	2,142,649
06011	0552		0	312,907	312,907
06012	0541		0	102,783	102,783
06017	0549		0	291,425	291,425
06022	0001		93,620	0	93,620
06031	$60,522.00		0	49,790	49,790
06038	0001		32,668	0	32,668
06049	0550		0	39,525	39,525
06050	0548		0	434,764	434,764
22131	0579		0	74,606	74,606
22141	0579		0	42,233	42,233
22142	0579		0	126,371	126,371
22144	0579		0	91,687	91,687
22146	0579		0	137,750	137,750
22337	0579		0	29,224	29,224
23094	0579		0	150,000	150,000
24092	0579		0	5,920	5,920
24093	0579		0	29,003	29,003
27334	0579		0	50,054	50,054
29001	0001		12,400	0	12,400
35002	0580		0	164,452	164,452
35003	0580		0	1,495,498	1,495,498
46xxx	0585		7,403,111	0	7,403,111
		Total for Natural Resources	$25,423,744	$7,720,291	$33,144,035
Public Health - 351					
1352	8000	Cancer Prevention & Control	14,700	0	14,700
1354	8110	Employee Wellness Program	0	1,165,557	1,165,557
1356	8110	AIDS and Risk Reduction	0	17,500	17,500
1363	8000	Diabetes Local Agreements	41,600	0	41,600
1380	8001	Chronic Disease Prevention	0	2,494,393	2,494,393
1381	8001	Tobacco Free Michigan	0	1,458,524	1,458,524

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
1386	8001	Violence Prevention	0	7,916	7,916
2253	8000	Local Public Health Infrastructure	825,300	0	825,300
2256	8000	Indian Health Care	17,432	0	17,432
2257	8001	Local Public Health Surveillance	0	1,638,196	1,638,196
2259	8000	Primary Care Services	13,270		13,270
2263	8000	State/Local Cost Sharing	32,187,300	0	32,187,300
2279	8000	Refugee Health Program	29,600	0	29,600
2371	8000/8001	Local Health Service	400	10,000	10,400
3461	8000/8115	Community Substance Abuse Prevention	17,619,044	1,355,086	18,974,130
3462	8000	Program Enhancement, Evaluation	63,885	0	63,885
3464	8000	Chemically Dependent Pregnant Women	146,700	0	146,700
3467	8000	State Disab Assistance Program	6,558,671	0	6,558,671
4251	8000/8001	Pregnancy Prevention Program	736,241	2,228,107	2,964,348
4271	8000	MIC Local Agreements	$246,100	$0	$246,100
4274	8001	Dental Programs	$0	$134,376	$134,376
4281	8000	Family Planning Local Agreements	1,656,381	0	1,656,381
4283	8000/8001	Adolescent Health Care	1,386,357	231,073	1,617,430
4284	8001	EPSDT Outreach	0	142,896	142,896
4284	8121	EPSDT Outreach (non-Federal share of IDG)	0	2,390,699	2,390,699
4289	8000/8001	Prenatal Care Outreach	2,681,647	171,203	2,852,850
4356	8000	Case Management Services	1,243,200	0	1,243,200
6762	8110	AIDS Counseling & Testing	0	687,800	687,800
6771	8110	Local AIDS Referral & Care	0	232,990	232,990
6773	8000	Sexually Trans Dis.-Local Agreements	468,600	0	468,600
6778	8000	Immunization Local Agreements	45,685	0	45,685
6779	8110	AIDS Education & Outreach	0	261,232	261,232
		Total for Public Health	$65,982,113	$14,627,547	$80,609,660
School Aid Fund					
Per DAFR6470 cobj 6315		School Aid Fund cobj 6315 Expenditures	$7,110,269,277	$868,397,775	$7,978,667,052
		Partnership for new education	(5,000,000)	0	(5,000,000)
		University Schools	(175,000)	0	(175,000)
		Adult Education Alternative Training	(3,320,788)	0	(3,320,788)
22000	0128	A/R & A/P Write off	(235,464)	0	(235,464)
22156	0122	ISD Spec Ed Retirement to PSERS	(10,553,761)	0	(10,553,761)
22243	0124	Mathematics and Science Centers	(86,667)	0	(86,667)
22267	0441	Federal Special Education	(60,165,189)	0	(60,165,189)
		Total for School Aid Fund	$7,030,732,409	$868,397,775	$7,899,130,183
Family Independence Agency - 431					
32540	0901	Supplemental Security Income	$15,619,716	$0	$15,619,716
32520	0901	State Disability Assistance Payments	1,606,355	0	1,606,355
32550	0901	State Family Assistance	735,001	0	735,001
33750	0901	Indigent Medical Care Program	1,250,400	0	1,250,400
335xx	0901	Medicaid to CMH Clients	58,034,272	0	58,034,272
72250	0901	County Juvenile Officers	2,312,011	0	2,312,011
72510	0901	Child Care Fund	32,735,500	0	32,735,500
72750	0901	Adoption Subsidies	$38,684,115	$0	$38,684,115
		Total for Social Services	$150,977,370	$0	$150,977,370
State - 231					
37100	1011	Election Admin. and Services	$1,400	$0	$1,400
37100	1011	Fees to Local Units	55,000	0	55,000
		Total for State	$56,400	$0	$56,400
State Police - 551					
11270	1194	Secondary Road Patrol & Training Fund - Enhanced	$0	$4,538,845	$4,538,845
11290	0001	Secondary Road Patrol & Training Fund - Basic	$2,469,200	$0	$2,469,200
28180	0001	Grant for Disaster Assistance	$118,033	$0	$118,033

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
22530	1194	Law Enforcement Officers Training Council	0	317,393	317,393
27120	0001	Fire Fighters Training Council	202,766	0	202,766
27440	0001	Fire Investigation Training for Locals	47,564	0	47,564
		Total for State Police	$2,837,563	$4,856,238	$7,693,802
Transportation					
65320	2119	Payments to County Road Commissions	$0	$411,367,007	411,367,007
65330	2119	Payments to Cities & Villages	0	233,245,784	233,245,784
40290	2116/4071	Grants to Regional Planning Councils	0	484,637	484,637
87900	8772	Critical Bridge Program	0	1,382,849	1,382,849
87830	2116/8795	Grants to Local Programs	0	78,000,000	78,000,000
87100	8777	Forest Roads	0	5,000,000	5,000,000
87300	8731	Rural County Urban System	0	2,113,313	2,113,313
87400	8741/8743	Urban County Congestin	0	3,061,107	3,061,107
55940	2114	Federal /State/Local Airport Construction	0	3,626,802	3,626,802
57320	2114	State/Local Airport Construciton	0	350,898	350,898
58060	2114	Statewide Programs	0	863,233	863,233
50010	2114	Air Marketing Incentive Program	0	383,480	383,480
75170	2120	Local Bus Operating	0	91,609,807	91,609,807
75200	2120	Bus Capital	0	2,735,810	2,735,810
75260	2120	Specialized Services	0	2,670,629	2,670,629
75270	2120	Local Share Bonus	0	972,903	972,903
75280	2120	Effective Service Bonus	0	990,133	990,133
75290	2120	Municipal Credit Program	0	1,000,000	1,000,000
76180	2120	Planning Grants	0	44,890	44,890
76190	2120	Service Development & New Technology	0	713,085	713,085
76770	2120	Ridesharing	0	209,398	209,398
77090	2120	Terminal Development	0	$286,661.50	286,662
77110	2120	Intercity Passenger Discretionary	0	$655,600.50	655,601
77120	2120	Public Transportation Dev. Discretionary	0	$2,226,247.27	2,226,247
77400	2120	Intercity Bus Service Development	0	$2,181.00	2,181
78120	2120	Freight Property management	0	$827,514.30	827,514
78420	2120	Freight Preservation & Development	0	$693,085.70	693,086
79030	2120	Detroit/Wayne Port Authority	0	$300,000.00	300,000
79050	2120	Marine Passenger Services	$0	$1,177,929	$1,177,929
		Total for Transportation	$0	$846,994,982	$846,994,982
Treasury - 271					
08325	0001	Interest Cost from Interfund Borrowing	$35,150,313	$0	$35,150,313
08324	0001	Current Year's Interest on G.O. notes	$6,649,651	$0	$6,649,651
09316	0001	Senior Citizen Cooperative Housing Tax Exemption Program	11,043,570	0	11,043,570
09325	0044	Convention Facility Development Fund Distribution	0	33,155,221	33,155,221
09330	0047	Airport Parking Fund	0	10,817,005	10,817,005
09430	0001	Lands Transferred to Federal Government	13,861	0	13,861
09460	0053	Health and Safety Fund Grants	0	23,132,925	23,132,925
09516	0001	City of Benton Harbor - Enterprise Zone	426,166	0	426,166
09456	0048	Sales Tax Distribution	0	477,032,229	477,032,229
09457	0049	Personal Income Tax - Counties	0	143,629,938	143,629,938
09462	0051	Single Business Tax Distribution	0	191,884,414	191,884,414
09458	0050	Personal Income Tax - Cities, Townships, Villages	0	249,141,702	249,141,702
09459	0052	Single Business Tax Inventory	$0	$107,431,224	$107,431,224
		Total for Treasury	$53,283,560	$1,236,224,658	$1,289,508,218
		GRAND TOTAL	$8,362,753,644	$3,068,702,910	$11,431,456,554

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School: Teen charges he was beaten and choked

From page 1B

has some of the lowest standardized test scores in the city.

"I've walked into the school and heard a teacher tell a student, 'Sit your ass down,' " said parent May Wilder, 42. "If the adults talk to the students like that, what do they expect?"

Lynne Robinson, Sean's mother, said her son was beaten after meeting with his counselor about repeated tardiness, for which he had been suspended twice.

"Sean was told he would be suspended again and he was upset when he left the meeting," said Robinson, 36, a respiratory therapist at Detroit Receiving Hospital. "He knocked over a chair accidentally and bumped into Mr. Bartley as he rushed out of the office.

"I guess Mr. Bartley took it the wrong way. He pushed Sean up against the wall and that was when he started hitting him. When I saw Sean, there were tears in his eyes and his face was swollen everywhere. It was like someone had beaten him up on the street."

Robinson, who wants Bartley fired and brought up on criminal charges, said her son was treated and released from Detroit's Grace Hospital.

Sean, whom his mother describes as an average student and not a gang member, said there were at least four witnesses to what happened, including a man who allegedly was in Bartley's office when Sean was struck while handcuffed.

"He said he was a policemen," Sean said. "He pulled out his badge and stuff. He just watched and he was quiet."

Sean said a school security officer and two parents also witnessed at least part of the incident.

"This has happened before," he said. "I'm not the only one Mr. Bartley has done this to. It's just that other parents didn't do anything about it."

Ella Randolph-Cooke, an area school superintendent, said the new allegations against Bartley are "just speculation" until a district investigation is completed. Bartley, suspended with pay pending the outcome, is expected to formally respond at a meeting next week with Cerveny Principal David Meadows, she said.

"I don't want to taint the investigation," Randolph-Cooke said. "I have to wait to hear Mr. Bartley's side of the story."

Supt. Deborah McGriff could not be reached for comment.

Other students said the bullhorn-carrying Bartley has been physically abusive in the past. They said he has earned the nickname "Joe Clark" after the strict New Jersey principal portrayed in the movie *Lean on Me*.

"It's scary," said Santresa White, 13, a seventh-grader who said she once saw Bartley handcuff and strike a student. "When I walk into the principal's office, I don't expect to get beaten up. He's there to help us, not hit us."

■ Detroit News Staff Writer Elizabeth Atkins contributed to this report.

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Headlee criticizes Proposal A as 'tax shift and tax increase'

By Charlie Cain
NEWS LANSING BUREAU CHIEF

LANSING — Richard Headlee, a leading anti-tax crusader and longtime political pal of Gov. John Engler's, criticized Thursday the governor's school finance ballot proposal, calling it "bad public policy" that would result in an overall tax increase for Michigan residents.

A spokesman for Engler said Headlee's statement was "just flat wrong" and suggested Headlee may be jealous that he didn't author the plan.

"If we had called this the Headlee proposal, Dick Headlee would probably be supporting it today," said John Truscott, the governor's press secretary.

The sniping comes 19 days before voters are to decide Proposal A, a plan to cut school property taxes an average 35 percent, cap future assessment increases to 5 percent or the rate of inflation if lower and guarantee $4,800 per K-12 student.

The plan, which has broad support from business and educators, also calls for an increase in the state sales tax to 6 percent from 4 percent.

Headlee, chairman and president of the Alexander Hamilton Life Insurance Co. and author of the 1978 tax limitation proposal that bears his name, was unavailable for additional comment Thursday.

"What began as a property tax relief proposal has turned into a major tax shift and tax increase" of $144 million, Headlee's statement said.

However, the proposal's net tax impact is still speculative. The state Treasury Department said it would amount to a savings of nearly $1 billion in the first year.

Patrick Anderson, an economist at Headlee's company, earlier estimated for the Mackinac Center think tank that the first year savings in state and local taxes would be about $1.1 billion and between $230 million and $320 million in each of the next four years.

Headlee further called Proposal A's 27-mill cap "a fraud," adding: "The bonding and debt loophole is wide open."

But Truscott said the 27-mill cap would be guaranteed in the Michigan Constitution. Legislation before the state Senate would allow exceptions to the cap for districts already levying millage to erase operating deficits or for future site acquisitions.

What Headlee says

Here, in edited form, are Richard H. Headlee's comments about Proposal A:

What began as a property tax relief proposal has turned into a major tax shift and tax increase. The estimated tax increase for fiscal year '93-'94, according to a recent Senate Fiscal Agency analysis, is $144.6 million. Proposal A,(is) seriously flawed and constitutionally imperfect (because):

- While promising a permanent millage cap of 27 on property taxes for schools, legislation has already been introduced (SB 597) which would allow additional millage for operating deficits and site acquisition. In truth, there is no 27-mill cap.
- The $406-million rollback of property taxes under the Headlee Amendment is being scuttled.
- Senior citizens and others would trade off much of their Homestead exemption under 'A,' yet they will pay 50-percent higher sales taxes.
- To gain support of the Michigan Education Association, the governor restored to the state budget $200 million in waste in adult education.
- The 1994 'freeze' giving taxpayers one year to appeal assessments, has been eliminated in a political deal between Proposal A proponents and Wayne County tax spenders.
- The constitution guarantees local governments 41.6 percent of all state revenues for local programs. Without recalculation of the Section 30 requirements, the state would count the $1.8 billion of sales tax revenue as spending for local governments, thereby gutting Section 30 and protection of local government revenue sharing.
- Caps by parcel have short-term political appeal but are bad constitutional law. They look into the constitution improper assessments with no means to correct same. In the future, young people buying homes and newcomers will pay higher taxes for the same public services than those of us who already own homes of equal value. This . . . strikes at the equal protection clause of the constitution.
- The Legislature's track record is atrocious. We increased the sales tax before to give property tax relief and to assist education. We implemented an income tax in 1967 and increased it in 1971 and 1975. Each time, the purpose was to relieve property taxes and increase state spending for education. In 1972, we implemented a lottery whose intent was increased support of education and property tax relief. In every case, state government expanded, salaries and benefits grew, we had no reform of education — and we still have outlandish property taxes.

Taxpayers should look at the record before accepting a permanent sales tax increase for questionable property tax reductions.

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EXHIBIT 7

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Drafters' Notes - Tax Limitation Amendment (Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The spirit of the times from which this proposal grew was the "tax revolt" and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted.

The drafters' intent was to make the minimal changes from Proposal C (a similar tax limitation constitutional amendment which was drafted in 1974 and appeared on the 1976 Michigan general election ballot; but not approved by the electors at that time), consistent with adding more definitional specificity and strengthening provisions dealing with local taxation. The lanaguage of Proposal E is attached to these notes as Appendix 1 and, for historical comparison, Proposal C is attached as Appendix 2.

The section numbers refer to the section numbers of Article 9, labeled Proposal E in Appendix 1.

Section 25

The Preamble to the Amendment, Section 25, serves as a summary of Sections 26 through 34, inclusive and Section 6, as amended; and spells out that the objectives, purposes, and

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intent of the drafters, petitioners and the voters are clearly to place specifically defined limitations on the revenues of both state and local governmental units and to place these limits under the direct and absolute control of the voters. It is also clear from the remaining sections that "limitations specified herein" mean tax and revenue levels existing at the effective dates of the amendment: October 1, 1980 for Sections 26, 27, 28 and December 22, 1978, for Sections 29 through 34, inclusive and Section 6, as amended. It was clearly not the intent to require voter approval of annual state budgets. The intent of "limitations specified herein" is explained with specificity in these notes, as they deal with each specific section.

Section 25 specifically prohibits the state from circumventing the intent of the amendment by shifting tax burdens from the state to local governmental levels. Any action by the state which would result, directly or indirectly, in increased local taxation through a shift in funding responsibility is clearly prohibited by this Section.

This Section and Sections 26 through 34, inclusive, together with Section 6, as amended, were intended to strengthen the process of direct voter approval over total taxation and spending levels; and it was intended that the legislative, judiciary, and administrative branches of government be so guided.

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In essence, the drafters' intent was to place the total dollar size of Michigan's public sector under direct popular democracy while retaining the best features of representative democracy, vis-a-vis the allocation of resources within the voter approved overall spending limitations.

Section 26

This section defines the state revenue limit. The revenue limit is expressed in terms of the ratio of total state revenues, excluding federal aid and taxes levied for specified debt service in FY 1978-1979 over the personal income in calendar 1977 times the relevant income base. This avoids use of a specific percentage (such as 8.3%, as in Proposal C) and the charge that there would be a reduction if the limit were effective at that time.

There was strong sentiment that this percentage should be rolled back over a period of time; but the concensus was that a roll back was conceptually different and should be handled later with an independent amendment.

Section 33 defines "total state revenues" to include all general and special revenues, excluding federal aid, as defined in the budget message of the governor for FY 1978-1979. It was the drafters' intent for the definition of

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"total state revenues" to be all inclusive, including revenues from licenses and permits and any and all other sources, except those revenue sources explicitly excluded by language in the amendment itself. It was the drafters' intent that any and all future revenues be treated like any revenues that exist upon approval of the amendment and be subject to the limit. Taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this article and loans to school districts authorized under Section 16 of this article, are excluded from the revenue limitation established in Section 26. Such taxes and federal aid are excluded both from the calculation of the 1978-79 revenue limit ratio and from the revenue limit computation in subsequent years.

In drafting this Section, there was concern regarding the danger of voting in November, 1978, on a proposal which uses revenues in 1978-1979 as a percentage of 1977 personal income as the limitation, since if the amendment were approved, the legislature would have the opportunity to increase taxes following the November election in order to build up the ratio. It was the drafters' intent that this not happen and the general consensus was that such a tax increase would be politically unlikely, and that if the legislature were so arrogant as to increase taxes following approval of the tax limitation amendment, that there would be an immediate

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petition drive that would result in technical amendments which would reduce the percentage limitation.

Directly or indirectly federally mandated spending increases are not exempted from the provisions of this section. It is the concensus that any problems arising from such federal requirements would be cured later on by a federal tax limitation amendment.

This section requires pro rata refunds to taxpayers in the event that revenues exceed the dollar amount of the revenue limit by 1% or more of the limit. If the excess were less than 1% of the revenue limit, the excess can be either refunded pro rata, or placed in the budget stabilization fund, as determined by the legislature. If the excess of revenues were greater than 1% of the revenue limit, a transfer to the budget stabilization fund out of excess revenues is prohibited and all of the dollars in excess of the limit must be refunded on a pro rata basis. The drafters' intent in designing the 1% cushion was to minimize the administrative expense relating to tax refunds.

The pro rata provision was designed to prevent the legislature from indirectly creating a graduated income tax through over taxation followed by various refunding schemes, other than pro rata.

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Section 27

This section defines conditions by which the revenue and spending limitations may be exceeded. Declaration of an emergency requires executive action and this section requires that an emergency must be declared by the Governor and approved by a two-thirds vote of members of each house. The procedures for an emergency declaration and approval are very specific in order to prevent the abuse of this section.

Section 28

This section provides for a balanced budget and reinforces the present constitutional requirement for a balanced budget. Past practices designed to avoid the constitutional balanced budget requirements, such as extending the fiscal year, are precluded by this section. Surplus is intended to include budget stabilization monies, permitting financing a budget stabilization fund within the revenue limit established in Section 26. It was not the drafters' intent to any way prohibit the creation of the budget stabilization fund within the limit, or to include budget stabilization funds from prior years within the revenue limitation formula.

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Section 29

It was the drafters' intent to include all necessary state mandated cost increases in this provision, including but not limited to: changes in general law which increase local governmental costs, e.g., increases in the state minimum wage law; changes in the civil and criminal statutes, e.g., mandatory sentencing; federally encouraged changes in state law, e.g., unemployment compensation coverage; collective bargaining or compulsory arbitration mandates, land use regulations, etc. It was the drafters' intent that the words "activity or service" be broadly defined to require that the state pay for all costs mandated by state law or state directive after December 22, 1978. This section requires reimbursements to local units for necessary new costs from all state mandates requiring action after December 22, 1978. Such interpretation is also required by Section 25 which prohibits the state from requiring any new or expanded activities by local governments without full state financing...or from shifting the tax burden to local government. The phrase "required by existing law," is used to clarify the authority of the State to require local governments to increase their activities up to standards established by existing law without additional reimbursements. However, "new" administrative interpretation of existing law would require reimbursement.

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"Necessary costs" means that the legislature may establish some criteria to determine effectiveness, such as average costs, state-wide. It was intended that the legislature implement this section through appropriate legislation, including appropriations to cover the necessary costs for mandated activity or service. No mandated activity or service should be legally binding on any local unit until the appropriations for such mandated activity or service is made and disbursed to the applicable local units.

The state is prohibited from reducing the state financed proportion of specific existing activities or services below that proportion funded by the state in the base year, i.e., fiscal year 1978-1979. It was the drafters' intent that the phrase "any existing activity or service required of Local Government by state law" be broadly construed to mean all activities or services performed by Local Government as a result of the State Constitution, state statute or state regulation, e.g., public elementary and secondary schools as defined by law. This provision does not guarantee, for example, that the proportion of state expenditures paid to a specific school district cannot be reduced. It does mean, however, that the proportion of state funding going to school districts, state-wide, for public elementary and secondary education shall not be reduced.

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The State is prohibited from reducing the state financed proportion of existing specific programs required of local governments by state law or state directive. Future mandated programs shall be fully funded. It seeks to obviate any temptation the state might have to fund a new mandated program (e.g., rapid transit) by shifting funds from a previously mandated program (e.g., K-12 education).

This section does not necessarily prevent the state from shifting funds from general and unrestricted revenue sharing to the funding of a state mandated activity but it does prohibit shifting funds from state mandated programs unless the mandate for such programs is eliminated.

Section 30

The primary intent of this section was to prevent a shift in tax burden, either directly or indirectly from state to local responsibility. The phrase "taken as a group" permits the legislature to reallocate funds to local units of government, i.e., geographically or from one unit to another. It was the drafters' intent to rely on the political process to effect such allocations and not to limit the legislature's ability to create more effective and efficient governmental entities or to eliminate those local units which no longer serve any utilitarian purpose.

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Additional or expanded activities mandated by the state, as described in Section 29 would tend to increase the proportion of total state spending paid to local government above that level in effect when this section becomes effective.

Section 31

Section 31 begins: "Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without approval of a majority of the qualified electors of that Local Government voting thereon." This sentence was intended to prohibit local units from levying any new tax that might be authorized after the effective date of the amendment without voter approval. It also was intended to prohibit any local unit from increasing the rate of an existing tax beyond the limit established by law or charter after the effective date of the amendment.

However, the intent of the wording was to permit Local units to retain those taxing powers they had by state law or local charter prior to the effective date of the amendment. Thus, a Local unit that was not levying or imposing the full amount of its taxing authority at the time of the effective date of the

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amendment would continue to be able to exercise such power after the effective date of the amendment. For example, a city with a 20 mill limit in its charter that only levied 15 mills in 1978 could increase its millage rate up to its 20 mill charter limit without again going to the voters for approval. Likewise, a school district that had voter approval to levy extra voted millage at the time of adoption could increase its millage rate up to the amount authorized without again seeking voter approval, even though the maximum millage authorized might not have been levied in 1978.

Industrial facility taxes levied under authority of Public Act 198 of 1974 are taxes that "were authorized by law" when Section 31 would go into effect, and therefore, would be exempt from the local vote requirement.

The first paragraph of Section 31 provides that as assessed value is increased, the millage authorized for the taxing unit must be decreased in equal proportion to the increased assessment, with the only increase in revenue allowed from existing property being determined by the Consumers Price Index for the United States as reported by the United States Department of Labor.

The rollback provision of this section reads:

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"...if assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the general price level from the previous year, the maximum authorized rate applied thereto in each unit of local government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the general price level, as could have been collected at the existing authorized rate on the prior assessed value...". (emphasis added) "Existing authorized rate" was intended to refer to "maximum rate authorized by law or charter" when this Section is ratified.

This section recognizes that in many communities, property tax revenues have increased rapidly, without any increase in tax rates, due to the rapid increase in assessments. It was the drafters' intent to assure that tax revenues on existing property not increase faster than the general U.S. inflation rate, regardless of increases in assessments, without local voter approval. The growth of property taxes on existing property in a taxing unit is limited to the rate of inflation.

For particular years in which assessed valuation of property as finally equalized (excluding new construction) exceeds inflation the maximum tax rate authorized by law or charter

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shall be rolled back to yield the same gross revenue from existing property (adjusted for inflation) as could have been collected at the existing authorized rate on the prior assessed value. The intent of the underlined phrase was to roll back the "maximum rate authorized by law or charter," even though the unit may have been levying a lesser rate. A key operative word in the phrase is "could." The effect of this provision shall be a continual ratcheting downward of maximum authorized tax rates whenever assessed values exceed inflation.

This section only operates to reduce maximum authorized tax rates in years in which assessed values, as finally equalized, increase faster than inflation. It does not allow "rolled back" rates to be increased under any conditions without voter approval. This is illustrated for a taxing unit in the following hypothetical example. (Exhibit 1) Presmises: the "maximum authorized rate" is 10 mills; spread rate (the millage levied in 1978) was 9 mills; assume the taxing authority continues to levy the same millage that it was levying in 1978 (9 mills) until the "maximum authorized rate" reaches a lesser level.

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Year	Assessed Value (S.E.V.)	Change in Assessed Value (S.E.V.)	Inflation	Maximum Authorized Tax Rate	Spread Rate	Annual Property Tax Savings*
1978	$20,000,000			10.00 mills	9.00	--
1979	$23,400,000	17%	9%	9.32 mills	9.00	--
1980	$24,102,000	3%	7%	9.32 mills	9.00	--
1981	$25,789,140	7%	12%	9.32 mills	9.00	--
1982	$29,657,511	15%	8%	8.75 mills	8.75	$ 7,415
1983	$35,589,013	20%	10%	8.02 mills	8.02	$34,877
1984	$38,080,244	7%	7%	8.02 mills	8.02	$37,318
1985	$41,888,269	10%	7%	7.80 mills	7.80	$50,216

*Annual savings is calculated based on the difference between 1978 spread rate and the "maximum authorized tax rate." Annual savings in this example would be larger if it were assumed that the local governing body, in the absence of Tax Limitation, had spread taxes at the "maximum authorized rate" in 1979, 1980 and 1981, instead of continuing to spread at the 1978 level.

Exhibit 1

The impact of this provision is further illustrated in the attached table (Exhibit 2) which shows the impact on a taxing jurisdiction with a market value of $20 million in 1968, with S.E.V. increases, inflation rate and millage levy as shown in the table. It is assumed that the taxing jurisdiction is levying the maximum authorized rate for the purposes of this example.

It was clearly the drafters' intent that whenever a "maximum tax rate authorized by law or charter" is rolled back, the "rolled back" rate becomes the "new" maximum authorized rate,

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(In Millions of Dollars)

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Year	Assessed (S.E.V.)	% Change in Assessed (S.E.V.)	Inflation	Section 31 Millage under (E)	Property Taxes, Section 31 (without "E")	Property Taxes Section 31 (E)	Annual Property Tax Savings Section 31 (E)	Cumulative Annual Property Tax Savings Section 31 (E)
1968	10,000			40 mills	400.00	--	--	--
1969	11,450	14.5%	5.4%	36.82	458.00	421.59	36.41	36.41
1970	12,893	12.6%	5.9%	34.63	515.72	446.48	69.24	105.65
1971	14,556	12.9%	4.3%	31.99	582.24	465.65	116.59	222.24
1972	16,206	10.1%	3.3%	30.02	641.04	481.10	159.94	382.18
1973	16,956	5.8%	6.2%	30.02	678.24	509.02	169.22	551.40
1974	19,329	14.0%	11.0%	29.23	773.16	564.99	208.17	759.57
1975	20,102	4.0%	9.1%	29.23	804.08	587.58	216.50	976.07
1976	21,108	5.0%	5.8%	29.23	844.32	616.99	227.33	1,203.40
1977	21,530	2.0%	6.5%	29.23	861.20	631.47	229.73	1,433.13
1978	24,501	13.8%	7.5%	27.61	980.04	676.47	303.57	1,736.70

The cumulative savings, over the past ten years, had "E" been in effect, would have been $1,736,700 -- under the assumptions in this hypothetical example.

Exhibit 2

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which will then serve as the base from which the next rollback would be calculated. Once a tax rate is rolled back under this section, it shall never be increased without voter approval.

A key phrase in this section is "rate authorized by law or charter." Local government officials would retain the authority to increase tax rates to the maximum rates authorized "by law or charter," even if such maximum rates are not presently levied. This does not change their present authority, with the exception that "maximum rates authorized" would be rolled back, over time, whenever assessed valuation of property as finally equalized (presently defined as S.E.V.) increases more than inflation. This section assures local voter control of the maximum authorized rates and the revenues generated at these rates.

"Rate authorized by law or charter" was selected rather than "rate existing at time of ratification" (the spread rate) because the drafters' intent was not to penalize the taxing authorities that were efficient enough to operate at less than their maximum authorized levels or who may have reduced millage due to some unusual circumstances below the authorized level. Furthermore, it was recognized that those maximum rates had been previously approved by voters and therefore, such an approach is consistent with the intent of the amendment.

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To reiterate, it was the clear and absolute intention of the drafters to require that all property and local taxation be under direct voter control. In no way does this section allow for millage rolled back under this section to be restored without approval by a majority of the electors of the unit affected and voting thereon.

This section permits, but does not require the legislature to mandate, through enabling legislation, that a lower tax rate than "authorized by law or charter" be established, such as that tax rate in each unit effective on December 22, 1978. Although specification of this approach is not mandated, it clearly would be within the spirit of the tax revolt, from which this amendment sprang, to do so. In retrospect, it is noted that Proposal E ballot language stated "...the proposed amendment would...prohibit local government from adding new or increasing existing taxes without voter approval." Emphasis added. The legislature and the courts should be guided by the perception of the electorate in passing the amendment.

"The value of new construction and improvements" clearly means only new physical construction. Any increase in value because of zoning changes or for any other reason are not within the meaning of "new construction and improvements." New construction is intended to mean the amount of newly constructed property less losses. Failure to adjust for losses would

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allow taxes on existing property to increase faster than inflation which is clearly contrary to the intent of this section.

The second paragraph of Section 31 was included by the drafters to protect the rights of the holders of bonds which had been properly issued and authorized prior to the effective date of the amendment. It was also intended to assure those bondholders that the constitutional amendment would not be applied retroactively to bonds issued and authorized prior to the effective date of the amendment. It was the intention of the drafters that this paragraph would apply only to completed transactions, i.e. to bonds issued and authorized, prior to the effective date of the amendment.

The drafters were very careful to spell out that the limitations provided in Section 31 in paragraph 1 did not apply to taxes that had been previously imposed for bonds that were issued and properly authorized prior to the effective date of the amendment. The drafters also recognized that if bonds had been improperly authorized and issued, prior to the effective date of the amendment, the bonds might be set aside or voided through litigation. It was not the intention of the drafters to protect the defective bonds from litigation or to prohibit such litigation.

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Paragraph 2 of Section 31 was not in any manner or fashion intended to limit Article 9, Section 6 of the Tax Limitation amendment. Paragraph 2 of Section 31 was written totally independent of and separate from Article 9 Section 6 and had as its only intention the guaranteeing of contractual rights of individuals who had purchased bonds that were properly issued and authorized, i.e. completed, prior to the effective date of the amendment so that they would be protected from a reduction in millage under the provisions of paragraph 1 of Section 31. It was the clear intention of the drafters to prohibit the issuing or authorization of any unlimited tax obligation bonds in the State of Michigan after the effective date of this amendment without a vote of the electors.

Section 32

Any taxpayer of the state shall have standing to bring suit with original jurisdiction in the Michigan Court of Appeals to enforce the provisions of this amendment.

By costs, the drafters meant all expenses incurred in maintaining such suit, including, but not limited to filing fees, service fees, witness fees, discovery expenses, attorney fees and reasonable reimbursement for plaintiffs' time and travel.

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Section 34

The legislature must implement the provisions of Sections 25 through 33, inclusive. It is the intent that state law be the authority for implementing the additions to this article and extension of legislative authority to any department, agency, etc., shall not occur.

Section 6

The drafting of Article 9, Section 6 changed only the wording in paragraph 2 of Section 6. The former wording of paragraph 2 Section 6 excluded certain taxes from the limitations provided in paragraph 1 Section 6 of the 1963 Constitution. All the limitations contained in the 1963 Constitution in paragraph 1 Section 6 were retained. The intent, and the only intent of paragraph 2 Section 6 was to require a vote by the people before any taxes could be imposed over and above the limitations contained in paragraph 1 Section 6. The changes in paragraph 2 Section 6 were intended specifically to prohibit the imposition of any taxes for the payment of principal and interest on bonds or other evidence of indebtedness, or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which require the imposition of taxes over and above the limits set forth in paragraph 1 Section 6 unless the qualified electors

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of the political subdivision wherein such taxes are to be imposed have approved through an election in that district the issuance of obligations that would require the levy of property taxes that would be in excess of said limits contained in paragraph 1 Section 6.

In paragraph 2 of Section 6 the drafters also imposed the limitations under Sections 25 through 34 of Article 9 on any taxes imposed for any other purpose, thus requiring that any increase in taxation of property in the State of Michigan shall not be allowed without the approval of the qualified electors of whatever entity attempts to increase such property taxes.

The drafters felt that the 1963 Constitution allowed governmental units to increase property taxes for the purposes listed in paragraph 2 of Section 6 over and above the limitations contained in paragraph 1 Section 6 without any direct control of such taxes that would exceed the limits in paragraph 1 Section 6, by the electors of any political subdivision, etc. The drafters' intent was to stop this situation and return to the people full control of all property taxation amounts that would exceed the limitations set forth in Section 6, paragraph 1.

It was understood by the drafters that any taxes levied under Section 6, paragraph 1 and within the limitations contained

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therein could be used for any purpose consistent with the Constitution and the laws of the State of Michigan, including the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligation in anticipation of which bonds were issued. To reiterate, it was the sole intention of the drafters of Article 9 Section 6 to require that all taxation of property be subject to approval by the qualified electors of whatever entity seeking to impose such property tax.

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APPENDIX 1

PROPOSAL E (1978)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT
ADDING SECTIONS 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34 TO ARTICLE IX AND AMENDING SECTION 6 OF ARTICLE IX

Article IX of the Michigan Constitution is hereby amended by adding Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34, and by amending Section 6, to additions and amendments to read as follows:

Sec. 25. Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct v approval. The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the propo of state spending in the form of aid to local governments, or from shifting the tax burden to local government. A provision for emergency condition established and the repayment of voter approved bonded indebtedness is guaranteed. Implementation of this section is specified in Sections 26 through inclusive, of this Article.

Sec. 26. There is hereby established a limit on the total amount of taxes which may be imposed by the legislature in any fiscal year on the taxpayers of t state. This limit shall not be changed without approval of the majority of the qualified electors voting thereon, as provided for in Article 12 of the Constituti Effective with fiscal year 1979-1980, and for each fiscal year thereafter, the legislature shall not impose taxes of any kind which, together with all other revent of the state, federal aid excluded, exceed the revenue limit established in this section. The revenue limit shall be equal to the product of the ratio of Total St Revenues in fiscal year 1978-1979 divided by the Personal Income of Michigan in calendar year 1977 multiplied by the Personal Income of Michigan in eit the prior calendar year or the average of Personal Income of Michigan in the previous three calendar years, whichever is greater.

For any fiscal year in the event that Total State Revenues exceed the revenue limit established in this section by 1% or more, the excess revenues shal refunded pro rata based on the liability reported on the Michigan income tax and single business tax (or its successor tax or taxes) annual returns filed follow the close of such fiscal year. If the excess is less than 1%, this excess may be transferred to the State Budget Stabilization Fund.

The revenue limitation established in this section shall not apply to taxes imposed for the payment of principal and interest on bonds, approved by voters and authorized under Section 15 of this Article, and loans to school districts authorized under Section 16 of this Article.

If responsibility for funding a program or programs is transferred from one level of government to another, as a consequence of constitutio amendment, the state revenue and spending limits may be adjusted to accommodate such change, provided that the total revenue authorized for collection both state and local governments does not exceed that amount which would have been authorized without such change.

Sec. 27. The revenue limit of Section 26 of this Article may be exceeded only if all of the following conditions are met: (1) The governor requests the legislat to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which t emergency will be funded; and (3) the legislature thereafter declares an emergency in accordance with the specifics of the governor's request by a two-thirds v of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expen which constitute the emergency request. The revenue limit may be exceeded only during the fiscal year for which the emergency is declared. In no event sh any part of the amount representing a refund under Section 26 of this Article be the subject of an emergency request.

Sec. 28. No expenses of state government shall be incurred in any fiscal year which exceed the sum of the revenue limit established in Sections 26 and 27 of t Article plus federal aid and any surplus from a previous fiscal year.

Sec. 29. The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Lo Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 30. The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect fiscal year 1978-79.

Sec. 31. Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasi the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electo of that unit of Local Government voting thereon. If the definition of the base of an existing tax is broadened, the maximum authorized rate of taxation on r new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of proper as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Le from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue fro existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value.

The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of t amendment.

Sec. 32. Any taxpayer of the state shall have standing to bring suit in the Michigan State Court of Appeals to enforce the provisions of Sections 25 through 3 inclusive, of this Article and, if the suit is sustained, shall receive from the applicable unit of government his costs incurred in maintaining such suit.

Sec. 33. Definitions. The definitions of this section shall apply to Section 25 through 32 of Article IX, inclusive.

"Total State Revenues" includes all general and special revenues, excluding federal aid, as defined in the budget message of the governor for fiscal ye 1978-1979. Total State Revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, b shall include the amount of any credits not related to actual tax liabilities. "Personal Income of Michigan" is the total income received by persons in Michig from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency. "Local Government" means a political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counti authorities created by the state, and authorities created by other units of local government. "General Price Level" means the Consumer Price Index for t United States as defined and officially reported by the United States Department of Labor or its successor agency.

Sec. 34. The Legislature shall implement the provisions of Sections 25 through 33, inclusive, of this Article.

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APPENDIX 2

PROPSAL C (1976)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT ADDING SECTIONS 25, 26, 27, 28, 29, 30, AND 31 TO ARTICLE IX.

Sec. 25. There is hereby established a limit on the total amount of taxes which may be levied by the Legislature in any fiscal year on the taxpayers of this State. Effective with the first fiscal year beginning after the ratification of this Section, and for each fiscal year thereafter, the Legislature shall not impose taxes of any kind which, together with all other revenues of the State, federal aid excluded, will total more than 8.3% of the personal income of Michigan for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater. "Personal income of Michigan" means the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency.

For any fiscal year, in the event that State revenues, excluding federal aid, do exceed 8.3% of the personal income of Michigan reported for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater, the excess shall be refunded pro rata on the income taxes annual returns filed following the close of such fiscal year.

The limitation of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness authorized under Sections 15 and 16 of this Article.

Sec. 26. The tax limitation of Section 25 of this Article may be exceeded only if all of the following conditions are met: (1) The Governor requests the Legislature to declare an emergency; (2) the request shall be specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; (3) upon receiving this request, the Legislature declares an emergency, in accordance with the specifics of the Governor's request, by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this Section prior to incurring any of the expenses which constitute the specific emergency request. The tax limitation may be exceeded only for the fiscal year in which the emergency is declared; in the next and subsequent fiscal years the tax limitation of Section 25 of this Article shall again take effect. In no event shall any part of the amount representing a refund under Section 25 of this Article be the subject of any emergency request.

Sec. 27. No expenses of state government shall be incurred for any fiscal year which exceed in amount the revenue limitations imposed by Sections 25 and 26 of this Article.

Sec. 28. A new program or an increase in the level of service under an existing program shall not be required by the Legislature of units of local government, of authorities created by the state, or of political subdivisions of the state, unless a state appropriation is made and disbursed sufficient to pay the local unit of government, authority or political subdivision for the costs of the program. The provisions of this Section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 29. The proportion of state revenue paid to all units of local government, authorities created by the state, and political subdivisions of the state, taken as a group, shall not be reduced below that proportion in effect when this Section is adopted.

Sec. 30. Units of local government, authorities created by the state, and political subdivisions of the state are hereby prohibited from levying any tax not in existence when this Section is ratified or from increasing the rate or base of existing taxes beyond levels authorized when this Section is ratified, without the approval of a majority of the qualified electors of that local unit, authority or political subdivision voting thereon. The limitations of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued.

Sec. 31. The Legislature shall implement the provisions of Sections 25 through 30, inclusive, of this Article.

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Section 6. (New language capitalized) Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds APPROVED BY THE ELECTORS or other evidences of indebtedness APPROVED BY THE ELECTORS or for the payment of assessments or contract obligations in anticipation of which bonds are issued APPROVED BY THE ELECTORS, which taxes may be imposed without limitation as to rate or amount; OR, SUBJECT TO THE PROVISIONS OF SECTIONS 25 THROUGH 34 OF THIS ARTICLE, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

PROVISIONS OF EXISTING CONSTITUTION ALTERED OR ABROGATED BY THIS AMENDMENT IF ADOPTED - ARTICLE IX, SECTION 6 -

Section 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by the city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

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EXHIBIT 8

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AMERICAN BAR ASSOCIATION
SECTION OF TAXATION

COMMENTS ON THE DEFINITION OF POLITICAL SUBDIVISION FOR TAX EXEMPT BONDS AND OTHER TAX-ADVANTAGED BONDS

These comments (the "*Comments*") are submitted on behalf of the American Bar Association Section of Taxation (the "*Section*") and have not been approved by the House of Delegates or Board of Governors of the American Bar Association. Accordingly, they should not be construed as representing the position of the American Bar Association.

Principal responsibility for preparing these Comments was exercised by Mark Norell of the Section's Committee on Tax Exempt Financing (the "*Committee*"). Substantive contributions were made by David Cholst, Matthias Edrich, James Eustis, Carol Lew, Scott Lilienthal, Vanessa Lowry and Victoria Ozimek. Assistance was also provided by Courtney Chen of the American Bar Association's Law Student Division. The Comments were reviewed by Nancy M. Lashnits, Chair of the Committee, Stefano Taverna, Vice Chair of the Committee, John O. Swendseid, of the Section's Committee on Government Submissions. The Comments were further reviewed by Peter H. Blessing, the Section's Vice Chair (Government Relations).

Although the members of the Tax Exempt Financing Committee who participated in preparing these Comments have clients who might be affected by the federal tax principles addressed by these Comments or have advised clients on the application of such principles, no such member (or the firm or organization to which such member belongs) has been engaged by a client to make a government submission with respect to, or otherwise to influence the development or outcome of, the specific subject matter of these Comments.

Contact: Mark O. Norell
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Date: May 5, 2015

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EXECUTIVE SUMMARY

These Comments are submitted in connection with the 2014-2015 guidance project announced by the Department of the Treasury ("*Treasury*") and the Internal Revenue Service (the "*Service*") regarding the term "political subdivision."[1]

For interest on a bond to be excluded from gross income for federal income tax purposes, the bond must be a "state or local bond" under section 103(a).[2] Regulation section 1.103-1(a), in relevant part, provides:

> Interest upon obligations of a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually referred to as "State or local governmental unit") is not includable in gross income ….

Regulation section 1.103-1(b) further provides:

> The term "political subdivision," for purposes of this section denotes any division of any State or local government unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit.

The leading case that considered a predecessor version of the above Regulations, *Commissioner of Internal Revenue v. Shamberg's Estate* ("*Shamberg*"),[3] held that there are three elements of sovereign power: (1) the power of eminent domain, (2) the power to tax, and (3) the police power. Although *Shamberg* only required that part or a portion of those powers be present to conclude that an entity created under state law for a governmental purpose is a political subdivision, subsequent authorities indicate that possession of only an insubstantial amount of any or all sovereign powers is not sufficient. From time to time, the Service has issued administrative guidance following *Shamberg*, elaborating on the amount and type of sovereign powers sufficient for such qualification. Thus, until recently the definition of a political subdivision has been understood to be settled and limited to the considerations set forth in *Shamberg*, with questions mainly arising as to whether an entity has sufficient sovereign powers to be a political subdivision.[4]

The definition of a political subdivision for purposes of tax-advantaged financings came back to the forefront in Technical Advice Memorandum 201334038 (the "*2013 TAM*"). The

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[1] Under the initial 2014-2015 Priority Guidance Plan, and the most recently published plan (the second quarter update), both available at http://www.irs.gov/uac/Priority-Guidance-Plan, there is a project listed in the Tax Exempt Bonds section for "Guidance on the definition of political subdivision under Section 103 for purposes of the tax exempt, tax credit, and direct pay bond provisions."

[2] References to the "section" refer to the Internal Revenue Code of 1986, as amended (the "*Code*"); and all references to the Regulations refer to income tax regulations promulgated under the Code.

[3] 144 F. 2d 998 (2d Cir. 1944), cert. denied, 323 U.S. 792 (1945). *Commissioner v. White's Estate*, 144 F.2d 1019, 44-2 U.S.T.C. 710 (2d Cir. 1944), cert. denied, 323 U.S. 792, 65 S. Ct. 433 (1945) ("*White's Estate*") was a companion case to *Shamberg* and examined bonds issued by the Triborough Bridge Authority.

[4] A relatively succinct statement of the law is provided in the quoted language from GCM 36994 (February 3, 1977) set forth at part III.F of the Discussion below. The GCM goes so far as to state that "we consider the meaning of political subdivision for purposes of section 103(a)(1), to be well established."

2013 TAM addresses the status of a particular issuer (the "*Issuer*") as a political subdivision. Parts of the 2013 TAM appear to set forth new substantive requirements not previously considered in the various statutory, administrative or judicial precedents. The 2013 TAM states that:

> [t]he term "political subdivision" is defined in Reg. § 1.103-1(b) as "any division of any state or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit."
> …
> The phrase "division of a state or local government" must be read in the context of the purpose of Section 103, which is to provide subsidized financing for state and local government purposes. The Code permits the benefit of this subsidy to be passed on to private persons under some circumstances, but only if a governmental unit determines that the issuance of such bonds is appropriate. A governmental unit is inherently accountable, directly or indirectly, to a general electorate. In effect, Section 103 relies, in large part, on the democratic process to ensure that subsidized bond financing is used for projects which the general electorate considers appropriate state or local government purposes. A process that allows a private entity to determine how the bond subsidy should be used without appropriate government safeguards cannot satisfy Section 103.

The 2013 TAM concludes that because the Issuer is not directly or indirectly answerable to the electorate, it is not a division of a state or local government, and therefore it is not a political subdivision that may issue tax exempt bonds. The TAM points to the "division" language in Regulation section 1.103-1(b) to require "accountability, directly or indirectly, to a public electorate." As discussed more fully herein, accountability has not previously been required to achieve political subdivision status and control has been analyzed as a factor in whether sovereign power has been delegated,

The Committee is concerned that auditors of tax exempt bonds may use the 2013 TAM to apply a new standard not based on existing law, thereby creating significant uncertainty in a well-established transactional practice that relies on unqualified tax opinions. Audits based on the new analysis in the 2013 TAM could have a substantial adverse impact on existing issuers and could prove costly to state and local governments. Moreover, although the 2013 TAM cannot be used as precedent, the mere presence of the quoted language in a published administrative determination creates uncertainty with regard to the standard to be applied by a tax lawyer, an issuer, or the Service when evaluating political subdivision status of an entity.

It is not the objective of these Comments to make any comment about whether the Issuer in the 2013 TAM qualifies as a political subdivision. Instead, in light of the new requirements that the 2013 TAM seems to impose to qualify as a political subdivision, we recommend that the 2013 TAM be withdrawn or modified to conform with existing precedent. The Committee also recommends that the Service and Treasury issue a notice providing interim guidance prior to the issuance of new political subdivision regulations and stating that any change to the definition of political subdivision will apply solely on a prospective basis.

The remainder of these Comments first provides a more in depth discussion of the 2013

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TAM, second provides a review of existing law on the issue of political subdivision as it relates to the issuance of tax advantaged obligations, and, third, provides an analysis of existing law in the context of the 2013 TAM and new regulations addressing political subdivision status.

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DISCUSSION

I. DISCUSSION OF THE 2013 TAM

The 2013 TAM outlines a two-part test for determining whether an entity may issue bonds the interest on which is exempt from gross income for federal income tax purposes. This test requires both that (1) the entity be "a division of a state or local government" and (2) it be delegated sufficient sovereign powers.[5]

Because of questions about control from the Service, the Issuer in the 2013 TAM argued that it was sufficiently controlled by the state to be a political subdivision and pointed to numerous legal restrictions placed upon it by state law. The Service disagreed that these restrictions were sufficient because the restrictions did not "address the fact [that] the [i]ssuer was organized and operated to perpetuate private control and avoid indefinitely responsibility to a public electorate, either directly or through another elected state or local governmental body."

The 2013 TAM did not rely on any authority involving tax exempt bonds in concluding that the issuer in the 2013 TAM is not a political subdivision. Rather, the only authority cited was Rev. Rul. 83-131,[6] which held that certain North Carolina electric and telephone *membership corporations* are not exempt from diesel fuel excise taxes and other federal excise taxes on four different grounds.[7] The 2013 TAM summarizes Rev. Rul. 83-131 as follows:

> [the membership] corporations did not qualify as political subdivisions, in part because they were 'not controlled directly or indirectly by a state or local government,' but rather by a board of directors 'independent of such authority.'

After concluding that such membership corporations were not divisions of a state or local governmental unit and did not have sufficient sovereign power to be political subdivisions, the revenue ruling inquired whether the membership corporations would nevertheless be eligible for excise tax exemptions because sales "could be considered to be made for the exclusive use of a state or local government." As described more fully below, the 2013 TAM quoted from the discussion in Rev. Rul. 83-31 that addressed an excise tax exception and not from the analysis that determined the political subdivision status of the membership corporations.

As discussed more fully below, Rev. Rul. 83-131 does not provide support for the new requirements set forth in the 2013 TAM for political subdivision status, *i.e.,* accountability to a general electorate. Neither the language of Rev. Rul. 83-131, nor the related GCM, address the criteria set forth in the 2013 TAM, *i.e.,* the requirement of inherent accountability, directly or indirectly, to a general public electorate; appropriate safeguards to prevent a private entity from determining how the bond subsidy should be used; and a general public to which the general electorate is responsible. If these additional requirements are to be imposed, they should be developed through a process whereby the public is provided an opportunity to comment.

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[5] The "Law and Analysis" section of the 2013 TAM has two subsections: the first, "Is Issuer a Division of a State or Local Government?" and the second, "Has Issuer been Delegated Sovereign Power?"

[6] 1983-2 C.B. 184.

[7] The Service cites this authority with the citation signal "Cf." which ordinarily tells the reader that the cited authority provides only indirect support by analogy for the author's proposition.

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II. CURRENT LAW: CASES AND REVENUE RULINGS

In considering an entity's political subdivision status for purposes of issuing tax exempt bonds, the Service and Treasury should look solely to existing cases, authorities cited in those cases, regulations and published rulings that deal directly with political subdivision status of entities that issue tax advantaged bonds. The key authorities, in addition to the regulations, are the three court cases, an Attorney General Opinion, and four revenue rulings, all of which are summarized below.

A. Commissioner of Internal Revenue v. Shamberg's Estate and the 1914 AG Opinion

As discussed briefly above, *Shamberg* was one of the first cases to interpret the meaning of "political subdivision" in the context of tax exempt bonds. *Shamberg* analyzed the exclusion from gross income of interest on bonds held by Alexander Shamberg's estate and issued by the Port of New York Authority (now named the Port Authority of New York and New Jersey) (the "*Port Authority*"), which was created as a body corporate and politic by a compact between the states of New York and New Jersey. The compact was approved by Congress, which granted the Port Authority the power to build, own, and operate terminals, bridges, tunnels, and other transportation facilities to facilitate transportation by land, water and air. The governing board of the Port Authority was appointed equally by the Governors of both states and its assets revert to the states upon dissolution. Each Governor has the right to veto any action of the Board of the Port Authority. Although *Shamberg* is best known for articulating the three sovereign powers, the court in *Shamberg* quotes and relies on two U.S. Attorney General Opinions asserting that a political subdivision must be a public entity in addition to exercising a substantial amount of at least one of the sovereign powers. In the first U.S. Attorney General Opinion ("*1914 AG Opinion*"), Attorney General James McReynolds was asked whether a special assessment district is a "political subdivision."[8] As quoted in *Shamberg*, Attorney General James McReynolds responded by stating that:

> The term "political subdivision" is broad and comprehensive and denotes any division of the State made by the proper authorities thereof, acting within their constitutional powers, for the purpose of carrying out a portion of those functions of the State which by long usage and the inherent necessities of government have always been regarded as public. The words 'political' and 'public' are synonymous in this connection. (Dillon Municipal Corporations, 5th ed., sec. 34.) It is not necessary that such legally constituted 'division' should exercise all the functions of the State of this character. It is sufficient if it be authorized to exercise a portion of them.[9]

The court in *Shamberg* did not set forth requirements to qualify as a division and did not

[8] Attorney General McReynolds paraphrased the question as follows: "whether special assessment districts created under the laws of the several States for the purpose of the improvement of streets and public highways, the provision of sewerage, gas, light, and the reclamation, drainage, or irrigation of considerable bodies of land within the same are 'political subdivisions' of the State within the meaning of the above proviso [the exemption from tax under the 1913 act]."

[9] 144 F.2d 998, at 1021. 30 Op. Atty. Gen. 252, 253 (1914).

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address either control by a governmental unit or accountability to the general electorate. Rather, it provides that so long as a state, acting within its constitutional powers, delegates substantial sovereign power, the division will qualify as a political subdivision. The 1914 AG Opinion, as well as *Shamberg*, expressly state that what constitutes a division is "any division' made by proper authorities, acting within their constitutional powers, for the purpose of carrying out a portion of those functions of the state which by long usage and the inherent necessities of government have always been regarded as public." This legal view demonstrates significant deference to states and localities in determining what will qualify as a division so long as functions that traditionally have been regarded as public are carried out.

The 1914 AG Opinion applies the test for "political subdivision" to a special assessment district by looking at whether the district's functions are "public." *Shamberg* cites language stating that the "words 'political' and 'public' are synonymous" and that an entity is a political subdivision if it exercises "public functions,"[10] even if it did not have each of the three enumerated sovereign powers.[11] This language is the basis for determining if the entity is furthering a public purpose.

B. Seagrave Corporation

In *Seagrave Corporation v. Commissioner*,[12] the Tax Court considered whether private, nonprofit corporations, established under general incorporation laws of various states, for the purpose of operating volunteer fire companies, qualified as political subdivisions of the respective states for purposes of the exclusion of interest from federal income tax on debt issued by such corporations.

The Tax Court held that the corporations are not political subdivisions and stated as follows:

> They may be political, in the sense that 'political' is synonymous with 'public,' but they are not subdivisions of the State. It may be conceded the volunteer fire companies perform a public function in the sense that they perform the same function that is generally carried on by municipal fire departments. But the volunteer fire companies here involved are not in any sense subdivisions of the States where they are located. They were not created by any special statutes and they received no delegation of any part of the State's power. It is not enough that they perform a public service. They cannot be called a subdivision of the State unless there has been a delegation to them of some functions of local government.
>
> The volunteer fire companies were all formed under general incorporation laws of the various states. They do not render services prescribed by law. They perform services prescribed by their constitutions and bylaws as do any other corporations

[10] 1914 AG Opinion at 253 ("If, then, the special assessment districts to which you refer be lawfully created by a State for the purpose of exercising a portion of its public functions so defined, they are 'political subdivisions thereof.'")

[11] *Id.* ("It is not necessary that such legally constituted 'division' should exercise all the functions of the State of this character. It is sufficient if it be authorized to exercise a portion of them.")

[12] 38 T.C. 247 (1962) ("*Seagrave*").

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> created under the general incorporation laws of the State. The fact that they were created by virtue of and in compliance with general incorporation laws does not mean they are clothed with any state power.
>
> The relations between the fire companies and the municipalities they serve are purely voluntary. No power of the State could compel them to render any services and the State, or its political subdivision, the municipality, could not be compelled to accept their services. They are free associations created by the voluntary acts of their incorporators, and not by any legislative action. They can be dissolved at the will of the corporate members.
>
> Petitioner refers us to State statutes providing city, State, and county funds may or shall be contributed to support volunteer fire companies; State statutes granting exemptions from State property and excise taxes; and State statutes providing for instruction of volunteer firemen at State expense. Such statutes do not add up to any delegation of any part of State authority. All that such statutes do is recognize such companies perform a public function and should be encouraged by grants of financial aid and State tax exemptions.

Seagrave shows that there are limitations to what type of entity will qualify as a subdivision of a state, *i.e.,* entities formed under a state's general nonprofit corporation law will not qualify, even if intended to serve a public purpose. However, nowhere does the court suggest that factors such as control, or accountability to the general public (except in the sense of being able to be compelled to act), are requirements to qualify as a political subdivision. The case simply stands for the proposition that a nonprofit corporation will not qualify as a subdivision of a state where, even though performing functions of a public nature, it is formed voluntarily under the general incorporation laws, is not compelled by law to render any services, and can be dissolved at the will of the corporate members.

C. Philadelphia National Bank

Philadelphia National Bank and Philadelphia National Corporation v. United States of America,[13] considered whether Temple University ("*Temple University*" or the "*University*"), a state-related school in Pennsylvania, is a political subdivision of the Commonwealth of Pennsylvania (the "*Commonwealth of Pennsylvania*" or the "*Commonwealth*") or whether the obligations issued by Temple University could be treated as issued on behalf of the Commonwealth of Pennsylvania.

Temple University had close ties with and was dependent upon the Commonwealth of Pennsylvania, but no delegation of essential governmental functions occurred. The Board of Trustees included 39 members: three Commonwealth of Pennsylvania ex-officio members (Governor, Secretary of Education and Mayor of Philadelphia); 12 members appointed by the Governor, President of the Senate and Speaker of the House; and 24 private citizens elected by the board of trustees ("leaving the majority of non-public trustees with the power to manage and control the university"). The University was subject to limited audit of expenditures by the

[13] 666 F2d 834 (3d. Cir. 1981) ("*Philadelphia National Bank*").

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Commonwealth Auditor General and the president of the school was required to make annual reports to the Commonwealth legislature. The Commonwealth General Assembly was permitted to set tuition rates if it made adequate appropriations, otherwise the management and control of University affairs are conducted by the board of trustees. The Commonwealth was allowed to provide facilities for the University.

Philadelphia National Bank (the "*Bank*") sued for a refund of taxes paid on interest received from loans to Temple University contending that Temple University is a political subdivision. The district court concluded that the University was a political subdivision and issued debt on behalf of the Commonwealth. On appeal, the U.S. argued that the University was not delegated sovereign power.

The circuit court stated that the University could obtain exemption if it were deemed a political subdivision or if it issued obligations "on behalf of" the Commonwealth of Pennsylvania. The court noted that there is "surprisingly little decisional law on what constitutes a political subdivision within the meaning of section 103 and notes that 'the leading - and almost only - cases on point' are *Shamberg* and *White's Estate*."

The court noted that "the method utilized by the legislature to establish a state relationship with Temple [University] is unique and the resulting body is not the same as a traditional authority or political subdivision." The court compared and contrasted the characteristics of Temple University to the facts of each of *Shamberg* and *White's Estate.* The court also stated that because the case must be resolved in the context of the Code, it was necessary to evaluate the delegation of state sovereignty discussed in *Shamberg* and *White's Estate*. The court concluded its political subdivision analysis by stating that "[a]t most, the university has been given a limited authorization to exercise one small aspect of the police power - one that has been delegated to private organizations as well. With such a minimal grant of police power, and with no eminent domain or taxing power, Temple [University] cannot be said to be a political subdivision." The court did not state that the political subdivision test includes an "accountability to the general electorate" requirement.

The court next considered whether the obligations issued by Temple University were issued "on behalf of" the Commonwealth of Pennsylvania. The court cited *White's Estate* for alter ego principles, and cited Regulation section 1.103-1 relating to obligations issued "on behalf of" a state or local governmental unit by constituted authorities. It then stated that a constituted authority is a wholly owned governmentally controlled entity, performing a wholly governmental function, [that] is created to be in effect the alter ego of the governmental unit. The court further stated that:

> [n]o such identity, control, or intent, however, exists between Temple [University] and the Commonwealth of Pennsylvania. Nor is there any language in the Commonwealth Act that purports to make Temple the alter ego of the state. The wording of the statute itself and the opinion of the Pennsylvania Supreme Court in Mooney make that apparent. We cannot say, therefore, that Temple [University] issued its obligations "on behalf of" the Commonwealth of Pennsylvania."

For on-behalf-of issuer status, it must be shown that the entity rises to the level of an

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"alter ego" of the state, for which purpose identity of interest, control and intent are relevant. The lack of control by the Commonwealth of Pennsylvania over Temple was one of the grounds for concluding that Temple's obligations were not issued on behalf of the Commonwealth.

Although the court addressed control, it did so only in connection with on-behalf-of status, which became relevant only after the court had concluded that Temple University was not itself a political subdivision of the Commonwealth of Pennsylvania. Importantly, the *Philadelphia National Bank* court did not find it necessary to address the issue of Temple University's governing board control in its analysis of the elements required to be a political subdivision.

D. Revenue Ruling 59-373

Rev. Rul. 59-373,[14] considered whether a soil conservation district created under the Colorado Soil Conservation Act qualified as a political subdivision. The analysis of the Service is as follows:

> For the purpose of section 103 of the Code, it has been held that divisions of a state which are formed to achieve a recognized public purpose and whose revenue and assets inure only to the benefit of the state constitute political subdivisions of the state even though the sovereign powers delegated to the division are limited in degree (citations omitted).
>
> In the instant case, the soil conservation districts of the State of Colorado are created to carry out a recognized public purpose and are vested in this regard with limited rule making and taxing powers. Prior to their dissolution, their revenues and assets are available only for the purpose of carrying out soil conservation programs and, upon dissolution, the assets of a conservation district are sold and the net proceeds are deposited with the State Treasurer to the credit of the state board to defray the costs of establishing other soil conservation districts. If at any time after such fund is established there shall be no soil conservation districts in existence in the state, then any balance remaining in the state fund shall be transferred to the general fund of the State.
>
> Accordingly, it is held that soil conservation districts created under the laws of the State of Colorado constitute political subdivisions of that State within the meaning of section 103 of the Code. Therefore, interest on obligations issued by such districts is excludable from gross income of recipients thereof in computing their Federal income tax liabilities.

Rev. Rul. 59-373 demonstrates the facts and circumstances nature of political subdivision status. A facts and circumstances analysis is appropriate because the governmental purposes to be achieved by any particular entity will vary significantly across political subdivisions and the types of sovereign power (tax, police and eminent domain) needed to achieve the governmental purposes will vary from case-to-case. States would presumably wish to be careful not to

[14] 1952-2 C.B. 37.

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delegate more sovereign powers than are necessary to achieve the desired governmental purpose.

Despite limited rule making and taxing power, the soil conservation district in Rev. Rul. 59-373 was determined to be a political subdivision, implying that "weak" sovereign powers can be shored up with strong control and historic public purposes.[15]

E. Revenue Ruling 73-563

Rev. Rul. 73-563,[16] addressed whether a rapid transit authority (the "*RTA*") qualified as a political subdivision of a state. The RTA, a public corporation, was created by an act of the state legislature to plan, acquire, finance, maintain and administer a rapid transit system within a specific geographic area encompassing several participating counties. The development of a mass transit system by the RTA was declared to be an essential governmental function by the state constitution. The governing body of the RTA was the board of directors comprised of members appointed by each of the participating local governmental bodies.

Rev. Rul. 73-563 states the following with regard to the standard for being a political subdivision for purposes of issuing tax exempt bonds:

> Section 1.103-1 of the Income Tax Regulations provides, in part, that the term "political subdivision" denotes any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit.
>
> Three generally recognized sovereign powers of states are the police power, the power to tax, and the power of eminent domain (citations omitted).

The RTA was not authorized to exercise directly the power to tax and the power of eminent domain. Instead, the state legislature conferred the benefit of such powers on the authority by providing channels through which such powers may be exercised by the participating local governmental bodies to assist the authority. The authority had the power to set rates, determine routes, and enforce its regulations by maintaining a security force and was, thus, considered to possess police powers. The ruling found that the authority was granted a sufficient portion of the sovereign powers of the state to perform the essential governmental function for which it was created and concluded that the authority qualifies as a political subdivision of the state within the meaning of Regulation section 1.103-1.

F. Revenue Rulings 77-164 and 77-165

Rev. Rul. 77-164,[17] considered whether a community development authority (the "*CDA*") created by the legislature of a state qualified as a political subdivision within the meaning of

[15] *See GCM 36994* (sovereign power can exist "in a minor degree" but all facts and circumstances must be considered including public purpose and control). Additionally, the Service noted that a majority of the governing board of the soil conservation district was elected by landowners in the district with no discussion of how many landowners were necessary to constitute a "general electorate."

[16] 1973-2 C.B. 24.

[17] 1977-1 C.B. 20.

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Regulation section 1.103-1(b). The CDA was created under state laws, which allowed a private developer to petition a county to establish a CDA within a county for purposes of encouraging and overseeing the orderly development of a new community. Under the state law, the CDA had the power to impose, collect and receive service and user fees and other charges to cover the costs of carrying out the purpose of developing new communities by three methods: an income charge, a flat fee, or a valuation charge. Such fees were to be used for the construction, operation and maintenance of community buildings, recreation facilities, streets, lighting, and other capital improvements that would benefit the property owners. The CDA was also empowered to enter into agreements with the county whereby the county could, in its discretion, acquire property by eminent domain for the CDA. State laws provided that the CDA had no power or authority over (1) zoning or subdivision regulation, (2) fire or police protection, or (3) water supply or sewage treatment and disposal unless such services could not be obtained from existing political subdivisions. The CDA had the power to adopt and enforce rules as to the use of community facilities, but such power did not invalidate the exercise of police power by a municipal corporation. The exercise of police power by a municipal corporation would prevail in the case of a conflict of powers exercised by both the CDA and the applicable municipal corporation.

Rev. Rul. 77-165,[18] considered whether a certain state university qualified as a political subdivision within the meaning of Regulation section 1.103-1(b). The university was established under state law and supported by legislative appropriations from general funds. The state university was authorized to create a police force for the purpose of regulating traffic, motor vehicles and speed limits only on its campus and to issue citations, impose fines, and arrest persons for the purpose of detaining them until the city police arrived. Under state law, the legislature was permitted to make limited and specific delegations of the state's power of eminent domain to the university by passing specific legislation stating the purpose for which exercise of the power by the university was restricted. Several delegations had been made for purposes such as acquiring a residence hall and a university dining hall.

Both revenue rulings set forth the following language to be used as the standard for being a political subdivision for purposes of issuing tax exempt bonds:

> Section 1.103-1(b) of the regulations provides, in part, that the term "political subdivision" denotes any division of any state or local governmental unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit.
>
> Three generally acknowledged sovereign powers of states are the power to tax, the power of eminent domain, and the police power (citations omitted). It is not necessary that all three of these powers be delegated. However, possession of only an insubstantial amount of any or all sovereign powers is not sufficient. *All of the facts and circumstances must be taken into consideration, including the public purposes of the entity and its control by a government.* (emphasis added)

Rev. Rul. 77-164 concluded that (1) the CDA's power to impose and collect service and

[18] 1977-1 C.B. 21.

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user fees was not analogous to the power to tax, (2) the CDA was not vested with any power of eminent domain, and (3) the CDA did not possess police power, and concluded that the CDA did not qualify as a political subdivision within the meaning of Regulation section 1.103-1(b). GCM 36994, which reviewed the revenue rulings prior to their release, specifically considered restrictions placed on sovereign powers and stated that the critical inquiry is not whether the power is somewhat restricted but whether the actual power exists.

Rev. Rul. 77-165 concluded that (1) support by legislative appropriations was not the equivalent of the exercise of the power of taxation, (2) the right to exercise the power of eminent domain in specific projects designated by the legislature did not represent a substantial right to exercise the power of eminent domain, and (3) the limited power of regulating traffic within its confines and a limited arrest power are not a delegation of a substantial police power. Accordingly, the state university did not qualify as a political subdivision.

These rulings appear to be the first time that the Service specifically stated that all the facts and circumstances must be taken into account and mentioned as such circumstances "public purpose" and "control by a government." The context in which the statement was made is very important. The context indicates that all facts and circumstances are to be taken into account *in determining whether the entity has adequate sovereign power*. The context does not suggest that either public purpose or control by a government is a requirement of political subdivision status independent of the inquiry into sovereign power. Furthermore, none of the authorities that we have reviewed indicate that control is a requirement independent of such inquiry.

The notion that public purpose and control are part of the facts and circumstances when determining if the entity has sufficient sovereign power, and that control and public purpose are not independent requirements, is further captured in the language of GCM 36994, which reviewed and analyzed Rev. Rul. 77-164 and Rev. Rul. 77-165 prior to the revenue rulings being finalized. GCM 36994 states as follows:

> The definition provided in Treas. Reg. § 1.103-1(b) has been construed, clarified and acknowledged in a significant number of cases and rulings (citations omitted). Though the concept of "sovereign power" has not been conclusively defined and the required quantity of such power has not been specified with numerical accuracy, the meaning of "part of the sovereign power" of the state, as used in Treas. Reg. § 1.103-1(b), is well understood. "Sovereign power" has been recognized, in general, to include "the powers of taxation and eminent domain and the police power." G.C.M. 36832 at 7. An entity need not possess all three of those powers, but whatever powers the entity does possess must be substantial in their effect, as are the enumerated powers, as well as in amount. See *Commissioner v. Shamberg's Estate* …. Whatever doubt exists as to exactly what constitutes the minimum amount of required "sovereign power" this Office is unprepared to concede that the possession of only one sovereign power is sufficient. We arrive at this conclusion after considering that the enumerated sovereign powers (taxation, eminent domain, police) can exist in an entity in only a minor degree and recognizing that all the facts and circumstances must be taken into consideration, including the public purposes of the entity and control of the entity by a government (See Rev. Rul. 71-485)…

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GCM 36994 further states that "we consider the meaning of 'political subdivision' for purposes of ection 103(a)(1), to be well settled." Nowhere does either revenue ruling or the GCM indicate that control or public purpose are stand-alone requirements. The sentence that mentions "all the facts and circumstances must be taken into consideration, including the public purposes of the entity and control of the entity by a government" addresses whether the entity has sufficient enumerated sovereign powers. If either control or public purpose was intended as a requirement independent of the sovereign power inquiry, GCM 36994 would have provided a discussion on control and public purpose, particularly in light of the fact that prior authorities did not mention control and public purpose as independent requirements. Significantly, neither ruling discussed how the governing board of the entity in question was selected or made any reference to a general electorate as a necessary factor.

III. ANALYSIS

A. Introduction

This section first provides a brief summary of Rev. Rul. 83-131 and shows that reliance on Rev. Rul. 83-131 in the 2013 TAM is misplaced. Second, the section sets forth why the Service should rely exclusively on authorities (cases and revenue rulings) addressing political subdivision status in the tax advantaged bond area. Third, we address considerations pertinent to potential new regulations addressing political subdivision: public purpose, division status, and control.

B. Rev. Rul. 83-131

Rev. Rul. 83-131 reversed a prior revenue ruling which held that certain North Carolina electric and telephone membership corporations qualified as political subdivisions for purposes of excise tax exemptions.

Rev. Rul. 83-131 essentially has four conclusions: (1) "the [membership] corporations … are not divisions of a state or local government unit but are financially autonomous and not controlled by a state or local government," (2) "the [membership] corporations do not have sufficient sovereign power to qualify as political subdivisions," (3) because "the membership corporations are not controlled directly or indirectly by a state or local government [, but instead,] the business and affairs of the corporations are controlled by a board of directors that is independent of such authority," the membership corporations do not qualify for the excise tax exception based on control by an agency of a state or local government, and (4) the membership corporations do not satisfy the excise tax exception for organizations performing a traditional governmental function on a nonprofit basis" because "neither providing electric services nor providing telephone services is a traditional governmental function because electric and telephone services are not generally provided by state or local governments directly."

The thinking of the Service on "division" and control notions is apparent from the following two statements in GCM 37629 (July 31, 1978), which addressed political subdivision status in a draft of the revenue ruling prior to its release.[19]

[19] GCM 38659 (March 19, 1981) also evaluated a draft of the Rev. Rul. 83-131 prior to it being finalized, although

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> The electric membership corporations also fail to meet the definition of political subdivision on the ground that they are not a "division" of [a state or local governmental unit]. The electric corporations are organized and operated by their user members for their own benefit and without assistance from any state or local governmental unit. The absence of stringent control of the electric corporations by a government and the corporations' lack of public purposes afford further proof that the electric corporations are not political subdivisions.
>
> …
>
> We would also take issue with designating the telephone [membership] corporations as 'divisions' of the state …. The telephone corporations are organized and controlled by their user members and managed by a board of directors. They are financially autonomous and their operations are solely for the benefit of their own members. Therefore, the corporations are neither sufficiently controlled by a government nor motivated by wholly public purposes. As a result, the telephone corporations are not political subdivisions. (emphasis added)

In support of its ruling that the Issuer is not a political subdivision for tax exempt bond purposes, the 2013 TAM presumably relied on the following passage from Rev. Rul. 83-131, which addressed the control issue and held that the membership corporations in Rev. Rul. 83-131 were not divisions of a state or local governmental unit:

> [T]he corporations in the present case are not divisions of a state or local government unit but are financially autonomous and not controlled by a state or local government. Also, they are not motivated by wholly public purposes.

Thus, the Service concluded in Rev. Rul. 83-131 and GCM 37629 that the membership corporations were not divisions of the state of North Carolina. The above quoted language of GCM 37629 shows that the concern of the Service in Rev. Rul. 83-131was a lack of control by a governmental unit, and the ability of the district to operate for the benefit of the controlling members of the Issuer rather than for "wholly public purposes."[20] Recognizing that the GCMs

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GCM 38659 only addressed exclusive use excise tax exemptions. While General Counsel Memoranda provide the rationale behind administrative ruling, they are not legal precedent, and are infrequently reviewed when evaluating issues such as political subdivision status. See http://www.irs.gov/uac/General-Counsel-Memoranda. Accordingly, much of the practicing bar may not even be aware of the language from GCM 37629 and GCM 38659 quoted herein.

[20] Additionally, there are significant factual differences between the 2013 TAM and Rev. Rul. 83-131. Unlike the entities in GCM 37629 and Rev. Rul. 83-131, the entity in the 2013 TAM was not a membership corporation but instead was a community development district formed under a specific state statute as a governmental entity for state law purposes and controlled by a governing board elected in the district pursuant to a statutory mandated election process. Further, on dissolution of the membership corporations in Rev. Rul 83-131, any assets remaining after payment of debts were to be distributed among members of the corporations. Rev. Rul. 83-131 in fact revoked Rev. Rul. 57-193, in part, on this basis, i.e., a prior version of the North Carolina statute provided for distribution of assets to the state on dissolution. In the 2013 TAM, on dissolution, assets remaining after payment of debts were to be distributed to a local government or political subdivision. Under the facts of the GCM, the entities in question were membership corporations organized and operated by their user members for their own purpose and GCM 37629 stated that the absence of control of the *membership corporations* and a lack of public purpose *were evidence* that

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are not authority, we believe that they nevertheless provide useful perspective in this regard.

After concluding that such membership corporations were not divisions of a state or local governmental unit, Rev. Rul. 83-131 inquired whether the membership corporations would nevertheless be eligible for excise tax exemptions because sales "could be considered to be made for the exclusive use of a state or local government." While explaining the application of "exclusive use of a state or local government exception" to the facts of the electric and telephone membership corporations," Rev. Rul. 83-131 set forth the language actually quoted in the 2013 TAM, *i.e.,* that the corporations are not "controlled, directly or indirectly, by a state or local government [but rather], the business and affairs of the corporations are controlled by a board of directors that is independent of such authority" and concluded that the membership corporations were not so controlled by a state or local government. Thus, the language of Rev. Rul. 83-131 that is quoted from and relied on in the 2013 TAM is not part of the analysis of Rev. Rul. 83-131 that was used to determine the political subdivision status of the corporations. Instead, it addressed one of the excise tax exceptions.

Further, Rev. Rul. 83-131 does not provide support for the accountability to a general electorate requirement set forth in the 2013 TAM. Neither the language of Rev. Rul. 83-131, nor the related GCM, address the criteria set forth in the 2013 TAM, *i.e.,* the requirement of inherent accountability, directly or indirectly, to a general public electorate; appropriate safeguards to prevent a private entity from determining how the bond subsidy should be used; and a general public to which the general electorate is responsible. If these additional requirements are to be imposed, they should be developed through a process whereby the public is provided an opportunity to comment.

C. Relevant Authorities for Definition of "Political Subdivision"

Rev. Rul. 77-143 and 78-276 state that term "political subdivision" has been defined consistently for all federal tax purposes as denoting either a division of a state or local government that is a municipal corporation or a division of such state or local government that has been delegated the right to exercise sovereign power.

While the notion of a consistent definition may have been accurate at some point in time, the Committee believes that the use of authorities addressing "on behalf of" issuer status, excise tax exemptions, and section 115 obfuscate the analysis. This is because political subdivision status, "on behalf of" issuer status, excise taxes exemptions, and section 115 are often considered at the same time. While control is an important consideration with respect to "on behalf of" issuer status, excise tax exemptions, and section 115 status, it is not a specific requirement applicable to political subdivision status.

Such confusion is illustrated in the 2013 TAM and the *Philadelphia National Bank* case. The 2013 TAM quotes language from Rev. Rul. 83-131 for control notions that is applicable to specific excise tax exemptions that have no bearing on the status of the issuer as a political subdivision. The *Philadelphia National Bank* case analyzes control of Temple University with

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the entity does not qualify as a political subdivision. Neither Rev. Rul. 83-131 nor GCM 37629 stated that control is a requirement to qualify as a political subdivision.

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respect to on behalf of issuer status but not with respect to political subdivision status. To avoid confusion, when issuing further guidance on the definition of political subdivision for purposes of tax-advantaged debt, the Committee recommends that Treasury and the Service should rely exclusively on case law and rulings relating to the issuance of tax exempt financings (*i.e.,* the precedents discussed above) and that the regulations carefully differentiate between political subdivision status and other legal statuses (*e.g.*, "on behalf of," integral parts, and section 115 statuses).

D. Public Purpose Considerations

To qualify as a political subdivision, an entity must further a recognized public purpose. The 1914 AG Opinion language cited by *Shamberg* states that the entity needs to have been created:

> . . . for purposes of carrying out a portion of those functions of the State which by long usage and inherent necessities of government have always been regarded as public. The words 'political' and 'public' are synonymous in this connection.

Similarly, *Seagrave* states that an entity "cannot be called a subdivision of the State unless there has been a "delegation [ ] of some functions of local government."

The concept of public purpose needs to be flexible as the necessities of government change over time. Public purpose is not addressed at length in this comment letter because, in our experience, political subdivision status is rarely, if ever, resolved on the basis of a lack of public purpose. However, if Treasury and the Service plan to further define or explain what constitutes a public purpose, any developments on this point should be addressed through proposed regulations and, although the federal government would bear the cost, consideration could be given to allowing significant discretion to state and local governments to determine what constitutes a public purpose.

E. "Division" Considerations

The last hundred years have shown that a narrow or strict approach to determining when an entity qualifies as a political subdivision is unworkable to achieve the administration of state and local governments. Generally, division status has been found where proper authorities of a state, acting within their constitutional powers, provide for a delegation of some of their governmental functions and sufficient sovereign powers. Nowhere in the leading authorities or the regulations is it suggested that accountability to the general public is a requirement to qualify as a political subdivision. As stated above, Regulation section 1.103-1(b) simply states that a political subdivision is "any" division, provided that there is sufficient sovereign power. Regulation section 1.103-1 does not specify any requirements needed to qualify as a "division," or "political subdivision."

The most specific precedent for what constitutes a division is the language set forth in *Shamberg* and the 1914 AG Opinion, which both state that:

> the term "political subdivision" is broad and comprehensive and denotes *any* division of the State made by the proper authorities thereof, acting within their

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> constitutional powers, for the purpose of carrying out a portion of those functions of the State….

This language has been in place for more than 100 years. The 1914 AG Opinion is dated January 30, 1914 and *Shamberg*, which was decided 30 years later (August 24, 1944), goes on to state:

> The term 'political subdivision' may be used in statutes in more than one sense. It may designate a true governmental subdivision such as a county, township, etc., or, as held in the Attorney General's opinion under consideration, it may have a broader meaning, denoting any subdivision of the state created for a public purpose although authorized to exercise a portion of the sovereign power of the state only to a limited degree.

The quoted language shows that "division" is intended to have a broad meaning. The only requirements to be a "division" discussed in *Shamberg* are that the division be "created by proper authorities [of a state], acting within their constitutional powers … for the purpose of carrying out a portion of those functions of the State which by long usage and the inherent necessities of government have always been regarded as public."

The history of Regulation section 1.103-1 is set forth in Appendix II. The regulation has not changed in any significant respect from its initial adoption in 1936. Minor changes were made in 1938, 1939, 1957, 1972, and as recently as 1977. With regard to "division," the regulation states that a political subdivision is:

> any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any State or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any such unit.

Regulation section 1.103-1 does not go as far as *Shamberg* and the 1914 AG Opinion by stating that a division must be made by the proper authorities of a state, acting within constitutional powers, for the purpose of carrying out a portion of the functions of a state. Regulation section 1.103-1 does not mention control or public purpose. The only articulated standard in the regulation is that the political division be "a division of any state or local governmental unit" and that the division be delegated the right to exercise part of the sovereign power of the governmental unit.

The Committee acknowledges that not every entity created pursuant to state law will qualify as a political subdivision. For example, in *Seagrave,* the Tax Court found that private nonprofit corporations established under the state's general incorporation statute to function as volunteer fire departments are not subdivisions despite performing public functions. The Tax Court stated that the volunteer fire companies were not in any sense subdivisions of the respective states and that they were not created by any special statutes, and that they received no

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delegation of any part of the state's power. It is not enough that they perform a public service. They cannot be called a subdivision of the state if there has been no delegation to them of some functions of local government.

The Committee is not aware of any judicial precedent, regulatory proposal or other guidance, or any private letter ruling,[21] that sets forth considerations or standards for being a division of a state similar to those set forth in the 2013 TAM (*e.g.*, inherently accountable, directly or indirectly, to a general electorate; a democratic process to ensure that subsidized bond financing is used for projects which the general electorate considers appropriate state or local government purposes; safeguards to ensure that governmental units determine how the bond subsidy should be used). The Committee believes that the division language of the regulations is satisfied if the division is established by a proper authority of a state, acting within its constitutional power, for the purpose of carrying out governmental functions.

F. Control and Accountability Considerations

Accountability to a governmental unit or to a general electorate can also be thought of as "control." Under current law, control is not an independent requirement to establish political subdivision status. Neither *Shamberg* nor the 1914 AG Opinion refers to control as an independent requirement of political subdivision status. The closest notion to control is the language that provides that a division is to be "made by [ ] proper authorities acting within their constitutional powers…."

In the context of tax advantaged bonds and political subdivision status, "control" was first mentioned in Rev. Rul. 77-164 and Rev. Rul. 77-165. There was no evaluation of control of the entities under consideration (*i.e.,* the CDA in Rev. Rul. 77-164 or the university in Rev. Rul. 77-165). Additionally, control was not described as an independent requirement. When evaluating whether an entity has been granted sufficient sovereign powers, all facts and circumstances are to be considered, including control. In Rev. Rul. 59-393, despite limited rule making and taxing power, the subject soil conservation district was determined to be a political subdivision where the state had strong control and, on dissolution, all assets were to be provided to the state. Rev. Rul. 59-393 establishes that where there is a minimal delegation of sovereign power, strong control can be used to establish that an entity qualifies as a political subdivision.

In various governmental contexts, it appears that Treasury and the Service have been moving toward a requirement of control by superior governmental units. For example, in the context of whether an entity is an "instrumentality" for purposes of section 141, the Committee understands that the Service will not issue a favorable private letter ruling unless the applicant establishes control by a governmental unit. In proposed rulemaking under section 414(d), Treasury and the Service are proposing that (a) the term political subdivision of a state be defined as a regional, territorial, or local authority, such as a county or municipality (such as, a municipal corporation), that is created or recognized by state statute to exercise sovereign

[21] A discussion of private letter rulings ("*PLR*" or "*PLRs"*) issued to date on political subdivision status in these comments was considered but it was decided not to include such discussion because: (1) such rulings are based on particular facts and circumstance of a particular issuer and all relevant facts and circumstance may or may not have been mentioned in the private rulings, and (2) PLRs have no precedential value.

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powers, where *the governing officers are either appointed by state officials or publicly elected*, and (b) in making the determination of whether an entity is an agency or instrumentality of a state or political subdivision of a state, a significant factor is whether the entity's governing board or body is controlled by a state (or political subdivision thereof). Importantly, the Service has repeatedly stated that section 414(d) provisions are not be applicable to the analysis under section 103.

The Committee does not advocate that control should be a separate requirement for an entity to qualify as a political subdivision. The Committee also strongly recommends against a stringent control standard. A separate control requirement must be carefully considered and developed, and Treasury and the Service need to be mindful that issuers with varying levels of control by other governmental units have been in place for long periods of time. Such issuers will need flexibility and continued access to federally subsidized financing for needed public improvements.

However, if Treasury and the Service intend control to be an independent consideration or otherwise to be developed as relevant to political subdivision status, that change should be developed in proposed regulations so that all interested parties are put on notice of any potential changes and have an opportunity to comment. Further, if control is to be developed as a consideration, the Committee believes that a facts and circumstances analysis should be used because the governmental purposes to be achieved by an issuer will vary significantly across political subdivisions, and the types of sovereign powers (tax, police and eminent domain) needed to achieve the governmental purposes will vary from case-to-case.

IV. CONCLUSION AND RECOMMENDATIONS

The legal analysis set forth in the 2013 TAM, which would impose new requirements for qualifying as a political subdivision, is not supported by judicial, regulatory or administrative precedent. Accordingly, we believe that the 2013 TAM should be withdrawn, or modified to conform with existing precedent.

While we do not comment on whether the Issuer in the 2013 TAM qualifies as a political subdivision or whether the interest on the bonds that it issued is excludable from gross income of the holders thereof, we do recommend, however, that the Service reconsider the analysis set forth in the 2013 TAM. Our concern is that the analysis used in the 2013 TAM imposes new requirements for qualifying as a political subdivision that are not supported by existing legal precedent and could call into question a variety of financing structures that have been used for many years in many states.[22]

Although the 2013 TAM cannot be used as precedent, it has been and will be reviewed

[22] In the 2013 TAM, the Service stresses that the Issuer was organized and operated to perpetuate private control by the developer and avoid responsibility to a public electorate. This language suggests that the Service was concerned with notions related to private inurement, private benefit to the developer, and private use, rather than the political subdivision status of the Issuer. These concerns may better be addressed under the private use rules rather than on the basis of whether an issuer is a political subdivision. A discussion of private use issues of the Issuer are beyond the scope of these Comments.

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by practitioners and auditors alike and creates uncertainty with regard to the standard to be applied when evaluating political subdivision status. Audits of other issuers based on the additional requirements stated in the 2013 TAM would be inappropriate and costly to state and local governments. Questions also arise about the relevance and significance of the considerations in the 2013 TAM when opinions are to be issued, particularly in the context of issuing the unqualified opinions which are generally required of bond counsel in the tax exempt bond market.

Given the strong need for certainty in the tax exempt transactional practice, we also recommend that Treasury and the Service issue a Notice providing interim guidance and stating that proposed regulations will be issued providing an updated definition of political subdivision for purposes of issuing tax-advantaged bonds. Consistent with the recommendations of the House of Representatives Committee on Appropriations,[23] such a Notice should also state that any change to the definition of political subdivision will apply solely on a prospective basis. Attached in Appendix I is a suggested outline of such a Notice and several examples that might be considered for inclusion in the Notice. Should Treasury and the Service decide to pursue a proposed notice, the Committee would be pleased to further discuss these examples and any proposed analysis for the determination of whether an entity qualifies as a "division" and provide any other helpful input.

[23] H. Rep. 113-508, at 20 (2014) stated:

> *Guidance on the Definition of Political Subdivision.*--The Committee is concerned that recent actions by the IRS have caused confusion concerning the definition of a political subdivision under the tax exempt bond rules, including for entities long-recognized as political subdivisions, and have resulted in the inability to move forward with or the delay of economic development projects throughout the country. The Committee encourages the IRS to issue guidance to clarify the definition of political subdivision, to provide opportunity for public comments prior to any changes, and to make changes, if any, prospective.

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APPENDIX I

Outline of Proposed Notice Addressing Definition of Political Subdivision

Purpose of the Notice

- Update published guidance with respect to the definition of the term political subdivision for purposes of section 103 (Rev. Rul. 77-164 and Rev. Rul. 77-165)
- Set forth examples (see below)

Background

- Include description of Reg. § 1.103-1 and cases and revenue ruling set forth in the Tax Exempt Financing Committee's Comments
- Describe concerns of the Service in this area
- Describe concerns of practitioners and the industry in this area (*e.g.*, concerns regarding adverse effect of the TAM on construction of traditional municipal infrastructure)
- Acknowledge market practice regarding delivery of unqualified opinions

Scope and Application

- Treasury and the Service expect to promulgate proposed regulations
- General Guidance
    - Acknowledge that there are numerous different structures for governmental units/political subdivision throughout the United States (hundreds)
    - Given the variety of structures, there is a need for a "principled approach" to establishing political subdivision status, i.e., a highly engineered approach would be inflexible and would not work
    - Totality of circumstances is to be considered
    - Consider an approach similar to Announcement of Proposed Rule Making for determining if an entity is an agency or instrumentality of a state for governmental plan (section 414(d)) purposes, i.e., look to all facts and circumstances. Two categories of factors, main factors and others factors; to be modified/refined to address relevant considerations for political subdivision status.
    - Discuss role of control and how it is established
    - Discuss "public purpose" and how it is established
    - Consider grandfathering entities in place [as of _____][for more than __ years]. Alternatively, consider grandfathering debt issued prior to the publication of Final Regulations in the Federal Register.

Examples

- Example 1 – *Special Irrigation District*. Special Irrigation District X was created pursuant to the laws of State Y to provide irrigation for the area under its jurisdiction which

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encompasses a rural area with approximately 10 farms. Special Irrigation District X is governed by an independent board of directors elected by a limited number of landowners in its jurisdiction based upon acreage. Special Irrigation District X has the right to condemn property and the power to impose property taxes. Special Irrigation District X is also subject to oversight by State Y in that it must submit annual financial reports to State Y and must follow state laws pertaining to public meetings, bonded indebtedness, recordkeeping, and elections. Special Irrigation District X is a political subdivision.

- Example 2 – *Mutual Ditch Company.* Mutual Ditch Company Z was created pursuant to general non-profit cooperative corporation laws of State Y for the purpose of constructing and operating irrigation ditches to deliver irrigation water from a reservoir to farms adjacent to the ditches. Ten farms served by Z's ditches and the owners are also the owners of the rights to all of the water that flows through Z's ditches. The owners, by virtue of their ownership of the water rights to the water that flows through Z's ditches, are the members of Z, which is a membership corporation that does not issue stock. Z is governed by an independent board of directors elected by its members, each of which has a vote that is weighted according to the acre-feet of water rights owned by that member that are transported in Z's ditches. Z has the right to condemn property for the purpose of constructing, operating and maintaining its ditches. Z is not subject to any of the laws of Y that apply to governmental entities, such as open meeting laws, public records laws, laws on bonded indebtedness and laws on governmental elections. Z is however subject to the same level of supervision by the state attorney general as are other cooperative non-profit corporations. Z does not have any of the immunity from tort liability that governmental entities in Y typically have, and on dissolution, Z's assets, after all of Z's creditors are paid, are divided among Z's members, in the same proportion as that used to determine a member's weighted vote. Z is not a political subdivision because it is not a municipal corporation or a division of state or local government.

- Example 3 – *General Purpose District*. A tax district in state is formed under state statute by County approval (the "District") to provide essential governmental functions to an area within County for which development is planned by a single private developer ("D"). At the time of formation of the District and during an initial development period D is likely to be the sole property owner. D intends to proceed with all reasonable speed to develop and sell the land within the District to members of the general public for commercial use. The District, whose board is initially elected by the sole landowner, issues bonds and uses the bond proceeds to finance facilities for traditional governmental functions, including extensions of municipal water systems, street construction and paving, curbs, storm water collection, sidewalk and street-light installation, and sewage disposal. The bonds will be repaid and secured by assessments on the property. D and the District reasonably expect that property will be sold or ground leased long term to at least two unrelated parties who will become eligible to elect board members and that the board will be controlled by board members unaffiliated with the initial developer within 5 years. The District is a political subdivision because it (i) is a division of state or local government, and (ii) has been delegated more than an insubstantial amount of the power to tax.

- Example 4 – *Homeowners' Association.* Homeowner's association ("HOA") is formed under state's general non-profit cooperation laws and state's laws governing common interest communities. These laws requires the creation of associations organized under general for-

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profit or non-profit corporation law to govern commonly owned areas in a common interest community and to enforce the covenants that apply to all real property within the boundaries of the common interest community by virtue of covenants, declarations and restrictions in the deeds to property in the common interest community. Each person who is an owner of property in the common interest community is a member of the HOA, but only for so long that person owns property in the common interest community. HOA provides open space and parks, a clubhouse and swimming pool, tennis courts, and limited security services to and for the benefit of the members of HOA, and their renters and guests. The HOA has no power of eminent domain. It does have the right to charge assessments against all property in the common interest community other than HOA owned property and it employs a private security service which provides guards and other safety related services to protect HOA owned property and limited security services for all property in the common interest community. HOA is subject to regulation and supervision by the state as an association governing a common interest community, which include rules about access to records, a member's right to attend meetings of the board of directors, and elections of directors and elections on changes in covenants and by-laws. These rules are not the same as the public meetings laws, public records laws and election laws applicable to governmental entities in the state, and HOA does not have any of the immunity from tort liability that governmental entities in the state typically have. On dissolution, HOA's assets, after all of HOA's creditors are paid, are divided among HOA's members. The HOA is not a political subdivision because it is not a municipal corporation or a division of state or local government and it has not been delegated more than an insubstantial amount of any of the sovereign powers of eminent domain, taxation or the police power

- Example 5 – *Commercial Development District*. (i) District X is a special district created under the constitution of State Y and specifically formed under a specific state law (the "*Act*"). The boundaries of District X are located entirely within City Z, which must consent to the creation of District X prior to any election confirming the District. The stated public purposes of District X are economic development and the expansion of commerce. The Act specifically allows District X to develop streets, water and wastewater facilities, roads, sidewalks, lighting, parking, rail and recreational facilities and other public facilities, and to finance such improvements through the issuance of bonds supported by ad valorem taxes on all property within District X if authorized by a majority of the voters. The Act may be amended by the state legislature from time to time.

  District X is expected to be a primarily commercial district. Initially, all of the property within the boundaries of District X will be owned by a single for-profit developer ("*Developer*"). As development occurs, Developer intends to sell or lease portions of the property within the District to other commercial entities unrelated to Developer, but there is no guarantee that such sales will occur or when they may occur.

  Pursuant to provisions of the Act, temporary directors are appointed by a state agency (the "*Agency*") after receiving from the owners of a majority of the assessed value of the real property within the boundaries of District X a petition naming such temporary directors. As the sole landowner in District X, the Developer named the temporary directors. Pursuant to state law, before issuing any bonds or other obligations, the temporary directors must hold an election to confirm the establishment of District X and to elect permanent directors.

  Pursuant to a valid election under state law, eligible voters in District X have authorized

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the imposition of an ad valorem tax on all property owners in District X. District X is subject to state public meeting and public records laws applicable to governmental entities, and its governing body members and employees are subject to state public conflict of interest, financial reporting and disclosure and other ethics laws generally applicable to government officials and government employees. Upon dissolution, the assets of District X will be liquidated to pay its obligations, and the remainder distributed to City Z.

District X is a political subdivision because it (i) is a division of state or local government, and (ii) has been delegated more than an insubstantial amount of the power to tax.

(ii) The facts are the same as above except that eligible voters (defined under state law to be owners of property located in District X and residents of District X) are likely to be corporations and other legal entities that are not natural persons, and the number of resident voters in District X is limited and is expected to remain limited. Resident voters may have a relationship to the Developer. The fact that there will be a limited number of voters does not prevent District X from being a division of state or local government and a political subdivision.

(iii) The facts are the same as above except that in connection with the creation of District X, the voters have also authorized the issuance of bonds for the purpose of extending existing rail facilities, which are owned by a private user. The primary purpose of District X is to further economic development by extending rail facilities, which will be accomplished by granting proceeds of the bonds to a private user to build the additional rail facilities, which will be owned and operated by the private user. District X will receive no payments from such private user, and the bonds will be paid solely from the ad valorem taxes on property within District X.

The fact that District X intends to issue bonds the proceeds of which will be used for private business use that will indirectly benefit the Developer, who may exercise some level of control over the election of the board of directors, does not prevent District X from being a division of state or local government and a political subdivision.

- Example 6 – *Retail and Commercial Office District*. (i) County A determines to promote development of a blighted area located within its boundaries. In response to a request for proposals issued by County A, Developer D submits a proposal for a mixed-use office and retail development for the area. As part of the proposal, Developer D proposes the formation of District B to finance public infrastructure for the project consisting of what will be governmentally owned streets, sidewalks, streetlights, and water and sewer facilities. District B is a unit of special purpose government formed under specific state law (the "Act"). The Act authorizes the formation of special districts for the purpose of financing specified categories of infrastructure improvements through the issuance of bonds. District B is authorized to levy and collect more than an insubstantial amount of ad valorem taxes on all non-exempt real property located within District B. As required under the Act, Developer D submits a petition to County A for the formation of District B describing the proposed infrastructure improvements, the amount of bonds to be issued, and the source of repayment of the bonds. County A approves the formation of District B by legislative action. Initially, Developer D is the only property owner and the only eligible elector within District B. District B is a governmental entity under state law, *e.g.*, it is subject to public meetings and

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public records laws applicable to governmental entities, its employees and officers are subject to public conflict of interest, financial reporting and disclosure, and public ethics laws applicable to public employees and officials. The election of its governing board is subject to state's general public election laws. Under the Act, District B must provide annual financial reports and audits to County A. Upon dissolution, the assets of District B will be liquidated to pay its obligations, and the remainder distributed to County A. Pursuant to the Act, the governing board of District B is elected by eligible electors of the District, consisting of owners of property in the District. District B is a political subdivision because it (i) is a division of state or local government, and (ii) has been delegated more than an insubstantial amount of the power to tax.

(ii) The result does not change if Developer D is expected to retain ownership of substantially all of the real property located in the District for the foreseeable future and to lease space to retail and business tenants.

Interim Guidance and Reliance

- Notice provides interim guidance. Issuers of tax exempt bonds may rely on the Notice for any actions taken with respect to tax exempt bonds on or before the effective date of Final Regulations under section 103 that implement the guidance in the Notice.
- Treasury and the Service may amend or supplement the guidance in this Notice as circumstances warrant.

Request for Comments

- Before any notice of proposed rulemaking is issued with respect to the guidance set forth in the Notice, consideration will be given to any written public comments on the Notice that are timely submitted.

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APPENDIX II

Legislative Acts

Tariff Act of 1913, Section II (Income Tax), Paragraph B:

> That in computing net income under this section there shall be excluded the interest upon the obligations of a State or any political subdivision thereof, and upon the obligations of the United States or its possessions;[1]

Revenue Act of 1934, § 22(b)(4):

> (4) TAX-FREE INTEREST.—Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing number and amount of such obligations owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit) and in the case of obligations of a corporation organized under Act of Congress, the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from the taxes imposed by this title;[2]

REGULATIONS

Regulations 94 (1936)[3]

> Art. 22 (b)(4)-1. *Interest upon State Obligations.* – Interest upon the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia is exempt from the income tax. Obligations issued by or on behalf of the State or Territory or a duly organized political subdivision acting by constituted authorities empowered to issue such obligations, are the obligations of a State or Territory or a political subdivision thereof. Special tax bills issued for special benefits to property, if such tax bills are legally collectible only from owners of the property benefited, are not the obligations of a State, Territory, or political subdivision. The term "political subdivision", within the meaning of the exemption, denotes any division of the State or Territory which is a municipal corporation, or to which has been delegated the right to exercise part of the sovereign power of the State or Territory. As thus defined, a political subdivision of a State or Territory may, for the purpose of exemption, include special assessment districts

[1] Ch. 16, 38 Stat 168 (1913).

[2] Ch. 277, 48 Stat 687 (1934).

[3] 1 Fed. Reg. 1802, 1818 (Nov. 14, 1936).

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so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of a State or Territory. (emphasis added)

26 CFR § 3.1-1 (1938):

> 3.22 (b) (4)-1 Interest upon State obligations. Interest upon the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia is exempt from the income tax. Obligations issued by or on behalf of the State or Territory or a duly organized political subdivision acting by constituted authorities empowered to issue such obligations, are the obligations of a State or Territory or a political subdivision thereof. Special tax bills issued for special benefits to property, if such tax bills are legally collectible only from owners of the property benefited, are not the obligations of a State, Territory, or political subdivision. The term "political subdivision," within the meaning of the exemption, denotes any division of the State or Territory which is a municipal corporation, or to which has been delegated the right to exercise part of the sovereign power of the State or Territory. As thus defined, a political subdivision of a State or Territory may, for the purpose of exemption, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of a State or Territory. (emphasis added)

Regulations 101 (1939)[4]

> ART. 22 (b) (4)-1. Interest upon State obligations. Interest upon the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia is exempt from the income tax. Obligations issued by or on behalf of the State or Territory or a duly organized political subdivision acting by constituted authorities empowered to issue such obligations, are the obligations of a State or Territory or a political subdivision thereof. Special tax bills issued for special benefits to property, if such tax bills are legally collectible only from owners of the property benefited, are not the obligations of a State, Territory, or political subdivision. The term "political subdivision," within the meaning of the exemption, denotes any division of the State or Territory which is a municipal corporation, or to which has been delegated the right to exercise part of the sovereign power of the State or Territory. As thus defined, a political subdivision of a State or Territory may or may not, for the purpose of exemption, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of a State or Territory. (emphasis added)

[4] 4 Fed. Reg. 611, 634 (Feb 10, 1939) (emphasis added). *See also Shamberg* ("The provisions of the foregoing Article of Regulations 94 were amended in Treasury Regulations 101, promulgated under the Revenue Act of 1938 so that the words "or may not" follow the word "may" in the last sentence.").

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Reg. § 1.103-1(b) (1972):[5]

> (a) Interest upon obligations of a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually referred to as "State or local governmental unit") is not includable in gross income, except as provided under section 103(c) and (d) and the regulations thereunder.
>
> (b) Obligations issued by or on behalf of any State or local governmental unit by constituted authorities empowered to issue such obligations are the obligations of such a unit. However, section 103(a)(1) and this section do not apply to industrial development bonds except as otherwise provided in section 103(c). See section 103(c) and §§1.103-7 through 1.103-12 for the rules concerning interest paid on industrial development bonds. See section 103(d) for rules concerning interest paid on arbitrage bonds. Certificates issued by a political subdivision for public improvements (such as sewers, sidewalks, streets, etc.) which are evidence of special assessments against specific property, which assessments become a lien against such property and which the political subdivision is required to enforce, are, for purposes of this section, obligations of the political subdivision even though the obligations are to be satisfied out of special funds and not out of general funds or taxes. The term "political subdivision," for purposes of this section denotes any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any State or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any such unit. (emphasis added)

[5] T.D. 6220, 25 Fed. Reg. 11,402 (1956) (as amended by T.D. 7199, 37 Fed. Reg. 15,486 (1972)).

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

v.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

Supreme Court Case No. 160658

Court of Appeals Case No. 334663

APPENDIX – VOLUME 3
PLAINTIFFS-APPELLANTS APPENDIX TO TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

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(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
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TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

Supreme Court Case No. 160658

v.

Court of Appeals Case No. 334663

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

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Brief in Support of Answer to Complaint w/ Exhibits A-C, Filed Nov 1, 2016 (Doc No 25)	00317a-00516a
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Reply Brief in Support of Complaint, Filed Dec 21, 2016 (Doc No 33)	00517a-00531a
Sur-Reply in Support of Answer to Complaint, Filed Jan 4, 2017 (Doc No 41)	00532a-00545a
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VOLUME 6	
Exhibit 1, Headlee Amendment Drafters Notes, Filed Dec 6, 2017 (Doc 71)	00774a-00800a
Exhibit 5, Table D: *Shortfalls in Adjusted State Payments Increase Since Proposal A,* Filed Dec 6, 2017 (Doc 71)	00801a-00802a
Exhibit 6, Affidavit of Robert Kleine, Filed Dec 6, 2017 (Doc 71)	00803a-00814a
Exhibit 7, Affidavit of Mitchell Bean, Filed Dec 6, 2017 (Doc 71)	00815a-00824a
Exhibit 13, *Headlee Criticizes Proposal A As Tax Shift And Tax Increase*, The Detroit News, May 14, 1993, at 2B Filed Dec 6, 2017 (Doc 71)	00825a-00827a
Motion for Summary Disposition w/ Appendix A-B-Defendants, Filed Dec 6, 2017 (Doc 72)	00828a-00956a

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VOLUME 7	
Answer to Def Motion for Summary Disposition w/ Exhibits 1-8, 10, & 12-13-Plaintiffs, Filed Jan 25, 2018 (Doc 86)	00957a-01163a
Exhibit 9, Prop. A State Ballot Proposal & Notice, Filed Jan 25, 2018 (Doc 86)	01164a-01165a
Exhibit 11, Affidavit of Kristin Theut, Filed Jan 25, 2018 (Doc 86)	01166a-01170a
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Reply to Def Answer w/ Exhibits 1-3-Plaintiffs, Filed Feb 8, 2018 (Doc 89)	01227a-01284a
Exhibit 4, Affidavit of William Shaker, Filed Feb 8, 2018 (Doc 89)	01285a-01316a
Brief of Amicus Curiae w/Exhibits-MML, SBM-Govt Law Section, MAC, MTA, Filed Mar 13, 2018 (Doc 99)	01317a-01396a
Supplemental Authority w/ Exhibit A-Plaintiffs, Filed Jul 23, 2019 (Doc 112)	01397a-01414a
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Opinion-Partial Concurrence/Dissent (On Reconsideration) of BORRELLO, P.J., Entered Oct 29, 2019 (Doc No 130)	01429a-01432a
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Exhibit 7, Affidavit of Susan Fino, Filed Dec 10, 2019 (Doc No 147)	01555a-01559a
Exhibit 7 [8], Headlee Amendment Drafters Notes, Filed Dec 10, 2019 (Doc No 147)	01560a-01587a
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STATE OF MICHIGAN
IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

v

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants.

Court of Appeals No. 334663

DEFENDANTS' ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES

NOW COME the Defendants, the State of Michigan, The Department of Technology and Budget of the State of Michigan (DTMB), and Michigan Office of the Auditor General (OAG), by and through their attorneys Bill Schuette Attorney General, and Assistant Attorneys General Matthew B. Hodges, Adam P. Sadowski, David W. Thompson, and Michael S. Hill and state for their Answer to the Complaint filed by Taxpayers for Michigan Constitutional Government, Steve Duchane, Randall Blum, and Sara Kandel (Plaintiffs) as follows:

1. Defendants deny that Plaintiffs' rights have been violated as stated in the Complaint.

2. Defendants state that Article 9, § 25 speaks for itself and any assertions as to what it permits or prohibits is a legal conclusion and no further response is necessary.

3. Defendants state that Article 9, § 25 speaks for itself and any assertions as to what it permits or prohibits is a legal conclusion and no further response is necessary.

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4. Defendants state that Article 9, § 30 speaks for itself and any assertions as to what it permits or prohibits is a legal conclusion and no further response is necessary.

5. Defendants admit this allegation and affirmatively state that all requirements have been complied with as it relates to state spending.

6. Defendants deny that any such violations occurred as alleged in paragraph 6 of Plaintiffs' complaint and affirmatively state that all reported amounts are accurate and proper.

7. Defendants deny that any amounts included in the form of aid that is paid to local governments is improper.

a. Defendants admit that Proposal A spending is included as spending in the form of aid that is paid to local governments but Defendants deny that this is improper.

b. Defendants admit that spending on charter schools is included as spending in the form of aid that is paid to local governments but Defendants deny that this is improper.

c. Defendants deny that spending to support trunk line roads is included as spending in the form of aid that is paid to local governments.

d. Defendants deny that any spending on state mandates is improperly included as spending in the form of aid that is paid to local governments. Plaintiffs fail to sufficiently allege specific facts in compliance with MCR 7.206(E)(1) and 2.112(M).

8. Defendants deny that it has improperly included any figures in its calculations and states that all calculations done were proper.

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9. Defendants deny the allegations contained in paragraph 9 of Plaintiffs' Complaint as untrue.

10. Defendants deny the allegations contained in paragraph 10 of Plaintiffs' Complaint as untrue.

11. Defendants admit that jurisdiction and venue is proper in this Court for the claims of Headlee violations, however, Defendants deny that this Court has jurisdiction over mandamus claims as alleged and claims for money damages. Defendants further deny that all parties are proper parties in this action. For further response, Defendants incorporate by reference their affirmative defenses contained in this Answer.

12. Defendants lack knowledge as to the allegations contained paragraph 12 of Plaintiffs' Complaint and will leave Plaintiffs to their proofs.

13. Defendants lack knowledge as to the allegations contained paragraph 13 of Plaintiffs' Complaint and will leave Plaintiffs to their proofs.

14. Defendants lack knowledge as to the allegations contained paragraph 14 of Plaintiffs' Complaint and will leave Plaintiffs to their proofs.

15. Defendants lack knowledge as to the allegations contained paragraph 15 of Plaintiffs' Complaint and will leave Plaintiffs to their proofs.

16. Defendants admit the allegations contained in paragraph 16 of Plaintiffs' Complaint.

17. Defendants admit the allegations contained in paragraph 17 of Plaintiffs' Complaint.

18. Defendants admit the allegations contained in paragraph 18 of Plaintiffs' Complaint.

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19. Defendants state that the allegations contained in paragraph 19 of Plaintiffs' Complaint are legal conclusions and that no response is necessary.

20. Defendants admit the allegations contained in paragraph 20 of Plaintiffs' Complaint.

21. Defendants state that the allegations contained in paragraph 21 of Plaintiffs' Complaint are legal conclusions and that no response is necessary as Article 9, § 25 speaks for itself.

22. Defendants state that the allegations contained in paragraph 22 of Plaintiffs' Complaint are legal conclusions and that no response is necessary as Article 9, § 25 and § 30 speaks for themselves.

23. Defendants state that the allegations contained in paragraph 23 of Plaintiffs' Complaint are legal conclusions and that no response is necessary as Article 9, § 30 speaks for itself.

24. Defendants state that the allegations contained in paragraph 24 of Plaintiffs' Complaint are legal conclusions and that no response is necessary.

25. Defendants admit that the current base year proportion is 48.97% and that prior to 1993 the base year proportion was 41.61%. However, Defendants deny any remaining characterizations or allegations contained in paragraph 25 of Plaintiffs' complaint.

26. Defendants state that the allegations contained in paragraph 26 of Plaintiffs' Complaint are legal conclusions and that no response is necessary. If a response is required, then Defendants state that it neither admits nor denies the Plaintiffs' characterization of the Headlee Amendment because it speaks for itself.

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27. Defendants admit the allegations contained in paragraph 27 of Plaintiffs' Complaint.

28. Defendants admit the allegations contained in paragraph 28 of Plaintiffs' Complaint.

29. Defendants admit the allegations contained in paragraph 29 of Plaintiffs' Complaint.

30. Defendants admit that MCL 18.1350e and MCL 18.1350b contains statutory duties of DTMB regarding reporting and submission to the OAG and that the statutes speak for themselves and no further response is necessary.

31. Defendants admit that pursuant to MCL 18.1350e, DTMB prepares and transmits a report which summarizes in detail the state's compliance with the revenue limit established in MCL 18.1350b to the OAG.

32. Defendants admit that if a shortfall would exist that DTMB would include such information in the aforementioned report, however, Defendants deny that any shortfalls currently exist.

33. Defendants deny the allegations contained in paragraph 33 in Plaintiffs' complaint as untrue and state that on April 5, 2016, DTMB sent the statement of state spending to the OAG for review and that the OAG approved the statement on June 7, 2016. See documents attached as Exhibit A.

34. Defendants deny the allegations contained in paragraph 34 of Plaintiffs' complaint.

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35. Defendants admit that DTMB published the report required by MCL 18.1350e to the Legislature after it was reviewed by the OAG. Defendants deny that any shortfalls currently exist. See documents attached as Exhibit A.

36. Defendants admit that the OAG is created by the Michigan Constitution in Article 4, § 53 and that the section speaks for itself regarding the duties of the OAG.

37. Defendants admit the allegations contained in paragraph 37 of Plaintiffs' Complaint.

38. Defendants deny the allegations contained in paragraph 38 of Plaintiffs' Complaint as untrue.

39. Defendants admit that the issue of school funding was one cause for Proposal A.

40. Defendants admit that Public Act 145 of 1993 was passed by the Legislature and signed by the Governor. Defendants state that the effect of the law is a legal conclusion and that Public Act 145 speaks for itself.

41. Defendants admit the allegations contained in paragraph 41 of Plaintiffs' Complaint.

42. Defendants deny that local governments are unable to assess and collect property taxes. Defendants admit that in 1993, but prior to Public Act 145 of 1993, local taxes accounted for approximately 69% of school funding and that state spending accounted for approximately 31% of school funding.

43. Defendants neither admit nor deny Plaintiffs' characterization of the effects of Public Act 145 of 1993 because that Act speaks for itself. Defendants neither admit nor deny that the effect of the Act reduced school budgets by 64% because it lacks sufficient information

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on which to form a belief as to the truth of the allegation. Defendants admit that the Legislature was concerned with deriving a method of funding Michigan schools.

44. Defendants admit that Proposal A was approved by the People of Michigan in March 1994. Defendants neither admit nor deny Plaintiffs' characterization of Proposal A because it speaks for itself.

45. Defendants neither admit nor deny the allegation because Proposal A speaks for itself.

46. Defendants admit that state taxes collected pursuant to Proposal A results in providing a portion of funding for schools. Defendants neither admit nor deny the remainder of the allegation because it lacks sufficient information on which to form a belief a truth of the allegation.

47. Defendants deny the allegations contained in paragraph 47 of Plaintiffs' Complaint as untrue.

48. Defendants deny that Proposal A was improper and affirmatively state that the people of Michigan voted and agreed with the framework in Proposal A. Defendants admit that it includes state payments made to fund schools in the calculation of state spending in the form of aid that is paid to local governments. Defendants deny all remaining allegations contained in paragraph 48 in Plaintiffs' complaint as untrue.

49. Defendants deny that its method for calculating payments to local governments was improper. Defendants deny all remaining allegations contained in paragraph 49 in Plaintiffs' complaint.

50. Defendants deny the allegation as untrue.

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51. Defendants deny the allegations contained in paragraph 51 in Plaintiffs' complaint as untrue.

52. Defendants deny the allegations contained in paragraph 52 in Plaintiffs' complaint.

53. Defendants admit that Public Act 85 of 2015 was approved by the Governor and is now current law. Defendants neither admit nor deny the remaining allegations because the Act speaks for itself.

54. Defendants admit that Public Act 85 of 2015 allocates appropriations for school aid to be paid to local governments in the estimated amount of $11,962,930,600.00.

55. Defendants deny the allegations contained in paragraph 55 in Plaintiffs' complaint as untrue.

56. Defendants deny as untrue the allegations contained in paragraph 56 in Plaintiffs' complaint.

57. Defendants admit that Public Act 249 of 2016 was signed by the Governor. Defendants state that the Act speaks for itself and no further response is necessary.

58. Defendants admit the allegations contained in paragraph 58 of Plaintiffs' complaint.

59. Defendants deny the allegations contained in paragraph 59 in Plaintiffs' complaint as untrue.

60. Defendants deny as untrue the allegations contained in paragraph 60 in Plaintiffs' complaint.

61. Defendants deny that the development of a factual record is necessary as there is no valid legal basis for the claims or that any of the calculations were improper. There are

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threshold legal questions that are dispositive of Plaintiffs' claims such as whether Proposal A revenue, that is paid to local governments in the form of aid, is properly included in the proportion of total state spending paid to local governments under the Headlee Amendment. No amount of discovery would frame this legal question differently. Additionally, no discovery is necessary as public records are available to Plaintiffs that explain all transactions to which they allege are improper.

62. Defendants admit that payments made to or on behalf of public school academies are included in the calculation of state spending in the form of aid to local governments.

63. Defendants state that public school academies are public schools and payments made to or on behalf of public school academies are properly included in the calculation of state spending in the form of aid to local governments under Article 9, § 30. Defendants admit that the allocations listed in paragraph 63 are correct.

64. Defendants admit that payments made to or on behalf of public school academies are included in the calculation of state spending in the form of aid to local governments under Article 9, § 30.

65. Defendants state that public school academies are public schools and payments made to or on behalf of public school academies are properly included in the calculation of state spending in the form of aid to local governments. Defendants admit that the allocations listed in paragraph 65 are correct.

66. Defendants deny the allegations of paragraph 66 of Plaintiffs' complaint because they are not true and constitute an erroneous legal conclusion.

67. Defendants deny that the development of a factual record is necessary as there is no valid legal basis for the claims or that any of the calculations were improper. There are

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threshold legal questions that are dispositive of Plaintiffs' claims such as whether public school academies, which are considered public schools pursuant to *Council of Orgs & Others for Educ About Parochiaid v Governor,* 455 Mich 557 (1997), and funded by state revenue are properly counted toward the aid paid to local governments under the Headlee Amendment. No amount of factual discovery will change this legal question. Additionally, no discovery or factual record is necessary as public records are available to Plaintiffs that explain all transactions to which they allege are improper.

68. Defendants admit that Public Act 84 of 2015 was signed by the Governor and became law. Defendants state that the Act speaks for itself and no further response is necessary.

69. Defendants admit the amount alleged is contained in Public Act 84 of 2015 but deny that the entire amount is included in the calculation of aid to be paid to local governments.

70. Defendants admit the allegations contained in paragraph 70 of Plaintiffs' complaint.

71. Defendants admit that the trunk line road fund is used to pay for maintenance, upkeep, and improvement of trunk line roads among other things as appropriated by the Legislature.

72. Defendants admit that Public Act 268 of 2016 was signed by the Governor and became law. Defendants state that the Act speaks for itself and no further response is necessary.

73. Defendants admit the allegations contained in paragraph 73 of Plaintiffs' complaint.

74. Defendants admit that a portion of the claimed amount is paid to county road commissions and others.

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75. Defendants admit that the support and maintenance of state trunk line roads are a State obligation. However, Defendants deny that any payments made to local units of governments to cover State obligations were included in the calculation of amount of aid that is paid to local governments under Article 9, § 30.

76. Defendants deny these allegations as untrue and that they amount to erroneous legal conclusions. Defendants further state that no funds used to pay local units of governments to complete state obligations were included in the calculation of amount of aid that is paid to local governments. Defendants also state that funds in the state trunk line road fund are not solely required to be used for projects and maintenance of state trunk line roads.

77. Defendants deny that the development of a factual record is necessary as there is no valid legal basis for the claims and further denies that any such payments were improperly included. There are threshold legal questions that are dispositive of Plaintiffs' claims such as whether MCL 247.600, et seq. and 247.661, et seq. explicitly allow for appropriations from the state trunk line road fund to be paid to local governments for purposes other than state trunk line road maintenance obligations. Additionally, no discovery or factual record is necessary as sufficient public information is available to refute Plaintiffs' claims.

78. Defendants can neither admit nor deny the allegations as Plaintiffs have failed to specifically allege any mandates that currently exist, when the mandates became effective, or the specific appropriations related to those unspecified mandates in violation of MCR 7.206(E)(1) and 2.112(M).

79. Defendants neither admit nor deny Plaintiffs' paraphrasing of the Court's opinion in *Mahaffey v Attorney Gen*, 222 Mich App 325 (1997) because it speaks for itself.

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80. Defendants neither admit nor deny Plaintiffs' paraphrasing of the Court's opinion in *Durant v State Dep't of Educ*, 283 Mich App 185 (1999) because it speaks for itself.

81. Defendants neither admit nor deny Plaintiffs' paraphrasing of the Court's opinion in *Adair v State*, 486 Mich 468 (2010) because it speaks for itself.

82. Defendants neither admit nor deny Plaintiffs' paraphrasing of the above referenced cases because those cases speak for themselves. Defendants deny the remaining allegations as untrue.

83. Defendants neither admit nor deny Plaintiffs' paraphrasing of the referenced statute because Public Act 101 of 1979 speaks for itself.

84. Defendants neither admit nor deny whether any existing state laws requiring activities or services of local government were repealed in relation to other laws at issue in the referenced cases because they lack sufficient information on which to form a belief as to the truth of the allegation. Defendants deny that there has been any reduction or unfunded mandates that would violate Article 9, §§ 25 and 30 as alleged in Paragraph 84 of Plaintiffs' complaint.

85. Defendants neither admit nor deny Plaintiffs' allegation that characterizes the interplay of the Headlee Amendment and Const 1963, art 9, §§§ 25, 29, and 30, because they speak for themselves. Defendants deny that there has been any reduction or unfunded mandates that violate the requirement that a minimum of 48.97% of state spending is in the form of aid to local governments.

86. Defendants neither admit nor deny Plaintiffs' characterization of the relationship between Public Act 101, Const 1963, art 9, § 29, and MCL 21.235 because they speak for themselves.

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87. Defendants state that the allegations in Paragraph 87 of Plaintiffs' Complaint do not require a response because MCL 21.241 speaks for itself.

88. Defendants state that the allegations in Paragraph 88 of Plaintiffs' Complaint do not require a response because MCL 21.241 speaks for itself.

89. Defendants state that the allegations in Paragraph 89 of Plaintiffs' Complaint do not require a response because MCL 21.241 speaks for itself.

90. Defendants deny as untrue that the reporting requirements of MCL 21.235 are not met because the reporting requirements are met through § 201 of the Omnibus Budget Bill. Section 201, which is included in each article of the omnibus budget bill transmitted to the Legislature as part of the executive budget, provides an itemized statement of appropriations from which spending to local units will occur. However, Defendants admit that the reporting requirements in MCL 21.241 have not been completed. Defendants assert that completion of a statutory reporting requirement cannot give rise to a Headlee violation.

91. Defendants deny that the development of a factual record is necessary as public records are available to Plaintiffs that explain all transactions to which they allege is improper. There are threshold legal questions that are dispositive of Plaintiffs' claims such as whether Plaintiffs' failure to specifically allege any mandates that currently exist, when the mandates became effective, or the specific appropriations related to those unspecified mandates in violation of MCR 7.206(E)(1) and 2.112(M) justifies dismissal. No amount of factual discovery would change the complaint as written. Additionally, no discovery is necessary as there is no valid legal basis for the claims or that any of the calculations were improper.

92. Defendants deny the allegations contained in paragraph 92 of Plaintiffs' Complaint as untrue and Defendants incorporate its responses stated above as fully restated

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herein. Plaintiffs' failure to plead with specificity in violation of MCR 7.206(E)(1) and 2.112(M) require dismissal of any claims regarding state mandates.

Response to Count I of Plaintiffs' Complaint

93. Defendants incorporate by references their responses to paragraphs 1 through 92 above as though fully rewritten herein.

94. Defendants state that Article 9, § 25 speaks for itself and no response is necessary.

95. Defendants state that Article 9, § 25 speaks for itself and no response is necessary.

96. Defendants state that the Article 9, § 30 and MCL 18.1349 speak for themselves and no response is necessary.

97. Defendants admit the allegations contained in paragraph 97 of Plaintiffs' Complaint.

98. Defendants deny that it is improper to include revenue generated by Proposal A in the State's calculation of spending in the form of aid that is paid to local governments. Defendants deny all remaining allegations contained in paragraph 98 of Plaintiffs' complaint.

99. Defendants deny the allegations contained in paragraph 99 of Plaintiffs' complaint because they are not true.

100. Defendants deny that Proposal A spending should be excluded from aid paid to local governments and any calculation of the same is irrelevant and based on an erroneous legal conclusion.

101. Defendants deny the allegations contained in paragraph 101 of Plaintiffs' complaint because they are not true.

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Wherefore, Defendants ask this Court to dismiss Plaintiffs' claims in Count I of the complaint alleging misapplication of funds under Proposal A pursuant to MCR 2.116(C)(7), (8) and (10) because the allegations for claims beyond one year of the filing of the complaint are time-barred, the complaint fails to state a claim and there are no genuine issues of material facts and Defendants are entitled to judgment as a matter of law. Defendants request that this Court dismiss the remaining claims in the complaint with prejudice and enter judgment in favor of Defendants.

Response to Count II of Plaintiffs' Complaint

102. Defendants incorporate their responses to paragraphs 1 through 101 above as though fully restated herein.

103. Defendants state that Article 9, § 25 speaks for itself and no response is necessary.

104. Defendants state that the Article 9, § 30 and MCL 18.1349 speak for themselves and no response is necessary.

105. Defendants admit the allegations contained in paragraph 105 of Plaintiffs' complaint.

106. Defendants deny that it is improper for payments to charter schools to be included in the calculation of payments made to local governments.

107. Defendants deny this allegation and state that if the amount paid to charter schools was removed from the current calculations that it would not result in state spending in the form of aid to local governments to fall below the 48.97% threshold. However, Defendants affirmatively state that payments to charter schools are properly included in the calculation of payments made to local governments.

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108. Defendants deny the allegations contained in paragraph 108 of Plaintiffs' complaint.

Wherefore, Defendants ask this Court to dismiss Plaintiffs' claims in Count II of the complaint alleging misapplication of funds regarding charter schools pursuant to MCR 2.116(C)(7), (8) and (10) because the allegations for claims beyond one year of the filing of the complaint are time-barred, the complaint fails to state a claim and there are no genuine issues of material facts and Defendants are entitled to judgment as a matter of law. Defendants request that this Court dismiss the remaining claims in the complaint with prejudice and enter judgment in favor of Defendants.

Response to Count III of Plaintiffs' Complaint

109. Defendants incorporate their responses to paragraphs 1 through 108 above as though fully restated herein.

110. Defendants state that Article 9, § 25 speaks for itself and no response is necessary.

111. Defendants state that Article 9, § 30 and MCL 18.1349 speak for themselves and no response is necessary.

112. Defendants admit the allegations contained in paragraph 112 of Plaintiffs' complaint.

113. Defendants deny that any spending from the trunk line road fund that was included in the calculation of spending in the form of aid that is paid to local governments was improper.

114. Defendants deny this allegation and state that if the amount paid from the trunk line fund was removed from the current calculations that it would not result in state spending in

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the form of aid to local governments to fall below the 48.97% threshold. However, Defendants affirmatively state that spending from the state trunk line fund is properly included in the calculation of payments made to local governments.

115. Defendants deny the allegations contained in paragraph 115 of Plaintiffs' complaint as untrue.

Wherefore, Defendants ask this Court to dismiss Plaintiffs' claims in Count III of the complaint alleging misapplication of funds from the state trunk line road fund pursuant to MCR 2.116(C)(7), (8) and (10) because the allegations for claims beyond one year of the filing of the complaint are time-barred, the complaint fails to state a claim and there are no genuine issues of material facts and Defendants are entitled to judgment as a matter of law. Defendants request that this Court dismiss the remaining claims in the complaint with prejudice and enter judgment in favor of Defendants.

Response to Count IV of Plaintiffs' Complaint

116. Defendants incorporate their responses to paragraphs 1 through 115 above as though fully restated herein.

117. Defendants state that Article 9, § 25 speaks for itself and no response is necessary.

118. Defendants state that Article 9, § 30 and MCL 18.1349 speak for themselves and no response is necessary.

119. Defendants admit the allegations contained in paragraph 119 of Plaintiffs' complaint.

120. Defendants can neither admit nor deny the allegations as Plaintiffs have failed to specifically allege any mandates that currently exist or when the mandates became effective, in

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violation of MCR 7.206(E)(1) and 2.112(M), so that Defendants can ascertain whether such spending is included in the calculation of spending in the form of aid that is paid to local government.

121. Defendants deny as untrue that the reporting requirements of MCL 21.235 are not met because the reporting requirements are met through § 201 of the Omnibus Budget Bill. Section 201, which is included in each article of the omnibus budget bill transmitted to the Legislature as part of the executive budget, provides an itemized statement of appropriations from which spending to local units will occur. However, Defendants admit that the reporting requirements in MCL 21.241 have not been completed. Defendants assert that completion of a statutory reporting requirement cannot give rise to a Headlee violation.

122. Defendants can neither admit nor deny the allegations as Plaintiffs have failed to specifically allege any mandates that currently exist or when the mandates became effective, in violation of MCR 7.206(E)(1) and 2.112(M), so that Defendants can ascertain whether such spending is included in the calculation of spending in the form of aid that is paid to local government.

123. Defendants deny the allegations contained in paragraph 123 of Plaintiffs' complaint as untrue.

Wherefore, Defendants ask this Court to dismiss Plaintiffs' claims in Count IV of the complaint alleging misapplication of funding for state mandates pursuant to MCR 2.116(C)(7), (8) and (10) because the allegations for claims beyond one year of the filing of the complaint are time-barred, the complaint fails to state a claim and there are no genuine issues of material facts and Defendants are entitled to judgment as a matter of law. Plaintiffs' failure to specify which mandates are at issue in violation of MCR 7.206(E)(1) and 2.112(M) require dismissal of the

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complaint. Defendants request that this Court dismiss the remaining claims in the complaint with prejudice and enter judgment in favor of Defendants.

AFFIRMATIVE DEFENSES

1. Defendants are entitled to immunity granted by law.

2. The necessary increased cost of any alleged increased level of activity was properly funded by the Legislature.

3. Const 1963, art 9, §§ 11 and 29 do not limit the revenue sources from which the Legislature may draw money, or preclude the State from adjusting non- mandated funding to finance school aid appropriations to satisfy funding obligations. *Durant v State Bd of Ed*, 238 Mich App 185; 605 NW2d 66 (1999) (*Durant II*); *Durant v State Bd of Ed*, 251 Mich App 297; 650 NW2d 380(2000) (*Durant III*). *Adair v Michigan,* 302 Mich App 305; 839 NW2d 680 (2013).

4. Plaintiffs' complaint contains allegations that are not ripe for judicial review because there is no case or controversy regarding those alleged violations of the State constitution.

5. As to any relief, Defendants assert the issue of the one-year statute of limitations. MCL 600.308a; MSA 27A.308(1).

6. This Court lacks jurisdiction to issue mandamus over the alleged deficiencies regarding MCL 21.235 and 24.241 or to award money damages.

7. Some or all of the claims asserted in this case are, or may be, barred by res judicata and/or collateral estoppel and/or equitable estoppel and/or waiver.

8. Plaintiffs' complaint fails to state a claim for which relief can be granted.

9. Plaintiffs' complaint should be dismissed in its entirety because there exists no

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genuine issue as to any material fact and defendants are entitled to judgment as a matter of law.

10. Those portions of Plaintiffs' complaint that seek monetary relief must be dismissed because such a remedy is inappropriate for this case.

11. Some or all of the costs alleged by Plaintiffs in the course of the alleged activities at issue in this complaint are not "necessary costs" or "necessary increased costs" within the meaning of Const 1963, art 9, § 29.

12. The statutes that are the subject of the complaint are not an "activity or service" within the meaning of Const 1963, art 9, § 29, as those terms have been defined by the Legislature and construed by the courts.

13. The programs that are the subject of Plaintiffs' complaint are not mandated by State law as the term appears in Const 1963, art 9, § 29 and as that term has been defined by the Legislature and construed by the judiciary.

14. Plaintiffs' request for injunctive and equitable relief in this case is barred by laches, waiver, and/or unclean hands because of their utter failure to promptly challenge the constitutionality of administrative rules and statutory provisions following their original promulgation or enactment into law.

15. The complaint fails to sufficiently allege specific facts in compliance with MCR 7.206(E)(1) and 2.112(M) to state a claim upon which relief can be granted under Const 1963, art 9, § 29.

16. The complaint fails to comply with MCR 7.206(E)(1) and 2.112(M) because Plaintiffs fail to identify the amount of underfunding of any mandates or the statutes to which they are claiming are unfunded and the complaint should be dismissed.

17. Defendants state that any alleged statutory activity that Plaintiffs claim are

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inaccurately calculated as payments in the form of aid paid to local governments would still not amount to any violation as the proportion of total state spending required to be paid to local governments would meet or exceed the 48.97% requirement.

18. The Office of Auditor General is not a proper party in this litigation as the alleged claims are for mandamus rather than Headlee violations.

19. Plaintiff Taxpayers for Michigan Constitutional Government does not have standing to bring this lawsuit.

20. Defendants reserve the right to assert additional defenses that may become known.

Respectfully submitted,

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Solicitor General
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Dated: November 1, 2016

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STATE OF MICHIGAN
IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

v

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants.

Court of Appeals No. 334663

DEFENDANTS' BRIEF IN SUPPORT OF THEIR ANSWER TO PLAINTIFFS' COMPLAINT

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Dated: November 1, 2016

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STATEMENT OF JURISDICTION

Defendants agree that the allegations regarding the violation of the Headlee Amendment, Const 1963 art 9, §§ 25-34 are properly brought in this Court and this Court has original jurisdiction pursuant to Const 1963 art 9, § 32 and MCL 600.308a(1). Defendants do not agree that this Court has jurisdiction over all of the claims brought by the Plaintiffs as numerous allegations and requests for relief improperly sound in mandamus rather than relief that can be provided by the Headlee Amendment.

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COUNTER-STATEMENT OF QUESTION INVOLVED

1. Have Plaintiffs stated a claim upon which relief can be granted by alleging that the state improperly included spending for funded mandate requirements under §§ 29 and 30 when they do not set forth with particularity which § 29 provision they are alleging, the type and extent of harm, any particular mandates, the specific activities/services/statutes involved, the amount of any purported shortfall, or any statutes relating to the purported mandates?

   Plaintiffs' answer: Yes.

   Defendants' answer: No.

2. Are Plaintiffs' claims barred under res judicata when their claims are based on mandates and legal requirements that existed during the pendency of previously resolved suits to enforce the Headlee Amendment that were litigated by more than 900 school districts and taxpayers since 2000?

   Plaintiffs' answer: No.

   Defendants' answer: Yes.

3. Have Plaintiffs properly invoked this Court's jurisdiction over Headlee Amendment claims pursuant to MCR 7.206(E) when they allege statutory violations of the Headlee Amendment implementing legislation, MCL 21.235 and MCL 21.241, which do not constitute violations of the Headlee Amendment itself?

   Plaintiffs' answer: Yes.

   Defendants' answer: No.

4. Does article 9, § 30 require the State to include all revenue paid to school districts, including the additional revenue allocated by Proposal A, in its calculation of the total proportion of state spending to local units of government?

   Plaintiffs' answer: No.

   Defendants' answer: Yes.

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5. Should state funding to charter schools, which are public schools, be included in the calculation of total state spending paid to all units of local government required by art 9, § 30?

Plaintiffs' answer: No.

Defendants' answer: Yes.

6. Is spending sent to local governments for local transportation purposes properly included in the art 9, § 30 calculation?

Plaintiffs' answer: No.

Defendants' answer: Yes.

7. Does the State pay in excess of the minimum proportion of state spending required under art 9, § 30?

Plaintiffs' answer: No.

Defendants' answer: Yes.

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INTRODUCTION

This taxpayer suit challenges Michigan's calculation of the proportion of total state spending paid to all local units of government under the Headlee Amendment. At its core, the complaint asserts a legal question—whether certain categories of state spending, including guaranteed state spending to local school districts required by Article 9, § 11 of Michigan 1963 constitution, are state spending to local government under § 30. Because the assertions are based on incorrect legal interpretations, this Court should dismiss the compliant.

Headlee actions are not meant to be filed with a scattershot approach as there are very specific requirements in MCR 2.112(M) that must be met. Plaintiffs' documents may appear voluminous but they are nothing more than redundant recitals of general allegations over multiple streams of funding in the amount of billions of dollars that has occurred for over two decades. The general overarching nature of the allegations lack any analysis or factual support, and, therefore, this Court should dismiss the complaint.

Many Headlee taxpayer suits have been litigated throughout the decades since the Headlee Amendment was passed. Hundreds of taxpayers and school districts have brought suit to enforce the provisions of the Headlee Amendment disputing the methodology and the resulting funding issued to local governments. This case is brought by the nonprofit Taxpayers for Michigan Constitutional Government and individual taxpayers on behalf of every unit of local government in the state because their claims go to the entire system of how money is distributed to local governments.

Plaintiffs' claims fail based on several dispositive questions of law that justify peremptory dismissal. As a preliminary matter, Plaintiffs' complaint fails to plead with particularity the factual basis for the alleged violation of the Headlee Amendment. Additionally, the present taxpayer suit is barred by the doctrine of res judicata because the taxpayer claims

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here could have been brought and resolved in any number of prior taxpayer suits to enforce the provisions of the Headlee Amendment. And the claims for declaratory relief relative to the implementing act are not properly before the Court. Finally, of primary importance, the State properly calculates the proportion of total state spending paid to all units of local government, taken as a group, under the plain text of article 9, § 30.

Thus, Plaintiffs' complaint presents preliminary legal questions that are dispositively decided in favor of Defendants and the complaint otherwise fails to comply with the court rules. This Court should dismiss Plaintiffs' complaint in its entirety.

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COUNTER-STATEMENT OF FACTS

I. The Headlee Amendment was born from Michigan's taxpayer revolt

Plaintiffs correctly note that the Headlee Amendment was born nearly forty years ago as part of the nationwide "taxpayer revolt". Michigan's taxpayers perceived excessive spending at both state and local levels and wanted relief in the form of lower taxes. *Durant v State Bd of Educ*, 424 Mich 364, 378 (1985) ("*1985 Durant*"). The Headlee Amendment provided the framework for such relief by creating a series of tax limitations that could only be exceeded by voter approval. The goal was to keep the size of government, and its ability to raise taxes, under direct taxpayer control. *Id*. at 383. The limitations are summarized in Const 1963 article 9, § 25 and implemented in §§ 29 and 30. *Durant v State Dep't of Educ (Durant II)*, 238 Mich App 185, 193 (1999).

The plain language of Headlee's implementing sections clearly demonstrate the goal of taxpayer control over government expansion and taxation. Section 26 keeps the size of state government in check, by limiting the State's total revenue raised from State created sources. If the limit is exceeded by more than 1%, the State must issue a refund to the taxpayers. Local governments are kept in check by § 31, which prohibits the creation of new taxes, or increasing existing taxes, without voter approval. *Michigan's Tax Expenditure Limit, Issues for Implementation*, Senate Fiscal Agency 1979, Ex A. To prevent local governments from indirectly raising taxes by over assessing properties for ad valorem tax revenue, § 31 also ties valuations of existing property to the rate of inflation among other limitations. *Id.* at 18.

Because of the limits placed on both state and local units of government, Headlee foresaw the possibility of the State shifting responsibility for services to local governments. *1985 Durant*, 424 Mich at 379. Section 29 prevents this as it requires the State to continue paying its same proportionate share to local governments for mandated programs, activities, and

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services that it did in fiscal year 1978-79. Any increases in scope or newly created programs, activities, or services mandated by the State must be completely funded by an appropriation. In other words, the State must keep the status quo and cannot require local governments do anything more than was already being required in 1978-79 without first paying for it. *Durant II*, 238 Mich App at 208.

Section 30 follows § 29 and requires the State to maintain the same percentage of its total budget, minus federal aid, paid to local governments as existed in 1978-79. The State determined that proportion to be 41.61%; however, that was adjusted to 48.97% in 1993. Nothing in the plain text of § 30 limits the categories of state spending that are included in "total state spending paid to all units of local government," taken as a group, or requires the State to allocate a fixed percentage of money for a particular purpose or to a specific local unit of government. Section 30 just requires the State ensure that at least 48.97% of its total budget, excluding federal aid, is paid to local units of government in the statewide aggregate. The Legislature still has discretion over the actual dollar amount paid to a particular local unit of government and whether the money is required to be used for a particular purpose.

School aid funds paid to local school districts were included as "state spending to local government" in the State's calculation under § 30. Prior to the passage of Proposal A, the State School Aid Act provided two types of funding: restricted (also referred to as categorical) and unrestricted. *Durant II*, 238 Mich App at 194. Unrestricted aid constituted a general grant of funds based in part on pupil membership in the school district. *Id.* at 195. The amount of unrestricted funds allocated per pupil equaled the difference between the amount guaranteed (by the Legislature) and the amount of per pupil funds generated by local revenues. *Id.* The State only provided unrestricted funds to those districts that did not have enough of a local property tax base to meet the minimum guaranteed per pupil funding determined by the Legislature.

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A. High Property Taxes and Inequitable School Funding Lead to Proposal A

Local property taxes were the primary source of funding for public school operations and capital financing. *School Financing Reform in Michigan Proposal A: Retrospective*, Office of Revenue and Tax Analysis, December 2002, Exhibit B. Despite Headlee's enactment, Michigan's property tax burden remained above the national average. *Id.* at 1. Between 1980 and 1993, the total property tax rate for school operations increased 135.5%, outpacing inflation at a 63.7% increase. *Id.* at 4. Despite increased taxes, public school enrollment declined 11% during that time. *Id.*

Despite having above average property taxes funding inequities among school districts continued to grow, even with the State providing aid to those districts with lower property tax revenues. *Id*. at 1. This prompted the Legislature to pass PA 145 of 1993 which eliminated the authority of school districts to levy millage on real property for local and intermediate school district operating expenses. *Durant II*, 238 Mich App at 196. This brought immediate property tax relief, but left public schools with nearly $7 billion in lost revenues. *Id.*

As a result, Proposal A was put on the ballot and the voters were asked to approve new revenue sources to fund public schools. *School Financing Reform in Michigan,* Ex B at 4, Exhibit ____. With Proposal A's passage, schools would now be primarily funded by the State with revenue generated from various state taxes including a 2% sales tax increase, 6 mill State Education Tax, 50 cent cigarette tax increase and a new real estate transfer tax. *Id.* For example, in fiscal year 2007, 75% of the funding received from local school districts came from the State, the remaining 25% from local revenues. *Adair v People*, 279 Mich App 507, 519-20 (2008). By contrast, in the 1989-1990 school year (pre-Proposal A), locally generated revenues funded 63% of school operation costs with state-generated revenues funding the remaining 37%. *Id.*

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In addition to public school funding changes, Proposal A limited property tax increases by reducing millage rates and changing how property is assessed. *School Financing Reform in Michigan*, Ex B at 8. Taxes were calculated based on taxable value instead of equalized value. *Id.* at 10. Proposal A was successful in bringing property tax relief as average statewide millage rates decreased an average of 30.6%. *Id*. at 8. Instead of having above average property taxes and below average sales taxes, Michigan now had a tax system more in line with the "typical" tax system found in other states. *Id.* at 20.

II. Plaintiff's Claims on Unfunded and Funded Mandates

Plaintiffs claim in Count IV that Defendants violated the Headlee Amendment by including funding for state mandates, as required by § 29, in its calculation of spending in the form of aid to local governments under § 30. But Plaintiffs do not set forth the type of claim (maintenance of service or unfunded mandate), specific mandates at issue, type and extent of any harm, amount of the purported shortfall, or statutes relating to the unidentified mandates.

Furthermore, the examples of prior funded mandates that Plaintiffs cite (*Mahaffey v Attorney General,* 222 Mich App 325 (1997); *Durant II* (1999), and *Adair v Michigan*, 486 Mich 468 (2010) ("*Adair I*")) all concern mandates that existed during the pendency of the prior taxpayer litigation beginning with *Adair v State*, 470 Mich 105 (2004) ("*2004 Adair*"), which was filed in 2000. 930 plaintiffs in total - 465 public school districts and a taxpayer from each district - later filed three additional *Adair* lawsuits seeking declaratory judgment to enforce the Headlee Amendment that included claims the state failed to provide funding related to various school mandates, underfunded mandated activities, and improperly allocated that portion of the per pupil Proposal A foundation allowance over and above the base level required by Proposal A to satisfy the State's Headlee obligations. *Adair v State*, 497 Mich 89 (2014) (*Adair II*); *Adair v*

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Mich Dep't of Ed, ___ Mich App ___ (2016) ("*Adair III*"). All three cases were resolved on the merits – *Adair I* in the plaintiffs' favor, *Adair II* and *III* in the State's favor based on pleading deficiencies and res judicata, respectively.

Finally, Plaintiffs seek mandamus as to the reporting requirements of MCL 21.235 and MCL 21.241. (Pls' Compl, Prayer for Relief, ¶ f.) Plaintiffs do not show a clear legal right to mandamus, and lack standing to allege statutory violations.

III. Charter Schools

Charter schools, also known as public school academies, have been available to Michigan students for over two decades. These schools allow any student, regardless of the independent ability to pay, to choose what school is best for them because charter schools are unable to charge tuition. The Michigan Supreme Court has found that the people of Michigan would have considered charter schools to be public schools in 1961 during the constitutional convention. *Council of Organizations & Others for Educ About Parochiaid v Governor*, 455 Mich 557, 576 (1997).

Plaintiffs argue that the people of Michigan would not have intended charter schools to be included as a "local government" as defined in Article 9, § 33 even though the definition is very broad and includes not just "school districts" but also "authorities created by the state, and authorities created by other units of local government." Additionally, charter schools are authorized by local government bodies such as local school districts, intermediate school districts, community colleges, and public state universities.

Plaintiffs complain that charter schools are not school districts under § 33 because of the fact that some are online schools. However, it is hard to fathom that the majority of the 1978 public could have imagined what would be available today because of the internet. Charter

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schools are public schools, and they are open to all eligible Michigan students at no personal cost. These charter schools do not levy property taxes and rely solely on per-pupil funding. Any revenue generated by the property taxes, excluding the per-pupil funding for the charter school student, paid by the students and their families go to the local school district and not the charter school. All public schools in Michigan are state creations and charter schools are no different.

IV. State Trunk Line Road Fund

The State Trunk Line Highway System Act, often called Act 51, controls funding for various state transportation programs. MCL 247.651 et seq. Act 51 establishes separate funds, allocates revenue to those funds, and dictates how each must be used and among those is the State Trunk Line fund (STF). MCL 247.661. Despite its name, the STF is not limited to use on Michigan's state trunk line roads; the STF has numerous purposes. MCL 247.661(1).

The statute explicitly dedicates certain STF resources to counties, cities, villages, and townships for local transportation projects. By way of example, the STF provides for spending to local governments through the transportation economic development fund (TEDF) for local transportation projects (MCL 247.661(1)(b); for rail grade crossing projects on local public roads and streets (MCL 247.661(1)(c)); and loans to local governments for local projects. MCL 247.661(4). The STF is also a funding source for bonding and payments of bond interest for local governments associated with local transportation projects. MCL 247.661(1)(a)(iii); 247.668c(6); 247.668d.

The STF does, as the name indicates, also serve as a funding source for state trunk line road and bridge projects. MCL 247.661(1)(f)-(g). In order to construct, maintain, and improve roads that the State is responsible for, it may enter contractual agreements with private sector companies and local road commissions to complete work on a road, street, bridge, or related

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projects. MCL 247.661(h). The State, through its Department of Transportation (MDOT), has contracted with various local road agencies and private sector companies to complete work on trunk line roads. (Patrick McCarthy Aff, Ex C.) The Legislature also provides that certain funds originating in the Michigan Transportation Fund (MTF) be dedicated for transfer to the STF where portions are then spent on local governments for local transportation projects. MCL 247.660(1)(e), (f), (l); (Patrick McCarthy Aff, Ex C.)

STF contractual payments for maintenance of state roads were not counted as state spending to local government for purposes of § 30. (Patrick Mc Carthy Aff, Ex C.) Transportation spending to local governments, including payments for local transportation projects or other transportation fund that flowed through the STF, were separately tracked and included in the budget § 201 report. (Patrick McCarthy Aff, Ex C.) Only $84 million from the STF was counted and reported as aid to local governments under Article 9, § 30.

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SUMMARY OF ARGUMENT

Plaintiffs' allegations under §§ 25 and 30 of Article 9 of the Michigan Constitution appear, at first blush, to be unique. Plaintiffs do not list any specific mandate that they claim was unfunded or underfunded. Instead, through vague and unsupported allegations, Plaintiffs attack the entire formula and allocation of state spending. In essence, *you are doing it wrong and we challenge the Headlee part*. Simply announcing an unsupported legal position – a funding shortfall – without any factual or legal support is insufficient.

Beneath the annual budgetary decisions allocating state funds and the subsequent expenditures carrying out those directives is the same formula and same underlying analysis used in the budget process for decades. It is also the same funding system that was in place during dozens of Headlee cases decided by this Court. In that respect, this case is neither novel nor properly before this Court. Plaintiffs' allegations were or could have been addressed in prior litigation addressing Headlee as it relates to school funding, especially the plethora decided after Proposal A. Plaintiffs' claims are therefore, barred by res judicata as the multitude of previous lawsuits brought by hundreds of taxpayers and school districts either have or could have litigated and resolved these issues.

Beginning in 1994 and based on clear voter directives, certain property tax revenue was created at the state level (state revenue from a state source) to be spent on public schools (spending to local governments) due to Proposal A. This constitutional amendment was overwhelmingly approved by the people with full knowledge of the Headlee provisions. Plaintiffs repeatedly attempt to have this Court look away from the plain language of the Headlee Amendment by arguing that the voters would not have intended such a result. This argument is without merit as the intent of voters could not be clearer than the basic wording that they approved.

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Plaintiffs complain that charter schools should not be considered payments to local governments for purposes of the Headlee Amendment. Plaintiffs again argue the "intent" of the voters divorced from the plain language of the Headlee Amendment. The Michigan Supreme Court held that voters at the 1961 constitutional convention would have considered charter schools to be public schools. Plaintiffs seemingly disregard this fact by arguing that in 1978, the same voting public that only 17 years earlier would have considered charter schools to be public schools would no longer believe that charter schools were "school districts" or "authorities created by the state" or "other units of local government." Charter schools are public schools, authorized by political subdivisions of the State, operated by public officers, and thus constitute local governments under § 30.

The State Trunkline Fund (STF) includes, on an annual basis and pursuant to Legislative appropriation, spending to local governments for local projects. The funds Plaintiffs refer to were accounted for separately and appropriately and were not included in the § 30 local government spending calculation. Plaintiffs' merely set forth a series of unsupported allegations which fall short of Headlee pleading requirements. Plaintiffs' trunk line claims fail legally, factually, and procedurally.

Finally, Plaintiffs basically allege that the State has not done anything correct with regard to the Headlee Amendment. However, Exhibit 1 of Plaintiffs' complaint actually shows that the State is not just meeting but exceeding the amount of funding to local governments by approximately $1.9 billion. Even if Plaintiffs had a sufficiently pled and supported claim, any calculation error would pale in comparison to the excess that is provided by the State to local governments. For the reasons stated above and set forth more fully below, Defendants ask that this Court dismiss Plaintiffs' complaint in its entirety.

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STANDARD OF REVIEW

In an original action to enforce the Headlee Amendment, following receipt of the answer, the assigned panel may deny relief or grant peremptory relief without oral argument. MCR 7.206(E)(3)(b). Peremptory relief is appropriate because there is no genuine issue as to any material fact. The complaint presents a legal issue of whether certain categories of state spending are state spending to local government for purposes of article 9, § 30. Because the assertions are based on incorrect legal interpretations, this Court should dismiss the compliant.

ARGUMENT

I. Plaintiffs fail to sufficiently plead their claims

Plaintiffs' complaint and briefing lacks the specificity required by the court rules and the Michigan Supreme Court's Headlee Amendment precedent. Plaintiffs do not sufficiently identify the particular Headlee provisions they are challenging, and do not allege any specific mandates, specific amount of alleged underfunding, type or extent of harm, or state law provisions relating to any purported mandate/shortfall.

"It is not sufficient for a party 'simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.'" *Mitcham v Detroit*, 355 Mich 182, 203 (1959) (citation omitted). Similarly, in light of the heightened pleading requirements for Headlee claims, it is not Defendants' task to unravel and elaborate Plaintiffs' vague and unsupported claims.

A. Plaintiffs bear the burden of proof to plead their claims with particularity

The imposition of the burden of proof on a Headlee plaintiff is evident throughout Headlee cases. *Durant v Dep't of Ed (After Remand, On Third Remand)*, 213 Mich App 500,

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503 (1995); *Oakland Co v State*, 456 Mich 144, 166 (1997). Additionally, the requirement to demonstrate specific proof of an actual or anticipated funding shortfall is firmly rooted in Michigan's Headlee Amendment jurisprudence, and also codified in the Michigan Court Rules. *Adair II*, 497 Mich at 110.

MCR 2.706(E) governs actions to enforce the Headlee Amendment. Subsection (E)(1)(a) requires that a Headlee complaint "conform[ ] with the special pleading requirements of MCR 2.112(M)." In turn, MCR 2.112(M) requires that Headlee plaintiffs must identify with particularity:

- The factual basis for the alleged violation;
- For § 29 claims, the type and extent of harm;
- Whether the alleged violation involves the first or second sentence of § 29;
- For § 29 claims involving the second sentence, the activity or service involved;
- All statutes involved with the case.

The Michigan Supreme Court promulgated and has construed the above pleading requirements in accordance with its own Headlee precedents: "a plaintiff must allege and prove the specific amount of the purported funding shortfall in order to establish the 'extent of the harm' caused by the Legislature's inadequate funding." *Adair II*, 497 Mich at 108. (*See also Oakland Co*, 456 Mich at 166 ("future plaintiffs must allege the type and extent of the harm so that the court may determine if a § 29 violation occurred for purposes of making a declaratory judgment. In that way, the state will be aware of the financial adjustment necessary to allow for future compliance.")).[1] In *Adair II*, the plaintiff school districts brought an unfunded mandate claim under § 29 after the Legislature required that they report certain performance information,

[1] The 2004 *Oakland County* case preceded MCR 2.112(M), which was added in 2007. *Adair II*, 497 Mich at 106.

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and appropriated funding amounts to reimburse the districts for the cost of the recordkeeping mandate. *Adair II*, 497 Mich at 95-97. The plaintiffs alleged that the appropriation was inadequate to compensate for the costs of the new requirements. *Id*. at 97. However, the plaintiffs indicated that they "would not attempt to prove a specific dollar amount of underfunding," but instead would "show through expert testimony that the Legislature's methodology to determine the requisite amount of funding was materially flawed." *Id*. at 99.

The Michigan Supreme Court rejected the plaintiffs' claims, holding that "[c]onsistent with prior caselaw and our court rules . . . a plaintiff must allege and prove the specific amount of the purported funding shortfall in order to establish the 'extent of the harm' caused by the Legislature's inadequate funding." *Id*. at 108. While the plaintiffs' expert concluded that the appropriation was lacking due to the state's inadequate and incomplete determination, the Court rejected the claim, reasoning that the plaintiffs' expert found alleged methodology problems, but "failed to offer *any evaluation of the extent of the shortfall*." *Id*. at 110. (Emphasis added).

B. Plaintiffs do not plead their unfunded mandate claims with any specificity, as required by the Court Rules and Michigan Supreme Court precedent

Here, like the *Adair II* plaintiff school districts, Plaintiffs have failed to state their claims with the requisite specificity, contrary to the dictates of the Court Rules and Michigan Supreme Court case law precedent. In their complaint and brief, Plaintiffs cite both sentences of § 29, and claim – without distinction of which provision they are alleging a violation – that payments to fulfill § 29's mandate funding requirement do not constitute payments in the form of aid to local governments. Furthermore, Plaintiffs allege that Defendants have included (unidentified) mandate payments in the calculation of aid to local governments, resulting in a shortfall (also unidentified). Plaintiffs cite various cases and drafters' notes, expound generally upon the intent of the Headlee Amendment as well as the consequences of subverting such intent, and allege that

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the State should recalculate the proportion of local government spending. However, Plaintiffs' pleadings suffer the following defects:

- Plaintiffs fail to establish a factual basis for their claims.
    - Indeed, the sole factual allegation to be found in either the complaint or brief is paragraph 120, i.e., a conclusory assertion that for fiscal years 2015-2017, Defendants included state payments to local governments for judgments and settlements to resolve unfunded mandate lawsuits "and other appropriations" in its calculation of aid to local governments. Plaintiffs do not identify the particular judgments/settlement or "other appropriations."
- Plaintiffs fail to identify whether they are alleging a claim under the first sentence of § 29 (maintenance of support, or "MOS") or the second sentence (prohibition of unfunded mandates, or "POUM").
    - Plaintiffs appear to challenge the methodology concerning new mandates (POUM), and cite *1985 Durant*, 424 Mich 364, as the "leading case." (Pls' Br, at 40-41.) However, *Durant* dealt with first sentence of § 29, i.e., reduction of necessary costs for existing obligations (MOS), not new mandates. *Id*. at 379 (clarifying that "[t]he first sentence, *the one at issue in this case*, is aimed at existing services or activities already required of local government."). (Emphasis added).
    - Plaintiffs' unfunded mandate claims, therefore, are confused and unspecific. [2]
- Plaintiffs fail to identify the specific mandates/funding that are allegedly included in the purported miscalculation.
- Plaintiffs fail to identify the type and extent of the harm arising from the purported miscalculation.
- Plaintiffs fail to identify the activities or services involved with any particular mandates.
- Plaintiffs fail to identify any statutes relating to the purported mandates, which they allege without identification.

[2] Plaintiffs also mischaracterize the holding in *Oakland County v Department of Mental Health*, 178 Mich App 48 (1989). According to Plaintiffs, the case stands for the proposition that funding for state mandates cannot be included in spending to local governments for Headlee purposes. (Pls' Br, at 41-42.) However, the Court held that the funding could not be counted not because it related to state mandates imposed on local units of government, but because "the provision of mental health services is a state obligation." *Id*. at 59.

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Unlike the *Adair II* allegations, however, Plaintiffs' pleadings purport to challenge not merely a particular mandate and its alleged lack of funding, but instead seemingly *any and all* (unidentified) mandates, as well as the *entire* calculation methodology under §§ 29-30. Defendants submit, therefore, that the pleading requirements serve an even greater purpose in this case than in the unfunded mandate cases. The *Adair II* pleadings failed such requirements, *Adair II*, 497 Mich at 108, 110; *a fortiori*, Plaintiffs' pleading shortcomings are fatal to its claims, which must be dismissed.

And this result makes sense in light of the underlying rationale of the heightened pleading requirements for Headlee claims. Although seemingly premised on legal issues, Plaintiffs' claims are not sufficiently pled either for a court to determine if a § 29 violation occurred (and thus, to craft a proper remedy), or to give the state notice that a financial adjustment is necessary for future compliance. *Adair II*, 497 Mich at 108.

II. Plaintiffs' claims are barred under the doctrine of res judicata

Plaintiffs' claims, which purport to raise §§ 29-30 allegations relating to state mandates, could have been brought and resolved in any number of prior Headlee cases, and, therefore, are barred under the doctrine of res judicata.

A. Prior taxpayer suits to enforce the Headlee Amendment

The history of Headlee litigation primarily comes from the *Durant* and *Adair* line of cases, which go back to initial filing of *Waterford Sch Dist v State Bd of Educ*, 98 Mich App 658 (1980), challenging a reduction of state aid per pupil funding for education as a violation of the Headlee Amendment, Article 9, §§ 25-34. Taxpayer suits have been pending in Michigan almost continuously for the past 30 years. Most recently this Court has addressed taxpayer suits to enforce the Headlee Amendment in the *Adair* cases:

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- *2004 Adair*: the plaintiffs (taxpayers and school districts) brought a declaratory action alleging new and increased mandates relating to special education activities/services, and increased hours of pupil instruction. The Court found that several of the alleged mandates existed during the pendency of prior litigation, i.e., *Durant I* (1997), and thus dismissed the claims on res judicata grounds. The Court allowed one post-*Durant* claim to proceed for factual development, and dismissed the other claims because they alleged activities that were not mandates or were not new.

- *Adair I*: commenced in 2000, the plaintiffs – 930 in total, 465 public school districts and a taxpayer from each district – brought a declaratory action alleging that the state violated the POUM provision when it required the districts to collect, maintain, and report to the Center of Educational Performance and Information (CEPI) without appropriating sufficient funds to reimburse the districts for necessary costs of the new requirements. The Supreme Court agreed with the plaintiffs in finding a Headlee violation, and the Legislature appropriated a specific amount relating to CEPI compliance costs for the 2010-11 school year.

- *Adair II*: the plaintiffs – more than 450 school districts and a taxpayer from each district – brought a declaratory action challenging the appropriation to fund *Adair I* recordkeeping requirements. The Supreme Court affirmed summary disposition in favor of the State on the basis that the plaintiffs failed to meet their burden by refusing to prove a specific underfunding amount. (See *supra*, Part I.A.)

- *Adair III*: the plaintiffs – 465 school districts and a taxpayer from each district – again brought a declaratory action challenging the methodology for the CEPI appropriations. "Plaintiffs characterize[d] the funding scheme as an unconstitutional shell game." The Court of Appeals held that res judicata barred the plaintiffs' claims based on the action brought and decided in *Adair II*.

In short: the issue concerning the methodology for new mandate amounts/calculation has been fully litigated in various iterations for 30 years.

B. Application of Res Judicata

"The doctrine of res judicata is employed to prevent multiple suits litigating the same cause of action." *2004 Adair*, 470 Mich at 121. Furthermore, the doctrine "'relieve[s] parties of the cost and vexation of multiple lawsuits . . . ." *In re MCI*, 460 Mich 396, 431 n 7 (1999) (citation omitted).

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The Supreme Court has concluded that res judicata applies to Headlee claims. *2004 Adair*, 470 Mich at 133; *Adair III*. The *2004 Adair* Court identified the elements for res judicata and its broad application:

> The doctrine bars a second, subsequent action when (1) the prior action was decided on the merits, (2) both actions involve the same parties or their privies, and (3) the matter in the second case was, or could have been, resolved in the first. *Sewell v Clean Cut Mgmt, Inc*, 463 Mich 569, 575; 621 NW2d 222 (2001). This Court has taken a broad approach to the doctrine of res judicata, holding that it bars not only claims already litigated, but also every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not. *Dart v Dart*, 460 Mich 573, 586; 597 NW2d 82 (1999).

2004 Adair, 470 Mich at 121.

In this case, all of the elements of res judicata are met, for which reason res judicata bars Plaintiffs' §§ 29-30 calculation/methodology challenges.

1. The prior actions were decided on the merits

All prior Headlee claims were fully resolved on the merits. In *Adair I*, the Court held that the State had committed a Headlee violation by failing to appropriate funding for CEPI compliance. In other words, the matter was fully adjudicated in the plaintiff school districts' favor, which determination constitutes a determination on the merits. *2004 Adair*, 470 Mich at 121 (prior matter was decided on merits when the Court "resolved the questions of the state's ability under Headlee to reduce funding, in the circumstances there presented, for existing programs."). In *Adair II*, the Court dismissed the plaintiffs' case on pleading grounds. Similarly, in *Adair III*, the Court dismissed based on res judicata grounds. As to both cases, involuntary dismissal operates as an adjudication on the merits under MCR 2.504(B)(3) ("[u]nless the court otherwise specifies in its order . . ., a dismissal under this subrule or a dismissal not provided for in this rule . . . operates as an adjudication on the merits"); *Adair III* (involuntary dismissal under MCR 2.504 operates as an adjudication on the merits.)

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2. Both actions involve Plaintiffs' privies

Defendants acknowledge that Plaintiffs are not the same parties as in prior taxpayer suits to enforce the Headlee Amendment. But, the Michigan Supreme Court has held that, in a Headlee Amendment case, perfect identity of the parties is not required if their interests are adequately represented by the plaintiffs from the previous litigation. *2004 Adair*, 470 Mich at 122-23. Thus, subsequent actions may be barred as to the same parties *or their privies*. *Id*. "To be in privity is to be so identified in interest with another party that the first litigant represents the same legal right that the later litigant is trying to assert." *Id*. at 122 (citation omitted). "The outer limit of the doctrine traditionally requires both a 'substantial identity of interests' and a 'working functional relationship' in which the interests of the nonparty are presented and protected by the party in the litigation." *Id*. (citation omitted). Concerning privity in Headlee cases, the *2004 Adair* Court explained as follows:

> In litigation concerning the MOS or POUM provisions of the Headlee Amendment, Const 1963, art 9, § 29, where a taxpayer or a local unit of government is suing the state, the issue is whether the Legislature's act is unconstitutional as it applies *not just to a single local unit of government*, but to *all local units affected by the legislation*. In such cases, the interests of all similar local units of government and taxpayers will *almost always be identical*. If the relief sought by one plaintiff to remedy a challenged action is indistinguishable from that sought by another, such as when declaratory relief is sought concerning an act of the Legislature *establishing the proportion of state funding for local government units*, the interests are identical.

Id. at 122. (Emphasis added).

Accordingly, the Michigan Supreme Court has found privity between different plaintiffs across Headlee claims. For example, in the *2004 Adair* case, the plaintiff school district/taxpayers brought a claim challenging new mandates and increased costs for existing mandates. *2004 Adair*, 470 Mich at 109. The Court examined whether the plaintiffs had privity with the plaintiffs in *Durant I* (1997). The *Durant* plaintiffs – seven taxpayers from a single school district – had previously challenged a reduction in state special education funding under

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the § 29 MOS provision. *Id*. at 184. The Court found privity between the *2004 Adair* plaintiffs and the *Durant* plaintiffs:

> The taxpayer parties all have the same interest: that mandated activities are funded as they are required to be under the Headlee Amendment. . . . We find the school districts . . . also have the same legal interest protected by the *Durant I* plaintiffs and are similarly in privity. In this case, particularly because only declaratory relief, not damages, was sought, it is evident that all school districts have the same interest.

2004 Adair, 470 Mich at 123.

Like the *2004 Adair* plaintiffs *vis a vis* the *Durant* plaintiffs, Plaintiffs in this case have the same interests as the various plaintiffs across the *Adair* line of cases: i.e., to ensure that mandated activities are funded as required by the Headlee Amendment, and "establish[ ] the proportion of state funding for local government units." *2004 Adair*, 470 Mich at 122. Furthermore, Plaintiffs here seek essentially the same remedy as the *Adair* plaintiffs, i.e., declaratory relief.

Unlike the *2004 Adair* case in which the Court determined that the interests of over 400 school districts and taxpayers (over 900 plaintiffs total) were adequately represented by seven plaintiffs in a single school district, here it is the reverse: Plaintiffs (a nonprofit and 3 individual taxpayers) were represented by over 900 plaintiffs. *Id.* at 123. Furthermore, Headlee litigation has involved several iterations, asserted multiple bases of Headlee violations (including issues related to the interplay of the Headlee Amendment and Proposal A) and spanned 16 years (over 30 years if *Durant* is included). Therefore, the reasoning of the *2004 Adair* privity determination – i.e., that "[t]hese interests were presented and protected by the extensive and thorough litigation that occurred" in *Adair I-III* – applies with even greater force in this matter.

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Finally, the finding that different taxpayers have privity across Headlee claims makes sense: one's interests may be adequately represented whether asserted on one's own, or by a local representative with the same interests.[3]

3. This action could have been brought/resolved in prior Headlee claims

Third, the matter in this case (the §§ 29-30 calculation/methodology) was, or could have been, resolved in any of the prior Headlee challenges involving mandates that Plaintiffs (apparently) claim were improperly included in the § 30 calculation.

Michigan applies the transactional test to determine if the matter could have been resolved in a prior case. *Id*. at 123. As the Supreme Court explained in *Adair*:

> The 'transactional' test provides that 'the assertion of different kinds or theories of relief still constitutes a single cause of action if a single group of operative facts give rise to the assertion of relief.' …. Under this approach, a claim is viewed in 'factual terms' and considered 'coterminous with the transaction, regardless of the number of substantive theories, or variant forms of relief flowing from those theories, that may be available to the plaintiff; …. and regardless of the variations in the evidence needed to support the theories or rights.'

Id. at 124 (citations omitted).

Furthermore, "the determinative question is whether the claims in the instant case arose as part of the same transaction as did the [prior] claims." *Id*. at 125. "Whether a factual grouping constitutes a 'transaction' for purposes of res judicata is to be determined pragmatically, by considering whether the facts are related in *time, space, origin or motivation*, [and] whether they form a convenient trial unit . . . ." *Id*. (citation omitted).

[3] This point is especially pertinent in light of Justice Kelly's remark in the *2004 Adair* case that "the taxpayers are the real parties in interest here." 470 Mich at 135, n3 (Kelly, J., dissenting). Such remark takes on greater meaning because it was asserted in the context of Justice Kelly's admonition of the majority's broad application of res judicata to taxpayers who were not part of the prior *Durant* litigation.

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Michigan courts have found that later Headlee actions could have been brought and resolved in prior Headlee actions. For example, in the *2004 Adair* case, the Supreme Court examined the plaintiff school districts' claims concerning new/increased mandates (discussed *supra*, Part II.B.ii), and determined that certain claims could have been asserted in the prior *Durant* litigation. The Court began by observing that "the statutory and regulatory requirements complained of in this case, and alleged to be 'new' or 'increased' activities since Headlee was enacted, existed during the pendency of *Durant I*." *Id*. at 125. Furthermore, "the requirements, like those in *Durant I*, have been imposed by the Legislature and executive bodies on local school districts for the purpose of providing public education. Thus, they are related to one another in 'time, space [and] origin.'" *Id*. Finally, "because the allegations in both this case and *Durant I* concern the Headlee Amendment, the claims are related by 'motivation' as well." *Id*.

Here, like the complained-of mandates in the *2004 Adair* case, the Court may fairly presume that the statutory and regulatory requirements that are the subject of Plaintiffs' claims (while unidentified) existed during the pendency of the *Adair I-III* actions. Unlike the specifically alleged mandates in *2004 Adair*, we do not know whether *all* new activities/mandates alleged by Plaintiffs were imposed during the pendency of *Adair I-III* because Plaintiffs do not identify any particular mandates. However, like the *2004 Adair* mandates that existed while *Durant* was pending, all Plaintiffs' cited cases/mandates existed during (and, in fact, predated) *Adair II-III*. Indeed, two of the cases Plaintiffs rely on – *Mahaffey* and *Durant II* (1999) – predate all the *Adair* cases, and the *Adair I* action itself naturally predates its successors *Adair II* and *Adair III*. Thus, it can be inferred that at least some of Plaintiffs' claims (and perhaps all, whatever they may be) had been imposed at the time of *Adair I-III*, for which reason the actions are related in space and time. *Adair*, 470 Mich at 125; *Washington v Sinai Hospital*, 478 Mich 412, 420 (2007). Furthermore, any mandates that Plaintiffs may allege

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stem from the legislative budgeting and appropriation process, and would have to be imposed by the Legislature on local units of government, and thus would implicate the State's §§ 29-30 calculations/methodology. Therefore, Plaintiffs' action is related to the *Adair* cases in origin. *Id*.

Finally, both Plaintiffs' claims and the allegations in the *Adair I-III* cases concern the Headlee Amendment, and have the same goal, i.e., to provide the Legislature with a judicially determined amount that it must appropriate in order to comply with the Headlee Amendment. Thus, the same "motivation" is present in this matter and *Adair I-III*. *Id*. Consequently, Plaintiffs' claims would have had sufficient relation, and thus formed a convenient trial unit, with the prior Headlee claims.

For these reasons, Plaintiffs' action could and should have been brought in the prior Headlee actions. Therefore, this action is barred under res judicata.

III. Plaintiffs' statutory claims are not properly before this Court.

A. Plaintiffs do not properly invoke this Court's jurisdiction

Plaintiffs make several statutory claims concerning the State's obligations, and purported failures, to prepare certain reports under MCL 21.235; MCL 21.241; MCL 21.242. (Pls' Compl, ¶¶ 83, 86-90, 121.) However, these obligations are imposed not by the Headlee Amendment, but instead by the Headlee implementing legislation, Public Act 101 of 1979. Therefore, these claims are indisputably statutory claims, which as such do not rise to the level of constitutional (i.e., Headlee) violations. *Waterford School Dist v State Bd of Educ*, 130 Mich App 614, 624 (1983). Accordingly, Plaintiffs' claims are not properly alleged, and, therefore, fail to invoke the original jurisdiction of this Court set forth in MCR 7.206(E).

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B. Plaintiffs lack standing to assert their statutory claims

Plaintiffs seek mandamus "directing the State of Michigan to fully comply with the reporting requirements of MCL 21.235 and MCL 21.241." (Pls' Compl, Prayer for Relief, ¶ f.) However, Plaintiffs lack standing as to these statutory claims. "Standing is the legal term used to denote the existence of a party's interest in the outcome of a litigation; an interest that will assure sincere and vigorous advocacy." *Waterford Sch Dist*, 98 Mich App at 662. "Traditionally, a private citizen has no standing to vindicate a public wrong or enforce a public right where he is not hurt in any manner differently than the citizenry at large." *Id*.

"A writ of mandamus is an extraordinary remedy." *Coalition for a Safer Detroit v Detroit City Clerk*, 295 Mich App 362, 366 (2012). A plaintiff must show that (1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled, (2) the defendant has a clear legal duty to perform the act, (3) the act is ministerial, and (4) no other remedy exists that might achieve the same result. *Id*. See also *Stand Up For Democracy v Sec'y of State*, 492 Mich 588, 618 (2012).

Here, Plaintiffs have no legal right to the State's performance with respect to reporting as set forth in MCL 21.235 and MCL 21.241. The purposes of the reports relate to the Legislature, not to Plaintiffs or even taxpayers generally. MCL 21.235 and 21.241 both deal with Executive reports to the Legislature. In other words, the subject provisions, enacted by the Legislature for purposes of implementing a voter-approved constitutional enactment, govern the relations and obligations between two branches of government – i.e., the Executive and the Legislature – in light of the Headlee Amendment's enactment. Furthermore, even assuming there is a statutory violation, Plaintiffs cannot demonstrate any harm that is different from the Michigan public at large. *Waterford Sch Dist*, 98 Mich App at 662.

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Accordingly, Defendants have no obligation to Plaintiffs under the subject statutory provisions, for which reason Plaintiffs' statutory claims do not offer them any basis for a remedy. Therefore, Plaintiffs lack standing to pursue these claims, which must be dismissed.

C. The Office of Auditor General is not a proper party to this action

Plaintiffs allege that the Office of Auditor General (OAG) failed to report a shortfall in local government spending. However, the OAG is not a proper party in this original action to enforce the Headlee Amendment.

A mandamus action requires, among other things, that the act be ministerial. *Coalition for a Safer Detroit*, 295 Mich App at 366. In this case, the OAG is responsible for reviewing the State Budget Office's Statement of the Proportion of Total State Spending from State Sources Paid to Units of local government ("Statement"), and preparing an independent accountant's review report. (Ex 1 to Pl's Br, at 2.) In substance, this means that the OAG reviews and determines how state funds are spent, and examines whether the Statement properly accounts for spending to units of local government. The OAG then concludes whether or not material modifications to the Statement are necessary. Such review "includes primarily applying analytical procedures to management's financial data and making inquiries of management." (*Id*.). The review is conducted "in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants." (*Id*.). That duty is not found within or specific to any Headlee constitutional provisions.

The OAG acknowledges that the act of reviewing state expenditures and application of such expenditures may be considered ministerial – conducting the review itself is required. However, the OAG denies that its specific application of accounting principles and analytical procedures during its review, or its conclusions, are merely ministerial. On the contrary, the

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OAG submits that such analysis is discretionary – it requires application of professional judgment in accordance with well-established guidelines and procedures to new information (i.e., budgets, line-item accounting/expenditures) every single year. The OAG has applied the same methods for its review and analysis for decades, for which reason any purported error in such methods is neither established nor even apparent. Furthermore, the OAG's review and analysis culminate in a statement of assurance, i.e., that the Budget Office's determination that the state has met its § 30 obligations requires no material modifications.

Finally, the OAG submits that the requested relief in this instance is inapposite. If this Court adopts Plaintiffs' § 30 interpretations, then the OAG will adopt those procedures and interpretations that the Court prescribes. The OAG submits that a mandamus action would be appropriate only in the event that it did not comply with this Court's ultimate determination.

MCR 2.207 allows a party to be dropped "by order of the court on motion of a party or on the court's own initiative at any state of the action and on terms that are just." Therefore, the OAG requests that it be dropped from this action.

IV. Exclusion of Proposal A and other mandated payments from state spending paid to all local governments is contrary to the plain language of article 9, § 30

There is no dispute that local school districts that receive guaranteed payments required by Proposal A are units of local government. Because the elector-approved Proposal A increased the applicable state taxes to fund public schools and guaranteed that each local school district receive minimum funding based on 1994-95 operating revenues, (Const 1963, art 9, § 11), overall state revenues and payments to local governments naturally increased.

Proposal A was simply a public school funding formula change. Instead of primarily funding schools with local property taxes, the voters decided to increase state taxes to fill the funding gap left by shifting the funding obligation from local taxpayers to the State. Proposal A

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also guaranteed that the minimum funding at 1994-95 levels is paid to public schools. This voter approved change caused an increase in the total amount of money the State pays to local schools, but did not mandate an increase in overall state spending to local governments as a group and did not otherwise amend article 9, § 30. The additional revenue paid to public schools is included in the State's calculation of its § 30 obligation and has been since Proposal A went into effect.

Section 30's plain language not only permits the inclusion of the additional revenue that Proposal A created; when determining "total state spending to local governments" as a group, it requires it. Proposal A's guaranteed minimum funding in article 9 § 11 is a component of "total state spending" and it is paid to local units of government. To claim otherwise is specious and contrary to § 30's plain language and the intent of the voters who passed both the Headlee Amendment and Proposal A.

Excluding certain categories of spending paid to local governments from § 30, simply because the revenue was fostered by a voter ratified constitutional amendment that increased state funding to one particular category of local government, creates a non-existent exception to § 30's broad language, one that was absent from the text of Proposal A. In order to properly interpret § 30, the Court must ascertain the intent of the voters who passed the Headlee Amendment. *1985 Durant*, 424 Mich at 378. To determine intent, the Court should first look at the language of the constitution. *Id.* The Court may also look at how the Legislature implemented the amendatory language. *Durant II*, 238 Mich App at 212. Construction of a constitutional provision enacted as a result of voter initiative requires a special emphasis on the duty of judicial restraint. *Schmidt v Dep't of Educ*, 441 Mich 236, 241-42 (1992). The phrase, "state spending paid to local units of government," is broad and does not categorize or differentiate between different sources of revenue paid to local governments and does not further

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distinguish between mandated or non-mandated payments. The same broad non-categorical definition appears in the Headlee implementation statutes. MCL 18.1304 provides:

> State spending paid to local units of government" means the sum of total state spending from state sources paid to a local unit of government. State spending paid to a local government does not include a payment made pursuant to a contact or agreement entered into for the provision of a service for the state or to state property, and loans by the state to a local unit of government.

Prior to Proposal A, the State included aid paid to school districts in its § 30 calculation. After Proposal A, the State continued to pay school aid to districts, it just paid more through increased foundation allowances required by Proposal A. Despite increasing the amount of aid the State pays to school districts, Proposal A did not amend any portion of the Headlee Amendment or amend § 30's language to exclude mandated payments from its application. The voters could have amended § 30 to exclude Proposal A revenue, or adjusted the percentage, but the voters did not do so. As such, there was no reason for the State to discontinue its inclusion of Proposal A school aid funding in calculating the § 30 percentage of money paid to local governments because the voters intended that all school aid funds paid to local school districts continue to be included.

This rationale also applies to the taxpayer's claim that the State improperly counts spending on mandates paid to local governments. The text of § 30 does not exclude payments to finance activities or services that the State requires of local government from the computation. Rather § 29 requires the State to disburse funds for specific payments to specific units of local government for the necessary cost of existing, new or increased activities or services. But nothing in the plain text of § 30 excludes those payments to particular units of local government for specific required activities from consideration "total state spending paid to local units of government" taken as a whole.

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Counting Proposal A or other constitutionally mandated payments to any particular unit of local government as a component of "total state spending paid to all units of local government" has not been challenged for 32 years, but now Plaintiffs request this Court to extensively narrow the broad definition of "total state spending" by reading different revenue classifications out of § 30 in order to pick and choose which sources of revenue are used to calculate the percentage. Plaintiffs accuse the State of playing a "shell game" by following § 30's clear language; however, it is Plaintiffs that want to read non-existing language into a constitutional amendment.

In *1985 Durant*, the plaintiffs attempted to read additional language into § 29 arguing that the term "state law" included constitutional requirements. 424 Mich at 377. In holding that "state law" only includes state statutes and administrative rules and not constitutional requirements, the Court looked at § 29 and compared the sentences "state law" and "required by the Legislature or state agency". *Id* at 380. The Court declined to read the word "constitutional" into the plain language absent a definite pronouncement that constitutional requirements were to be included in § 29. *Id*.

In this case, there is no definite pronouncement in any portion §§ 25-34 that the additional school aid payments required by Proposal A or payments required under § 29 should be excluded from "total state spending" when determining compliance with § 30. Likewise, there is no pronouncement in Proposal A that any required payments to schools be excluded from § 30's percentage. As such, it is proper for the State to continue including all school aid funding paid to local schools in its § 30 calculations. The fact that the additional state spending for local schools caused overall allocations of total state spending to shift has no bearing on the calculation of the proportion paid to all units of local government as a group. But article 9 §§ 25-34 do not guarantee any particular unit or units of local government a certain dollar amount of

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unrestricted aid from the State and still gives the State discretion to allocate dollars among all local governments. *1985 Durant*, 424 Mich at 393. The State cannot ignore the will of the voters who elected to primarily fund public schools with State taxes as opposed to local property taxes, simply because Plaintiffs do not like the fact the § 30 proportion increased.

Plaintiffs cite *Oakland County*, in support of its argument that Defendants have violated § 30 by including Proposal A revenue. 178 Mich App 48 (1989). *Oakland County*, however, only excludes from the § 30 percentage money paid to local governments to discharge a state obligation, or as part of a contract to perform services for the State or to state property. 178 Mich App 48, 55 (1989); MCL 183.1304(8). This makes sense. The State cannot include money paid to contractors to perform its obligations as spending paid to local units of government and should not count those payments where they choose to contract with a local government to perform a state obligation.

Providing public education is a local obligation, the State's obligation is to support the school districts established by local governments. *SS v State*, 307 Mich App 685, 698 (2014). Article 8, § 2 requires the Legislature to maintain and support a system of free public schools, but the local school district has the responsibility to provide the education of its pupils. *Id*. Further, public education is a constitutional requirement, not a state mandate under Article 9, § 29. *1985 Durant*, 424 Mich at 378. In this case, school aid funding clearly does not meet the "state obligation" exception so all school aid funding paid to local governments must be included in the § 30 percentage. Excluding the additional school aid funding generated by Proposal A from § 30 goes against the intent of the voters who passed both the Headlee Amendment and Proposal A.

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A. The inclusion of Proposal A revenue in the Article 9, § 30 percentage is not a tax shift to local governments because it does not create an unfunded mandate

Plaintiffs' allegations that the State violated Article 9, §§ 25 and 30 attempts to disguise what is really a § 29 unfunded mandate claim. In order to have a tax shift, there must first be an unfunded mandate. Plaintiffs treat § 25 as an independent cause of action, however, the Court has interpreted § 25 to be an introductory paragraph with §§ 29 and 30 providing the substantive implementation. *Waterford School Dist*, 130 Mich App at 620. Plaintiffs have done this presumably due to their failure to meet the heightened pleading required to move forward with an unfunded mandate claim. Setting aside the fact that Proposal A was a constitutional amendment ratified by the voters, and not state legislative or administrative action; Proposal A was simply a public school funding formula change and the inclusion of its revenue in § 30 does not in turn create an unfunded mandate on local governments. Both Plaintiffs' complaint and brief are completely devoid of any factual allegations on what tax burden was shifted to local governments after Proposal A was enacted. Plaintiffs do not specifically allege any unfunded mandates, but rather theoretically argue the State's treatment of Proposal A revenue forces local governments to raise taxes in order to provide local services.

Nothing in § 30 requires the State to allocate a certain dollar amount, or a certain category of aid, to a particular local unit of government. Headlee's check on the State from shifting any tax burden to local government is § 29. As the *1985 Durant* Court interpreted § 29:

> Both sentences clearly reflect an effort on the part of the voters to forestall any attempt by the Legislature to shift responsibility for services to the local government, once its revenues were limited by the Headlee Amendment, in order to save the money it would have had to use to provide the services itself.

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424 Mich at 668. Section 29 does not guarantee local governments money for operations or local services, it merely protects local governments from the State mandating it provide programs, activities, or services without paying for them.

Nothing in the Headlee Amendment requires the State to act as a guarantor of local governments' ability to fund operations or provide services. If a local government wishes to raise revenue for increased operation costs or providing additional services, not required by the State, it can do so by asking its constituents for a tax increase. This system provides the taxpayers greater control over their government's ability to raise taxes, a main goal of the Headlee Amendment. *1985 Durant*, 424 Mich at 669.

To the extent Proposal A could even be considered a tax shift, it did not violate § 25 as it was not a shift of the tax burden from the State to local governments. Rather, by passing Proposal A, the voters elected to take the burden of school funding away from local property taxes and placing the burden on the State through increased state taxes. The voters wanted less property tax burden while addressing funding inequities among school districts.

Additional discovery is not needed as there is no factual dispute that Proposal A revenue and other mandated payments to local government have properly been included in the State's calculation of its § 30 percentage of total state spending paid as aid to local units of government. Further, Plaintiffs fail to state a claim under § 25, and fail to meet the heightened pleading required to move forward with its disguised § 29 unfunded mandate claim. As such, Plaintiffs' complaint should be dismissed with prejudice.

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V. Public charter schools are political subdivisions of the State and funding for charter schools is properly considered aid to local governments.

A. Charter schools are public schools

Charter schools have been operating in Michigan since the Charter Schools Act, 1993 PA 362, became law in 1994. The Michigan Supreme Court has ruled on the constitutionality of charter schools (also called "public school academies") and held that funding charter schools by the State was constitutional. *Council of Organizations & Others for Educ About Parochiaid v Governor*, 455 Mich 557 (1997). In that case, the plaintiffs challenged the Charter Schools Act which authorized the creation of public school academies by attempting to enjoin the distribution of public funds on the basis that the Act was unconstitutional. *Id.* at 560.

Council of Organizations clearly articulated the role of charter schools. A charter school is administered under the direction of a board of directors and the nonprofit corporation bylaws contained in the school's contract. *Id.* at 565. A person or entity that wishes to organize a charter school must submit an application containing the statutorily required information to an authorizing body. *Id.* Most important, the application is an agreement that the charter school will comply with state and federal law applicable to public bodies or school districts. *Id.* at 566. A charter school can be authorized by a school district and when done, the charter school agrees to be covered by the collective bargaining agreements that would apply to other employees of that school district. *Id.*

The Charter Schools Act "specifies four types of authorizing bodies: (1) the board of a school district, (2) intermediate school board, (3) the board of a community college, and (4) the governing board of a state public university." *Id.*, citing MCL 380.501(2). The authorizing body is not required to issue any charter school contracts, but if it chooses to, the contracts must be issued on a competitive basis when looking to the resources of the proposed charter school, the

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population to be served and the educational goals of the charter school. *Id.* at 566-67, citing MCL 380.503(1). If approved, the authorizing body acts as the fiscal agent for the charter school. *Id.* at 567. The authorizing body is responsible for ensuring the charter school's compliance with the contract and law. *Id.*, citing MCL 380.507. The authorizing body may revoke the contract at any time the charter school fails to meet its obligations. *Id.*

A charter school must comply with all applicable law, including the Open Meetings Act (MCL 15.261 et seq), the Freedom of Information Act (MCL 15.231 et seq), and the Public Employment Relations Act (MCL 423.201 et seq). MCL 380.503(7). A charter school and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in MCL 691.1407. MCL 380.503(8). An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a charter school if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority. *Council of Organizations*, 455 Mich at 567. A member of the board of directors of a public school academy is a public officer and, before entering upon the duties of the office, must take the constitutional oath of office for public officers under Article II, § 1. MCL 380.503(11).

The Court highlighted the fact that "Subsection 501(1) states that 'public school academy is a public school under section 2 of Article VII of the state constitution of 1963, and is considered to be a school district for the purposes of section 11 of article IX of the state constitution of 1963." *Id.* Additionally, the Act prohibits any charter school from charging tuition, and if there are more applicants than space, the charter school must use a random selection process for the enrollment of students. *Id.* at 568.

The plaintiffs challenged the constitutionality of charter schools by asserting that they were not public because they were not under the immediate or exclusive control of the State and

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the board of directors were not publicly elected or appointed by a public body. *Id.* at 571. The Court found the control issue was, essentially, irrelevant because the constitution did not require exclusive or immediate control. *Id.* at 572. However, on the issue of public funding, the Court found that the constitution only required the Legislature to maintain and support a system of public schools and that other states had recognized the need for the State to have some control in order to qualify for public funding. *Id.* at 572-73, citing 78 CJS, School and School District, § 2(b), pp 38-39. But, the Court found that charter schools met that requirement because "they are under the ultimate and immediate control of the state and its agents." *Id.* at 573. First, a charter can be revoked any time by the authorizing body for the school's failure to failure to comply with the contract or applicable law. *Id.* Second, all authorizing bodies are public institutions over which the State exercises control. *Id.* Third, the State controls the money and if the school meets the qualifications for funding, such funding is not unconstitutional and it qualifies as a public school. *Id.* at 573-74.

The Court found that any challenge to the fact that the board of directors of a charter school are private to be without merit. *Id.* at 575-77. The authorizing bodies are public and the public maintains control of the school through those authorizing bodies. *Id.* at 576-77.

Plaintiffs in this case repeatedly argue that charter schools would not fit in the broad definition of "local government" contained in § 33 as the public would have understood that to be in 1978. However, the Court in *Council of Organizations*, went even further back than 1978, and examined "the common understanding of what a 'public school' is, as adopted by the 1961 Constitutional Convention, for the first paragraph of § 2, and if we inquire into the common understanding of 'private, denominational or other nonpublic' school, as adopted by the voters in 1970 for the second paragraph of § 2, *we find that public school academies are 'public schools.*'" *Id.* at 576 (emphasis added).

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The Court found that "we do not have a requirement in our state constitution that mandates that the school be under the control of the voters of the school district." *Id.* at 577. Additionally, the Court found that "our forefathers envisioned public education to be under the control of the Legislature, which is under the command of the entire state electorate." *Id.* While a charter school may have a private board of directors, the "board members are public officials and are subject to all applicable law pertaining to public officials." *Id.* at 585. Ultimately, the Court found that state payments to charter schools were proper and constitutional. *Id.* at 587.

B. Charter schools fit the broad definition of "local government" as defined in Article 9, § 33

Section 33 defines "local government" as "[a]ny political subdivision of the state, including but not restricted to, school districts…, authorities created by the state, and authorities created by other units of local government." By any measure, this is a very broad definition as it was intended.

Plaintiffs quote *Traverse City Sch Dist v Att'y Gen*, 384 Mich 390, 405 (1971) stating "it is not to be supposed that they [the people] have looked for any dark or abstruse meaning the words employed, but rather that they have accepted them in the sense most obvious to the common understanding…". Defendants assert that no further meaning that the plain text of Article 9, § 33 need to be considered. However, Plaintiffs essentially argue that the plain text of the Headlee Amendment is confusing because rather than argue that the words of § 33 bar charter schools from being considered local government, Plaintiffs immediately attempt to push toward an argument as to what the people would have believed it to say.

There is little dispute that schools have been a matter of local obligation for decades. Charter schools are doing nothing more than carrying out this local obligation for those residents

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that choose to utilize it. Charter schools are funded the same as any other public school for purposes of § 507. *Council of Organizations*, 455 Mich at 573.

There is no dispute that money paid to local governments to carry out a state obligation is not to be included in the 48.97% calculation. *Oakland County v Department of Mental Health*, 178 Mich App 48 (1989). However, § 33 must be interpreted broadly because § 30 requires the "proportion of total state spending paid to all units of local governments" to be calculated each year. Thus, a narrow interpretation of local government could result in exclusion of entities that are clearly performing local functions for the benefit of residents from the § 30 calculation. Such a result cannot be said to be the intent of the voters or the common sense interpretation of the Headlee Amendment.

All schools in Michigan are clearly a creation of the state and "[e]xcept as provided by the state, they have no existence, no functions, no rights, and no powers." *East Jackson Public School v State*, 133 Mich App 132, 139 (1984). "The policy of the State has been to retain control of its school system, to be administered throughout the State under State laws by local State agencies organized with plenary powers to carry out the delegated functions given it by the Legislature." *Id*., quoting *Lansing School Dist v State Bd of Ed*, 367 Mich 591, 595 (1962).

MCL 18.1115(5) defined "unit of local government", and like the definition in § 33, "school districts" and "authorities" are included. But the Legislature added the requirement that the unit provide "local governmental services for citizens in a geographically limited area of the state and has the power to act primarily on behalf of that area." Charter schools fit this definition in two ways: First, charter schools are public schools and perform a local governmental service; second, while some charter schools may operate state-wide, they are still an authority created by the State to perform the local governmental service. Charter schools are not required to operate state-wide and a simple choice by a charter school to provide its services to all Michigan

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residents does not result in that charter school performing a state function rather than a local function.

More importantly, charter schools are not part of traditional state government under the direction of the executive branch. Rather, as shown above, all public schools, including charter schools, are political subdivisions of the State authorized by political subdivisions of the state. The plain language of § 33 stating that "school districts" and "authorities created by the state" and "other units of local government" would clearly include charter schools in that broad definition.

C. The People would have considered charter schools as "local government" at the time of passage of the Headlee Amendment

Plaintiffs repeatedly argue that charter schools are different than the schools that were typical at the time of the ratification of the Headlee Amendment. Many things change throughout time but the question is not what the voters were used to, but instead what they would have found to be included in the definition. Plaintiffs complain that charter schools have little accountability compared to traditional schools. However, this argument was clearly rejected in *Council of Organizations* as the Court found that "because authorizing bodies are public institutions, the state exercises control over public school academies through the application-approval process." 455 Mich at 573.

Charter schools are subject to the ultimate form of in accountability as the only method of funding that is possible is through per-pupil funding. Therefore, if any student is not satisfied with the education, they can simply choose to go elsewhere and it will not cost them a penny. This is unlike a traditional school in that even when a student elects to go to a charter school, that traditional school still receives the local property tax revenue.

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The characteristics of school districts and their powers in 1978 are confusing in nature. Whether a charter school has as much power or autonomy as a local school district in 1978 does not take away the fact that authorities created by the State could have as little or as much power as the State deems necessary and would still be a local government under § 33. It has long been the law of Michigan that school districts are "merely a State agency carrying out the distinctively governmental work of education." *King v School Dist*, 261 Mich 605, 609 (1933).

Plaintiffs complain that there are private entities that may handle portions of the operations of charter schools. However, charter schools, like other school districts, have the authority to contract for certain services. There is no requirement that lawn service or snow removal must be performed by school employees, or that a school district cannot contract these services to private entities. Charter schools, like any other public school, must comply with the school code and charter school board members are public officials who are subject to all applicable law pertaining to public officials. *Council of Organizations,* 455 Mich at 585. The mere fact that a charter school can contract with an educational management organization (EMO) does not change the analysis. The focus must be on the charter school, not a third-party, and the charter school is required to follow the school code and operates under the authorizing body. Any further decisions concerning the operation of the charter school, provided it complies with the applicable law, are merely management decisions to provide the best service to students possible.

MCL 18.1350 would require that the funding for charter schools be included in the calculation because schooling is typically a local function. MCL 18.1350(1) states that "[i]f state government assumes the financing and administration of a function, after December 22, 1978, which was previously performed by a unit of local government, the state payments for the function shall be counted as state spending paid to units of local government." Here, charter

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schools must be counted toward the 48.97%, as schooling such as that provided by charter schools would be a function previously performed (and currently performed) by a unit of local government.

Any attempts by Plaintiffs to draw conclusions from non-applicable law should be disregarded. The Headlee Amendment is unique but straight-forward in the plain text of its requirements. The people enacted the Headlee Amendment with broad definitions that should be read in conformity with its broad nature.

VI. The State Trunkline Fund is used to maintain state trunk line roads and to fund Local Government transportation projects. The two purposes are separately and properly tracked for purposes of § 30

Act 51 controls Michigan's transportation funds, including the STF The STF provides funding for state and local transportation projects. Payments from the STF to local road commissions to maintain state roads are not counted as aid to local governments. Money allocated for local transportation projects is counted as spending to local governments. Plaintiffs' claims fail legally and factually.

A. Plaintiffs' conclusory statements fail legally and factually

Plaintiffs assert that the reported § 30 "aid to be paid to local governments" by or through the Michigan Department of Transportation includes money from the STF. (Pls' Compl at 69-70.) That is true and reported in the publicly available § 201 report. PA 84 2016, Art XVII, § 201. Plaintiffs next assert that "[s]upport and maintenance of state trunk line roads …is an obligation of the state and a state function." (Pls' Compl at 75.) The brief generally echoes the complaint stating that "maintenance and improvement of the trunk line roads system is . . . a state obligation and function." (Pls' Br at 37-38.) To the extent Plaintiffs mean state trunk line highways, these statements are also true. MCL 247.651a-b. But, as demonstrated, *supra*, section

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VI(A)(2), payments for State obligations are not included in total state spending paid to local units of government for purposes of § 30.

Plaintiffs next assert that "the clear purpose of the [STF] is to maintain and improve state trunk line roads," citing to MCL 244.661. (Pls' Br at 38.) That statement is incomplete; the plain language of the statute provides for spending on state trunk line roads *and various other local projects*. In order to be accurate, Plaintiffs' statement should say "[one of] the clear purpose[s]" of the STF is maintenance of state trunk line roads, among other statutory allocations.

The same statute Plaintiffs reference, MCL 247.661, also appropriates funds for local bridge projects. MCL 247.661(1); MCL 247.660(1)(a), (1)(f). The local bridge fund is "for distribution only to cities, villages, and county road commissions" for local road and bridge projects. MCL 247.660(1)(f). Part of the STF is also earmarked for the transportation economic development fund for local transportation projects. MCL 247.661(1)(b); MCL 247.660(1)(j); MCL 247.901 et seq. The Legislature also provides grants from the STF for maintenance of local railroad grade and crossing projects that are "under the jurisdiction of . . . counties, cities, or villages." MCL 247.661(1)(c).

Not only is there explicit language appropriating money for these local transportation projects from the STF, there is no limiting language that requires the STF be used exclusively on state trunk line road projects. In fact, funds from the Michigan Transportation Fund (MTF) are also transferred to the STF for distribution under the provisions of MCL 247.661, including spending for local government transportation projects listed above. MCL 247.660(1)(e), (1)(l)(1).

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B. Local spending listed in § 201 of the transportation budget does not include contractual payments for trunk line work

Plaintiffs allege that "Department of Transportation payments to county road commissions and others from the trunk line road fund cannot … be used in the" § 30 calculation. (Pls' Compl at 75.) Plaintiffs' allegation is wrong and fails to consider the various STF spending provisions for local transportation projects listed above. In total, transportation revenue spending on local government under § 30 was $1,438,800,000 for 2015, including $33,000,000 in grants to local programs, $26,828,400 from local bridge program, and $23,385,200 in economic development funds, all coming from or through the STF. 2016 PA 84, Art XVII § 201.

Plaintiffs are correct in stating that contractual payments to county road commissions for work on state roads should not be counted in the § 201 report as aid to local governments for Headlee § 30. That is why those payments were not included in the § 30 calculation. The 2015 MDOT budget included $310,692,000 for state highway maintenance. 2016 PA 84, Art XVII, § 110. The entire amount was appropriated from the STF and included MDOT expenses for state roads it maintains, as well as payments made to local road commissions for portions of state roads they maintains under contracts with MDOT. *Id*. (Patrick McCarthy Aff, Ex C.).

That treatment is consistent with statute and decisions of this Court. MCL 18.1304(3); *Oakland County v Dep't of Mental Health*, 178 Mich App 48 (1989). MDOT and the DTMB accounted for these distinct uses – contractual payments to local governments for work on behalf of the State versus aid to local governments– correctly by excluding the contractual payments from the § 30 calculation. 2016 PA 84, Art XVII, § 110; § 201; Patrick McCarthy Aff, Ex C.

Finally, the total STF spending to local governments for § 30 was approximately $84,000,000 from a total of approximately $29,000,000,000 state spending from state resources, or .2%. Given the overfunding of local governments relative to the § 30 requirement – roughly

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55% rather than 48.97% – Plaintiffs transportation claims are not only factually and legally wrong, they are not mathematically dispositive under § 30. See *supra*, Section VII.

C. Plaintiffs' pleadings are unsupported, fall short of the specificity requirements and should be dismissed

MCR 2.112(M) requires that Plaintiffs asserting any "violation of Const 1963, art 9, §§ 25-34," including Plaintiffs' § 30 claims here, must "set forth with particularity the factual basis for the alleged violations . . . and indicate whether there are any factual questions that are anticipated to require resolution by the court." Further, Plaintiffs must "append to their pleadings copies of all ordinances and municipal charter provisions involved, and any available documentary evidence supportive of a claim or defense." MCR 2.112(M); MCR 7.206(E)(1)(a).

Plaintiffs make unsupported legal conclusions and provide no factual support for their claims. Plaintiffs had access to volumes of public documents through various state department and agency websites, including MDOT, DTMB, and annual budgets passed by the Legislature and signed by the Governor. MDOT even provides a search function for locality distribution reports and provides detailed fiscal year end spending, by fund. http://www.michigan.gov/documents/budget/FY15_DS6360AD_511920_7.TXT

Yet Plaintiffs have provided nothing to support their factual allegation that contractual STF payments were included in § 30. Not only is the allegation unsupported, it is contrary to the separate budget allocations for local government spending under § 201 and contractual payments under § 110 for Highway Maintenance. The STF funding was separately and properly accounted for, as was spending for trunk line road work, for which reason Plaintiffs' claims are without merit.

Plaintiffs' legal premise that the STF is limited to use on trunk line roads is erroneous. Legally, Act 51 does not limit the STF as Plaintiffs allege and, in fact, the Legislature has

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explicitly appropriated from or through the STF for various local transportation purposes. Both legally and factually, Plaintiffs' transportation funding claims fail and should be dismissed.

VII. The State pays in excess of the minimum proportion of state spending required under § 30

The Headlee Amendment, article 9, § 30, requires that state spending to, or on behalf of, local units of government must not fall below a certain percentage of total state spending, which percentage was recalculated as 48.97%, effective fiscal year 1993. However, the State is allowed to reduce non-mandated funding so long as it meets its constitutional obligations under §§ 11 and 29. Furthermore, state spending paid to all units of local government in the 2015 fiscal year exceeded the amount required under § 30 by almost $1.9 billion.

A. The State may reduce non-mandated funding

There is nothing in the plain language of article 9, §§ 25-34 that requires the Legislature to continue to fund a local units of government at an amount in excess of constitutional requirements, and nothing that prevents it from reducing non-mandated funding at its discretion. The Legislature is free to supplement minimum funding required by the Headlee Amendment if it is so inclined, but the Headlee Amendment only guarantees the local government its proportionate share of the cost of mandated activities – it does not guarantee an overall net increase in state funding. *Adair v Michigan*, 302 Mich App 305, 321-23 (2013), citing *Durant II* (§ 29 of the Headlee Amendment did not preclude the use of foundation allowance to fund the state's Headlee obligations); *Durant III* (neither the Headlee amendment nor Proposal A constitutionally precludes the Legislature from allocating that portion of the foundation allowance that exceeds the base level required by Proposal A to fund Headlee obligations or additional non-mandated payments).

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In short: so long as the state meets its § 11 obligation (guaranteed minimum per-pupil funding for schools), § 29 obligation (payments for mandated activities and services), and § 30 obligation (the 48.97% proportion), it may reduce any non-mandated funding to local governments or reallocate non-mandated funding among local governments. Thus, it is Plaintiffs' burden to allege the specific underfunding and how that determination was made. MCR 2.112(M); *Adair II*, 497 Mich at 110.

B. State spending in FY 2015 exceeded the amount required under § 30

Plaintiffs' Exhibit 1, Statement of the Proportion of Total State Spending from State Sources Paid to Units of local government, clearly establishes that the proportion of total state spending paid to units of local government for the 2015 fiscal year was $16,313,100,000, representing 55.25%. (Ex 1 to Pls' Br, at 4.) In other words, the state provided over $1.8 billion in excess of its requirements which would absorb most of Plaintiffs' claims. (*Id.*).

Therefore, even assuming that some items alleged to be improperly included in the § 30 calculation (e.g., charter school funds, trunk line road funding), a purported miscalculation as to either item would not rise to the level of a Headlee violation because the amount of state spending from state sources would still satisfy the 48.97% requirement when either item is removed from the calculation.

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CONCLUSION AND RELIEF REQUESTED

Plaintiffs' claims fail based on several dispositive questions of law that justify peremptory dismissal. Plaintiffs have a high burden to meet in the form of pleading requirements. But Plaintiffs fail to plead with particularity the factual basis for the alleged Headlee Amendment violations. Additionally, this suit is barred by the doctrine of res judicata because the claims here could have been brought and resolved in any number of prior suits to enforce the provisions of the Headlee Amendment.

The plain text of the Headlee Amendment requires dismissal because the revenue received from Proposal A and the portion paid to charter schools are properly counted as aid paid to local governments. Proposal A was approved by the same voting public that ratified the Headlee Amendment, and Plaintiffs' attempts to argue that the voters did not intend what the plain language requires is contrary to law and common sense. Plaintiffs also misunderstand state trunkline funding, which is partially used to fund local transportation projects, and, therefore, is correctly included in the Article 9 § 30 calculation. Finally, the State exceeds the requirements set forth in § 30, and Plaintiffs cannot and have not demonstrated otherwise.

Much of Plaintiffs' complaint and briefing focus on broad allegations about the entire budgetary system of state government; however, Plaintiffs have failed to allege a sufficient factual basis, and instead rely on the forlorn claim that discovery is needed. As shown in this brief, no discovery is warranted – all pertinent facts are publicly available, and the pertinent law is well-established.

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In light of the foregoing reasons, Defendants request that this Court peremptorily dismiss this case under MCR 7.206(E)(3)(b).

Respectfully submitted,

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Dated: November 1, 2016

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EXHIBIT A

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Michigan's Tax-Expenditure Limit

Issues for Implementation

[A Section-by-Section Analysis]

Senate Fiscal Agency
Lansing, Michigan

February, 1979

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MICHIGAN'S TAX-EXPENDITURE LIMIT

Issues for Implementation

[A Section-by-Section Analysis]

Prepared by:
SENATE FISCAL AGENCY
SENATE OFFICE BUILDING
FEBRUARY, 1979

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SENATE FISCAL AGENCY

February 28, 1979

Members of the Michigan Legislature:

On November 7, 1978, ballot proposal E was approved by a 52% to 48% plurality of those voting on the issue. Proposal E amended the State Constitution of 1963 by adding Sections 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 to Article IX and amending Section 6 of Article IX. These Sections collectively establish tax and expenditure limitations on state and local government in Michigan.

Although the amendment became effective on December 22, 1978, legislation will be required for its full implementation.

To that end we have prepared this report, with the intent that it might assist you in discharging your duties as required by Section 34 of Article IX.

The format of this report should lend itself to readability. It contains a section-by-section analysis. Each section is broken into three (3) parts: (1) the Constitutional language (all new language capitalized); (2) the apparent purpose of the section; and (3) a summary of key implementation issues surrounding that section. An appendix section at the back of the report contains certain detailed information referenced throughout the report. It also contains a copy of the "Drafters' Notes" on the "Tax Limitation Amendment", which provides an explanation of the drafters' intent in the formulation of the amendment.

If you have questions regarding this report, contact myself or Ted Ferris at 373-2767. We look forward to assisting you in this endeavor.

Sincerely,

Eugene B. Farnum
Director

EBF/jmk

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-Acknowledgements-

This report was authored by Messrs. Eugene Farnum, Theodore Ferris, Tom Hickner, Arnold Rich and Gary Sullenger of the Senate Fiscal Agency.

Any data presented, estimates made, and judgements offered are our own and are based upon our previous experience and research in this matter. They are the sole responsibility of the Senate Fiscal Agency and should not be attributed as a statement of intent from the Michigan Legislature, its committees, or any of its members.

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Michigan's Tax-Expenditure Limit
Implementation Issues

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SEC. 25. PROPERTY TAXES AND OTHER LOCAL TAXES AND STATE TAXATION AND SPENDING MAY NOT BE INCREASED ABOVE THE LIMITATIONS SPECIFIED HEREIN WITHOUT DIRECT VOTER APPROVAL. THE STATE IS PROHIBITED FROM REQUIRING ANY NEW OR EXPANDED ACTIVITIES BY LOCAL GOVERNMENTS WITHOUT FULL STATE FINANCING, FROM REDUCING THE PROPORTION OF STATE SPENDING IN THE FORM OF AID TO LOCAL GOVERNMENTS, OR FROM SHIFTING THE TAX BURDEN TO LOCAL GOVERNMENT. A PROVISION FOR EMERGENCY CONDITIONS IS ESTABLISHED AND THE REPAYMENT OF VOTER APPROVED BONDED INDEBTEDNESS IS GUARANTEED. IMPLEMENTATION OF THIS SECTION IS SPECIFIED IN SECTIONS 26 THROUGH 34, INCLUSIVE, OF THIS ARTICLE.

Purpose: This section briefly outlines the purpose of the constitutional amendment as specified in Sections 26 through 34. It states that total Michigan taxation and spending cannot be increased without direct voter approval; the state cannot require local governments to expand current programs or to establish new programs without full state financing; and the state is prohibited from reducing the proportion of its spending in the form of aid to local governments or from shifting the tax burden to local governments.

Implementation Issues:

Section 25 is a general statement of intent relating to sections 26 through 33. It requires no implementation in and of itself other than the implementation of the subsequent sections of the amendment.

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SEC. 26. THERE IS HEREBY ESTABLISHED A LIMIT ON THE TOTAL AMOUNT OF TAXES WHICH MAY BE IMPOSED BY THE LEGISLATURE IN ANY FISCAL YEAR ON THE TAXPAYERS OF THIS STATE. THIS LIMIT SHALL NOT BE CHANGED WITHOUT APPROVAL OF THE MAJORITY OF THE QUALIFIED ELECTORS VOTING THEREON, AS PROVIDED FOR IN ARTICLE 12 OF THE CONSTITUTION. EFFECTIVE WITH FISCAL YEAR 1979-1980, AND FOR EACH FISCAL YEAR THEREAFTER, THE LEGISLATURE SHALL NOT IMPOSE TAXES OF ANY KIND WHICH, TOGETHER WITH ALL OTHER REVENUES OF THE STATE, FEDERAL AID EXCLUDED, EXCEED THE REVENUE LIMIT ESTABLISHED IN THIS SECTION. THE REVENUE LIMIT SHALL BE EQUAL TO THE PRODUCT OF THE RATIO OF TOTAL STATE REVENUES IN FISCAL YEAR 1978-1979 DIVIDED BY THE PERSONAL INCOME OF MICHIGAN IN CALENDAR YEAR 1977 MULTIPLIED BY THE PERSONAL INCOME OF MICHIGAN IN EITHER THE PRIOR CALENDAR YEAR OR THE AVERAGE OF PERSONAL INCOME OF MICHIGAN IN THE PREVIOUS THREE CALENDAR YEARS, WHICHEVER IS GREATER.

FOR ANY FISCAL YEAR IN THE EVENT THAT TOTAL STATE REVENUES EXCEED THE REVENUE LIMIT ESTABLISHED IN THIS SECTION BY 1% OR MORE, THE EXCESS REVENUES SHALL BE REFUNDED PRO RATA BASED ON THE LIABILITY REPORTED ON THE MICHIGAN INCOME TAX AND SINGLE BUSINESS TAX (OR ITS SUCCESSOR TAX OR TAXES) ANNUAL RETURNS FILED FOLLOWING THE CLOSE OF SUCH FISCAL YEAR. IF THE EXCESS IS LESS THAN 1%, THIS EXCESS MAY BE TRANSFERRED TO THE STATE BUDGET STABILIZATION FUND.

THE REVENUE LIMITATION ESTABLISHED IN THIS SECTION SHALL NOT APPLY TO TAXES IMPOSED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS, APPROVED BY THE VOTERS AND AUTHORIZED UNDER SECTION 15 OF THIS ARTICLE, AND LOANS TO SCHOOL DISTRICTS AUTHORIZED UNDER SECTION 16 OF THIS ARTICLE.

IF RESPONSIBILITY FOR FUNDING A PROGRAM OR PROGRAMS IS TRANSFERRED FROM ONE LEVEL OF GOVERNMENT TO ANOTHER, AS A CONSEQUENCE OF CONSTITUTIONAL AMENDMENT, THE STATE REVENUE AND SPENDING LIMITS MAY BE ADJUSTED TO ACCOMMODATE SUCH CHANGE, PROVIDED THAT THE TOTAL REVENUE AUTHORIZED FOR COLLECTION BY BOTH STATE AND LOCAL GOVERNMENTS DOES NOT EXCEED THAT AMOUNT WHICH WOULD HAVE BEEN AUTHORIZED WITHOUT SUCH CHANGE.

Paragraph 1 of Section 26

Purpose: Establishes the formula for setting a limit on state revenues. The formula is:

Tax Limit = T.L.R.*(X) Personal Income**

Where:

*T.L.R. = Tax Limit Ratio = $\frac{\text{State Revenues in 1978-79}}{\text{Michigan Personal Income in 1977}}$

**Personal Income = Personal income of calendar year prior to fiscal year under consideration or the average of the previous three calendar years, whichever is greater.

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"State revenues" consists of all general fund and special fund revenue less federal aid, as defined in the Budget Message of the Governor for fiscal year 1978-79.

Appendix A (page 29) shows how the TLR is calculated using our estimate of FY 1978-79 state revenues. We are currently estimating that the tax limit for a given fiscal year will be equal to the product of 9.92% (TLR) multiplied times Michigan personal income (MPI) of the prior calendar year.

Appendix A also indicates that based upon our preliminary estimates of 1978 MPI and 1979-80 revenue, our current estimate of 1979-80 state revenues is at a level $400 million below the maximum allowed by this section (9.92% of 1978 MPI).

Implementation Issues:

(1) A major issue associated with this paragraph is the implication of not collecting, either in full or in part, the planned increase in transportation revenues resulting from the recently enacted 2 cent increase in the gas tax and the approximate 30% to 40% increase in license fees. To the extent that these taxes are not collected in 1978-79, the revenue limit will be tightened. If not collected in full (roughly $150 million), the TLR would be decreased by approximately 1/4 of 1%.

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(2) Can the limits on taxes and expenditures automatically be adjusted to reflect a redefinition of personal income? Personal income, as used in this section, is defined in Section 33 as that "officially reported by the United States Department of Commerce or its successor agency." This definition relies on the definition used by the federal government which is subject to revision. A small change in the definition of personal income could substantially alter the amount of revenue the state could collect under the terms of this section. More importantly, there is the question of how to deal with a downward revision in the estimates of personal income when announced by the U.S. Department of Commerce. For instance, the figures for MPI for the past several years were recently revised downward by over 3 percent (over $2 billion in 1976). If this section had been in effect, our revenue limit would suddenly be $200 million tighter, due to a technical change in Washington, D.C. rather than an economic change in Michigan.

(3) A procedure must be established for determining and publishing the ratio or amount. A decision will have to be made as to where to "round-off" to (e.g. 10%, 9.9%, 9.92%, 9.923%, 9.9232% etc.)

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Paragraph 2 of Section 26

Purpose: Establishes a procedure by which excess revenues are rebated when they exceed the aforementioned revenue limit by 1% or more; the excess shall be refunded on a pro rata basis according to personal income tax and single business tax liabilities. The rebate would take place on the annual returns filed following the close of the fiscal year in which the excess occurred. If the excess revenues are less than 1% of the revenue limit, the excess may be transferred to the state budget and economic stabilization fund (P.A. 76 of 1977). As alternatives, an excess of less than 1% may be rebated (in a manner determined by law), or the excess may be carried forward as surplus and added to the expenditure limit in the following year (see Sec. 28).

Implementation Issues:

(1) What is "the liability" of Michigan taxpayers and is liability determined before or after credits (see Appendix B - page 30).

(2) Can dedicated revenues be rebated according to personal income tax and single business tax liabilities? (e.g. Game and Fish Fund, Transportation Fund, other Special Funds)

(3) Can, and should taxpayers who do not pay income taxes or single business taxes be allowed a rebate?

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By limiting the refund to taxpayers with an income tax liability or a single business tax liability the proposal fails to recognize those individuals (mainly senior citizens and the poor) who do not pay an income tax, but do pay liquor, cigarette, sales, use, gasoline, and other taxes, as well as fees and other non-tax payments such as the purchase of lottery tickets, equally subject to the limit.

(4) Should the budget and economic stabilization fund act (P.A. 76 of 1977) be amended to allow for a reduction in the required formula transfer to the stabilization fund to the extent that a revenue excess of less than 1% is deposited in the fund?

Paragraph 3 of Section 26

Purpose: Excludes from the revenue limit established in paragraph 1, the taxes imposed for the payment of principle and interest on general obligation bonds of the State, which have been approved by the voters in a statewide election under section 15 of Article IX. Examples of these bonds include the Vietnam Veterans' Bonus Bonds, Water Pollution Control Bonds and Public Recreation Bonds. Also excluded from the limit are taxes imposed for the payment of principle and interest on School Loan Bonds authorized under section 16 of Article IX (See Appendix C for full detail on these bonds - page 31, also, see Appendix A for how this exclusion affects the revenue limit calculation).

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Paragraph 4 of Section 26

Purpose: Allows the state revenue limit to be adjusted when the responsibility for funding a program or programs is transferred from one level of government to another as a result of an amendment to the State Constitution. The revenue and spending limits may only be adjusted, however, to the extent that the revenue authorized for collection at both levels of government does not exceed that collected previously.

This is one of three ways provided within the amendment in which the state revenue limit of section 26 may be exceeded. The other two methods include direct voter approval and the emergency procedures for the Governor and the Legislature as specified in section 27.

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SEC. 27. THE REVENUE LIMIT OF SECTION 26 OF THIS ARTICLE MAY BE EXCEEDED ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET: (1) THE GOVERNOR REQUESTS THE LEGISLATURE TO DECLARE AN EMERGENCY; (2) THE REQUEST IS SPECIFIC AS TO THE NATURE OF THE EMERGENCY, THE DOLLAR AMOUNT OF THE EMERGENCY, AND THE METHOD BY WHICH THE EMERGENCY WILL BE FUNDED; AND (3) THE LEGISLATURE THEREAFTER DECLARES AN EMERGENCY IN ACCORDANCE WITH THE SPECIFICS OF THE GOVERNOR'S REQUEST BY A TWO-THIRDS VOTE OF THE MEMBERS ELECTED TO AND SERVING IN EACH HOUSE. THE EMERGENCY MUST BE DECLARED IN ACCORDANCE WITH THIS SECTION PRIOR TO INCURRING ANY OF THE EXPENSES WHICH CONSTITUTE THE EMERGENCY REQUEST. THE REVENUE LIMIT MAY BE EXCEEDED ONLY DURING THE FISCAL YEAR FOR WHICH THE EMERGENCY IS DECLARED. IN NO EVENT SHALL ANY PART OF THE AMOUNT REPRESENTING A REFUND UNDER SECTION 26 OF THIS ARTICLE BE THE SUBJECT OF AN EMERGENCY REQUEST.

Purpose: Establishes emergency procedures for exceeding the revenue limit of Section 26. They are:

- That the Governor requests the Legislature to declare an emergency.
- The request is specific as to the nature of the emergency, the dollar amount of the emergency and the method by which the emergency will be funded.
- The Legislature thereafter declares an emergency in accordance with the specifics of the Governor's request by a 2/3 vote of the members elected to and serving in each house. The revenue limit may only be exceeded in the fiscal year for which the emergency is declared. Furthermore, section 27 disallows any part of the rebate required under section 26 to be part of an emergency request.

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Implementation Issues:

(1) What statutes should be developed to implement the emergency procedures of Section 27?

It is important to establish procedures which are acceptable to the Legislature in that the section is heavily weighted in favor of the Executive. The Governor is responsible for declaring an emergency, outlining the nature of an emergency, the method by which the emergency will be funded, and where the dollars will go.

(2) The requirement that emergency procedures be approved prior to the expenditure of emergency dollars ignores the fact that the problem is often unrecognizable until well into the fiscal year.

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SEC. 28. NO EXPENSES OF STATE GOVERNMENT SHALL BE INCURRED IN ANY FISCAL YEAR WHICH EXCEED THE SUM OF THE REVENUE LIMIT ESTABLISHED IN SECTIONS 26 AND 27 OF THIS ARTICLE PLUS FEDERAL AID AND ANY SURPLUS FROM A PREVIOUS FISCAL YEAR.

Purpose: Establishes an expenditure limit which is equal to the revenue limit established in sections 26 and 27, plus federal aid and any surplus from a prior fiscal year.

Implementation Issues:

(1) Where are withdrawals from the budget and economic stablization fund to be found in the expenditure limit?

It is generally assumed that surplus, as used in Section 28, will be defined to include any withdrawals from the stablization fund according to the formulas described in P.A. 76.

(2) Where are the general obligation bond debt service requirements to be found in the expenditure limit?

The taxes necessary to support this debt service are excluded from revenues subject to the limit in all future years, but were included in 1978-79 state revenues in determining the tax limitation ratio. To be consistent, an argument can be made that these taxes should be added to the revenue limit as well in order to arrive at an overall expenditure limit.

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SEC. 29. THE STATE IS HEREBY PROHIBITED FROM REDUCING THE STATE FINANCED PROPORTION OF THE NECESSARY COSTS OF ANY EXISTING ACTIVITY OR SERVICE REQUIRED OF UNITS OF LOCAL GOVERNMENT BY STATE LAW. A NEW ACTIVITY OR SERVICE OR AN INCREASE IN THE LEVEL OF ANY ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING LAW SHALL NOT BE REQUIRED BY THE LEGISLATURE OR ANY STATE AGENCY OF UNITS OF LOCAL GOVERNMENT, UNLESS A STATE APPROPRIATION IS MADE AND DISBURSED TO PAY THE UNIT OF LOCAL GOVERNMENT FOR ANY NECESSARY INCREASED COSTS. THE PROVISION OF THIS SECTION SHALL NOT APPLY TO COSTS INCURRED PURSUANT TO ARTICLE VI, SECTION 18.

Purpose: This is the "State Mandates" section which requires the state to maintain or ascribe to certain principles and practices with respect to state/local fiscal relations. There appear to be three provisions within section 29:

- The state is prohibited from reducing the state-financed proportion of the necessary cost of any existing activity or service required of units of local government by state law.
- A new activity or service, or an increase in the level of any activity or service beyond that required by existing law, shall not be required by the Legislature or any state agency of units of local government unless a state appropriation is made and disbursed to pay the unit of local government for any necessary increased costs.
- The provisions of this section, as outlined above shall not apply to any costs incurred pursuant to Article

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VI, section 18. This section of the Constitution addresses the salaries of judges of the Supreme Court, the Appeals Court, the Circuit Court and the Probate Court. It has the effect of exempting a state-mandated increase in the salaries of these judges or a mandated increase in the number of judges from either of the aforementioned state financial requirements.

Implementation Issues:

(1) What public acts are subject to the mandate requirements of section 29?

The effective date of this amendment was 45 days after its ratification, or December 22, 1978. Using this as the cut-off date, the state would be required to appropriate money to pay for any state mandates associated with any state law or promulgation of rules relating to state law that were enacted after December 22, 1978. Another alternative would be to require the reimbursement for any mandate which is effective after December 22, 1978, irrespective of the date of enactment of the legislation establishing the mandate. The fiscal implications here are enormous, because there are many existing statutes that require activities and services of local units of government that were passed prior to December 22. Examples include the revision of the

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public health code, the school hot lunch/breakfast program, and rules relating to occupational safety and health, water pollution/air pollution quality control, and corrections and the incarceration of inmates.

(2) How do administrative rules relate to Section 29?

It appears that the reference in line 2 of section 29 to "state agency" specifically relates to the promulgation of rules. However, there is a conspicuous absence of the reference to state agency in line 1, which establishes the requirement that the state maintain the state-financed proportion of any local activity or service. Also, there is the consideration of whether or not the judicial system should be considered a "state agency" for the purposes of Section 29.

(3) There are many terms within section 29 which may need defining. These include:

"State-Financed Proportion"

"Necessary Costs"

"Activity or Service"

"State Law"

"New"

"Level"

"State Agency"

"Necessary Increased Costs"

"Existing Law"

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Examples of problems that might be encountered with respect to these terms or phrases that need defining include the following: "State Financed Proportion" might be defined to exclude federal aid so that the state is not placed in the position of having to maintain financial effort previously provided by the federal government should that financing be discontinued; "Necessary Cost" will need a definition and perhaps it should be the average or prevailing cost in a region or the state; "Activity or Service" might be defined to require increased production at the local level; "State Law" might include administrative rule; "New" and "Level" are subjective terms which will need defining; "Necessary Increased Costs" will need defining, because local units most certainly will claim that all costs are "necessary".

(4) Problems may arise in this section due to the fact that the expansion of existing services and some new programs are often mandated by the federal government. When this occurs, as it recently did with the increased coverage of unemployment compensation, is the State required to fully fund the expanded service? Does the local unit of government have a responsibility to assume a share of the cost? Regardless of who is responsible, where is the money supposed to come from, given that the state is operating under a revenue limit?

(5) For the sake of efficiency a decision might be made to disallow any payment of less than a specified amount. A floor (minimum required payment) might be placed under both the total reimbursement cost and the individual local unit payment.

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SEC. 30. THE PROPORTION OF TOTAL STATE SPENDING PAID TO ALL UNITS OF LOCAL GOVERNMENT, TAKEN AS A GROUP, SHALL NOT BE REDUCED BELOW THAT PROPORTION IN EFFECT IN FISCAL YEAR 1978-79.

Purpose: This section appears to require the state to maintain its current (fiscal year 1978-79) percentage of state aid to local governments as the minimum percentage for future budget years. The requirement that state aid to all local government units, taken as a group, shall not be reduced below the proportion in effect in fiscal year 1978-79, does not prevent the state from shifting aid between local units. Furthermore, this requirement would, in effect, discourage the state from assuming the funding for programs currently provided locally, such as the takeover by the state of local general assistance two years ago ($60 million).

Nevertheless, section 30 is clearly a corollary of Section 29, that is intended to preempt the state from circumventing the state tax limit by a reduction in the share of the budget accruing to local units of government. It appears that some 35% to 41% of the 1978-79 budget consists of payments to local units of government, depending upon how this section is implemented and how federal funds are handled (see Appendix D - page 32).

Implementation Issues:

(1) Although the section references "total state spending" it would not be desirable to define it as such. If so defined, the state would

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be placed in the position of having to take over support for programs previously supported with federal dollars when funding is withdrawn; or the state would have to share with local units of government any additional federal dollars received. The means for resolving this dilemma is to define total state spending in a manner consistent with the definition of state revenue, as used in Section 26, which excludes federal funds. Appendix D outlines the share of the total state budget represented by payments to locals, with and without federal funds included.

(2) In conjunction with the requirement in section 29 that the state fully fund a service required of local units, this section may tempt the state to begin making categorical grants to local governments of state-local revenue sharing monies, which are currently unrestricted. This earmarking of current state aid for specific new programs at the local level could apply pressure on local units to cover the cost of programs, previously paid from unrestricted revenue sharing grants.

(3) "The proportion", as used in Section 30, connotes that it has to be a fraction or ratio of which there are two parts, a numerator and a denominator. Section 30 as stated may only provide one part of the fraction. If you imply that the denominator is the total state spending and the numerator is the total state spending paid to all units of local government, taken as a group, you are implying or using words which are not stated in Section 30. If this is improper, then perhaps the only way that you can interpret Section 30 is that you end up not with a proportion, but with a

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dollar amount which would equal total state spending paid to all units of local government, taken as a group, for fiscal year 1978-79.

Another possible interpretation of the use of the word "proportion" is that the denominator would equal total state spending paid to all units of local government, taken as a group, and the numerator would be state payments to a particular local unit of government.

(4) All state payments to local units of government must be defined and identified. Our preliminary analysis indicates that there are many "gray areas" where a payment may or may not actually be made to a specific unit of local government.

(5) A procedure must be established for determining and publishing the ratio or amount. If a ratio is calculated, a decision will have to be made as to where to "round-off" to (e.g. 40%, 39.6%, 39.56%, 39.563%, 39.5628%, etc).

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SEC. 31. UNITS OF LOCAL GOVERNMENT ARE HEREBY PROHIBITED FROM LEVYING ANY TAX NOT AUTHORIZED BY LAW OR CHARTER WHEN THIS SECTION IS RATIFIED OR FROM INCREASING THE RATE OF AN EXISTING TAX ABOVE THAT RATE AUTHORIZED BY LAW OR CHARTER WHEN THIS SECTION IS RATIFIED, WITHOUT THE APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS OF THAT UNIT OF LOCAL GOVERNMENT VOTING THEREON. IF THE DEFINITION OF THE BASE OF AN EXISTING TAX IS BROADENED, THE MAXIMUM AUTHORIZED RATE OF TAXATION ON THE NEW BASE IN EACH UNIT OF LOCAL GOVERNMENT SHALL BE REDUCED TO YIELD THE SAME ESTIMATED GROSS REVENUE AS ON THE PRIOR BASE. IF THE ASSESSED VALUATION OF PROPERTY AS FINALLY EQUALIZED, EXCLUDING THE VALUE OF NEW CONSTRUCTION AND IMPROVEMENTS, INCREASES BY A LARGER PERCENTAGE THAN THE INCREASE IN THE GENERAL PRICE LEVEL FROM THE PREVIOUS YEAR, THE MAXIMUM AUTHORIZED RATE APPLIED THERETO IN EACH UNIT OF LOCAL GOVERNMENT SHALL BE REDUCED TO YIELD THE SAME GROSS REVENUE FROM EXISTING PROPERTY, ADJUSTED FOR CHANGES IN THE GENERAL PRICE LEVEL, AS COULD HAVE BEEN COLLECTED AT THE EXISTING AUTHORIZED RATE ON THE PRIOR ASSESSED VALUE.

THE LIMITATIONS OF THIS SECTION SHALL NOT APPLY TO TAXES IMPOSED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS OR OTHER EVIDENCE OF INDEBTEDNESS OR FOR THE PAYMENT OF ASSESSMENTS ON CONTRACT OBLIGATIONS IN ANTICIPATION OF WHICH BONDS ARE ISSUED WHICH WERE AUTHORIZED PRIOR TO THE EFFECTIVE DATE OF THIS AMENDMENT.

Paragaraph 1 of Section 31

Purpose: This section prohibits local units from levying a new tax or increasing the rate of an existing tax without voter approval. If the definition of the base of an existing tax is broadened the tax rate must be reduced so that the total revenue collected is not greater than the amount collected under the old base. In addition, if the state equalized valuations of existing property in a local government increase by more than the consumer price index, the millage rate must be reduced to yield the same amount of revenue adjusted for inflation, as could have been collected at the existing authorized rate on the prior assessed value (this is the "millage rollback" provision).

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Implementation Issues:

(1) The most noted provision within Section 31 is the requirement of a millage rollback when the growth of property valuations of existing property exceeds the rate of inflation. While there may be general agreement as to a formula for determining the rollback, it is not clear where the rollback should be applied. The issue is whether you rollback the legal maximum for the taxing jurisdiction as authorized by constitution, statute or charter, or whether you rollback the levied rate as authorized by the local governing body. Another interpretation might have you rollback both rates since both appear to be referenced within Section 31. P.A. 532 of 1978 began the implementation of Section 31 and the millage rollback. P.A. 532 defined new constructions and improvements for the purposes of the millage rollback provision defined the rate of inflation and established certain reporting requirements for local assessors and taxing jurisdictions. Yet to be determined or implemented is the formula for the rollback and its application. See Appendix E (page 33) for an analysis of P.A. 532.

(2) Beyond the question of which millage to rollback, there is the question as to when, and under what conditions, the millage can be restored. After all, if you rollback the levied rate there still will be a maximum authorized rate which is in excess of the levied rate. And, if the legal maximum authorized rate is rolled-back, it leaves a local unit with two maximums; a rolled-back maximum and a voter-

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approved, higher maximum (authorized by charter, special election, State Constitution, etc).

(3) The first sentence of Section 31 prohibits a local unit from levying any tax that was not authorized by law or charter prior to the ratification of the amendment (November 7, 1978), or from increasing the rate of any existing tax above that authorized by law or charter prior to the ratification of the amendment without local voter approval. There is a question as to whether or not a local unit must have voter approval when the authorization for the local levy is provided in State statute which was enacted prior to the ratification of the amendment. An example of this is the local income tax.

(4) The second sentence of Section 31 requires the rate of a tax to be rolled back when the base of the tax is broadened by a definitional change, so that the estimated yield of the tax remains the same. It is not clear whether or not this rollback provision applies to an increase in the tax base which is associated with the removal of tax-exempt status given to certain property or classes of income, or other tax bases (for example, tax abatement under Public Act 198 of 1974 and Public Act 255 of 1978).

Paragraph 2 of Section 31

Purpose: In order to protect the full faith and credit of local taxing units, paragraph 2 specifies that the limitations of paragraph 1 shall not apply to taxes imposed for the payment of principal and interest on any indebtedness authorized prior to the effective date of this amendment.

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Implementation Issues:

Public Act 529 of 1978 implements paragraph 2 of Section 31. This act exempts obligations that are authorized by the governing body of a local government unit before December 23, 1978, from the requirements of sections 6 and 31 (local voter approval). The exemption is contingent upon submission of the prospective issue to the Municipal Finance Commission prior to December 23, 1979. See Appendix F (page 41) for an analysis of P.A. 529.

Although the Legislature chose to construe the use of the word "authorized" quite liberally in implementing paragraph 2, there are others who will contend that "authorized" means "approved by the Municipal Finance Commission" prior to December 23, 1978.

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SEC. 32. ANY TAXPAYER OF THE STATE SHALL HAVE STANDING TO BRING SUIT IN THE MICHIGAN STATE COURT OF APPEALS TO ENFORCE THE PROVISIONS OF SECTIONS 25 THROUGH 31, INCLUSIVE, OF THIS ARTICLE AND, IF THE SUIT IS SUSTAINED, SHALL RECEIVE FROM THE APPLICABLE UNIT OF GOVERNMENT HIS COSTS INCURRED IN MAINTAINING SUCH SUIT.

Purpose: This section provides that any taxpayer of the State has standing to bring suit in the State Court of Appeals to enforce provisions of Sections 25 through 31.

Implementation Issues

(1) The Court of Appeals is not provided with juries to determine facts. Some new laws would have to be enacted to enable the Court of Appeals to establish and provide for juries to determine facts as they appear in any suit.

(2) If the plaintiff is able to maintain his suit against a unit of government, that unit of government would have to pay costs incurred in the maintaining of the suit. This is unlike other questions of a public nature in which costs are not allowed. This would be an additional cost of implementing the law suits coming under this section, which may be numerous.

(3) We do not currently have provisions for determining all of the cases that would be filed. There may be a need for a central location for the filing or record keeping of section 25 through 31 cases.

(4) Even though Section 32 is limited to a taxpayer of this state, this could be interpreted to include certain out-of-state taxpayers

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as well as all citizens of the State of Michigan because of due process questions and the consequence of previous attempts to limit rights and duties under previous sections. Section 6 of Article II, limited the right to vote on a bond issue or an increase in the limit on ad valorem tax rate for 5 or more years to people who own property. This was found unconstitutional in an Arizona case that went before the United States Supreme Court. The attempt to limit an action under this section to only taxpayers of this state may not be construed to mean that the taxpayer owns property or must be a resident of this state. The mere fact that a person directly or indirectly pays any kind of tax may qualify the person as a taxpayer.

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SEC. 33. DEFINITIONS. THE DEFINITIONS OF THIS SECTION SHALL APPLY TO SECTION 25 THROUGH 32 OF ARTICLE IX, INCLUSIVE.

"TOTAL STATE REVENUES" INCLUDES ALL GENERAL AND SPECIAL REVENUES, EXCLUDING FEDERAL AID, AS DEFINED IN THE BUDGET MESSAGE OF THE GOVERNOR FOR FISCAL YEAR 1978-1979. TOTAL STATE REVENUES SHALL EXCLUDE THE AMOUNT OF ANY CREDITS BASED ON ACTUAL TAX LIABILITIES OR THE IMPUTED TAX COMPONENTS OF RENTAL PAYMENTS, BUT SHALL INCLUDE THE AMOUNT OF ANY CREDITS NOT RELATED TO ACTUAL TAX LIABILITIES. "PERSONAL INCOME OF MICHIGAN" IS THE TOTAL INCOME RECEIVED BY PERSONS IN MICHIGAN FROM ALL SOURCES, AS DEFINED AND OFFICIALLY REPORTED BY THE UNITED STATES DEPARTMENT OF COMMERCE OR ITS SUCCESSOR AGENCY. "LOCAL GOVERNMENT" MEANS ANY POLITICAL SUBDIVISION OF THE STATE, INCLUDING, BUT NOT RESTRICTED TO, SCHOOL DISTRICTS, CITIES, VILLAGES, TOWNSHIPS, CHARTER TOWNSHIPS, COUNTIES, CHARTER COUNTIES, AUTHORITIES CREATED BY THE STATE, AND AUTHORITIES CREATED BY OTHER UNITS OF LOCAL GOVERNMENT. "GENERAL PRICE LEVEL" MEANS THE CONSUMER PRICE INDEX FOR THE UNITED STATES AS DEFINED AND OFFICIALLY REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR OR ITS SUCCESSOR AGENCY.

Purpose: This is a definitional section and the definitions apply to Sections 25 through 32. There are four definitions provided in Section 33. These are: "total state revenues", which is found in Section 26; "personal income of Michigan", which is found in Section 26; "local government", which is found in Sections 25, 26, 29, 30, and 31; and "general price level", which is found in Section 31.

Implementation Issues:

(1) The definitions of "personal income of Michigan" and the "general price level" are fairly commonplace and should not pose problems in terms of implementation and application; however, the definitions of "total state revenues" and "local government" must be carefully worded and implemented and may present some difficulty.

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(2) "Total state revenues" are defined as those sources of revenue listed in the Governor's budget message for fiscal year 1978-79. The definition further excludes federal aid and the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments. It does not, however, exclude the amount of any credits not related to actual tax liabilities, such as the Home Heating Assistance Credit and the Higher Education Contribution Credit. Examples of excluded credits based on actual tax liabilities include the property tax credit and the city income tax credit. A problem posed by this definition of total state revenues is that in defining total state revenues as those items referenced in the Governor's budget message for 1978-79, the definition might be too strict in that it does not allow for the substitution of one tax for another within the limit of the tax-expenditure limit, and therefore, precludes tax reform.

(3) By defining total state revenues as all general fund and special fund revenues in the budget message of the Governor for fiscal year 1978-79, there is excluded from the definition many sources of revenue which are found in "non-budget" operations such as debt service funds, various State authorities, and trust and agency funds. Examples might include the Michigan State Housing Development Authority, the Mackinaw Bridge Authority, and the Michigan Unemployment Compensation Trust Fund.

(4) "Local government" is defined as "any political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other units of local government". It is generally assumed, but not

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guaranteed, that intermediate school districts and community colleges and the fourteen planning regions within the State of Michigan are included in this definition. There are other examples of local government units that have not been included in the "laundry list" of local governments cited in the definition.

(5) Interestingly enough, authorities created by the State can be found under the definition of "local government" in Section 33. It is not clear whether this places authorities of the state under the tax limitations of Section 31 or the "mandates" guarantees of Sections 29 and 30.

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SEC. 34. THE LEGISLATURE SHALL IMPLEMENT THE PROVISIONS OF SECTIONS 25 THROUGH 33, INCLUSIVE, OF THIS ARTICLE.

Purpose: This section of the amendment requires the Legislature to implement the provisions of Sections 25 through 33, inclusive, of Article IX. This would seem to indicate that it is the intent of the voters that the amendment be primarily implemented by state statute, and that the implementation should be a legislative responsibility.

Implementation Issues:

Implementation of those sections directly affecting local units should be completed as soon as possible since most units begin new fiscal years in the spring or early summer. The mechanics surrounding the state tax-expenditure limit do not take effect until fiscal year 1979-80, and are not expected to actually limit growth next year. Therefore, implementation of Sections 26, 27 and 28 (state limitation) can wait until after implementation of Sections 29, 30 and 31 (impact directly upon local units).

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Sec. 6 (New Language capitalized)

Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation herein before established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this Constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds APPROVED BY THE ELECTORS or other evidences of indebtedness APPROVED BY THE ELECTORS or for the payment of assessments or contract obligations in anticipation of which bonds are issued APPROVED BY THE ELECTORS, which taxes may be imposed without limitation as to rate or amount; OR, SUBJECT TO THE PROVISIONS OF SECTIONS 25 THROUGH 34 OF THIS ARTICLE, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Purpose: Section 6 of Article IX was amended to require voter approval to levy taxes outside the limits specified therein, for the payment of principal and interest on bonds or other evidences of indebtedness.

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Appendix A

CALCULATION OF THE TAX LIMITATION RATIO

Limit is Based on the Ratio of 1978-79 State Revenues to 1977 Michigan Personal Income (MPI).

		(in millions)
1978-79 Gross Revenues		$ 9,001
Less:	Federal Aid	(2,142)
	Subtotal	$ 6,859
Add:	Home Heating Credit	38
	Higher Education Credit	5
		$ 6,902
Divided By:	1977 MPI	69,554
Equals:	Tax Limit Ratio	9.92%

APPLICATION OF THE LIMIT IN 1979-80

		(in millions)
1979-80 Gross Revenues		$ 9,608
Less:	Federal Aid	(2,246)
	Subtotal	$ 7,362
Less:	General Obligation Debt Revenue	(66)
Equals:	Revenue Subject to Limit	$ 7,296

Actual Limit = 9.92% X 1978 MPI
= .0992 (77,553)
= $ 7,696

State revenues $400 million below limit in 1979-80

Senate Fiscal Agency
January, 1979

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Appendix B

The term "liability" has been construed quite broadly in the past as shown below:

LIABILITY. The word is a broad legal term. Mayfield v. First Nat. Bank of Chattanooga, Tenn., C.C.A.Tenn., 137 F.2d 1013, 1019. It has been referred to as of the most comprehensive significance, including almost every character of hazard or responsibility, absolute, contingent, or likely. Wentz v. State, 108 Neb. 597, 188 N.W. 467, 468.

It has been defined to mean: all character of municipal debts and obligations, Washington Water Power Co. v. City of Coeur d'Alene, Idaho, D.C.Idaho, 9 F.Supp. 263, 271; Public Market Co. of Portland v. City of Portland, 171 Or. 522, 130 P.2d 624, 643, 646; amenability or responsibility, Eberhard v. Ætna Ins. Co., 235 N.Y.S. 445, 447, 134 Misc. 386; an obligation, one is bound in law or justice to perform, Murphy v. Chicago League Ball Club, 221 Ill.App. 120, 126; State ex rel. Diederichs v. Board of Trustees of Missoula County High School, 91 Mont. 300, 7 P.2d 543, 545. An obligation which may or may not ripen into a debt, Brogan v. Ferguson, 101 Fla. 1306, 131 So. 171, 173. Any kind of debt or liability, either absolute or contingent, express or implied, Public Market Co. of Portland v. City of Portland, 171 Or. 522, 130 P.2d 624, 643, 646; any liability whatsoever, In re Tatnall, 102 N.J. Eq. 445, 141 A. 174, 175; condition of being actually or potentially subject to an obligation, Enyeart v. City of Lincoln, 136 Neb. 146, 285 N.W. 314, 318; condition of being exposed to the upspringing of an obligation to discharge or make good an undertaking of another, or a loss or deficit, or the being exposed or subject to a given contingency, risk, or casualty which is more or less probable, First National Bank of East Islip v. National Surety Co., 228 N.Y. 409, 127 N.E. 478, 480; United States Fidelity & Guaranty Co. v. Haney, 166 Minn. 403, 208 N.W. 17; condition of being responsible for a possible or actual loss, penalty, evil, expense, or burden, Wentz v. State, 108 Neb. 597, 188 N.W. 467, 468; condition which creates a duty to perform an act immediately or in the future, Union Oil Co. of California v. Basalt Rock Co., 30 Cal.App.2d 317, 86 P. 2d 139, 141; duty to pay money or perform some other service, Dehne v. Hillman Inv. Co., C.C.A.Pa., 110 F.2d 456, 458; duty which must at least eventually be performed, Vandegrift v. Riley, Cal.Sup., 16 P.2d 734, 736; estate tax, Lyeth v. Hoey, C.C.A.N.Y., 112 F.2d 4, 6; every kind of legal obligation, responsibility, or duty, Mayfield v. First Nat. Bank of Chattanooga, Tenn., C.C.A.Tenn., 137 F.2d 1013, 1019; fixed liability, Vandegrift v. Riley, Cal.Sup., 16 P.2d 734, 736; Ivester v. State ex rel. Gillum, 183 Okl. 519, 83 P.2d 193, 196; legal responsibility, Clark v. Lowden, D.C.Minn., 48 F.Supp. 261, 263; McCullough v. National Bank of Union City, 127 Pa.Super. 452, 193 A. 65, 66; penalty for failure to pay tax when due, State v. Fischl, 94 Mont. 92, 20 P.2d 1057, 1059; present, current, future, fixed or contingent debts, Erickson v. Grande Ronde Lumber Co., 162 Or. 556, 92 P.2d 170, 174; punishment, Holliman v. Cole, 168 Okl. 473, 34 P.2d 597, 599; responsibility for torts, Italiani v. Metro-Goldwyn-Mayer Corporation, 45 Cal.App.2d 464, 114 P.2d 370, 372; tax, State ex rel. DuFresne v. Leslie, 100 Mont. 449, 50 P.2d 959, 963, 101 A.L.R. 1329; Thompson v. Smith, 189 Okl. 217, 114 P.2d 922, 924; that which one is under obligation to pay, or for which one is liable, Reconstruction Finance Corporation v. Gossett, Tex., 111 S.W.2d 1066; Boney v. Central Mut. Ins. Co. of Chicago, 213 N.C. 470, 196 S.E. 837, 842; the state of being bound or obliged in law or justice to do, pay, or make good something. Feil v. City of Cœur d'Alene, 23 Idaho 32, 129 P. 643, 649, 43 L.R.A.,N. S., 1095; Breslaw v. Rightmire, 196 N.Y.S. 539, 541, 119 Misc. 833; the state of one who is bound in law and justice to do something which may be enforced by action. Fidelity Coal Co. v. Diamond, 310 Ill.App. 387, 34 N.E.2d 123; Clark v. Lowden, D.C.Minn., 48 F.Supp. 261, 263; McCullough v. National Bank of Union City, 127 Pa.Super. 452, 193 A. 65, 66; unliquidated claim, Stephens v. Duckworth, 188 Miss. 626, 196 So. 219, 221; unpaid debt, Comstock v. Morgan Park Trust & Savings Bank, 367 Ill. 276, 11 N.E.2d 394, 396.

The term is therefore broader than the word "debt," or "indebtedness." Coulter Dry Goods Co. v. Wentworth, 171 Cal. 500, 153 P. 939, 940; Lowery v. Fuller, 221 Mo.App. 495, 281 S.W. 968, 972; and includes in addition existing obligations, which may or may not in the future eventuate in an indebtedness, Daniels v. Goff, 192 Ky. 15, 232 S.W. 66, 67; Irving Bank-Columbia Trust Co. v. New York Rys. Co., D.C.N.Y., 292 F. 429, 433.

The word is not synonymous with "loss" or "damage," and under an automobile insurance policy insuring against "liabilities," there may be recovery without allegation or proof that insured has been required to pay any sum, whereas under a policy covering "actual loss or damage," no obligation arises till insured has suffered loss or damage. Ducommun v. Strong, 193 Wis. 179, 214 N.W. 616; Stag Mining Co. v. Missouri Fidelity & Casualty Co., Mo. App., 209 S.W. 321, 323.

Existing liability. See Existing Liabilities.

Legal liability. See Legal Liability.

Liability bond. See Bond.

Limited liability. See Limited Liability.

Personal liability. See Personal Liability.

Secondary liability. See Secondary Liability.

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Appendix C

STATE OF MICHIGAN

General Obligation Debt
As of September 30, 1978

	Total Authorized	Total Issued	Amount Outstanding
General Obligation Notes	(1)	(1)(3)(4)	(4)
School Loan Bonds	(2)	$117,500	$ 76,500
Water Pollution Bonds	$335,000	302,000	206,000
Public Recreation Bonds	100,000	100,000	62,000
Vietnam Veteran's Bonus Bonds	205,000	190,000	183,000
TOTAL GENERAL OBLIGATION DEBT		$709,500	$527,500

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[1] In each fiscal year the State may borrow an amount no greater than 15% of the preceeding year's undedicated revenues. The Notes must be redeemed in the same fiscal year they are issued.

[2] No specific limit by law.

[3] $200,000,000 Notes were issued and redeemed during each of the fiscal years ended September 30, 1976 and September 30, 1978.

[4] Excludes $450,000,000 in Notes dated January 3, 1979, which will mature September 17, 1979, prior to end of this fiscal year.

Source: State of Michigan, Department of Treasury

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Appendix D

PAYMENTS TO LOCAL GOVERNMENTS

IN FY 1978-79 BUDGET
(SEC. 30)

(in thousands of dollars)

P.A. 1978	Budget Category	Gross 1978-79 Budget	Gross Payments To Locals	Pct. of 1978-79 Budget	Payments - Net of Federal $'s	Adjusted Pct. of Budget
402	Attorney General	$ 17,767	$ -0-	-0- %	$ -0-	-0- %
402	Civil Rights	8,367	-0-	-0-	-0-	-0-
402	Civil Service	12,320	-0-	-0-	-0-	-0-
402	Executive	2,159	-0-	-0-	-0-	-0-
402	Judicial	28,933	2,997	10.36	2,997	10.36
402	Legislative	42,364	-0-	-0-	-0-	-0-
402	Mgt. & Budget	103,113	42,625	41.34	13,899	13.48
402	State	59,042	50	.08	50	.08
402	Treasury	36,695	-0-	-0-	-0-	-0-
395	Education	310,751	240,571	77.42	18,028	5.80
404	School Aid	1,897,638	1,897,638	100.00	1,877,752	98.95
404	Comm. Colleges	121,997	121,997	100.00	121,997	100.00
372	Higher Education	612,643	-0-	-0-	-0-	-0-
399	Commerce	96,413	19,169	19.88	8,916	9.25
399	Labor	147,094	120,023	81.60	4,600	3.13
399	Licensing & Reg.	7,965	-0-	-0-	-0-	-0-
394	Military Affairs	11,085	-0-	-0-	-0-	-0-
394	State Police	110,891	7,939	7.16	7,939	7.16
398	Agriculture	40,397	360	.89	360	.89
469	Data Processing	68,587	-0-	-0-	-0-	-0-
403	Corrections	149,608	3,262	2.18	3,262	2.18
468	Hwy. & Trans.	851,352	388,807	45.67	354,036	41.59
400	Natural Resources	116,036	17,586	15.16	10,284	8.86
407	Mental Health	459,859	86,248	18.76	86,248	18.76
406	Public Health	167,226	34,140	20.42	34,140	20.42
401	Social Services	2,407,275	3,240	.13	3,240	.13
475,463	Capital Outlay	126,161	38,379	30.42	18,238	14.46
405	Debt Service	70,280	-0-	-0-	-0-	-0-
405	Grants & Transfers	631,917	617,531	97.72	601,981	95.26
402	Stabilization Fund	104,100	-0-	-0-	-0-	-0-
	TOTAL	$8,820,034	$3,642,562	41.30%	$3,167,967	35.92%

NOTE: Actual payments to locals are subject to definition within implementing statute for Sec. 30 of the tax-expenditure limitation amendment.

Senate Fiscal Agency
February, 1979

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FISCAL NOTE

Appendix E

FISCAL SENATE AGENCY

Senate Office Building
Date: 2/23/79
Analyst: T. Ferris
Phone: 373-2767

Bill No.: S.B. 519
(P.A. 532 of 1978)

Purpose of Bill: To amend sections 36, 140, 140a, 141, 142 and 142a of Act. No. 205 of the Public Acts of 1893, and to add sections 34d and 87d. Specifically, to make certain amendments to the General Property tax Act consistent with the requirements of Sections 31,33 and 34 of Article IX of the State Constitution of 1963.

Problem Statement: Section 34 requires the legislature to implement sections 25 through 31 of Article IX (the so-called "Headlee" tax-expenditure limit). Section 31 states in part that:

"If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value."

This is the language that for months has been interpreted by the press and some proponents of Headlee to mean that local taxes are pegged to the inflation rate and may not rise faster than the U.S. consumer price index. This argument is faulty for a couple of reasons: first, the rollback provision addresses the general property tax and its corollaries only (IFT, CFT, state utility property tax, etc.), and does not cap other local taxes; second, new construction and improvements are excluded from the calculation meaning that total local property taxes may rise by more than the rate of inflation. Nevertheless, it appears that the intent of this provision is to limit the growth of property taxes on existing property in a taxing unit to the rate of inflation.

The first year in which the rollback may be required is 1979, based upon the valuations for 1979 as of tax day, December 31, 1978. The first step in the rollback process is the recording of all valuations by all taxing units, exclusive of new construction and improvements. While this bill does not address the derivation of a millage rollback factor or its application, it does provide key definitions to be used in recording property valuations as of December 31, 1978 for millage rollback purposes. Furthermore, it specifies certain reporting procedures for local assessors and county equalization directors. The key definitions are of "new construction and improvements" and the "general price level." New construction and improvements is defined as "additions "less" losses", where additions include new construction and improvements plus previously exempted property and losses include newly exempted, removed or destroyed real or personal property. This definition allows locals to adjust for industrial and commercial property tax abatement (P.A. 198-1974, P.A. 255-1978), where property is first deleted then added to the rolls, with out the necessity of a millage rollback.

The general price level is defined as the annual change in the United States consumer price index for all-urban consumers, as required by Section 33 of Article IX.

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FISCAL NOTE

CONTINUED

Bill No.: S.B. 519
(P.A. 532 of 1978)

Fiscal Impacts:

State Govt: None

Local Govt: There may be a modest increase in costs associated with the more sophisticated reporting requirements. There will be significant revenue implications associated with the millage rollback formula when it is adopted.

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Act No. 532
Public Acts of 1978
Approved by Governor
December 21, 1978

STATE OF MICHIGAN
79TH LEGISLATURE
REGULAR SESSION OF 1978

Introduced by Senator VanderLaan

ENROLLED SENATE BILL No. 519

AN ACT to amend sections 36, 140, 140a, 141, 142 and 142a of Act No. 206 of the Public Acts of 1893, entitled as amended "An act to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the lands taxed, establishing and continuing the lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," section 36 as amended by Act No. 408 of the Public Acts of 1978 and section 140a as added by Act No. 292 of the Public Acts of 1976, being sections 211.36, 211.140, 211.140a, 211.141, 211.142 and 211.142a of the Compiled Laws of 1970; and to add sections 34d and 87d.

The People of the State of Michigan enact:

Section 1. Sections 36, 140, 140a, 141, 142 and 142a of Act No. 206 of the Public Acts of 1893, section 36 as amended by Act No. 408 of the Public Acts of 1978 and section 140a as added by Act No. 292 of the Public Acts of 1976, being sections 211.36, 211.140, 211.140a, 211.141, 211.142 and 211.142a of the Compiled Laws of 1970, are amended and sections 34d and 87d are added to read as follows:

Sec. 34d. (1) As used in this section or section 31 of article 9 of the state constitution of 1963, or both:

(a) "Additions" means all increases in value caused by new construction, improvements caused by new construction or a physical addition of equipment or furnishings, and the value of property which was exempt from taxes or not included on the assessment unit's previous year's assessment roll.

(b) "Financial officer" means the officer responsible for preparing the budget of a unit of local government.

(c) "General price level" means the annual average of the United States consumer price index for all urban consumers as defined and officially reported by the United States department of labor, bureau of labor statistics.

(213)†

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(d) "Losses" means a decrease in value caused by the removal or destruction of real or personal property, and the value of property taxed in the prior year which has been exempted or removed from the assessment unit's assessment roll.

(e) "New construction and improvements" means additions less losses.

(2) On or before the first Monday in May of each year, beginning in 1979, the assessing officer of each township or city shall tabulate the assessed valuation as approved by the local board of review for real property separately from personal property for each unit of local government and provide the tabulated assessed valuations to the county equalization director. The tabulation by the assessing officer shall contain additions, losses, and new construction and improvements for each unit of local government or part thereof in the township or city. The county equalization director shall compute these amounts and the current and prior year's state equalized valuation for each unit of local government that levies taxes under this act within the boundary of the county and shall cooperate with equalization directors of neighboring counties, as necessary, to make the computation for units of local government located in more than 1 county. The county equalization director shall transmit the complete computations to the superintendent of the intermediate school district, who shall review all computations related to school districts, and intermediate school districts and who shall provide assistance to the equalization director in making these tabulations. The county equalization director shall transmit the complete computations to the presidents of the community colleges who shall review all computations related to school districts and community colleges and who shall provide assistance to the equalization director in making these tabulations.

(3) On or before the first Monday in June of each year, beginning in 1979, the county equalization director shall deliver the statement of the computations signed by the county equalization director and the intermediate school district superintendent to the county treasurer.

(4) On or before the second Monday in June of each year, beginning in 1979, the treasurer of each county shall certify the prior year's state equalized valuation, the current year's state equalized valuation, and the amount of new construction and improvements for that year for each unit of local government which levies a property tax in the county.

(5) The financial officer of each unit of local government shall make the computation of the tax rate using the data certified by the county treasurer and the state tax commission. At the annual session in October, the county board of commissioners shall not authorize the levy of a tax unless the governing body of the taxing jurisdiction has certified that the requested millage has been reduced, if necessary, in compliance with section 31 of article 9 of the state constitution of 1963.

Sec. 36. (1) The township clerk of each township, on or before September 15 of each year, shall make and deliver to the supervisor of the clerk's township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in the clerk's office authorizing or directing money to be raised in the township by taxation for township, school, highway, drain and all other purposes, together with a statement of the aggregate amount thereof. The supervisor shall deliver the certified copies to the clerk of the county before October 2. The clerk shall present the copies to the county board of commissioners at its annual meeting and file the copies in the clerk's office. The county board of commissioners shall not levy in the year voted a tax levy voted on or after September 15. This subsection does not apply where subsection (2) or subsection (3) applies.

(2) The amount of taxes which are to be levied for school purposes in a school district which holds a millage renewal election on or before December 30, 1978, and which are approved, shall be certified for that calendar year of 1978. On the day after the millage is certified pursuant to this subsection, the appropriate county board of commissioners shall meet and direct or amend its direction for the spread of millages by local units in the county in accordance with the certification or amended certification.

(3) Notwithstanding sections 40, 42, and 46, for the 1978 tax year the county board of commissioners shall levy and spread the millage on behalf of a school district conducting a millage renewal election in December which shall be collected by February 14. The reasonable expenses incurred by the township or city in assessing and collecting the school taxes levied pursuant to this subsection, to the extent that the expenses are in addition to the expenses of assessing and collecting any other taxes at the same time and exceed the amount of any fees imposed by the township for collection of the school taxes, shall be billed to and paid by the board of education.

Sec. 87d. (1) Notwithstanding section 87c(10), a county which determines to borrow pursuant to section 87c may submit to its voters the question of issuing revolving fund notes at any general or special election, which question shall provide for the establishment of the revolving fund for not to exceed 10 years and shall be in substantially the following form:

"Shall the county of _____ establish or continue for _____ years a delinquent tax revolving fund and, in connection with that fund, borrow an amount not to exceed the delinquent taxes pledged

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for repayment of the borrowing or borrowings, as may be made each year, and issue its general obligation unlimited tax notes, pledging the county's full faith and credit for the purpose of providing money for the delinquent tax revolving fund?"

(2) If a majority of the electors voting on the question vote in favor of the question, the county may proceed to issue the notes as provided for in this act, which notes may be designated general obligation unlimited tax notes.

(3) If a majority of the electors voting on the question vote against the question, or if the question is not submitted, the county may also issue the notes but only in accordance with subsection (6).

(4) In addition, this section shall validate a question submitted to the electors before the effective date of this section in which the electors were asked to approve the issuance of general obligation tax notes secured by delinquent taxes, regardless of how the question may have been phrased. The defeat of the question shall require that the notes be issued as nonvoted until a future question is approved by the electors.

(5) A county may submit to its electors the question authorized by this section once each calendar year.

(6) If nonvoted notes are issued pursuant to section 87c:

(a) The resolution authorizing the borrowing and issuance of the notes shall establish the pledged delinquent taxes, the interest thereon, and any amounts received in the future from taxing units in the county because of the uncollectibility of any delinquent taxes as funds pledged to note repayment, which amounts shall be placed in a segregated fund and used for no other purpose except to repay the notes and the interest thereon. The resolution shall provide that the expenses of borrowing shall be repaid from the collection fees on the pledged delinquent taxes and the balance of the collection fees may be added to the funds pledged to note repayment, if the resolution provides.

(b) The notes shall be designated general obligation limited tax notes.

(c) The resolution may establish a special fund to secure the notes referred to as a note reserve fund and shall pay into the note reserve fund any proceeds of sale of the notes to the extent provided in the resolution authorizing issuance of the notes. All money in the note reserve fund, except as hereafter provided, shall be added to the funds pledged to note repayment and shall be used solely for payment of principal and interest on the notes for which the fund was established, or the purchase of notes for which the fund was established. Money in the note reserve fund shall first be withdrawn for payment of principal and interest on notes before other county general funds are used to make the payments. All income or interest earned by, or increment to, the note reserve fund due to its investment or reinvestment shall be deposited in the delinquent tax revolving fund, when the notes for which the fund was established are retired. The resolution shall provide that when the note reserve fund is sufficient to retire the notes and accrued interest thereon, it may be so used.

(d) A resolution which establishes a note reserve fund may provide for an additional borrowing of an amount not to exceed the amount of the reserve, and the county shall have the power to borrow that additional amount.

(e) The notes shall be the full faith and credit obligations of the county issuing them. If the proceeds of the taxes and interest and, when pledged, collection fees, or note reserve fund are not sufficient to pay the principal and interest, when due, the county shall pay the same from its general funds or any additional tax which may be levied within its constitutional and statutory debt limits, and the county may thereafter reimburse itself from delinquent taxes collected. The county's obligation to pay from its general funds shall be its first budget obligation and shall be provided for in the borrowing resolution in the following language:

"This note issue, in addition, shall be a general obligation of the county of _____, secured by its full faith and credit, which shall include this county's limited tax obligation, within applicable constitutional and statutory limits, and its general funds. The county budget shall provide that if the pledged delinquent taxes and any other pledged amounts are not collected in sufficient amounts to meet the payments of principal and interest due on these notes, the county, before paying any other budgeted amounts, will promptly advance from its general funds sufficient money to pay that principal and interest."

(7) If coupon notes are issued, pursuant to section 87c or this section:

(a) Interest shall be payable semiannually or annually.

(b) The coupons shall specify the source from which the notes shall be payable, which may be by reference to the note itself.

(c) The coupons shall contain the facsimile signature of the county treasurer.

Sec. 140. (1) A writ of assistance or other process for the possession of land the title to which was obtained by or through a tax sale, except if title is obtained under section 131, shall not be issued until 6

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months after there is filed with the county treasurer of the county where the land is situated, a return by the sheriff of that county showing service of the notice prescribed in subsection (2). The return shall indicate that the sheriff has made personal or substituted service of the notice upon the following persons who were, as of the date the notice was delivered to the sheriff for service:

(a) The last grantee or grantees in the regular chain of title of the land, or of an interest in the land, according to the records of the county register of deeds.

(b) The person or persons in the actual open possession of the land.

(c) The grantee or grantees under the tax deed issued by the state treasurer for the latest year's taxes then appearing of record in the registry of deeds.

(d) The mortgagee or mortgagees named in all undischarged recorded mortgages, or assignees thereof of record.

(e) The holder of record of all undischarged recorded liens.

(2) The notice served shall be substantially in the following form:

To the owner or owners of any and all interests in, or liens upon the land described:

Take notice: Sale was lawfully made of the following described land for unpaid taxes on that land, and that the undersigned has title to the land under tax deed or deeds issued for the land. You are entitled to a reconveyance of this land within 6 months after return of service of this notice, upon payment to the undersigned or to the treasurer of the county in which the land is situated, of all sums paid for the tax sale purchase, together with 50% in addition, and the fees of the sheriff for the service or cost of publication of this notice. The service or publication costs shall be the same as if for personal service of a summons upon commencement of an action, together with a sum of $5.00 for each description, without other additional cost or charge. If payment as described in this notice is not made, the undersigned will institute proceedings for possession of the land.

Description..... amount paid..... taxes for 1.....

(Signed).....

Place of business.....

(3) If the grantee or grantees, or the person or persons holding the interest in the land as prescribed in subsection (1) are residents of a county of this state other than the county in which the land is situated, the return as to that person shall be made by the sheriff of the county where that person or persons reside or may be found. If a person entitled to notice under subsection (1), is not a resident of this state, the sheriff, if the post-office address of the person can be ascertained, shall send to the nonresident person a copy of the notice by certified mail, and attach the receipt indicating postal delivery of the notice to the return and file the return with the county treasurer's office. If service on the nonresident is not made by mail, the sheriff shall cause a copy of the notice to be served personally on the nonresident, and when the notice is personally served outside of this state, proof of service shall be made by affidavit of the person making service, which affidavit shall be made before a notary public or other officer authorized to administer oaths. The affidavit, when made outside of this state, shall have attached a certificate of the clerk of the court of record, certifying to the official character of the officer or notary, and the genuineness of the signature of the officer or notary to the jurat of the affidavit, and the sheriff shall return this proof of personal service with the return to the county treasurer's office.

(4) If a person entitled to notice as prescribed in subsection (1) is dead, or if a person's estate is under control of a trustee or guardian, the notice may be served upon the executor or administrator of the decedent's estate, or upon the decedent's heirs if there is not an executor or administrator, or upon the trustee or guardian of an incompetent person, with like effect as if served upon the grantee, mortgagee, or assignee.

(5) If the sheriff of the county where the land is located makes a return that after careful inquiry the sheriff is unable to ascertain the whereabouts or the post-office address of the persons upon whom notice may be served as prescribed in this section. The notice shall be published for 4 successive weeks, once each week, in a newspaper published and circulated in the county where the land is located, if there is one. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county, and proof of publication, by affidavit of the printer or publisher of the newspaper, shall be filed with the county treasurer. This publication shall be instead of personal service upon the person or persons whose whereabouts or post-office address cannot be ascertained as prescribed in subsection (3).

(6) Service may be made upon a resident of this state by leaving the notice at that person's usual place of residence with a member of that person's family of mature age, and upon a nonresident of this state by serving the notice on the nonresident personally while in this state and the return in this case shall be made by the sheriff of the county in which service was made.

(7) A corporation formed under the laws of this state shall be regarded, for the purposes of this act, as a resident of the county in this state where the corporation maintains its principal or registered office for the

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transaction of business in this state, as indicated by the articles of incorporation. Service on a corporation may be made on the president, secretary, treasurer, or resident agent of the corporation, or by leaving the notice at the principal or registered office of the corporation with a person in charge of the office. If the sheriff of the county in which the principal or registered office of the corporation is located indicates on the return that upon careful inquiry the sheriff was unable to find the office or a president, secretary, treasurer, or resident agent of the corporation in that county, service of the notice may be made upon the corporation by publication as prescribed in subsection (5). This section shall apply to a corporation whether or not the term of corporate existence has expired. A foreign corporation doing business in this state and having a registered agent to accept service of process as required by law shall be regarded, for the purposes of this act, as a resident of the county in which its registered office is located. Service on a foreign corporation may be made on the resident agent, or by certified mail addressed to the corporation at its home office.

(8) Service as prescribed in this section may be made by a sheriff, undersheriff, or deputy sheriff. The sheriff shall, in the return of service, state the time when the notice was delivered to the sheriff for service, and the return shall be prima facie evidence of the facts stated in the return.

Sec. 140a. (1) As used in this section, "improved residential parcel" means a parcel of land which contains a dwelling suitable for occupancy.

(2) When a proof of notice on an improved residential parcel is filed with the county treasurer, the proof shall contain the statement: "this parcel is an improved residential parcel". The proof shall show the street address, if known. An additional copy of the notice on this class of property shall be provided with the filing of the proof of notice. Failure by the holder of a tax deed to include this statement and to provide a copy shall invalidate the filing and render it null and void. The county treasurer shall forward the copy of the proof of notice to the county department of social services, which shall make an attempt to contact the owner and occupant of the property to determine if the owner or occupant is in need of assistance or protection of the court. The county department shall file with the court a written report of its findings within the 6-month redemption period provided in section 142. Failure to contact the owner or occupant or to file a written report shall not invalidate the proceedings.

Sec. 141. (1) A person having an estate in the land; an interest in the land, either in fee, for life, or for years; a mortgagee of the land; an assignee of an undischarged mortgage on the land; the holder of a lien on the land; an executor, administrator, trustee, or guardian of these persons; or a person in actual possession of the land at the time of the tax purchase, shall be entitled to receive from the person, or that person's heirs or assigns, claiming title under the tax deed, within 6 months after the filing of return of service or the filing of proof of publication of the notice as prescribed in section 140, a release and quitclaim of all right and interest in the land acquired under the tax deed upon payment to the person claiming title under the tax deed or that person's heirs or assigns, or to the treasurer of the county in which the land is situated, of the amount paid for the purchase, together with 50% in addition, and personal or substituted service fees, which fees shall be the same as provided by law for service of subpoenas, for orders of publication, or for the cost of service by certified mail, together with a sum of $5.00 for each description, without additional cost or charge.

(2) A person or persons entitled to a release and quitclaim under subsection (1), after the issue of tax deeds on the land, or after the purchaser of the land is entitled to the tax deeds, and before service of notice or return thereof, shall have the right to redeem the land from the sale. Redemption shall be made by paying to the purchaser, a grantee of the purchaser, or to the treasurer of the county in which the land is situated, all sums paid as a condition of the purchase, together with 50% in addition, and the sum of $5.00 for each description. Upon payment, the tax title and all the certificates of sale shall become void and of no effect against the land to be redeemed. The county treasurer shall, when payment is made as provided in this section, at once notify the owner of the tax title, or the owner of the certificates of sale, of the payment so made, and the owner of the tax title, or of the certificates of sale, shall immediately deliver to the treasurer a release and quitclaim of all rights acquired by the owner under the tax purchase, running to the person making the payment, and shall also deliver to the treasurer the tax deed, certificates of purchase, tax receipts, and all other conveyances relating to the tax title or tax interest before that person shall be entitled to receive the money paid to the treasurer as provided in this section. Upon delivery of the release and quitclaim, the certificates of purchase, and the tax receipts, the treasurer shall immediately pay to the owner of the tax title all sums received by the treasurer for redemption of the land described in the release and quitclaim, certificates, and receipts. A quitclaim or reconveyance made under this section shall not vest in the grantee title or interest in the land beyond that already owned by the grantee, but the grantee shall be entitled to a lien on the land, or on parts of the land or interests in it which are not owned by the grantee, for the amount paid, or the portion of the amount paid which is lawfully chargeable to the parts or interests, in addition to the prior lien or other interest held by the grantee. This lien may be enforced in a court of competent jurisdiction, with interest on the lien at the rate of 6% per annum from the date of the payment.

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The circuit court has jurisdiction to enforce the liens provided for in this section without regard to the amount of the liens. An application for a writ of assistance shall show that the applicant has complied with the provisions of this act regarding the giving of notice. The applicant shall attach to the application a copy of the notice and the return of the sheriff serving the notice, or a copy of the proof of publication, or a receipt from the post-office showing that the notice was served by certified mail.

Sec. 142. (1) A purchaser under a tax sale or a state bid sold shall not enter into possession of the land purchased by the tax sale or state bid until 6 months after notice is given to the party or parties in interest as prescribed in sections 140 and 141 unless the purchaser acquired from these parties their title to the land by conveyance from these parties of their interest in the land.

(2) If the land is vacant and unoccupied and a writ of assistance is not needed to put the purchaser into possession, the time for redemption under this section shall expire 6 months after the service of notice to the party or parties in interest, or date of mailing the notice by certified mail, or first publication thereof, and the filing of proof of personal or substituted service or of publication with the treasurer of the county where the land is situated.

(3) If an action or other proceeding to set aside the tax sale of the land is commenced by the owner of the land or by a person having a redeemable interest in the land, before the expiration of the 6 months, the purchaser under tax sale or the purchaser's grantee shall not enter into possession of the land until the final determination of the action or other proceeding.

(4) This section shall not apply to applications for writs of assistance made upon behalf of the state or grantees thereof.

Sec. 142a. If a grantee, mortgagee, or person in possession fails to redeem the land within the 6 months, as prescribed in sections 140, 141, and 142, within 30 days after the expiration of the 6-month redemption period, the county treasurer shall cause to be recorded in the office of the register of deeds for the county in which the land is situated, in a record to be provided for that purpose, a copy of the notice and proof of service thereof, duly certified by the county treasurer in whose office the notice and proof of service is filed. This record shall be prima facie evidence in all courts and tribunals that the purchaser is the owner of the land under the purchase. The county treasurer shall be entitled to a fee of 50 cents for filing the notice and to additional fees as provided by law for making the copy and certifying to the making of the copy. The county treasurer shall be entitled to a fee of 50 cents for recording the copy of notice and proof of service and shall collect from the purchaser under the sale or deed the recording fee of the register of deeds. The register of deeds shall be entitled to the same fees for recording the copy as is provided by law for recording deeds of conveyance and other instruments.

Section 2. Sections 140, 140a, 141, 142 and 142a of this amendatory act shall take effect May 1, 1979.

This act is ordered to take immediate effect.

Billie S. Farnum

Secretary of the Senate.

T. Thos. Thatcher

Clerk of the House of Representatives.

Approved_____

_____

Governor.

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FISCAL NOTE

Appendix F



Senate Office Building
Date: 2/23/79
Analyst: T. Ferris
Phone: 373-2767

Bill No.: H.B. 5063
(P.A. 529 of 1978)

Purpose of Bill:

To amend Chapter 1 of Act No. 202 of the Public Acts of 1943, being the "Municipal Finance Act", by adding Section 4. Specifically, to exempt obligations that are authorized by the governing body of a local government unit before December 23, 1978, from the requirements of Section 6 and 31 of Article IX of the State Constitution of 1963, as amended by the electors at the November general election of 1978, provided that the prospective issue is received by the Municipal Finance Commission for their approval before December 23, 1979.

Problem Statement:

Proposal E (the Tax-Expenditure Limitation amendment to the State Constitution of 1963) was approved by the electors in November of 1978. Among other things, the amendment added Section 31 to Article IX and placed certain restrictions on local taxing power. The second paragraph of Section 31 states:

> "The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this amendment." [emphasis added]

Section 34 of the amendment requires the Legislature to implement the provisions contained in Section 25 through 33 of the amendment. This bill seeks to implement the paragraph of Section 31 that is cited above.

The key phrase is the last portion of the paragraph, which is underlined above. In order to be exempt from the requirement of local voter approval, the bonds which are issued must have been authorized prior to the "effective date" of the amendment. According to Section 1 of Article XII of the State Constitution of 1963 the effective date of an amendment to the Constitution is 45 days after the election at which it was approved. In the case of the tax-expenditure limit and other amendments to the Constitution approved in November, the effective date is December 23, 1978.

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FISCAL NOTE

CONTINUED

Bill No.: H.B. 5063
(P.A. 529 of 1978)

Fiscal Impacts:

State Govt: None.

Local Govt: The taxes levied to support non-voted debt may be available for other debt purposes when the old debt (authorized prior to December 23, 1978) is fully amortized. It is not clear whether the tax authorization can survive beyond the life of the original issue without voter approval.

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Act No. 529
Public Acts of 1978
Approved by Governor
December 21, 1978

STATE OF MICHIGAN
79TH LEGISLATURE
REGULAR SESSION OF 1978

Introduced by Reps. Trim, Gast and Thomas H. Brown

ENROLLED HOUSE BILL No. 5063

AN ACT to amend chapter 1 of Act No. 202 of the Public Acts of 1943, entitled as amended "An act relative to the borrowing of money by municipalities, and the issuance of bonds, notes and certificates of indebtedness; to provide for tax levies and sinking funds; to create the municipal finance commission, and to prescribe its powers and duties; to create an advisory tax study committee, and to prescribe its powers and duties; to prescribe penalties; and to repeal all acts and parts of acts inconsistent with the provisions of this act," being sections 131.1 to 131.3 of the Compiled Laws of 1970, by adding section 4.

The People of the State of Michigan enact:

Section 1. Chapter 1 of Act No. 202 of the Public Acts of 1943, being sections 131.1 to 131.3 of the Compiled Laws of 1970, is amended by adding section 4 to read as follows:

CHAPTER 1

Sec. 4. If before December 23, 1978, the governing body of a municipality adopts an ordinance or resolution directing that obligations be issued and establishing the terms of the proposed obligations, except the rates of interest on those obligations, and an application for approval of the obligations is made to the municipal finance commission by December 22, 1979, the obligations directed to be issued by the ordinance or resolution shall be considered for the purposes of the state constitution of 1963 to have been authorized before the addition of the second paragraph of section 31 of article 9 and the amendment to section 6 of article 9, as approved by the electors at the November general election of 1978, became part of the state constitution of 1963. If the obligations have been so authorized, the municipality may impose taxes without limitation as to rate or amount for the payment of principal and interest on the obligations or for the payment of an assessment or contract obligation in anticipation of which the obligations are issued. The ordinance or resolution directing that obligations be issued may be amended subsequent to December 22, 1978 to alter the terms of the proposed obligations, but the amendment shall not increase the principal amount of the obligations to be issued or change the general purpose for which the obligations are issued.

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Section 2. This amendatory act shall take effect February 1, 1979.

This act is ordered to take immediate effect.

T. Thos. Thatcher

Clerk of the House of Representatives.

Billie S. Farnum

Secretary of the Senate.

Approved _____

_____

Governor.

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TAXPAYERS UNITED RESEARCH INSTITUTE

P.O. BOX 1978 • FARMINGTON HILLS, MI 48018 •

For immediate Release

Contact: William Shaker
517-631-4535 or 517-636-0887

NEWS RELEASE

PROPOSAL "E" EXPLAINED

Drafters' notes explaining the intent of the Tax Limitation Amendment (Headlee) were distributed to all members of the Michigan Legislature. The Legislature must implement the amendment by passing enabling legislation. The sections of the amendment dealing with local government went into effect on December 22, 1978, but enabling legislation as yet has not been passed.

This 23 page document was released by William H. Shaker, the amendment's chief author. The other members of the amendment language committee were: William Hanson, William Niskanen and Donald Reisig. Along with serving as the Principal Draftsman for Proposal E, Shaker also authored the amendment's predecessor (Proposal C) which was narrowly defeated in the 1976 election. He is also the founder of the Michigan Tax Limitation movement and organizer and founder of Taxpayers United.

The draftsmans' notes also include a list of 42 people who served as members of the Drafting Advisory Committee and as consultants. This list included: Taxpayers United Chairman Richard Headlee, former presidential advisor Paul McCracken, Richard O'Neill of The Michigan Association of Realtors, James Barrett of the Michigan State Chamber of Commerce, and Taxpayers Federation of Michigan President Allan Schmid.

The drafters' notes begin:

"The spirit of the times from which this proposal grew was the 'Tax Revolt' and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted."

- MORE -

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Shaker said: "The drafters' intent was to place the total dollar size of Michigan's public sector under direct popular democracy while retaining the best features of representative democracy."

Shaker said that he is concerned by news reports from Lansing regarding various legislative proposals for implementing the amendment. He said that the majority of the "official commission" appointed by the Governor to recommend implementing legislation was composed of people violently opposed the the amendment.

Among other things, the amendment requires a reduction of property tax rates whenever assessed values of property in a community increase faster than inflation. Shaker said: "one of the more ridiculous proposals of the 'official commission' is to reduce tax rates, as required by the amendment, for the first year, but then let tax rates go back up to their previous rates in the following years." He said: "letting tax rates go back up after the first year would accomplish absolutely nothing and is positively prohibited by the amendment."

"Such arrogant disregard for the will of the people would surely be met with court challenges and, if necessary, another state-wide petition drive," he said.

Shaker concluded that he is hopeful that the Legislature will pay close attention to the intent of the amendment drafters, study the drafters' notes in detail, and heed the will of Michigan voters as expressed when they approved Tax Limitation last November.

# # #

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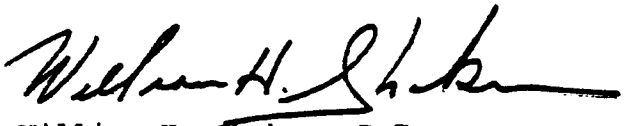
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February 15, 1979

DRAFTERS' NOTES - TAX LIMITATION AMENDMENT

(Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The following notes provide an explanation of the drafters' intent in the formulation of this amendment:



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Drafting Advisory Committee:	Advisors/Consultants:
Larry Andrick	Eldon Andrews (1974)
Walter Averill, M.D.	Stanley Beattie, Esq. (1978)
E. James Barrett	Louis Cramton (1974)
Noel Black	Richard Durant, Esq. (1974, 1978)
Mary Bourdon	Russell Gould, Esq. (1974)
Richard Carncross	Gene Heck (1974)
Henry Dodge	Walker Henry, Esq. (1974)
*William Hanson	Norman Hughes (1974)
Richard Headlee	Dwight Johnson (1974)
Roy Jones	Richard McIllan, Esq. (1978)
Fred Keister	Roger Needham, Esq. (1974)
Howard Ledbetter	William Nicholson (1978)
Robert Lee	L. Brooks Patterson, Esq. (1978)
Jeff Leib, Esq.	Robert Pickup (1974, 1978)
Paul McCracken, Ph.D	Robert Queller (1974, 1978)
*William Niskanen, Ph.D	*Donald Reisig, Esq. (1978)
Richard O'Neill	Thomas Sharpe (1974)
Thomas Ritter	William Craig Stubblebine (1974, 1978)
Al Schmid, Esq.	Lewis K. Uhler (1974, 1978)
Michael Sessa	
*William H. Shaker, P.E.	
Flora Whan	
Harry Veryser	

*Language Committee

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Drafters' Notes - Tax Limitation Amendment (Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The spirit of the times from which this proposal grew was the "tax revolt" and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted.

The drafters' intent was to make the minimal changes from Proposal C (a similar tax limitation constitutional amendment which was drafted in 1974 and appeared on the 1976 Michigan general election ballot; but not approved by the electors at that time), consistent with adding more definitional specificity and strengthening provisions dealing with local taxation. The lanaguage of Proposal E is attached to these notes as Appendix 1 and, for historical comparison, Proposal C is attached as Appendix 2.

The section numbers refer to the section numbers of Article 9, labeled Proposal E in Appendix 1.

Section 25

The Preamble to the Amendment, Section 25, serves as a summary of Sections 26 through 34, inclusive and Section 6, as amended; and spells out that the objectives, purposes, and

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intent of the drafters, petitioners and the voters are clearly to place specifically defined limitations on the revenues of both state and local governmental units and to place these limits under the direct and absolute control of the voters. It is also clear from the remaining sections that "limitations specified herein" mean tax and revenue levels existing at the effective dates of the amendment: October 1, 1980 for Sections 26, 27, 28 and December 22, 1978, for Sections 29 through 34, inclusive and Section 6, as amended. It was clearly not the intent to require voter approval of annual state budgets. The intent of "limitations specified herein" is explained with specificity in these notes, as they deal with each specific section.

Section 25 specifically prohibits the state from circumventing the intent of the amendment by shifting tax burdens from the state to local governmental levels. Any action by the state which would result, directly or indirectly, in increased local taxation through a shift in funding responsibility is clearly prohibited by this Section.

This Section and Sections 26 through 34, inclusive, together with Section 6, as amended, were intended to strengthen the process of direct voter approval over total taxation and spending levels; and it was intended that the legislative, judiciary, and administrative branches of government be so guided.

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In essence, the drafters' intent was to place the total dollar size of Michigan's public sector under direct popular democracy while retaining the best features of representative democracy, vis-a-vis the allocation of resources within the voter approved overall spending limitations.

Section 26

This section defines the state revenue limit. The revenue limit is expressed in terms of the ratio of total state revenues, excluding federal aid and taxes levied for specified debt service in FY 1978-1979 over the personal income in calendar 1977 times the relevant income base. This avoids use of a specific percentage (such as 8.3%, as in Proposal C) and the charge that there would be a reduction if the limit were effective at that time.

There was strong sentiment that this percentage should be rolled back over a period of time; but the concensus was that a roll back was conceptually different and should be handled later with an independent amendment.

Section 33 defines "total state revenues" to include all general and special revenues, excluding federal aid, as defined in the budget message of the governor for FY 1978-1979. It was the drafters' intent for the definition of

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"total state revenues" to be all inclusive, including revenues from licenses and permits and any and all other sources, except those revenue sources explicitly excluded by language in the amendment itself. It was the drafters' intent that any and all future revenues be treated like any revenues that exist upon approval of the amendment and be subject to the limit. Taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this article and loans to school districts authorized under Section 16 of this article, are excluded from the revenue limitation established in Section 26. Such taxes and federal aid are excluded both from the calculation of the 1978-79 revenue limit ratio and from the revenue limit computation in subsequent years.

In drafting this Section, there was concern regarding the danger of voting in November, 1978, on a proposal which uses revenues in 1978-1979 as a percentage of 1977 personal income as the limitation, since if the amendment were approved, the legislature would have the opportunity to increase taxes following the November election in order to build up the ratio. It was the drafters' intent that this not happen and the general consensus was that such a tax increase would be politically unlikely, and that if the legislature were so arrogant as to increase taxes following approval of the tax limitation amendment, that there would be an immediate

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petition drive that would result in technical amendments which would reduce the percentage limitation.

Directly or indirectly federally mandated spending increases are not exempted from the provisions of this section. It is the concensus that any problems arising from such federal requirements would be cured later on by a federal tax limitation amendment.

This section requires pro rata refunds to taxpayers in the event that revenues exceed the dollar amount of the revenue limit by 1% or more of the limit. If the excess were less than 1% of the revenue limit, the excess can be either refunded pro rata, or placed in the budget stabilization fund, as determined by the legislature. If the excess of revenues were greater than 1% of the revenue limit, a transfer to the budget stabilization fund out of excess revenues is prohibited and all of the dollars in excess of the limit must be refunded on a pro rata basis. The drafters' intent in designing the 1% cushion was to minimize the administrative expense relating to tax refunds.

The pro rata provision was designed to prevent the legislature from indirectly creating a graduated income tax through over taxation followed by various refunding schemes, other than pro rata.

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Section 27

This section defines conditions by which the revenue and spending limitations may be exceeded. Declaration of an emergency requires executive action and this section requires that an emergency must be declared by the Governor and approved by a two-thirds vote of members of each house. The procedures for an emergency declaration and approval are very specific in order to prevent the abuse of this section.

Section 28

This section provides for a balanced budget and reinforces the present constitutional requirement for a balanced budget. Past practices designed to avoid the constitutional balanced budget requirements, such as extending the fiscal year, are precluded by this section. Surplus is intended to include budget stabilization monies, permitting financing a budget stabilization fund within the revenue limit established in Section 26. It was not the drafters' intent to any way prohibit the creation of the budget stabilization fund within the limit, or to include budget stabilization funds from prior years within the revenue limitation formula.

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Section 29

It was the drafters' intent to include all necessary state mandated cost increases in this provision, including but not limited to: changes in general law which increase local governmental costs, e.g., increases in the state minimum wage law; changes in the civil and criminal statutes, e.g., mandatory sentencing; federally encouraged changes in state law, e.g., unemployment compensation coverage; collective bargaining or compulsory arbitration mandates, land use regulations, etc. It was the drafters' intent that the words "activity or service" be broadly defined to require that the state pay for all costs mandated by state law or state directive after December 22, 1978. This section requires reimbursements to local units for necessary new costs from all state mandates requiring action after December 22, 1978. Such interpretation is also required by Section 25 which prohibits the state from requiring any new or expanded activities by local governments without full state financing...or from shifting the tax burden to local government. The phrase "required by existing law," is used to clarify the authority of the State to require local governments to increase their activities up to standards established by existing law without additional reimbursements. However, "new" administrative interpretation of existing law would require reimbursement.

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"Necessary costs" means that the legislature may establish some criteria to determine effectiveness, such as average costs, state-wide. It was intended that the legislature implement this section through appropriate legislation, including appropriations to cover the necessary costs for mandated activity or service. No mandated activity or service should be legally binding on any local unit until the appropriations for such mandated activity or service is made and disbursed to the applicable local units.

The state is prohibited from reducing the state financed proportion of specific existing activities or services below that proportion funded by the state in the base year, i.e., fiscal year 1978-1979. It was the drafters' intent that the phrase "any existing activity or service required of Local Government by state law" be broadly construed to mean all activities or services performed by Local Government as a result of the State Constitution, state statute or state regulation, e.g., public elementary and secondary schools as defined by law. This provision does not guarantee, for example, that the proportion of state expenditures paid to a specific school district cannot be reduced. It does mean, however, that the proportion of state funding going to school districts, state-wide, for public elementary and secondary education shall not be reduced.

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The State is prohibited from reducing the state financed proportion of existing specific programs required of local governments by state law or state directive. Future mandated programs shall be fully funded. It seeks to obviate any temptation the state might have to fund a new mandated program (e.g., rapid transit) by shifting funds from a previously mandated program (e.g., K-12 education).

This section does not necessarily prevent the state from shifting funds from general and unrestricted revenue sharing to the funding of a state mandated activity but it does prohibit shifting funds from state mandated programs unless the mandate for such programs is eliminated.

Section 30

The primary intent of this section was to prevent a shift in tax burden, either directly or indirectly from state to local responsibility. The phrase "taken as a group" permits the legislature to reallocate funds to local units of government, i.e., geographically or from one unit to another. It was the drafters' intent to rely on the political process to effect such allocations and not to limit the legislature's ability to create more effective and efficient governmental entities or to eliminate those local units which no longer serve any utilitarian purpose.

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Additional or expanded activities mandated by the state, as described in Section 29 would tend to increase the proportion of total state spending paid to local government above that level in effect when this section becomes effective.

Section 31

Section 31 begins: "Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without approval of a majority of the qualified electors of that Local Government voting thereon." This sentence was intended to prohibit local units from levying any new tax that might be authorized after the effective date of the amendment without voter approval. It also was intended to prohibit any local unit from increasing the rate of an existing tax beyond the limit established by law or charter after the effective date of the amendment.

However, the intent of the wording was to permit Local units to retain those taxing powers they had by state law or local charter prior to the effective date of the amendment. Thus, a Local unit that was not levying or imposing the full amount of its taxing authority at the time of the effective date of the

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amendment would continue to be able to exercise such power after the effective date of the amendment. For example, a city with a 20 mill limit in its charter that only levied 15 mills in 1978 could increase its millage rate up to its 20 mill charter limit without again going to the voters for approval. Likewise, a school district that had voter approval to levy extra voted millage at the time of adoption could increase its millage rate up to the amount authorized without again seeking voter approval, even though the maximum millage authorized might not have been levied in 1978.

Industrial facility taxes levied under authority of Public Act 198 of 1974 are taxes that "were authorized by law" when Section 31 would go into effect, and therefore, would be exempt from the local vote requirement.

The first paragraph of Section 31 provides that as assessed value is increased, the millage authorized for the taxing unit must be decreased in equal proportion to the increased assessment, with the only increase in revenue allowed from existing property being determined by the Consumers Price Index for the United States as reported by the United States Department of Labor.

The rollback provision of this section reads:

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"...if assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the general price level from the previous year, the maximum authorized rate applied thereto in each unit of local government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the general price level, as could have been collected at the existing authorized rate on the prior assessed value...". (emphasis added) "Existing authorized rate" was intended to refer to "maximum rate authorized by law or charter" when this Section is ratified.

This section recognizes that in many communities, property tax revenues have increased rapidly, without any increase in tax rates, due to the rapid increase in assessments. It was the drafters' intent to assure that tax revenues on existing property not increase faster than the general U.S. inflation rate, regardless of increases in assessments, without local voter approval. The growth of property taxes on existing property in a taxing unit is limited to the rate of inflation.

For particular years in which assessed valuation of property as finally equalized (excluding new construction) exceeds inflation the maximum tax rate authorized by law or charter

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shall be rolled back to yield the same gross revenue from existing property (adjusted for inflation) as could have been collected at the existing authorized rate on the prior assessed value. The intent of the underlined phrase was to roll back the "maximum rate authorized by law or charter," even though the unit may have been levying a lesser rate. A key operative word in the phrase is "could." The effect of this provision shall be a continual ratcheting downward of maximum authorized tax rates whenever assessed values exceed inflation.

This section only operates to reduce maximum authorized tax rates in years in which assessed values, as finally equalized, increase faster than inflation. It does not allow "rolled back" rates to be increased under any conditions without voter approval. This is illustrated for a taxing unit in the following hypothetical example. (Exhibit 1) Presmises: the "maximum authorized rate" is 10 mills; spread rate (the millage levied in 1978) was 9 mills; assume the taxing authority continues to levy the same millage that it was levying in 1978 (9 mills) until the "maximum authorized rate" reaches a lesser level.

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Year	Assessed Value (S.E.V.)	~~1~~ Change in Assessed Value (S.E.V.)	Inflation	Maximum Authorized Tax Rate	Spread Rate	Annual Property Tax Savings*
1978	$20,000,000			10.00 mills	9.00	--
1979	$23,400,000	17%	9%	9.32 mills	9.00	--
1980	$24,102,000	3%	7%	9.32 mills	9.00	--
1981	$25,789,140	7%	12%	9.32 mills	9.00	--
1982	$29,657,511	15%	8%	8.75 mills	8.75	$ 7,415
1983	$35,589,013	20%	10%	8.02 mills	8.02	$34,877
1984	$38,080,244	7%	7%	8.02 mills	8.02	$37,318
1985	$41,888,269	10%	7%	7.80 mills	7.80	$50,216

*Annual savings is calculated based on the difference between 1978 spread rate and the "maximum authorized tax rate." Annual savings in this example would be larger if it were assumed that the local governing body, in the absence of Tax Limitation, had spread taxes at the "maximum authorized rate" in 1979, 1980 and 1981, instead of continuing to spread at the 1978 level.

Exhibit 1

The impact of this provision is further illustrated in the attached table (Exhibit 2) which shows the impact on a taxing jurisdiction with a market value of $20 million in 1968, with S.E.V. increases, inflation rate and millage levy as shown in the table. It is assumed that the taxing jurisdiction is levying the maximum authorized rate for the purposes of this example.

It was clearly the drafters' intent that whenever a "maximum tax rate authorized by law or charter" is rolled back, the "rolled back" rate becomes the "new" maximum authorized rate,

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(In Millions of Dollars)

Year	Assessed (S.E.V.)	% Change in Assessed (S.E.V.)	Inflation	Section 31 Millage under (E)	Property Taxes Section 31 (without "E")	Property Taxes Section 31 (E)	Annual Property Tax Savings Section 31 (E)	Cumulative Annual Property Tax Savings Section 31 (E)
1968	10,000			40 mills	400.00	--	--	--
1969	11,450	14.5%	5.4%	36.82	458.00	421.59	36.41	36.41
1970	12,893	12.6%	5.9%	34.63	515.72	446.48	69.24	105.65
1971	14,556	12.9%	4.3%	31.99	582.24	465.65	116.59	222.24
1972	16,206	10.1%	3.3%	30.02	641.04	481.10	159.94	382.18
1973	16,956	5.8%	6.2%	30.02	678.24	509.02	169.22	551.40
1974	19,329	14.0%	11.0%	29.23	773.16	564.99	208.17	759.57
1975	20,102	4.0%	9.1%	29.23	804.08	587.58	216.50	976.07
1976	21,108	5.0%	5.8%	29.23	844.32	616.99	227.33	1,203.40
1977	21,530	2.0%	6.5%	29.23	861.20	631.47	229.73	1,433.13
1978	24,501	13.8%	7.5%	27.61	980.04	676.47	303.57	1,736.70

The cumulative savings, over the past ten years, had "E" been in effect, would have been $1,736,700 -- under the assumptions in this hypothetical example.

Exhibit 2

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which will then serve as the base from which the next rollback would be calculated. Once a tax rate is rolled back under this section, it shall never be increased without voter approval.

A key phrase in this section is "rate authorized by law or charter." Local government officials would retain the authority to increase tax rates to the maximum rates authorized "by law or charter," even if such maximum rates are not presently levied. This does not change their present authority, with the exception that "maximum rates authorized" would be rolled back, over time, whenever assessed valuation of property as finally equalized (presently defined as S.E.V.) increases more than inflation. This section assures local voter control of the maximum authorized rates and the revenues generated at these rates.

"Rate authorized by law or charter" was selected rather than "rate existing at time of ratification" (the spread rate) because the drafters' intent was not to penalize the taxing authorities that were efficient enough to operate at less than their maximum authorized levels or who may have reduced millage due to some unusual circumstances below the authorized level. Furthermore, it was recognized that those maximum rates had been previously approved by voters and therefore, such an approach is consistent with the intent of the amendment.

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To reiterate, it was the clear and absolute intention of the drafters to require that all property and local taxation be under direct voter control. In no way does this section allow for millage rolled back under this section to be restored without approval by a majority of the electors of the unit affected and voting thereon.

This section permits, but does not require the legislature to mandate, through enabling legislation, that a lower tax rate than "authorized by law or charter" be established, such as that tax rate in each unit effective on December 22, 1978. Although specification of this approach is not mandated, it clearly would be within the spirit of the tax revolt, from which this amendment sprang, to do so. In retrospect, it is noted that Proposal E ballot language stated "...the proposed amendment would...prohibit local government from adding new or increasing existing taxes without voter approval." Emphasis added. The legislature and the courts should be guided by the perception of the electorate in passing the amendment.

"The value of new construction and improvements" clearly means only new physical construction. Any increase in value because of zoning changes or for any other reason are not within the meaning of "new construction and improvements." New construction is intended to mean the amount of newly constructed property less losses. Failure to adjust for losses would

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allow taxes on existing property to increase faster than inflation which is clearly contrary to the intent of this section.

The second paragraph of Section 31 was included by the drafters to protect the rights of the holders of bonds which had been properly issued and authorized prior to the effective date of the amendment. It was also intended to assure those bondholders that the constitutional amendment would not be applied retroactively to bonds issued and authorized prior to the effective date of the amendment. It was the intention of the drafters that this paragraph would apply only to completed transactions, i.e. to bonds issued and authorized, prior to the effective date of the amendment.

The drafters were very careful to spell out that the limitations provided in Section 31 in paragraph 1 did not apply to taxes that had been previously imposed for bonds that were issued and properly authorized prior to the effective date of the amendment. The drafters also recognized that if bonds had been improperly authorized and issued, prior to the effective date of the amendment, the bonds might be set aside or voided through litigation. It was not the intention of the drafters to protect the defective bonds from litigation or to prohibit such litigation.

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Paragraph 2 of Section 31 was not in any manner or fashion intended to limit Article 9, Section 6 of the Tax Limitation amendment. Paragraph 2 of Section 31 was written totally independent of and separate from Article 9 Section 6 and had as its only intention the guaranteeing of contractual rights of individuals who had purchased bonds that were properly issued and authorized, i.e. completed, prior to the effective date of the amendment so that they would be protected from a reduction in millage under the provisions of paragraph 1 of Section 31. It was the clear intention of the drafters to prohibit the issuing or authorization of any unlimited tax obligation bonds in the State of Michigan after the effective date of this amendment without a vote of the electors.

Section 32

Any taxpayer of the state shall have standing to bring suit with original jurisdiction in the Michigan Court of Appeals to enforce the provisions of this amendment.

By costs, the drafters meant all expenses incurred in maintaining such suit, including, but not limited to filing fees, service fees, witness fees, discovery expenses, attorney fees and reasonable reimbursement for plaintiffs' time and travel.

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Section 34

The legislature must implement the provisions of Sections 25 through 33, inclusive. It is the intent that state law be the authority for implementing the additions to this article and extension of legislative authority to any department, agency, etc., shall not occur.

Section 6

The drafting of Article 9, Section 6 changed only the wording in paragraph 2 of Section 6. The former wording of paragraph 2 Section 6 excluded certain taxes from the limitations provided in paragraph 1 Section 6 of the 1963 Constitution. All the limitations contained in the 1963 Constitution in paragraph 1 Section 6 were retained. The intent, and the only intent of paragraph 2 Section 6 was to require a vote by the people before any taxes could be imposed over and above the limitations contained in paragraph 1 Section 6. The changes in paragraph 2 Section 6 were intended specifically to prohibit the imposition of any taxes for the payment of principal and interest on bonds or other evidence of indebtedness, or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which require the imposition of taxes over and above the limits set forth in paragraph 1 Section 6 unless the qualified electors

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of the political subdivision wherein such taxes are to be imposed have approved through an election in that district the issuance of obligations that would require the levy of property taxes that would be in excess of said limits contained in paragraph 1 Section 6.

In paragraph 2 of Section 6 the drafters also imposed the limitations under Sections 25 through 34 of Article 9 on any taxes imposed for any other purpose, thus requiring that any increase in taxation of property in the State of Michigan shall not be allowed without the approval of the qualified electors of whatever entity attempts to increase such property taxes.

The drafters felt that the 1963 Constitution allowed governmental units to increase property taxes for the purposes listed in paragraph 2 of Section 6 over and above the limitations contained in paragraph 1 Section 6 without any direct control of such taxes that would exceed the limits in paragraph 1 Section 6, by the electors of any political subdivision, etc. The drafters' intent was to stop this situation and return to the people full control of all property taxation amounts that would exceed the limitations set forth in Section 6, paragraph 1.

It was understood by the drafters that any taxes levied under Section 6, paragraph 1 and within the limitations contained

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therein could be used for any purpose consistent with the Constitution and the laws of the State of Michigan, including the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligation in anticipation of which bonds were issued. To reiterate, it was the sole intention of the drafters of Article 9 Section 6 to require that all taxation of property be subject to approval by the qualified electors of whatever entity seeking to impose such property tax.

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APPENDIX 1

PROPOSAL E (1978)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT
ADDING SECTIONS 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34 TO ARTICLE IX AND AMENDING SECTION 6 OF ARTICLE IX

Article IX of the Michigan Constitution is hereby amended by adding Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34, and by amending Section 6, such additions and amendments to read as follows:

Sec. 25. Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct voter approval. The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the proportion of state spending in the form of aid to local governments, or from shifting the tax burden to local government. A provision for emergency conditions is established and the repayment of voter approved bonded indebtedness is guaranteed. Implementation of this section is specified in Sections 26 through 34, inclusive, of this Article.

Sec. 26. There is hereby established a limit on the total amount of taxes which may be imposed by the legislature in any fiscal year on the taxpayers of this state. This limit shall not be changed without approval of the majority of the qualified electors voting thereon, as provided for in Article 12 of the Constitution. Effective with fiscal year 1979-1980, and for each fiscal year thereafter, the legislature shall not impose taxes of any kind which, together with all other revenues of the state, federal aid excluded, exceed the revenue limit established in this section. The revenue limit shall be equal to the product of the ratio of Total State Revenues in fiscal year 1978-1979 divided by the Personal Income of Michigan in calendar year 1977 multiplied by the Personal Income of Michigan in either the prior calendar year or the average of Personal Income of Michigan in the previous three calendar years, whichever is greater.

For any fiscal year in the event that Total State Revenues exceed the revenue limit established in this section by 1% or more, the excess revenues shall be refunded pro rata based on the liability reported on the Michigan income tax and single business tax (or its successor tax or taxes) annual returns filed following the close of such fiscal year. If the excess is less than 1%, this excess may be transferred to the State Budget Stabilization Fund.

The revenue limitation established in this section shall not apply to taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this Article, and loans to school districts authorized under Section 16 of this Article.

If responsibility for funding a program or programs is transferred from one level of government to another, as a consequence of constitutional amendment, the state revenue and spending limits may be adjusted to accommodate such change, provided that the total revenue authorized for collection by both state and local governments does not exceed that amount which would have been authorized without such change.

Sec. 27. The revenue limit of Section 26 of this Article may be exceeded only if all of the following conditions are met: (1) The governor requests the legislature to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; and (3) the legislature thereafter declares an emergency in accordance with the specifics of the governor's request by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expenses which constitute the emergency request. The revenue limit may be exceeded only during the fiscal year for which the emergency is declared. In no event shall any part of the amount representing a refund under Section 26 of this Article be the subject of an emergency request.

Sec. 28. No expenses of state government shall be incurred in any fiscal year which exceed the sum of the revenue limit established in Sections 26 and 27 of this Article plus federal aid and any surplus from a previous fiscal year.

Sec. 29. The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 30. The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79.

Sec. 31. Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. If the definition of the base of an existing tax is broadened, the maximum authorized rate of taxation on the new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value.

The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this amendment.

Sec. 32. Any taxpayer of the state shall have standing to bring suit in the Michigan State Court of Appeals to enforce the provisions of Sections 25 through 31, inclusive, of this Article and, if the suit is sustained, shall receive from the applicable unit of government his costs incurred in maintaining such suit.

Sec. 33. Definitions. The definitions of this section shall apply to Section 25 through 32 of Article IX, inclusive.

"Total State Revenues" includes all general and special revenues, excluding federal aid, as defined in the budget message of the governor for fiscal year 1978-1979. Total State Revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, but shall include the amount of any credits not related to actual tax liabilities. "Personal Income of Michigan" is the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency. "Local Government" means any political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other units of local government. "General Price Level" means the Consumer Price Index for the United States as defined and officially reported by the United States Department of Labor or its successor agency.

Sec. 34. The Legislature shall implement the provisions of Sections 25 through 33, inclusive, of this Article.

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Section 6. (New language capitalized) Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds APPROVED BY THE ELECTORS or other evidences of indebtedness APPROVED BY THE ELECTORS or for the payment of assessments or contract obligations in anticipation of which bonds are issued APPROVED BY THE ELECTORS, which taxes may be imposed without limitation as to rate or amount; OR, SUBJECT TO THE PROVISIONS OF SECTIONS 25 THROUGH 34 OF THIS ARTICLE, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

PROVISIONS OF EXISTING CONSTITUTION ALTERED OR ABROGATED BY THIS AMENDMENT IF ADOPTED
- ARTICLE IX, SECTION 6 -

Section 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by the city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

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APPENDIX 2

PROPSAL C (1976)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT ADDING SECTIONS 25, 26, 27, 28, 29, 30, AND 31 TO ARTICLE IX.

Sec. 25. There is hereby established a limit on the total amount of taxes which may be levied by the Legislature in any fiscal year on the taxpayers of this State. Effective with the first fiscal year beginning after the ratification of this Section, and for each fiscal year thereafter, the Legislature shall not impose taxes of any kind which, together with all other revenues of the State, federal aid excluded, will total more than 8.3% of the personal income of Michigan for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater. "Personal income of Michigan" means the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency.

For any fiscal year, in the event that State revenues, excluding federal aid, do exceed 8.3% of the personal income of Michigan reported for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater, the excess shall be refunded pro rata on the income taxes annual returns filed following the close of such fiscal year.

The limitation of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness authorized under Sections 15 and 16 of this Article.

Sec. 26. The tax limitation of Section 25 of this Article may be exceeded only if all of the following conditions are met: (1) The Governor requests the Legislature to declare an emergency; (2) the request shall be specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; (3) upon receiving this request, the Legislature declares an emergency, in accordance with the specifics of the Governor's request, by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this Section prior to incurring any of the expenses which constitute the specific emergency request. The tax limitation may be exceeded only for the fiscal year in which the emergency is declared; in the next and subsequent fiscal years the tax limitation of Section 25 of this Article shall again take effect. In no event shall any part of the amount representing a refund under Section 25 of this Article be the subject of any emergency request.

Sec. 27. No expenses of state government shall be incurred for any fiscal year which exceed in amount the revenue limitations imposed by Sections 25 and 26 of this Article.

Sec. 28. A new program or an increase in the level of service under an existing program shall not be required by the Legislature of units of local government, of authorities created by the state, or of political subdivisions of the state, unless a state appropriation is made and disbursed sufficient to pay the local unit of government, authority or political subdivision for the costs of the program. The provisions of this Section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 29. The proportion of state revenue paid to all units of local government, authorities created by the state, and political subdivisions of the state, taken as a group, shall not be reduced below that proportion in effect when this Section is adopted.

Sec. 30. Units of local government, authorities created by the state, and political subdivisions of the state are hereby prohibited from levying any tax not in existence when this Section is ratified or from increasing the rate or base of existing taxes beyond levels authorized when this Section is ratified, without the approval of a majority of the qualified electors of that local unit, authority or political subdivision voting thereon. The limitations of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued.

Sec. 31. The Legislature shall implement the provisions of Sections 25 through 30, inclusive, of this Article.

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EXHIBIT B

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SCHOOL FINANCE REFORM IN MICHIGAN PROPOSAL A: RETROSPECTIVE



Office of Revenue and Tax Analysis
Michigan Department of Treasury
December 2002

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SCHOOL FINANCE REFORM IN MICHIGAN PROPOSAL A: RETROSPECTIVE



Office of Revenue and Tax Analysis
December 2002

Andrew Lockwood prepared this report under the direction of Mark P. Haas, Director, and Howard Heideman, Director of Tax Policy Analysis, Office of Revenue and Tax Analysis, Michigan Department of Treasury. Marge Morden provided production assistance. Tom Patchak-Schuster provided various property tax data calculations along with editorial assistance.

This report is available electronically at the Department of Treasury's Web site: http://www.michigan.gov/treasury.

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I. EXECUTIVE SUMMARY

For years, Michigan residents have wanted property tax relief along with more equal educational funding across the state's local school districts. Michigan property taxes were above the national average. Funding inequities among school districts continued to grow plus an increasing number of millage elections were being defeated due to voter discontent with high property taxes. Frustration with these issues peaked in August 1993 when the Michigan Legislature repealed property taxes as the primary funding source for K-12 education.

In response to the elimination of property taxes for school funding, Governor Engler proposed a new funding approach to be placed on the ballot for voter approval. On March 15, 1994, Michigan voters approved Proposal A, which revamped how schools would be funded and also provided educational reforms. Proposal A promised a minimum per pupil foundation allowance, more equity among local school districts, lower property taxes, and more school accountability.

Different from other proposals to change school funding, voters were not able to keep the status quo if the proposal did not pass. Essentially, voters were asked to increase the sales tax rate (Proposal A) or increase the income tax rate if Proposal A failed (Statutory Plan). Going back to the old system was not an option. Proposal A also provided a new mix of other tax changes that would provide funding for Michigan schools. State taxes, instead of local property taxes, would now fund local school district operating costs.

Before Proposal A, Michigan's property tax burden was more than 33 percent above the national average with the sales tax 32 percent below the national average. Both are now near the national average.

All local school districts are provided a minimum foundation allowance per pupil which has lowered the spending gap between low and high spending school districts. For FY 2003, the minimum foundation allowance is $6,700 per pupil. Before Proposal A, the top ten spending districts outspent the lowest ten spending school districts by almost a 3:1 ratio. Currently, this ratio between the top ten highest and lowest spending districts is less than a 2:1 ratio.

Publicly chartered schools and "schools of choice" were another part of the reforms enacted with Proposal A. Charter schools are considered public schools that are organized by teachers, parents, universities, etc., and chartered by a public entity. Schools of choice allow students to attend a public school in a district other than where the student resides.

Proposal A dramatically decreased the amount of property taxes paid by Michigan residents and limited future increases. Starting in calendar year 1995, property taxes have been levied on taxable value instead of state equalized value. Taxable value increases are constitutionally limited to 5 percent or the rate of inflation, whichever is less. When a property is sold, the tax base reverts to state equalized value and annual taxable values are then capped once again.

Property is now classified as homestead and nonhomestead. Homestead property is considered to be a Michigan resident's home. Business property, rental housing, and vacation homes are

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considered to be nonhomestead property. Property that is not a homestead and not qualified agricultural property can be assessed up to an additional 18 mills for local school operating purposes.

Michigan residents and businesses have seen large decreases in the millage rates assessed on their property. In 1993, the average statewide millage rate for all property was 56.64 mills. In 2000, the statewide average homestead millage rate was 31.54 mills and the nonhomestead rate was 50.10 mills.

Local school debt millage has increased since Proposal A. The number of school districts participating and the amount of new bonds issued through Michigan's School Bond Loan Program have increased dramatically. Since 1994, the number of school districts participating has jumped from 42 to 130 districts, an increase of 210 percent. The total amount of qualified debt outstanding increased from $4.1 billion in 1994 to $11.1 billion in 2001.

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II. INTRODUCTION

It has been nine years since August 1993, when Public Act 145 of 1993 became law, which effectively eliminated local property taxes as a source for K-12 and intermediate school district operating revenues. Public Act 145 of 1993 eliminated approximately $7 billion in school operating funds and did not provide any alternative funding source.

In October 1993, Governor Engler delivered a message to a joint session of the Michigan Legislature based on a report entitled *Our Kids Deserve Better, New Schools for a New Century*. In this report, the Governor outlined his plan to reform Michigan's schools and the K-12 school finance system. The Governor's plan had four basic goals:

1. **Reduce property taxes.**
   An immediate and substantial cut in property taxes to most property taxpayers.

2. **Improve school funding equity.**
   A new system of school funding: the foundation grant system. Under the foundation grant system, the State would take responsibility for a greater share of school funding in an attempt to improve funding equity across school districts. School funding equity would be enhanced through a constitutionally-guaranteed minimum funding level per student.

3. **Implement various reforms to improve the quality of education.**
   Reforms included allowing parents and children to choose among competing public schools, lengthening the school year and the creation of charter public schools. A student's foundation allowance would follow the student to his or her school of choice.

4. **Redefine state and local government relations.**
   State law would be modified to limit the number of property tax millage elections and eliminate the tie between state aid and local tax effort.

On December 24, 1993, legislation was enacted to allow for distribution of state School Aid Fund (SAF) revenues through the new foundation grant funding system. However, it was still unknown how the necessary revenue would be raised. To determine the new funding source(s), the legislature presented Michigan voters with two options. The first option, known generally as Proposal A, replaced most property taxes levied for local school operating purposes with a two-percentage point increase in the sales tax rate. The second option, known generally as the Statutory Plan (which would take effect if Proposal A was rejected), replaced most property taxes levied for local school operating purposes with a 1.4 percentage point increase in the Michigan individual income tax rate. Both plans included numerous other tax modifications, the most significant being a new state education tax (SET) levied on property. (The details are provided later in this chapter.)

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Proposal A dedicated new revenue sources to the SAF including: the two percentage point increase in the sales and use tax rate, the 6-mill SET, the 50 cent per package increase in the cigarette tax rate, and the 0.75 percent real estate transfer tax. A percentage of income tax collections are also earmarked to the SAF.

In March 1994, Michigan residents approved Proposal A. Schools would now be funded through higher sales taxes rather than higher income taxes. All tax increases were levied on consumption except the new 6-mill SET. The increase in the sales and use tax rate and the cigarette excise tax became effective May 1, 1994. The new real estate transfer tax became effective January 1, 1995. The 6-mill SET was first levied in July 1994. Because the State of Michigan's fiscal year begins October 1, only about half of the 6 mills were levied in FY 1994.

This report provides an updated retrospective of the significant changes that have occurred from 1993 to 2002. Specifically, this report focuses on Proposal A's effect on property tax millage rates, tax revenues, per pupil funding levels, and state and local tax burdens. This report is *not* intended to provide the reader with a detailed explanation of all school finance reform issues. Rather, it is best used to provide a general overview of changes to the Michigan tax system as a result of Proposal A.

Chapter III presents Proposal A's impact on millage rates and the property tax base. Chapter IV discusses Proposal A's impact on Michigan's major taxes and the shift in the tax burden from property toward consumption taxes. Chapter V examines how per pupil funding and SAF revenues have changed since 1993.

Proposal A Objectives: Property Tax Relief and School Finance Reform

While a variety of factors contributed to the sweeping changes made in March 1994, a primary force was the need to provide property tax relief to Michigan residents. In 1993, the Michigan property tax burden was 7th highest among all states. Compared to the typical property taxpayer in the U.S., Michigan residents paid nearly one-third more in property taxes. Property tax reform was a perennial topic of debate until the passage of Proposal A.

The relatively high Michigan property tax burden could be traced to two factors. The first factor was the rapid growth in property tax rate levies for local schools. Between 1980 and 1993, the total property tax rate for school operating purposes (excluding debt) increased 135.5 percent, outpacing both inflation at a 63.7 percent increase and even an "ability to pay" measure such as nominal Michigan personal income at an 112.4 percent increase (see Exhibit 1). Over this same time period, enrollment in Michigan public elementary and secondary schools actually declined from 1,797,052 to 1,599,377 students, an 11 percent reduction. Had pupil enrollment increased, it is likely that the property tax burden would have been much greater.

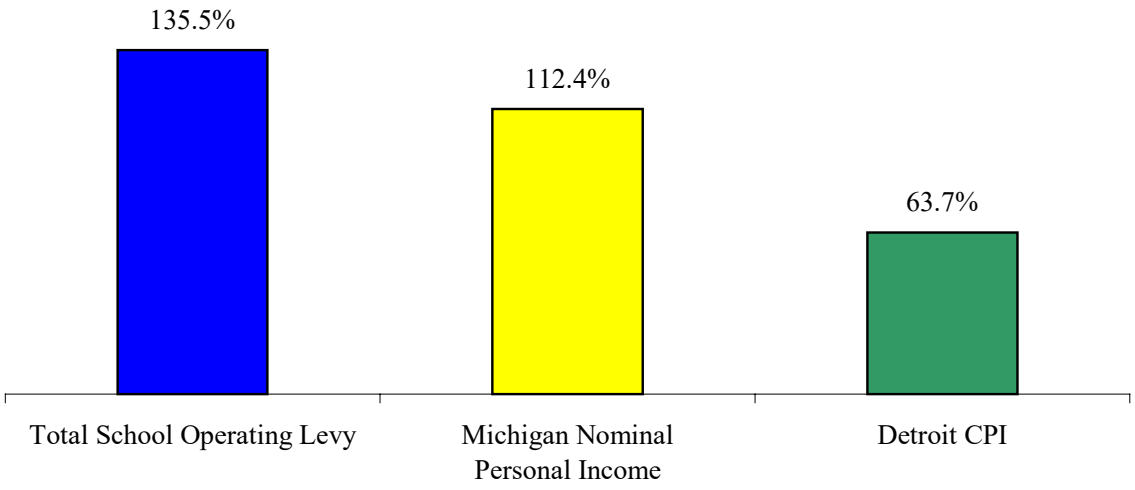
The second factor contributing to high property taxes was local school districts' heavy reliance on local property taxes as their primary source of funding for both operating expenses and capital financing. For the 1992-93 school year, approximately 61.4 percent of total local school revenues (including debt) originated from local and intermediate sources (i.e., local property

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taxes). Only three states relied more heavily on local property taxes as a source of funding for K-12 schools: New Hampshire (86.6 percent), Illinois (62.0 percent), and Vermont (61.6 percent). Nationally, local and intermediate school financing comprised only 44.7 percent of total school funding compared to Michigan's 61.4 percent.

Exhibit 1
School Funding Growth Outpaces Inflation and Income
1980-1993



Sources: State Tax Commission, Bureau of Labor Statistics and Bureau of Economic Analysis.

March 1994 Voter Options

Proposal A was not the first attempt to implement property tax reform in Michigan; prior attempts for school reforms had failed on numerous occasions. From 1972 to 1993, Michigan voters rejected property tax reform ballot proposals on eight occasions (two votes each in November 1972 and November 1989). After facing double-digit property tax assessment increases in 1993 (due to the 1992 assessment freeze), voters were more receptive to property tax reform. Due to Public Act 145 of 1993, tax reform would occur because of the elimination of all local school and intermediate school operating taxes (approximately half of all millages levied). This time, voters could not reject major reform because a vote for the status quo was not an option. The only decision left to voters was which of two new funding options would replace K-12 school operating revenues that had been eliminated.

Voters were presented with a choice between a sales tax increase or an income tax increase as a replacement for local property taxes (see Exhibit 2). Both plans made a new distinction between homestead (primary residence) and nonhomestead property (business property, rental housing, and vacation homes) and taxed the two classes of property at different rates. Under Proposal A (a "yes" vote), both homestead and nonhomestead property would be subject to a 6-mill SET; nonhomestead property would also be subject to an 18-mill tax collected by the local

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Exhibit 2
Proposal A
Funding Alternatives for Local School Operating Levies

Revenue Source	1993 Law	1994 Voter Options: Proposal A Vote "Yes"	1994 Voter Options: Statutory Plan Vote "No"
Sales & Use Tax	4.0%	6.0%	4.0%
Income Tax	4.6%	4.4%	6.0%
Single Business Tax	2.35%	2.35%	2.75%
Cigarette Tax	25 cents/pack	75 cents/pack	40 cents/pack
Other Tobacco Products	None	16%	16%
Real Estate Transfer Tax	None	0.75%	1.00%
Personal Exemption	$2,100	$2,100	$3,000
State Education Tax			
Homestead Property	None	6 mills	None
Nonhomestead Property	None	6 mills	12 mills
Local School Operating			
Homestead Property	Statewide Average	None	12 mills
Nonhomestead Property	equals 34 mills	18 mills	12 mills
Annual Cap on Property Value	None	Lesser of 5% or inflation	None
Local Enhancement Mills	None	Up to 3 mills for only 3 years	Up to 3 mills permanent

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school district. Under the Statutory Plan (a "no" vote), only nonhomestead property would be subject to a 12-mill SET; all property owners would pay a 12-mill tax to the local school district. Thus, the difference was the rate on homesteads as businesses paid 24 mills under either plan.

Also, Proposal A allowed intermediate school districts (ISD) the opportunity to levy up to three mills district wide with voter approval to be divided among the local school districts in the ISD. This was a mechanism put in place to allow the opportunity for local school districts to levy additional millage while helping to keep per pupil spending levels more equal. Currently, only one ISD levies this type of millage.

While results from the March 1994 election indicated that a majority (69 percent) of Michigan voters preferred the sales tax increase as a means to fund local schools, three other factors also contributed to Proposal A's success. First, Proposal A cut homeowner millage rates more than the Statutory Plan. Second, Proposal A increased the cigarette tax more than the Statutory Plan (voter sentiment was anti-tobacco). Third, Proposal A placed a constitutional cap on property tax increases in taxable value; the Statutory Plan did not.

Exhibit 3
Michigan Voters Approve Proposal A
69 Percent Vote Yes

Date of Vote	Percent Yes Vote	Percent No Votes
November 1972	42	58
November 1980	26	74
May 1981	28	72
November 1989	24	76
November 1992	41	59
Legislative 1992	37	63
June 1993	46	54
March 1994	**69**	**31**

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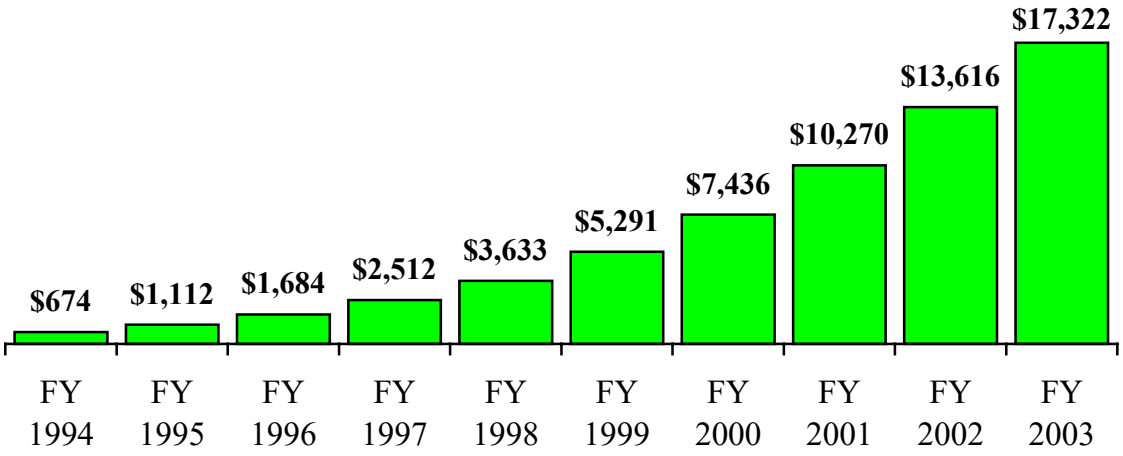
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III. PROPOSAL A's IMPACT ON PROPERTY TAXES

Proposal A cut Michigan taxes by $17 billion from FY 1993 to FY 2003. (See Exhibit 4.) The large reduction in local property taxes outpaced the increased and new state taxes. Local property taxes were cut $63 billion from 1994 through 2003 while state taxes were increased $46 billion for a net cut of $17 billion over the ten years. (See Exhibit 13.)

Exhibit 4
Proposal A Reduces Net Taxes by $17 Billion
Cumulative Tax Cut
(millions)



For property owners, the most noticeable impact of Proposal A was the immediate reduction in millage rates (see Exhibit 5). From 1993 to 2000 average statewide millage rates for all property (weighted average of homestead and nonhomestead property) decreased 17.32 mills, a 30.6 percent reduction. This decline can be attributed solely to the reduction in local school operating millage rates. Local school operating mills have declined since 1994. From 1994 to 2000, average local school operating mills (for all property) declined from 9.26 mills to 8.41 mills, or 9.2 percent. This decline is attributable to the sunset of the local 3-mill enhancement option after calendar year (CY) 1996. Voters were allowed to approve enhancement millages up to 3 mills that were levied on all property from 1994 through 1996. Enhancement millage now may only be levied ISD wide and distributed on a per pupil basis.

Since 1994, this reduction in school operating millages has been partially offset by increases in other millage rates. While all average millage rates have increased since 1994, except for local school operating mills, the trend in local school debt, and sinking fund, mills is especially noticeable. In 1994, the average statewide local school debt millage for all property was 2.56 mills and has since increased to 4.01 mills in 2000, a 57 percent increase.

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Exhibit 5
Average Statewide Millage Rates, All Property [1]

									Change, 1993-1994		Change, 1994-2000		Change, 1993-2000	
	1993	1994	1995	1996	1997	1998	1999	2000	Mills	Percent	Mills	Percent	Mills	Percent
Purpose														
County	6.22	6.27	6.28	6.36	6.32	6.30	6.28	6.27	0.05	0.8%	0.00	0.0%	0.05	0.8%
Township	3.36	3.56	3.68	3.74	3.87	4.02	3.99	4.09	0.20	6.0%	0.53	14.9%	0.73	21.7%
City	15.45	15.75	15.95	16.06	16.18	16.23	16.17	16.36	0.30	1.9%	0.61	3.9%	0.91	5.9%
Village	11.94	12.13	12.34	12.54	12.57	12.22	12.37	12.20	0.19	1.6%	0.07	0.6%	0.26	2.2%
Total Non-School	**15.89**	**16.13**	**16.23**	**16.37**	**16.40**	**16.41**	**16.30**	**16.37**	**0.24**	**1.5%**	**0.24**	**1.5%**	**0.48**	**3.0%**
Local School Operating	33.91	9.26	9.26	9.28	8.79	8.74	8.59	8.41	-24.65	-72.7%	-0.85	-9.2%	-25.50	-75.2%
Local School Debt [2]	2.54	2.56	3.03	3.27	3.57	3.63	3.80	4.01	0.02	0.8%	1.45	56.6%	1.47	57.9%
ISD/Comm College [3]	4.30	4.24	4.36	4.40	4.48	4.48	4.47	4.51	-0.06	-1.4%	0.27	6.4%	0.21	4.9%
State Education Tax (SET)	0.00	6.00	6.00	6.00	6.00	6.00	6.00	6.00	6.00	NA	0.00	0.0%	6.00	NA
Total School	40.75	22.06	22.65	22.95	22.85	22.86	22.86	22.95	-18.69	-45.9%	0.89	4.0%	-17.80	-43.7%
TOTAL MILLS	**56.64**	**38.19**	**38.88**	**39.32**	**39.25**	**39.27**	**39.16**	**39.32**	**-18.45**	**-32.6%**	**1.13**	**3.0%**	**-17.32**	**-30.6%**
Local School Operating and SET	33.91	15.26	15.26	15.28	14.79	14.74	14.59	14.41	-18.65	-55.0%	-0.85	-5.6%	-19.50	-57.5%

[1] Does not include special assessments.

[2] Includes sinking fund mills for all years. Includes 1993 building and site mills.

[3] Includes intermediate school district and community college debt mills.

Source: 1993-2000 county, township, city, village mills; 1993, 1995-2000 total school and total mills: State Tax Commission.
Other mills from Office of Revenue and Tax Analysis, Michigan Department of Treasury.

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Homestead and Nonhomestead Property

Proposal A separated property into homestead and nonhomestead property for tax purposes. Homestead property is property that a taxpayer declares as his or her primary residence. Qualified agricultural property is taxed like homestead property. All other property such as business property, rental housing, or vacation homes are considered nonhomestead property. Following school finance reform, nonhomestead property is assessed up to 18 additional mills for local K-12 school operating purposes, subject to voter approval. If additional revenues are required to enable a school district to maintain its pre-Proposal A funding level, up to 18 additional mills may be levied on homesteads ("hold harmless" millage; very few school districts levy this millage). If these revenues are not sufficient, then additional mills are levied against all property.

While the statewide millage rate for all property declined significantly from 1993 to 2001 (16.86 mills, 29.8 percent), the reduction for homestead property was much greater (24.52 mills, 43.3 percent) because most homeowners no longer pay any property tax to local school districts for operating purposes. In contrast, the reduction in the nonhomestead average millage rate from 1993 to 2001 (5.92 mills, 10.5 percent) is much smaller because most nonhomestead owners must pay 18 mills to their local school district (see Exhibit 6).

Taxable Value

Before Proposal A, property taxes were levied on a property's state equalized value (SEV). SEV is equal to 50 percent of the true cash value of the property. Beginning in CY 1995, Michigan property taxes are levied on taxable value. A constitutional amendment requires that the taxable value of a residence or business cannot increase in any one year by more than 5 percent or the rate of inflation, whichever is less (excluding the value of new construction). Therefore, if the true cash value of a property increased by 8 percent, SEV would also increase by 8 percent but the taxable value would increase by 5 percent or the rate of inflation. (When property is sold, the tax base reverts to SEV and the subsequent annual growth is capped once again.) Due to low inflation rates since 1994, annual taxable value increases on most existing property ranged from 1.6 percent to 3.2 percent. The annual inflation rate used for assessment increases is calculated by dividing the average U.S. CPI for all urban consumers for the relevant fiscal year by the average U.S. CPI from the previous fiscal year.

The cap on taxable value creates an ever-widening gap between SEV and taxable value and clearly results in substantial tax savings. By CY 2002, taxable value was approximately $68.7 billion (20.0 percent) less than SEV as a result of the assessment cap (see Exhibit 7). Thus, the taxable cap savings will reach nearly $2.3 billion for 2002 (see Exhibit 8). Also, the cap creates situations where a new homeowner living next to a person who has owned an identical house for several years could pay substantially higher property taxes than his or her neighbor whose taxable value is below their SEV.

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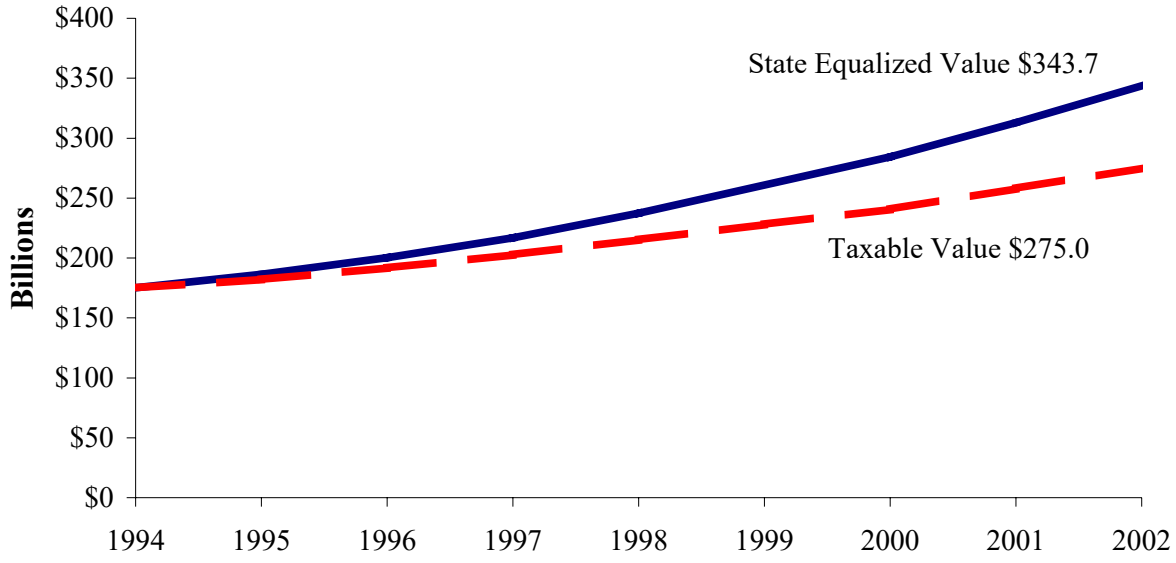
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Exhibit 6
Estimated Statewide Average Millage Rates

	1993	1994	1995	1996	1997	1998	1999	2000	2001
All Property	56.64	38.19	38.88	39.32	39.25	39.27	39.16	39.32	39.78
Homestead	NA	30.22	31.00	31.36	31.36	31.43	31.40	31.54	32.12
Nonhomestead	NA	48.17	48.79	49.54	49.63	49.68	49.76	50.10	50.72

Sources: State Tax Commission: All Property Rates, 1993, 1995-2000.
Office of Revenue and Tax Analysis: 1994 all property rate and homestead and nonhomestead rate estimates.

Exhibit 7
SEV and Taxable Property Value Gap Grows



Source: Michigan State Tax Commission.

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Exhibit 8
Tax Savings From Cap on Taxable Value
millions



Source: Michigan Department of Treasury.

Average 2000 Homestead Millage Rates by County

While all homeowners benefited from the reduction in millage rates following Proposal A, average reductions varied widely across the state. Exhibit 9 provides the total millage rate reductions by county. For homestead millage rates from 1993 to 2000, Genesee County recorded the largest millage rate reduction at 32.64 mills while Leelanau County registered the smallest millage rate reduction at 8.65 mills. As a percent reduction in homestead millage rates from 1993 to 2000, Livingston County reported a 54.4 percent reduction in homestead millage rates, while Keweenaw County recorded a 29.8 percent reduction in homestead millage rates.

Generally, counties located in northern Michigan realized smaller millage reductions because their pre-1994 local school operating millage rate was relatively low. Conversely, counties located in mid- and southern Michigan realized greater millage reductions due to their relatively high pre-1994 millage rate for local school operating purposes.

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Exhibit 9
Average Millage Rates by County
Pre-and Post-Proposal A

County	1993 Rate	2000 Rates		Homestead Difference		Nonhomestead Difference	
		Homestead	Non-homestead	Mills	Percent	Mills	Percent
Alcona	31.32	18.15	36.45	-13.17	-42.0%	5.13	16.4%
Alger	51.46	26.43	44.90	-25.03	-48.6	-6.56	-12.7
Allegan	52.40	29.52	50.11	-22.88	-43.7	-2.29	-4.4
Alpena	47.42	27.59	46.62	-19.83	-41.8	-0.80	-1.7
Antrim	37.45	21.50	39.52	-15.95	-42.6	2.07	5.5
Arenac	43.26	28.33	48.37	-14.93	-34.5	5.11	11.8
Baraga	54.21	37.25	52.57	-16.96	-31.3	-1.64	-3.0
Barry	52.13	26.20	46.34	-25.93	-49.7	-5.79	-11.1
Bay	57.24	32.81	52.54	-24.43	-42.7	-4.70	-8.2
Benzie	38.90	22.72	40.02	-16.18	-41.6	1.12	2.9
Berrien	42.61	24.66	40.07	-17.95	-42.1	-2.54	-6.0
Branch	56.78	28.44	50.11	-28.34	-49.9	-6.67	-11.7
Calhoun	65.35	34.88	56.76	-30.47	-46.6	-8.59	-13.1
Cass	49.93	24.66	43.83	-25.27	-50.6	-6.10	-12.2
Charlevoix	43.57	25.10	43.88	-18.47	-42.4	0.31	0.7
Cheboygan	40.30	20.32	39.19	-19.98	-49.6	-1.11	-2.8
Chippewa	49.15	28.26	47.52	-20.89	-42.5	-1.63	-3.3
Clare	46.04	23.07	41.95	-22.97	-49.9	-4.09	-8.9
Clinton	57.56	29.47	48.91	-28.09	-48.8	-8.65	-15.0
Crawford	43.54	23.78	42.81	-19.76	-45.4	-0.73	-1.7
Delta	55.65	29.54	45.49	-26.11	-46.9	-10.16	-18.3
Dickinson	57.48	33.51	49.70	-23.97	-41.7	-7.78	-13.5
Eaton	59.83	32.32	51.07	-27.51	-46.0	-8.76	-14.6
Emmet	36.77	24.21	41.27	-12.56	-34.2	4.50	12.2
Genesee	61.59	28.95	49.42	-32.64	-53.0	-12.17	-19.8
Gladwin	48.70	26.03	44.91	-22.67	-46.6	-3.79	-7.8
Gogebic	55.64	34.90	49.76	-20.74	-37.3	-5.88	-10.6
Grand Traverse	48.44	26.81	46.07	-21.63	-44.7	-2.37	-4.9
Gratiot	54.37	25.71	49.61	-28.66	-52.7	-4.76	-8.8
Hillsdale	50.95	24.69	46.56	-26.26	-51.5	-4.39	-8.6
Houghton	55.17	34.55	52.64	-20.62	-37.4	-2.53	-4.6
Huron	44.36	26.10	44.76	-18.26	-41.2	0.40	0.9
Ingham	72.27	40.46	59.75	-31.81	-44.0	-12.52	-17.3
Ionia	53.80	25.60	46.67	-28.20	-52.4	-7.13	-13.3
Iosco	39.48	21.28	38.77	-18.20	-46.1	-0.71	-1.8
Iron	57.55	32.50	48.11	-25.05	-43.5	-9.44	-16.4
Isabella	53.43	29.27	52.15	-24.16	-45.2	-1.28	-2.4
Jackson	59.42	28.69	48.80	-30.73	-51.7	-10.62	-17.9
Kalamazoo	62.00	31.24	53.82	-30.76	-49.6	-8.18	-13.2
Kalkaska	41.89	24.18	41.29	-17.71	-42.3	-0.60	-1.4
Kent	54.76	29.19	47.39	-25.57	-46.7	-7.37	-13.5
Keweenaw	38.40	26.94	39.24	-11.46	-29.8	0.84	2.2

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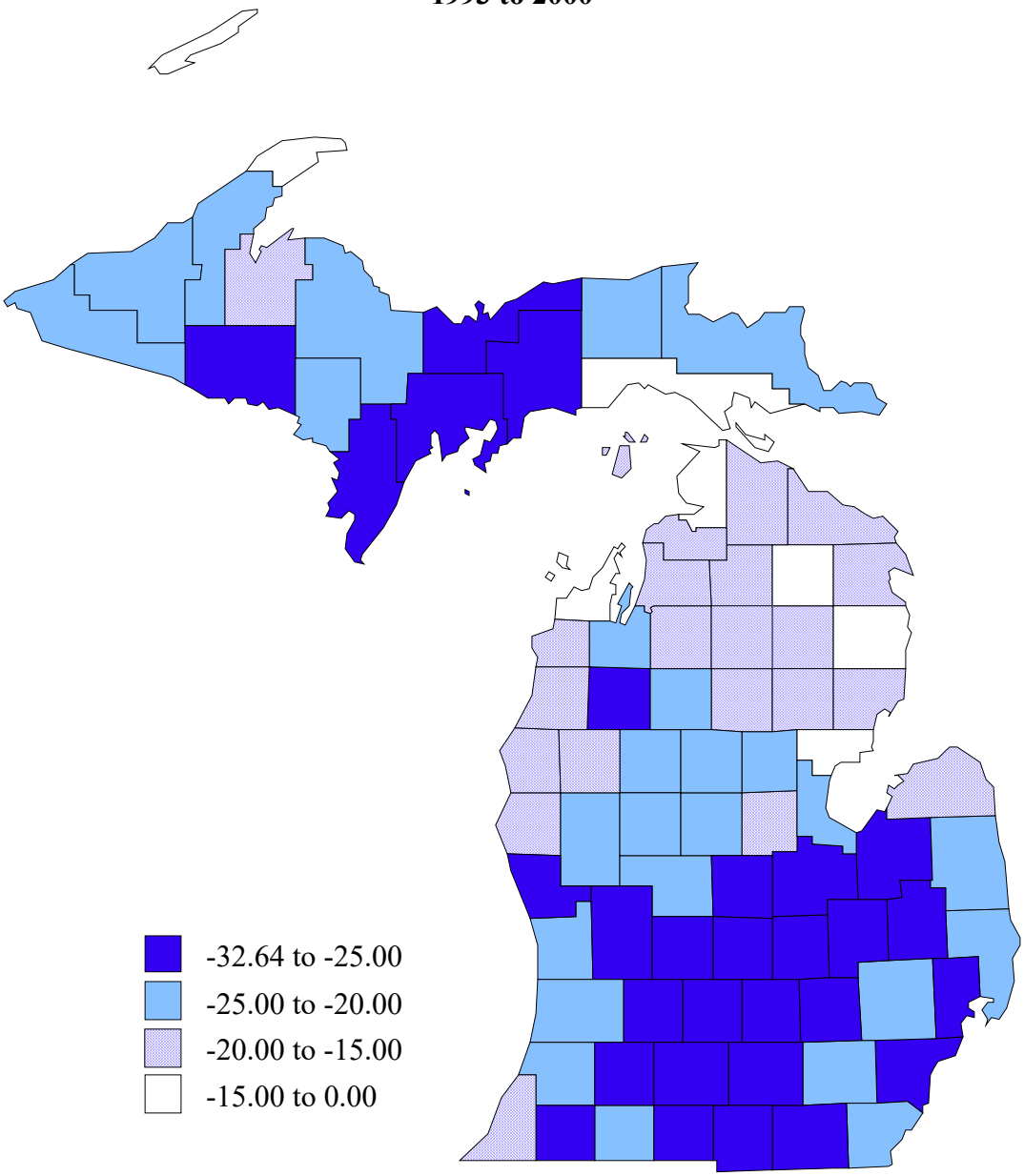
Exhibit 9 – Continued

County	1993 Rate	2000 Rates		Homestead Difference		Nonhomestead Difference	
		Homestead	Non-homestead	Mills	Percent	Mills	Percent
Lake	46.45	27.85	45.03	-18.60	-40.0%	-1.42	-3.1%
Lapeer	50.21	22.94	44.09	-27.27	-54.3	-6.12	-12.2
Leelanau	27.99	19.34	32.63	-8.65	-30.9	4.64	16.6
Lenawee	56.58	28.32	48.19	-28.26	-49.9	-8.39	-14.8
Livingston	52.56	23.95	43.94	-28.61	-54.4	-8.62	-16.4
Luce	45.07	21.47	38.17	-23.60	-52.4	-6.90	-15.3
Mackinac	33.71	22.51	36.84	-11.20	-33.2	3.13	9.3
Macomb	59.79	30.04	48.07	-29.75	-49.8	-11.72	-19.6
Manistee	48.28	30.68	48.72	-17.60	-36.5	0.44	0.9
Marquette	51.88	29.27	48.00	-22.61	-43.6	-3.88	-7.5
Mason	43.11	27.19	43.82	-15.92	-36.9	0.71	1.6
Mecosta	48.59	26.49	46.21	-22.10	-45.5	-2.38	-4.9
Menominee	57.02	29.08	49.92	-27.94	-49.0	-7.10	-12.5
Midland	46.96	29.81	47.30	-17.15	-36.5	0.34	0.7
Missaukee	47.12	25.83	44.12	-21.29	-45.2	-3.00	-6.4
Monroe	49.25	27.29	47.61	-21.96	-44.6	-1.64	-3.3
Montcalm	52.06	28.62	49.32	-23.44	-45.0	-2.74	-5.3
Montmorency	36.97	22.31	40.04	-14.66	-39.7	3.07	8.3
Muskegon	58.23	30.31	50.71	-27.92	-47.9	-7.52	-12.9
Newaygo	53.55	31.14	51.54	-22.41	-41.8	-2.01	-3.8
Oakland	55.17	33.92	48.88	-21.25	-38.5	-6.29	-11.4
Oceana	46.01	28.82	46.26	-17.19	-37.4	0.25	0.5
Ogemaw	42.63	24.98	43.92	-17.65	-41.4	1.29	3.0
Ontonagon	54.16	33.34	49.95	-20.82	-38.4	-4.21	-7.8
Osceola	50.42	27.12	46.66	-23.30	-46.2	-3.76	-7.5
Oscoda	40.06	21.73	39.74	-18.33	-45.8	-0.32	-0.8
Otsego	38.67	21.52	41.91	-17.15	-44.3	3.24	8.4
Ottawa	49.06	26.65	45.75	-22.41	-45.7	-3.31	-6.7
Presque Isle	39.95	20.73	38.28	-19.22	-48.1	-1.67	-4.2
Roscommon	40.65	21.48	39.02	-19.17	-47.2	-1.63	-4.0
Saginaw	54.34	25.76	45.35	-28.58	-52.6	-8.99	-16.5
Saint Clair	50.34	27.79	46.84	-22.55	-44.8	-3.50	-7.0
Saint Joseph	52.07	27.30	49.52	-24.77	-47.6	-2.55	-4.9
Sanilac	47.79	25.36	46.48	-22.43	-46.9	-1.31	-2.7
Schoolcraft	52.24	23.94	42.79	-28.30	-54.2	-9.45	-18.1
Shiawassee	53.29	27.71	50.01	-25.58	-48.0	-3.28	-6.2
Tuscola	52.53	27.07	50.78	-25.46	-48.5	-1.75	-3.3
Van Buren	53.25	31.34	50.03	-21.91	-41.1	-3.22	-6.0
Washtenaw	59.97	37.29	53.59	-22.68	-37.8	-6.38	-10.6
Wayne	67.77	39.45	60.83	-28.32	-41.8	-6.94	-10.2
Wexford	56.78	31.64	51.66	-25.14	-44.3	-5.12	-9.0
State Average	56.64	31.54	50.10	-25.10	-44.3%	-6.54	-11.5%
State Median	50.95	27.29	46.66				

Source: 1993 average millage rates from State Tax Commission; 2000 average millage rates from Office of Revenue and Tax Analysis, Michigan Department of Treasury.

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Exhibit 10
Reduction in Average Homestead Millage Rates
1993 to 2000



State Average = 25.10 Mill Reduction

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School Bond Loan Program

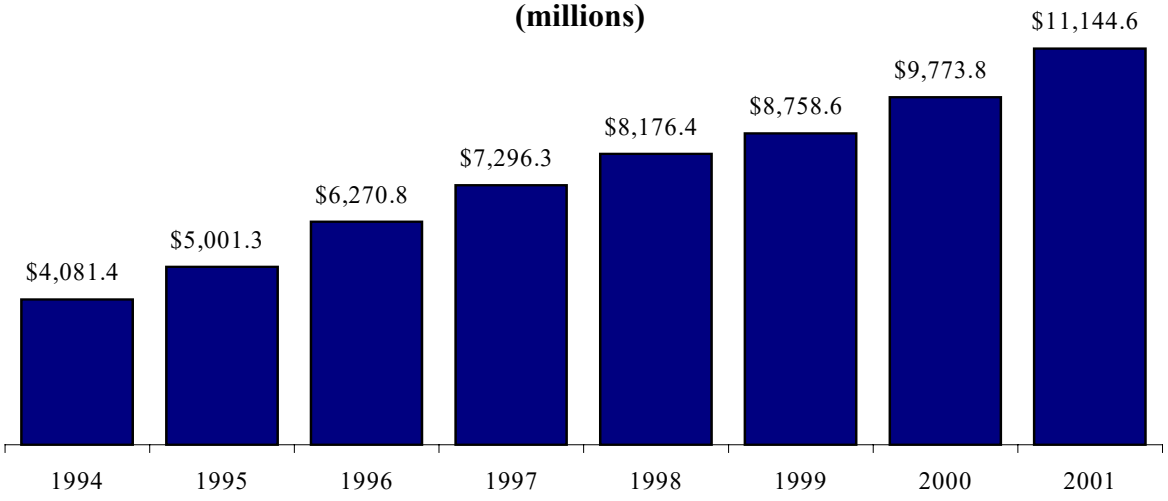
Increased local school bonding has not only resulted in higher debt mills, but has also increased borrowing from the School Bond Loan Program (SBL). The SBL program provides a state credit enhancement mechanism for school district bonds issued for capital expenditure purposes and provides for loans to school districts that need funds to pay debt service obligations. Essentially, the program provides a constitutional guarantee that pledges that states' full resources to repay K-12 school districts debt obligation if their debt mill levy is insufficient to service debt obligations. The SBL program allows local school districts to increase bonding without raising local debt mills.

School districts that are accepted into the program have their new bond issues qualified by the State. By qualifying the bonds, the State guarantees the bonded debt service and the qualified bonds benefit from the State's credit rating and allows school districts to borrow from the State an amount sufficient to enable the district to pay principal and interest requirements on its outstanding qualified bonds.

To qualify for the program, the school district must levy a minimum of seven debt mills, must demonstrate a need for increased classroom space based on enrollment, and must complete repayment within certain statutory time frames. Bond proceeds from the SBL program may be used for new school buildings, renovation of existing buildings, land, playgrounds, buses, and furniture. Bond proceeds may not be used for repairs, maintenance, salaries, or textbooks.

Since 1994, the number of school districts borrowing from and/or repaying the SBL program has increased from 42 to 130 districts. Over the same time period, newly qualified bonds issued by the SBL program increased from $637.9 million in 1994 to $2,151 million in 2001, an increase of 237 percent. The total amount of qualified debt outstanding increased from $4.1 billion to $11.1 billion (see Exhibits 11 and 12).

Exhibit 11
School Bond Loan Fund Program
Qualified Bonds Outstanding
(millions)



Source: Michigan Department of Treasury.

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Exhibit 12
School Bond Loan Program
(millions)

Year	Local School Bond Propositions	Propositions Passed	New Qualified Bonds Issued	Qualified Bonds Outstanding
1991	87	39	$892.6	$3,146.8
1992	79	28	$905.6	$3,536.5
1993	59	24	$1,342.3	$3,818.4
1994	94	34	$637.9	$4,081.4
1995	182	84	$1,323.2	$5,001.3
1996	164	83	$1,614.6	$6,270.8
1997	149	64	$1,606.0	$7,296.3
1998	107	44	$2,064.0	$8,176.4
1999	117	56	$1,232.0	$8,758.6
2000	117	57	$1,382.6	$9,773.8
2001	108	67	$2,150.5	$11,144.6

Source: Michigan Department of Treasury.

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IV. PROPOSAL A's IMPACT ON MICHIGAN TAX BURDEN

Proposal A provided a net tax cut of $17 billion from 1994 to 2003 (see Exhibit 13). A variety of state taxes replaced local school operating property taxes eliminated by Public Act 145 of 1993. Replacement revenues are deposited into the SAF for redistribution to local schools through their foundation grants. Because state taxes mainly replaced the local property taxes levied for local school operating revenues, the amount of state taxes collected since Proposal A has increased while the amount of local taxes has decreased significantly.

State and Local Tax Burden

The state and local tax burden imposed on state residents is typically quantified using two measures. The first measure is tax burden per capita. This measure divides total taxes collected by state and local governments in a given fiscal year by the state population. The second measure is tax burden as a percent of Michigan's personal income. This measure divides total state and local taxes paid by state personal income for the fiscal year. Using either measure, the total state and local tax burden includes all taxes, even business taxes, because these are ultimately paid by individuals. (Miscellaneous fees, such as hunting fees, are not included. Vehicle registration fees are included.)

A few cautionary notes regarding tax burden measures should be noted. This simple analysis is *not* meant to suggest that Michigan taxes are "too high" or "too low." A simple comparison of tax burdens across states does not take into consideration the goods and services residents receive in return.

A comparison of tax burdens across states also ignores the process of tax shifting and the exporting and importing of taxes. Tax shifting refers to the process by which a tax burden is transferred from the person who has legal responsibility to the person who ultimately pays the tax. For example, a tourist from Ohio vacationing in the Upper Peninsula pays Michigan sales tax, business tax, and possibly some property taxes, depending on the seller's ability to pass the taxes through to the final price of the good. The measures used in this section ignore this concept.

Finally, while both tax burden measures are relatively easy to compute, each has shortcomings. The personal income measure is a better measure of "ability to pay" than the per capita tax burden measure. For example, two states may have the same population and levy the same amount of taxes while one state has twice the income. The per capita measure would suggest equal tax burdens. The per capita measure also implicitly ignores the income and age distribution of a state. This can be a crucial factor in tax burden calculations, because younger residents typically have no income and pay no tax, but place demands on the system through school attendance. Some of these shortcomings can be corrected using a personal income tax burden measure. Therefore, the analysis in this section relies more on the personal income tax burden measure, though both measures are listed.

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Exhibit 13
Estimated Proposal A Tax Changes
millions

State Tax Increases	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
Sales Tax	$641.7	$1,624.9	$1,683.4	$1,733.2	$1,818.4	$1,901.1	$2,042.6	$2,065.2	$2,121.5	$2,203.4
Use Tax	$155.0	$351.1	$384.7	$403.9	$426.4	$468.7	$491.8	$486.4	$511.0	$522.3
State Education Tax	$508.7	$1,064.5	$1,110.6	$1,156.0	$1,256.9	$1,273.5	$1,381.4	$1,489.6	$1,555.0	$1,630.0
Real Estate Transfer Tax	$0.0	$91.1	$161.0	$192.8	$227.9	$261.7	$257.1	$252.9	$262.0	$264.0
Tobacco Products	$156.0	$383.7	$349.0	$318.0	$341.8	$414.9	$408.2	$404.0	$393.3	$385.4
Homestead Property Tax Credit and Renters Credit	$0.0	$639.6	$740.7	$824.2	$926.1	$1,031.1	$1,138.5	$1,247.2	$1,356.1	$1,464.0
Total State Tax Increases	$1,461.4	$4,154.9	$4,429.4	$4,628.1	$4,997.5	$5,351.0	$5,719.6	$5,945.3	$6,198.9	$6,469.1
Income Tax Rate Decrease	($102.5)	($262.5)	($271.0)	($293.2)	($313.4)	($345.4)	($363.2)	($369.0)	($370.8)	($385.6)
Subtotal of State Tax Increases	$1,358.9	$3,892.4	$4,158.4	$4,334.9	$4,684.1	$5,005.6	$5,356.4	$5,576.3	$5,828.1	$6,083.5
Local Property Tax Cut	($2,032.8)	($4,330.2)	($4,730.7)	($5,163.1)	($5,804.5)	($6,664.2)	($7,501.3)	($8,410.5)	($9,174.2)	($9,788.7)
Proposal A Change	($673.9)	($437.8)	($572.3)	($828.2)	($1,120.4)	($1,658.6)	($2,144.9)	($2,834.2)	($3,346.1)	($3,705.2)
Cumulative Proposal A Change	($673.9)	($1,111.7)	($1,684.0)	($2,512.1)	($3,632.5)	($5,291.1)	($7,436.0)	($10,270.2)	($13,616.3)	($17,321.5)

Source: Michigan Department of Treasury.

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Comparison to U.S. Average Tax Burden

One significant impact of Proposal A is that now the Michigan tax system more closely resembles the "typical" state tax system in the U.S. In FY 1993, Michigan had a relatively low sales and use tax burden and a substantially higher property tax burden compared to the national average. When all tax revenues were included, Michigan was 3.4 percent above the overall U.S. average (see Exhibit 15).

With Proposal A, a substantial shift had occurred by FY 2000. The two percentage point increase in the sales and use tax rate had pushed Michigan slightly above the national average sales and use tax burden. The elimination of most local school operating levies reduced the Michigan property tax burden to 6.1 percent above the U.S. average (see Exhibit 16). Overall, the state and local tax burden fell to 0.5 percent above the U.S. average using taxes as a percent of personal income. Using the per capita tax burden measure, the Michigan state and local tax burden was 2.4 percent above the U.S. average.

The most recent U.S. Census data for state and local taxes (FY 2000), as shown by Exhibits 16 and 17, indicate that Proposal A had an impact on the Michigan tax structure compared to pre-Proposal A (FY 1993). In FY 1993, the total state and local tax burden in Michigan ranked 14th highest using a personal income measure. Using a per capita measure, the state and local tax burden also ranked 14th highest (see Exhibit 18). For property taxes, Michigan ranked 7th (personal income and per capita) highest (see Exhibit 19). For sales and use taxes, Michigan ranked 41st (personal income and per capita) highest (see Exhibit 20).

In FY 2000, the total state and local tax burden in Michigan ranked 20th highest using a personal income measure. Using a per capita measure, the state and local tax burden ranked 16th highest (see Exhibit 21). For property taxes, Michigan ranked 20th (personal income) or 14th (per capita) highest (see Exhibit 22). For sales and use taxes, Michigan ranked 24th (personal income) or 21st (per capita) highest (see Exhibit 23).

Estimated Tax Cut

Through FY 2003, Proposal A cut Michigan taxes by an estimated $17 billion (see Exhibits 4 and 13). Exhibit 13 provides a summary of the state tax increases and local property tax cut due to the changes from Proposal A. The large reduction in local property taxes outpaces the increased and new state taxes by a large margin.

As shown by previous exhibits, Michigan's property tax burden currently mirrors the national average compared to being significantly above the national average pre-Proposal A. The revenue impact estimate assumes that state equalized value (SEV) without Proposal A would continue to increase faster than the current law taxable value limits. It was assumed that millage rates without Proposal A would remain approximately around 1993 levels (pre-Proposal A). The overall property tax cut was calculated by the difference in local property tax pre-Proposal A (Statewide SEV multiplied by Pre-Proposal A Millage Rate) less current law local property tax (Statewide Taxable Value multiplied by Current Law Millage Rate) less the SET.

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The estimated FY 2000 Proposal A tax cut of $2.14 billion suggests a state/local tax cut equal to 0.7 percent of personal income. Exhibits 18 and 21 suggest a tax cut of only four-tenths that amount. There are several explanations for this discrepancy. The most likely explanation is that Proposal A, by limiting the increase in property taxable values, prevented a large future increase in property taxes, rather than significantly cutting pre-Proposal A level of taxes. It is possible that the estimates overstate the Proposal A property tax cut for one or more of three possible reasons:

- Had Proposal A not passed, average millage rates would likely have dropped as taxpayers' property value increases would have triggered millage rollbacks that voters would not have overridden.
- Without Proposal A, the level of new construction would likely have been significantly lower than actually occurred. This means that Proposal A's lower tax burden resulted in increased construction activity and a stronger Michigan economy.
- Without Proposal A, the value of existing property in Michigan would have increased less than actually occurred, i.e., a portion of the Proposal A tax cut was capitalized into higher property values. This means that Proposal A has created billions of dollars of additional wealth for Michigan property owners.

Over one-third of Michigan residents itemize deductions on their federal income tax returns. Proposal A cut property taxes and the state income tax, which are deductible on federal income tax returns, and increased the state sales tax, which is not deductible. Proposal A increased federal income tax paid by Michigan residents by an estimated $899 million for tax year 2003, and by $5.9 billion for 1994-2003, but still resulted in a substantial net tax cut to Michigan taxpayers.

The combination of the taxable value cap along with a reduced homestead millage rate have allowed homeowners to see reduced property tax bills. It is estimated that the typical Michigan homeowner saved a little over $2,000 on their 2002 property tax bill due to the property tax changes from Proposal A (see Exhibit 14).

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Exhibit 14
State of Michigan Typical Homeowner's Property Tax
Pre- and Post-Proposal A
2002

		2002	
	1993	**With Proposal A**	**Without**
Home Value	$71,764	$127,449	$127,449
(SEV)	$35,882	$63,725	$63,725
Taxable Value	--	$49,635	--
Millage Rate	56.64	32.12	56.64
Property Tax	$2,032	$1,594	$3,609
			126%
Difference in 2002 Property Taxes			**($2,015)**

Sources: Bureau of the Census.
State Tax Commission Data.
Office of Revenue and Tax Analysis, Michigan Department of Treasury.

Note: 2002 Homestead Millage Rate unchanged from 2001.

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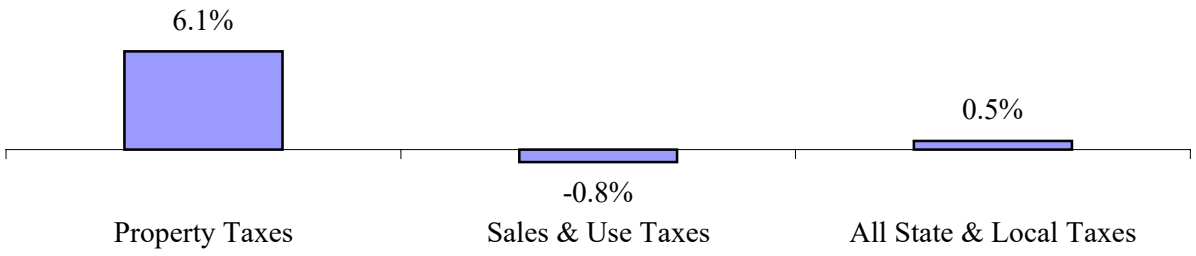
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Exhibit 15
Michigan Tax Structure Compared to the National Average, FY 1993
Taxes as a Percent of State Personal Income



Source: Bureau of the Census and Bureau of Economic Analysis, U.S. Department of Commerce.

Exhibit 16
Michigan Tax Structure Compared to the National Average, FY 2000
Taxes as a Percent of State Personal Income



Source: Bureau of the Census and Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 17
Relative State and Local Tax Burdens, FY 1993 and FY 2000 [1]

	All State/Local Taxes		Property Taxes		Sales and Use Taxes [2]	
Fiscal Year 1993	**US Avg.**	**Michigan**	**US Avg.**	**Michigan**	**US Avg.**	**Michigan**
% of Personal Income [3]	10.79%	11.16%	3.45%	4.60%	2.53%	1.72%
Relative State Rank		14		7		41
Amount per Capita	$2,276.23	$2,350.48	$727.78	$969.25	$533.74	$363.44
Relative State Rank		14		7		41
Fiscal Year 2000						
% of Personal Income [3]	10.79%	10.85%	3.08%	3.27%	2.66%	2.64%
Relative State Rank		20		20		24
Amount per Capita	$3,086.93	$3,162.59	$882.55	$954.45	$761.75	$770.34
Relative State Rank		16		14		21

[1] Does not include revenues from miscellaneous fees.

[2] Does not include excise taxes on alcohol, gasoline, or tobacco.

[3] As measured by personal income for relevant fiscal year.

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Exhibit 18
State and Local Total Tax Burden for FY 1993
Per Person and Percent of Personal Income

State	FY 1993 State & Local Taxes (thousands)	1993 Population	FY 1993 State & Local Taxes Per Person	Rank	FY 1993 Personal Income (millions)	FY 1993 Total Tax as a % of Personal Income	Rank
Alabama	$6,494,549	4,214,202	$1,541.11	49	$74,703	8.69%	49
Alaska	$2,948,181	599,432	$4,918.29	1	$14,441	20.42%	1
Arizona	$8,312,603	4,065,440	$2,044.70	29	$72,368	11.49%	11
Arkansas	$3,856,346	2,456,303	$1,569.98	48	$40,298	9.57%	45
California	$75,480,366	31,274,928	$2,413.45	11	$708,367	10.66%	22
Colorado	$7,463,456	3,613,734	$2,065.30	26	$77,067	9.68%	44
Connecticut	$10,928,703	3,309,175	$3,302.55	3	$95,182	11.48%	12
Delaware	$1,632,999	706,378	$2,311.79	15	$16,297	10.02%	36
Florida	$28,003,037	13,927,185	$2,010.67	30	$286,901	9.76%	42
Georgia	$13,791,490	6,978,240	$1,976.36	31	$134,766	10.23%	32
Hawaii	$3,478,859	1,172,838	$2,966.19	5	$28,427	12.24%	6
Idaho	$1,995,796	1,108,768	$1,800.01	39	$19,227	10.38%	29
Illinois	$27,265,125	11,809,579	$2,308.73	16	$270,035	10.10%	34
Indiana	$10,955,126	5,739,019	$1,908.88	36	$111,907	9.79%	41
Iowa	$6,207,483	2,836,972	$2,188.07	22	$53,633	11.57%	10
Kansas	$5,384,326	2,556,547	$2,106.09	25	$51,405	10.47%	25
Kentucky	$6,890,129	3,812,206	$1,807.39	38	$66,295	10.39%	28
Louisiana	$7,224,943	4,316,428	$1,673.82	46	$74,171	9.74%	43
Maine	$2,824,807	1,242,302	$2,273.85	19	$22,976	12.29%	4
Maryland	$12,705,035	4,971,889	$2,555.37	8	$121,631	10.45%	26
Massachusetts	$16,028,532	6,060,569	$2,644.72	7	$151,166	10.60%	24
Michigan	**$22,423,890**	**9,540,114**	**$2,350.48**	**14**	**$201,015**	**11.16%**	**14**
Minnesota	$12,090,244	4,555,954	$2,653.72	6	$98,955	12.22%	7
Mississippi	$4,050,846	2,655,100	$1,525.68	50	$39,502	10.25%	31
Missouri	$9,008,827	5,271,175	$1,709.07	44	$103,894	8.67%	50
Montana	$1,558,799	844,761	$1,845.25	37	$14,640	10.65%	23
Nebraska	$3,434,872	1,625,590	$2,113.00	24	$32,030	10.72%	20
Nevada	$3,143,637	1,411,215	$2,227.61	21	$31,342	10.03%	35
New Hampshire	$2,587,820	1,129,458	$2,291.21	17	$24,884	10.40%	27
New Jersey	$23,977,132	7,948,915	$3,016.40	4	$210,738	11.38%	13
New Mexico	$3,155,473	1,636,453	$1,928.24	33	$26,821	11.76%	8
New York	$66,347,397	18,374,954	$3,610.75	2	$455,697	14.56%	2
North Carolina	$13,728,744	7,042,818	$1,949.33	32	$134,813	10.18%	33
North Dakota	$1,224,600	641,216	$1,909.81	35	$11,397	10.74%	19
Ohio	$22,773,069	11,101,140	$2,051.42	28	$227,352	10.02%	38
Oklahoma	$5,743,482	3,252,285	$1,765.98	41	$57,335	10.02%	37
Oregon	$6,577,320	3,060,367	$2,149.19	23	$60,043	10.95%	17
Pennsylvania	$27,195,790	12,119,724	$2,243.93	20	$262,397	10.36%	30
Rhode Island	$2,402,313	1,015,112	$2,366.55	13	$21,665	11.09%	15
South Carolina	$6,297,766	3,663,314	$1,719.14	43	$63,315	9.95%	39
South Dakota	$1,195,450	722,159	$1,655.38	47	$13,047	9.16%	47
Tennessee	$8,690,523	5,137,584	$1,691.56	45	$97,448	8.92%	48
Texas	$34,883,070	18,161,612	$1,920.70	34	$350,876	9.94%	40
Utah	$3,353,078	1,898,404	$1,766.26	40	$30,851	10.87%	18
Vermont	$1,370,160	577,748	$2,371.55	12	$11,176	12.26%	5
Virginia	$13,425,365	6,509,630	$2,062.39	27	$143,795	9.34%	46
Washington	$12,773,686	5,278,842	$2,419.79	10	$115,417	11.07%	16
West Virginia	$3,185,407	1,817,539	$1,752.59	42	$29,839	10.68%	21
Wisconsin	$12,732,057	5,084,889	$2,503.90	9	$101,992	12.48%	3
Wyoming	$1,078,021	473,081	$2,278.72	18	$9,276	11.62%	9
U.S. Average	$590,280,729	259,323,287	$2,276.23		$5,472,811	10.79%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 19
State and Local Property Tax Burden for FY 1993
Per Person and Percent of Personal Income

State	FY 1993 State & Local Property Taxes (thousands)	1993 Population	FY 1993 State & Local Property Taxes Per Person	Rank	FY 1993 Personal Income (millions)	FY 1993 Property Taxes as a % of Personal Income	Rank
Alabama	$768,652	4,214,202	$182.40	50	$74,703	1.03%	50
Alaska	$673,113	599,432	$1,122.92	5	$14,441	4.66%	6
Arizona	$2,742,049	4,065,440	$674.48	25	$72,368	3.79%	19
Arkansas	$633,744	2,456,303	$258.01	48	$40,298	1.57%	47
California	$20,904,055	31,274,928	$668.40	26	$708,367	2.95%	32
Colorado	$2,541,764	3,613,734	$703.36	23	$77,067	3.30%	25
Connecticut	$4,219,389	3,309,175	$1,275.06	3	$95,182	4.43%	12
Delaware	$241,836	706,378	$342.36	43	$16,297	1.48%	48
Florida	$10,228,512	13,927,185	$734.43	20	$286,901	3.57%	22
Georgia	$4,026,189	6,978,240	$576.96	32	$134,766	2.99%	28
Hawaii	$603,125	1,172,838	$514.24	34	$28,427	2.12%	40
Idaho	$517,743	1,108,768	$466.95	37	$19,227	2.69%	36
Illinois	$10,762,627	11,809,579	$911.35	10	$270,035	3.99%	15
Indiana	$3,606,318	5,739,019	$628.39	30	$111,907	3.22%	26
Iowa	$2,182,471	2,836,972	$769.30	17	$53,633	4.07%	14
Kansas	$1,753,295	2,556,547	$685.81	24	$51,405	3.41%	23
Kentucky	$1,145,077	3,812,206	$300.37	45	$66,295	1.73%	44
Louisiana	$1,190,008	4,316,428	$275.69	47	$74,171	1.60%	46
Maine	$1,104,476	1,242,302	$889.06	12	$22,976	4.81%	5
Maryland	$3,613,523	4,971,889	$726.79	22	$121,631	2.97%	29
Massachusetts	$5,497,034	6,060,569	$907.02	11	$151,166	3.64%	21
Michigan	**$9,246,788**	**9,540,114**	**$969.25**	**7**	$201,015	**4.60%**	**7**
Minnesota	$3,843,498	4,555,954	$843.62	14	$98,955	3.88%	18
Mississippi	$1,021,327	2,655,100	$384.67	41	$39,502	2.59%	37
Missouri	$2,148,120	5,271,175	$407.52	40	$103,894	2.07%	41
Montana	$667,208	844,761	$789.82	16	$14,640	4.56%	9
Nebraska	$1,248,364	1,625,590	$767.95	18	$32,030	3.90%	17
Nevada	$681,349	1,411,215	$482.81	36	$31,342	2.17%	39
New Hampshire	$1,578,768	1,129,458	$1,397.81	1	$24,884	6.34%	1
New Jersey	$11,012,116	7,948,915	$1,385.36	2	$210,738	5.23%	2
New Mexico	$378,471	1,636,453	$231.28	49	$26,821	1.41%	49
New York	$22,413,158	18,374,954	$1,219.77	4	$455,697	4.92%	4
North Carolina	$2,962,701	7,042,818	$420.67	39	$134,813	2.20%	38
North Dakota	$355,733	641,216	$554.78	33	$11,397	3.12%	27
Ohio	$6,690,900	11,101,140	$602.72	31	$227,352	2.94%	33
Oklahoma	$939,861	3,252,285	$288.98	46	$57,335	1.64%	45
Oregon	$2,549,537	3,060,367	$833.08	15	$60,043	4.25%	13
Pennsylvania	$7,743,760	12,119,724	$638.94	29	$262,397	2.95%	31
Rhode Island	$966,150	1,015,112	$951.77	8	$21,665	4.46%	11
South Carolina	$1,833,679	3,663,314	$500.55	35	$63,315	2.90%	34
South Dakota	$476,496	722,159	$659.82	27	$13,047	3.65%	20
Tennessee	$1,890,943	5,137,584	$368.06	42	$97,448	1.94%	43
Texas	$13,895,659	18,161,612	$765.11	19	$350,876	3.96%	16
Utah	$862,522	1,898,404	$454.34	38	$30,851	2.80%	35
Vermont	$566,317	577,748	$980.21	6	$11,176	5.07%	3
Virginia	$4,251,962	6,509,630	$653.18	28	$143,795	2.96%	30
Washington	$3,869,992	5,278,842	$733.11	21	$115,417	3.35%	24
West Virginia	$581,747	1,817,539	$320.07	44	$29,839	1.95%	42
Wisconsin	$4,679,753	5,084,889	$920.33	9	$101,992	4.59%	8
Wyoming	$419,592	473,081	$886.93	13	$9,276	4.52%	10
U.S. Average	$188,731,471	259,323,287	$727.78		$5,472,811	3.45%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 20
State and Local Sales Tax Burden for FY 1993
Per Person and Percent of Personal Income

State	FY 1993 State & Local Sales Taxes (thousands)	1993 Population	FY 1993 State & Local Sales Taxes Per Person	Rank	FY 1993 Personal Income (millions)	FY 1993 Sales Taxes as a % of Personal Income	Rank
Alabama	$1,968,047	4,214,202	$467.00	28	$74,703	2.63%	21
Alaska	$88,013	599,432	$146.83	46	$14,441	0.61%	46
Arizona	$2,741,409	4,065,440	$674.32	7	$72,368	3.79%	5
Arkansas	$1,329,048	2,456,303	$541.08	19	$40,298	3.30%	11
California	$20,250,435	31,274,928	$647.50	9	$708,367	2.86%	15
Colorado	$2,019,119	3,613,734	$558.73	15	$77,067	2.62%	22
Connecticut	$2,056,269	3,309,175	$621.38	11	$95,182	2.16%	34
Delaware	$0	706,378	$0.00	47	$16,297	0.00%	47
Florida	$9,569,016	13,927,185	$687.07	6	$286,901	3.34%	9
Georgia	$3,983,923	6,978,240	$570.91	14	$134,766	2.96%	14
Hawaii	$1,302,919	1,172,838	$1,110.91	2	$28,427	4.58%	3
Idaho	$488,777	1,108,768	$440.83	32	$19,227	2.54%	24
Illinois	$5,332,032	11,809,579	$451.50	31	$270,035	1.97%	37
Indiana	$2,300,233	5,739,019	$400.81	38	$111,907	2.06%	35
Iowa	$1,301,909	2,836,972	$458.91	30	$53,633	2.43%	28
Kansas	$1,417,522	2,556,547	$554.47	17	$51,405	2.76%	19
Kentucky	$1,465,634	3,812,206	$384.46	40	$66,295	2.21%	33
Louisiana	$2,827,054	4,316,428	$654.95	8	$74,171	3.81%	4
Maine	$641,580	1,242,302	$516.44	23	$22,976	2.79%	17
Maryland	$1,718,152	4,971,889	$345.57	43	$121,631	1.41%	44
Massachusetts	$2,124,164	6,060,569	$350.49	42	$151,166	1.41%	45
Michigan	**$3,467,303**	**9,540,114**	**$363.44**	**41**	**$201,015**	**1.72%**	**41**
Minnesota	$2,391,486	4,555,954	$524.91	21	$98,955	2.42%	29
Mississippi	$1,419,650	2,655,100	$534.69	20	$39,502	3.59%	7
Missouri	$2,764,269	5,271,175	$524.41	22	$103,894	2.66%	20
Montana	$0	844,761	$0.00	47	$14,640	0.00%	47
Nebraska	$812,100	1,625,590	$499.57	25	$32,030	2.54%	25
Nevada	$1,041,911	1,411,215	$738.31	4	$31,342	3.32%	10
New Hampshire	$0	1,129,458	$0.00	47	$24,884	0.00%	47
New Jersey	$3,651,123	7,948,915	$459.32	29	$210,738	1.73%	40
New Mexico	$1,309,634	1,636,453	$800.29	3	$26,821	4.88%	2
New York	$11,739,258	18,374,954	$638.87	10	$455,697	2.58%	23
North Carolina	$3,319,930	7,042,818	$471.39	26	$134,813	2.46%	27
North Dakota	$267,523	641,216	$417.21	35	$11,397	2.35%	31
Ohio	$4,632,528	11,101,140	$417.30	34	$227,352	2.04%	36
Oklahoma	$1,626,510	3,252,285	$500.11	24	$57,335	2.84%	16
Oregon	$0	3,060,367	$0.00	47	$60,043	0.00%	47
Pennsylvania	$4,904,185	12,119,724	$404.64	37	$262,397	1.87%	39
Rhode Island	$413,000	1,015,112	$406.85	36	$21,665	1.91%	38
South Carolina	$1,595,501	3,663,314	$435.53	33	$63,315	2.52%	26
South Dakota	$402,661	722,159	$557.58	16	$13,047	3.09%	13
Tennessee	$3,656,675	5,137,584	$711.75	5	$97,448	3.75%	6
Texas	$11,128,109	18,161,612	$612.73	12	$350,876	3.17%	12
Utah	$1,096,311	1,898,404	$577.49	13	$30,851	3.55%	8
Vermont	$161,310	577,748	$279.20	45	$11,176	1.44%	43
Virginia	$2,190,349	6,509,630	$336.48	44	$143,795	1.52%	42
Washington	$6,146,441	5,278,842	$1,164.35	1	$115,417	5.33%	1
West Virginia	$714,369	1,817,539	$393.04	39	$29,839	2.39%	30
Wisconsin	$2,377,503	5,084,889	$467.56	27	$101,992	2.33%	32
Wyoming	$256,990	473,081	$543.23	18	$9,276	2.77%	18
U.S. Average	$138,411,884	259,323,287	$533.74		$5,472,811	2.53%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 21
State and Local Total Tax Burden for FY 2000
Per Person and Percent of Personal Income

State	FY 2000 State & Local Taxes (thousands)	2000 Population	FY 2000 State & Local Taxes Per Person	Rank	FY 2000 Personal Income (thousands)	FY 2000 Total Taxes as a % of Personal Income	Rank
Alabama	$9,415,089	4,451,493	$2,115.04	50	$104,490,250	9.01%	48
Alaska	$2,311,801	627,601	$3,683.55	6	18,131,500	12.75%	3
Arizona	$13,333,612	5,165,274	$2,581.39	36	125,661,000	10.61%	27
Arkansas	$5,961,335	2,678,030	$2,226.02	47	57,527,000	10.36%	34
California	$120,067,581	34,000,446	$3,531.35	7	1,043,978,000	11.50%	11
Colorado	$13,216,188	4,323,410	$3,056.89	18	134,820,750	9.80%	43
Connecticut	$15,651,070	3,410,079	$4,589.65	1	135,835,250	11.52%	10
Delaware	$2,618,628	786,234	$3,330.60	12	23,667,500	11.06%	16
Florida	$41,936,682	16,054,328	$2,612.17	35	437,797,500	9.58%	45
Georgia	$23,253,547	8,229,823	$2,825.52	26	222,663,000	10.44%	31
Hawaii	$4,101,617	1,212,281	$3,383.39	10	33,428,500	12.27%	6
Idaho	$3,294,239	1,299,258	$2,535.48	38	30,155,500	10.92%	18
Illinois	$40,256,016	12,435,970	$3,237.06	14	386,124,750	10.43%	32
Indiana	$16,363,430	6,089,950	$2,686.96	30	160,440,000	10.20%	39
Iowa	$8,090,525	2,927,509	$2,763.62	27	75,509,500	10.71%	24
Kansas	$7,616,353	2,691,750	$2,829.52	25	71,983,250	10.58%	28
Kentucky	$10,172,414	4,047,424	$2,513.31	39	94,603,000	10.75%	23
Louisiana	$10,887,408	4,469,970	$2,435.68	41	101,222,000	10.76%	22
Maine	$4,262,142	1,276,961	$3,337.72	11	31,784,500	13.41%	2
Maryland	$18,289,881	5,310,908	$3,443.83	9	173,277,250	10.56%	29
Massachusetts	$24,042,067	6,357,072	$3,781.94	4	228,810,000	10.51%	30
Michigan	**$31,474,162**	**9,952,006**	**$3,162.59**	**16**	**290,158,000**	**10.85%**	**20**
Minnesota	$18,172,885	4,931,093	$3,685.37	5	152,370,500	11.93%	7
Mississippi	$6,299,396	2,849,100	$2,211.01	48	58,457,750	10.78%	21
Missouri	$14,313,873	5,603,553	$2,554.43	37	148,591,000	9.63%	44
Montana	$2,131,839	903,157	$2,360.43	45	19,948,500	10.69%	26
Nebraska	$4,972,968	1,712,577	$2,903.79	23	46,513,250	10.69%	25
Nevada	$5,824,824	2,018,723	$2,885.40	24	57,518,750	10.13%	40
New Hampshire	$3,278,375	1,239,881	$2,644.10	32	39,468,000	8.31%	50
New Jersey	$32,837,939	8,429,007	$3,895.83	3	301,598,750	10.89%	19
New Mexico	$4,800,578	1,821,282	$2,635.82	33	38,695,250	12.41%	5
New York	$86,868,188	18,989,332	$4,574.58	2	625,124,250	13.90%	1
North Carolina	$21,440,029	8,077,367	$2,654.33	31	209,832,000	10.22%	37
North Dakota	$1,768,115	640,919	$2,758.72	28	15,468,750	11.43%	13
Ohio	$34,238,674	11,359,955	$3,013.98	20	312,782,000	10.95%	17
Oklahoma	$8,251,421	3,453,250	$2,389.47	43	79,890,250	10.33%	35
Oregon	$9,411,783	3,429,293	$2,744.53	29	92,246,250	10.20%	38
Pennsylvania	$36,581,020	12,282,591	$2,978.28	21	352,827,250	10.37%	33
Rhode Island	$3,412,355	1,050,236	$3,249.13	13	29,708,750	11.49%	12
South Carolina	$9,542,914	4,023,438	$2,371.83	44	94,398,250	10.11%	41
South Dakota	$1,735,628	755,509	$2,297.30	46	19,010,000	9.13%	47
Tennessee	$12,431,196	5,702,027	$2,180.14	49	145,783,750	8.53%	49
Texas	$52,226,535	20,946,503	$2,493.33	40	571,350,833	9.14%	46
Utah	$5,873,126	2,241,555	$2,620.11	34	50,791,750	11.56%	9
Vermont	$1,875,546	609,709	$3,076.13	17	16,124,500	11.63%	8
Virginia	$21,082,951	7,104,016	$2,967.75	22	212,910,250	9.90%	42
Washington	$18,733,865	5,908,372	$3,170.73	15	182,219,750	10.28%	36
West Virginia	$4,362,304	1,807,099	$2,413.98	42	38,449,250	11.35%	15
Wisconsin	$18,546,574	5,372,243	$3,452.30	8	148,446,750	12.49%	4
Wyoming	$1,504,660	494,001	$3,045.86	19	13,257,750	11.35%	14
U.S. Totals	869,135,348	281,553,565	$3,086.93		8,055,852,083	10.79%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Anaysis, U.S. Department of Commerce.

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Exhibit 22
State and Local Property Tax Burden for FY 2000
Per Person and Percent of Personal Income

State	FY 2000 State & Local Property Taxes (thousands)	2000 Population	FY 2000 State & Local Property Taxes Per Person	Rank	FY 2000 Personal Income (thousands)	FY 2000 Property Tax as a % of Personal Income	Rank
Alabama	$1,340,152	4,451,493	$301.06	50	$104,490,250	1.28%	50
Alaska	$761,244	627,601	$1,212.94	8	18,131,500	4.20%	7
Arizona	$3,905,594	5,165,274	$756.13	32	125,661,000	3.11%	22
Arkansas	$965,665	2,678,030	$360.59	48	57,527,000	1.68%	46
California	$26,235,331	34,000,446	$771.62	31	1,043,978,000	2.51%	36
Colorado	$3,679,814	4,323,410	$851.14	23	134,820,750	2.73%	33
Connecticut	$5,407,465	3,410,079	$1,585.73	3	135,835,250	3.98%	9
Delaware	$382,491	786,234	$486.48	43	23,667,500	1.62%	48
Florida	$14,098,490	16,054,328	$878.17	22	437,797,500	3.22%	21
Georgia	$5,931,692	8,229,823	$720.76	33	222,663,000	2.66%	34
Hawaii	$602,626	1,212,281	$497.10	42	33,428,500	1.80%	44
Idaho	$867,068	1,299,258	$667.36	35	30,155,500	2.88%	28
Illinois	$14,511,114	12,435,970	$1,166.87	10	386,124,750	3.76%	12
Indiana	$5,551,586	6,089,950	$911.60	18	160,440,000	3.46%	14
Iowa	$2,599,313	2,927,509	$887.89	21	75,509,500	3.44%	15
Kansas	$2,173,302	2,691,750	$807.39	30	71,983,250	3.02%	25
Kentucky	$1,721,607	4,047,424	$425.36	45	94,603,000	1.82%	43
Louisiana	$1,742,297	4,469,970	$389.78	46	101,222,000	1.72%	45
Maine	$1,598,490	1,276,961	$1,251.79	7	31,784,500	5.03%	2
Maryland	$4,809,286	5,310,908	$905.55	19	173,277,250	2.78%	32
Massachusetts	$7,642,521	6,357,072	$1,202.21	9	228,810,000	3.34%	17
Michigan	**$9,498,688**	**9,952,006**	**$954.45**	**14**	**290,158,000**	**3.27%**	**20**
Minnesota	$4,565,073	4,931,093	$925.77	17	152,370,500	3.00%	27
Mississippi	$1,462,014	2,849,100	$513.15	40	58,457,750	2.50%	37
Missouri	$3,404,879	5,603,553	$607.63	37	148,591,000	2.29%	39
Montana	$907,995	903,157	$1,005.36	13	19,948,500	4.55%	6
Nebraska	$1,548,923	1,712,577	$904.44	20	46,513,250	3.33%	18
Nevada	$1,437,281	2,018,723	$711.98	34	57,518,750	2.50%	38
New Hampshire	$2,027,817	1,239,881	$1,635.49	2	39,468,000	5.14%	1
New Jersey	$14,448,857	8,429,007	$1,714.18	1	301,598,750	4.79%	4
New Mexico	$620,463	1,821,282	$340.67	49	38,695,250	1.60%	49
New York	$25,201,914	18,989,332	$1,327.16	4	625,124,250	4.03%	8
North Carolina	$4,607,461	8,077,367	$570.42	39	209,832,000	2.20%	41
North Dakota	$527,062	640,919	$822.35	27	15,468,750	3.41%	16
Ohio	$9,544,118	11,359,955	$840.15	25	312,782,000	3.05%	23
Oklahoma	$1,302,616	3,453,250	$377.21	47	79,890,250	1.63%	47
Oregon	$2,788,611	3,429,293	$813.17	29	92,246,250	3.02%	24
Pennsylvania	$10,066,526	12,282,591	$819.58	28	352,827,250	2.85%	29
Rhode Island	$1,359,523	1,050,236	$1,294.49	5	29,708,750	4.58%	5
South Carolina	$2,680,143	4,023,438	$666.13	36	94,398,250	2.84%	30
South Dakota	$632,374	755,509	$837.02	26	19,010,000	3.33%	19
Tennessee	$2,887,113	5,702,027	$506.33	41	145,783,750	1.98%	42
Texas	$19,817,072	20,946,503	$946.08	15	571,350,833	3.47%	13
Utah	$1,303,192	2,241,555	$581.38	38	50,791,750	2.57%	35
Vermont	$782,200	609,709	$1,282.91	6	16,124,500	4.85%	3
Virginia	$5,985,891	7,104,016	$842.61	24	212,910,250	2.81%	31
Washington	$5,492,563	5,908,372	$929.62	16	182,219,750	3.01%	26
West Virginia	$855,120	1,807,099	$473.20	44	38,449,250	2.22%	40
Wisconsin	$5,689,395	5,372,243	$1,059.04	11	148,446,750	3.83%	11
Wyoming	$512,791	494,001	$1,038.04	12	13,257,750	3.87%	10
U.S. Totals	248,484,823	281,553,565	$882.55		8,055,852,083	3.08%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Anaysis, U.S. Department of Commerce.

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Exhibit 23
State and Local Sales Tax Burden for FY 2000
Per Person and Percent of Personal Income

State	FY 2000 State & Local Sales Taxes (thousands)	2000 Population	FY 2000 State & Local Sales Taxes Per Person	Rank	FY 2000 Personal Income (thousands)	FY 2000 Sales Tax as a % of Personal Income	Rank
Alabama	$2,868,357	4,451,493	$644.36	31	$104,490,250	2.75%	21
Alaska	$106,864	627,601	$170.27	46	18,131,500	0.59%	46
Arizona	$4,853,286	5,165,274	$939.60	9	125,661,000	3.86%	7
Arkansas	$2,199,195	2,678,030	$821.20	19	57,527,000	3.82%	8
California	$30,439,691	34,000,446	$895.27	12	1,043,978,000	2.92%	18
Colorado	$3,775,214	4,323,410	$873.20	13	134,820,750	2.80%	19
Connecticut	$3,419,939	3,410,079	$1,002.89	5	135,835,250	2.52%	27
Delaware	$0	786,234	$0.00	47	23,667,500	0.00%	47
Florida	$15,556,791	16,054,328	$969.01	7	437,797,500	3.55%	11
Georgia	$7,531,299	8,229,823	$915.12	11	222,663,000	3.38%	13
Hawaii	$1,536,276	1,212,281	$1,267.26	2	33,428,500	4.60%	3
Idaho	$747,134	1,299,258	$575.05	38	30,155,500	2.48%	30
Illinois	$7,275,592	12,435,970	$585.04	37	386,124,750	1.88%	40
Indiana	$3,579,416	6,089,950	$587.76	36	160,440,000	2.23%	36
Iowa	$1,893,062	2,927,509	$646.65	30	75,509,500	2.51%	28
Kansas	$2,211,216	2,691,750	$821.48	17	71,983,250	3.07%	15
Kentucky	$2,171,723	4,047,424	$536.57	41	94,603,000	2.30%	35
Louisiana	$4,324,388	4,469,970	$967.43	8	101,222,000	4.27%	4
Maine	$847,358	1,276,961	$663.57	27	31,784,500	2.67%	23
Maryland	$2,498,184	5,310,908	$470.39	43	173,277,250	1.44%	44
Massachusetts	$3,565,267	6,357,072	$560.83	39	228,810,000	1.56%	42
Michigan	**$7,666,399**	**9,952,006**	**$770.34**	**21**	**290,158,000**	**2.64%**	**24**
Minnesota	$3,757,366	4,931,093	$761.97	22	152,370,500	2.47%	31
Mississippi	$2,333,384	2,849,100	$818.99	20	58,457,750	3.99%	5
Missouri	$4,107,718	5,603,553	$733.06	23	148,591,000	2.76%	20
Montana	$0	903,157	$0.00	47	19,948,500	0.00%	48
Nebraska	$1,216,962	1,712,577	$710.60	24	46,513,250	2.62%	26
Nevada	$2,061,496	2,018,723	$1,021.19	4	57,518,750	3.58%	10
New Hampshire	$0	1,239,881	$0.00	47	39,468,000	0.00%	49
New Jersey	$5,508,046	8,429,007	$653.46	29	301,598,750	1.83%	41
New Mexico	$1,867,700	1,821,282	$1,025.49	3	38,695,250	4.83%	2
New York	$16,473,484	18,989,332	$867.51	14	625,124,250	2.64%	25
North Carolina	$4,519,995	8,077,367	$559.59	40	209,832,000	2.15%	37
North Dakota	$381,401	640,919	$595.08	33	15,468,750	2.47%	32
Ohio	$7,431,610	11,359,955	$654.19	28	312,782,000	2.38%	34
Oklahoma	$2,403,829	3,453,250	$696.11	25	79,890,250	3.01%	17
Oregon	$0	3,429,293	$0.00	47	92,246,250	0.00%	50
Pennsylvania	$7,220,639	12,282,591	$587.88	35	352,827,250	2.05%	39
Rhode Island	$621,066	1,050,236	$591.36	34	29,708,750	2.09%	38
South Carolina	$2,557,733	4,023,438	$635.71	32	94,398,250	2.71%	22
South Dakota	$627,225	755,509	$830.20	15	19,010,000	3.30%	14
Tennessee	$5,701,043	5,702,027	$999.83	6	145,783,750	3.91%	6
Texas	$17,348,954	20,946,503	$828.25	16	571,350,833	3.04%	16
Utah	$1,841,327	2,241,555	$821.45	18	50,791,750	3.63%	9
Vermont	$215,423	609,709	$353.32	45	16,124,500	1.34%	45
Virginia	$3,214,162	7,104,016	$452.44	44	212,910,250	1.51%	43
Washington	$8,918,781	5,908,372	$1,509.52	1	182,219,750	4.89%	1
West Virginia	$917,050	1,807,099	$507.47	42	38,449,250	2.39%	33
Wisconsin	$3,695,182	5,372,243	$687.83	26	148,446,750	2.49%	29
Wyoming	$463,975	494,001	$939.22	10	13,257,750	3.50%	12
U.S. Totals	214,472,202	281,553,565	$761.75		8,055,852,083	2.66%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Anaysis, U.S. Department of Commerce.

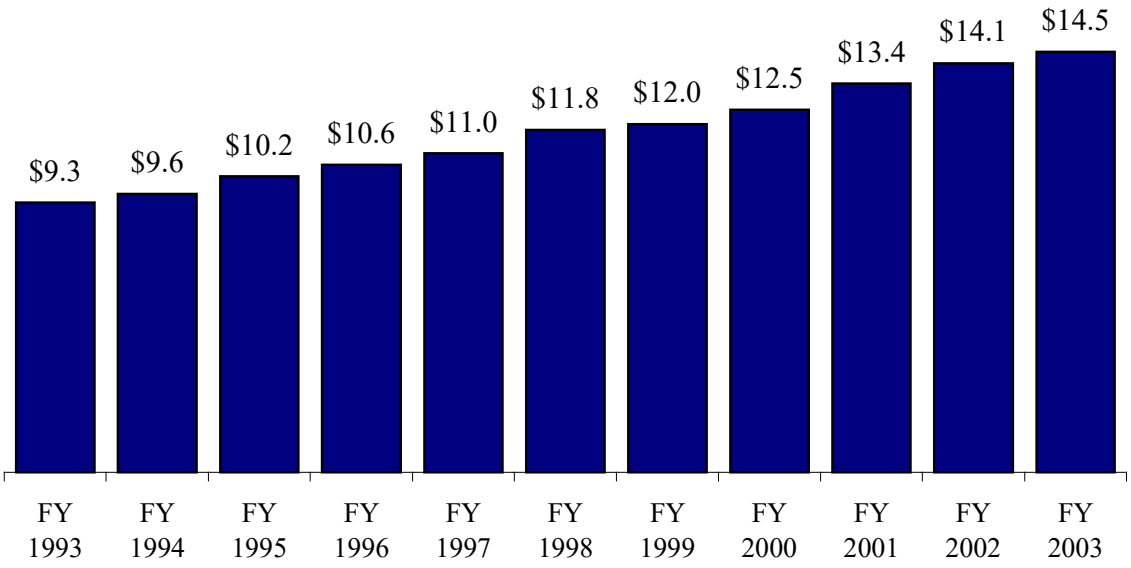
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V. PROPOSAL A's IMPACT ON MICHIGAN SCHOOLS

School funding has increased from $9.3 billion in FY 1993 to over $14.5 billion in FY 2003 as a result of Proposal A (see Exhibit 24). This increase outpaced inflation as measured by the Detroit Consumer Price Index (CPI).

Exhibit 24
State and Local School Funding Grows to Over $14 Billion
(billions)



Source: Michigan Department of Treasury.

Proposal A was a shift away from local property taxes toward state levied consumption taxes to support K-12 education in Michigan. Prior to Proposal A about two-thirds of support of K-12 education was raised from local property taxes and about 29 percent came from state resources. In FY 2001, the state share was nearly 78 percent and the local share had dropped to 17 percent (see Exhibit 25).

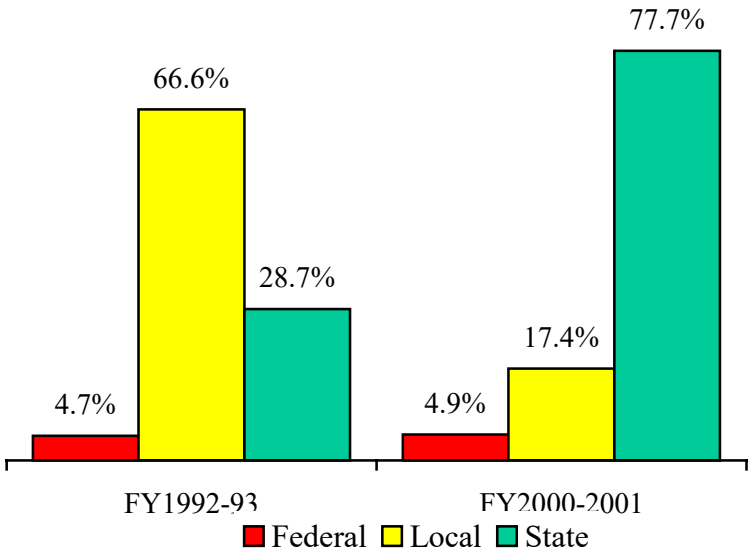
FY 2002 and FY 2003 SAF revenues are estimated from the May 2002 Consensus Revenue Estimating Conference. The additional revenues deposited into the SAF allow the State to provide more funding for schools. These amounts do not include revenues for debt, which are generated locally (see Exhibit 26).

The original income tax earmarking from Proposal A was 14.4 percent. Public Act 141 of 1995 increased the income tax collections earmarking percentage to 23.0 percent. In 1999, a five-year phased-in reduction of the income tax rate was passed which reduced the income tax rate 0.1 of a percentage point each year beginning in tax year 2000 but schools are hold harmless from this cut. In tax year 2000 the Michigan personal income tax was reduced to 4.3 percent and will be lowered to 3.9 percent by tax year 2004. In 2000, Public Act 40 of 2000 accelerated the rate

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Exhibit 25
More State Support for Education
Percent of K-12 General Funding



Source: Office of Revenue and Tax Analysis, Michigan Department of Treasury.

reduction to 4.2 percent in tax year 2000. In tax year 2001 the income tax rate remained at 4.2 percent with the scheduled reductions to keep going forward. To offset the rate reductions, the percentage of income tax collections dedicated to the SAF is increased so the SAF continues to receive the revenue it would have received had there been no rate cut.

Per Pupil Funding

Proposal A dramatically improved funding equity among school districts by creating a minimum per pupil foundation allowance and by accelerating funding for the low-revenue school districts more quickly than the other school districts. Funding for the lowest-revenue districts was immediately increased to the minimum foundation allowance, which was $4,200 for school year 1994-95. At the same time, increases in the foundation allowance for most other school districts were limited to approximately one half the dollar increase for low-revenue districts. As a result, Proposal A has reduced the funding gap between rich and poor districts in absolute dollar and percentage terms.

Exhibit 27 shows how the minimum foundation allowance has increased over the years. From FY 1994-95 to FY 2002-03, the minimum foundation allowance has grown 60 percent. Over this same time period, the Detroit CPI is forecasted to grow 23 percent based on the State's latest economic forecast (see Exhibit 28). Exhibit 29 and Exhibit 30 illustrate the impact of the per pupil funding floor. For the 1993-94 school year, 512 school districts (92 percent) received less than the $6,700 state and local funding per pupil (please see the Appendix for a listing of all school districts).

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Exhibit 26
State School Aid Fund
(millions)

Funding Source	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	Estimated [1] FY 2002	FY 2003
Sales Tax	$1,743.4	$2,529.6	$3,564.6	$3,778.8	$3,933.5	$4,094.2	$4,301.5	$4,577.2	$4,631.4	$4,734.8	$4,957.5
Use Tax	$0.0	$132.0	$318.9	$341.6	$362.0	$386.4	$427.5	$452.9	$444.5	$456.0	$478.3
State Education Tax	$0.0	$446.9	$1,064.5	$1,111.1	$1,156.1	$1,256.9	$1,273.5	$1,381.4	$1,489.6	$1,558.0	$1,622.8
Income Tax	$0.0	$0.0	$882.5	$918.2	$1,582.9	$1,699.4	$1,848.1	$1,968.4	$1,955.3	$1,884.1	$1,963.6
Tobacco Tax	$19.5	$163.1	$397.2	$371.4	$350.5	$363.0	$394.4	$387.7	$383.1	$378.6	$371.0
Liquor Tax	$21.9	$21.8	$21.9	$22.6	$22.4	$23.9	$25.4	$27.2	$28.4	$29.6	$29.8
IFT/CFT	$52.1	$86.8	$106.6	$121.8	$117.0	$115.3	$136.5	$152.5	$131.3	$140.0	$143.0
Real Estate Transfer Tax	$0.0	$0.0	$91.1	$161.2	$192.8	$227.9	$261.7	$257.1	$252.9	$241.0	$254.0
Other Tax Revenues	Included in Other Revenue		$7.3	$18.1	$14.9	$13.4	$14.2	$13.4	$15.2	$14.7	$14.7
General Fund Transfer	$1,086.2	$709.6	$664.9	$621.0	$277.9	$376.0	$420.7	$420.1	$385.2	$198.4	$198.4
Lottery	$427.6	$510.7	$547.8	$548.3	$587.7	$616.1	$621.1	$618.5	$587.0	$605.0	$595.0
Casino Wagering Tax	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$6.0	$53.1	$75.4	$92.0	$96.0
Federal Funds	$57.2	$62.6	$63.1	$69.7	$70.2	$84.7	$106.8	$121.6	$148.6	$235.0	$235.0
Other Revenue [2]	$3.2	$13.2	$8.0	$179.7	$22.7	$212.0	$112.3	$48.3	$149.4	$382.0	$32.7
TOTAL	$3,411.1	$4,676.1	$7,738.4	$8,263.5	$8,690.7	$9,469.1	$9,949.7	$10,479.3	$10,677.3	$10,949.2	$10,991.8

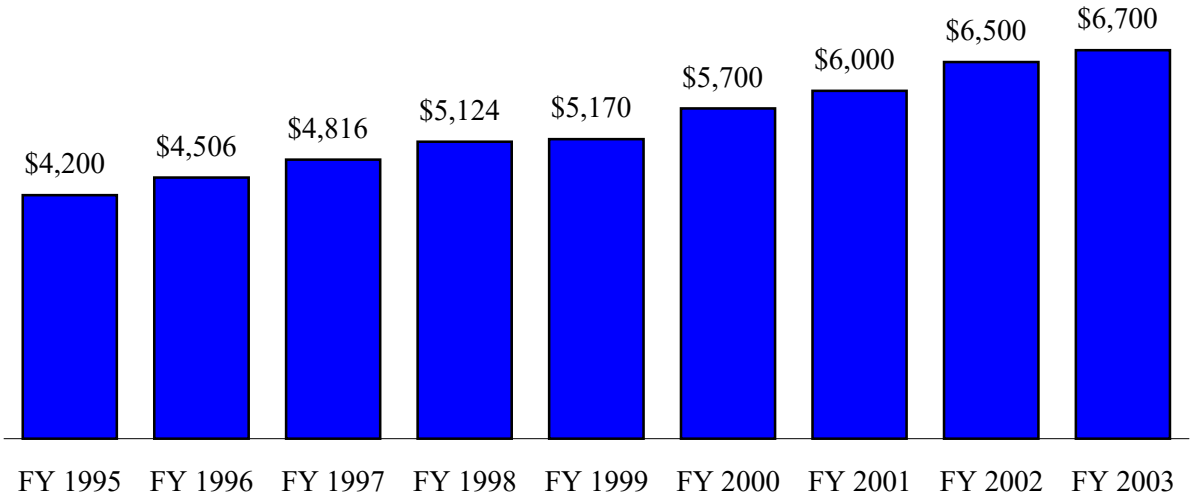
[1] Figures are from various Executive Budgets and May 2002 Consensus Revenue Conference.
[2] Other revenue includes transfers from Budget Stabilization Fund, etc.

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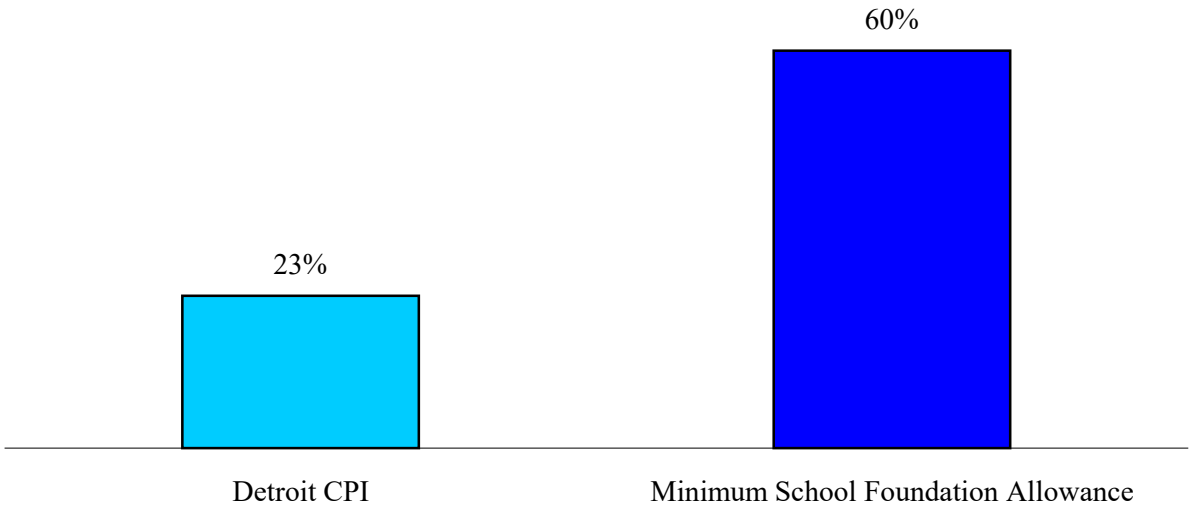
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Exhibit 27
Minimum School Foundation Allowance Per Pupil
Has Grown 60 Percent



Source: Michigan Department of Education.

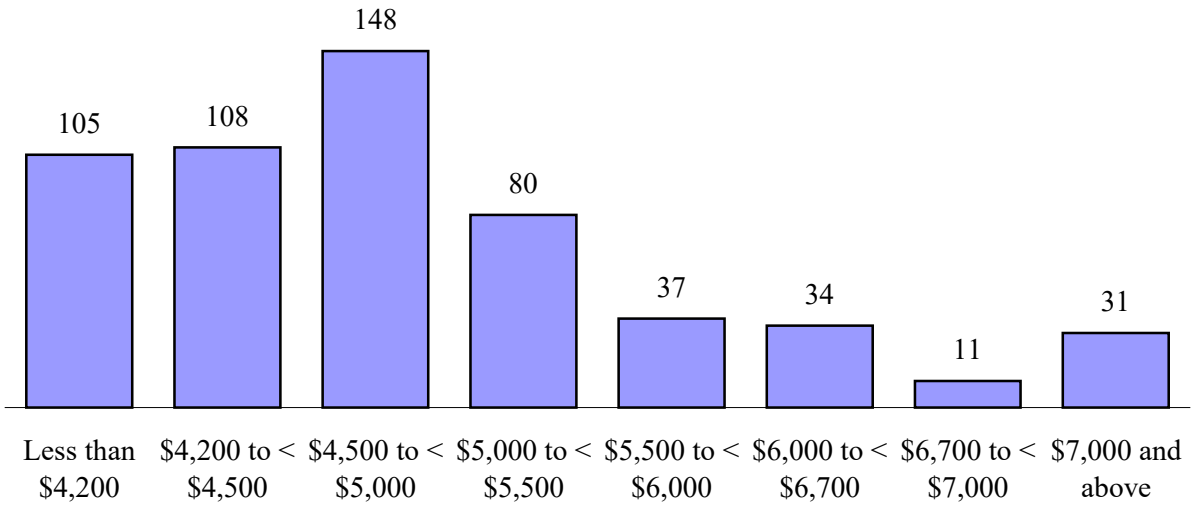
Exhibit 28
Minimum School Foundation Grows Faster Than Inflation
FY 1995 to FY 2003



Sources: Michigan Department of Education, Michigan Department of Treasury, and Bureau of Labor Statistics.

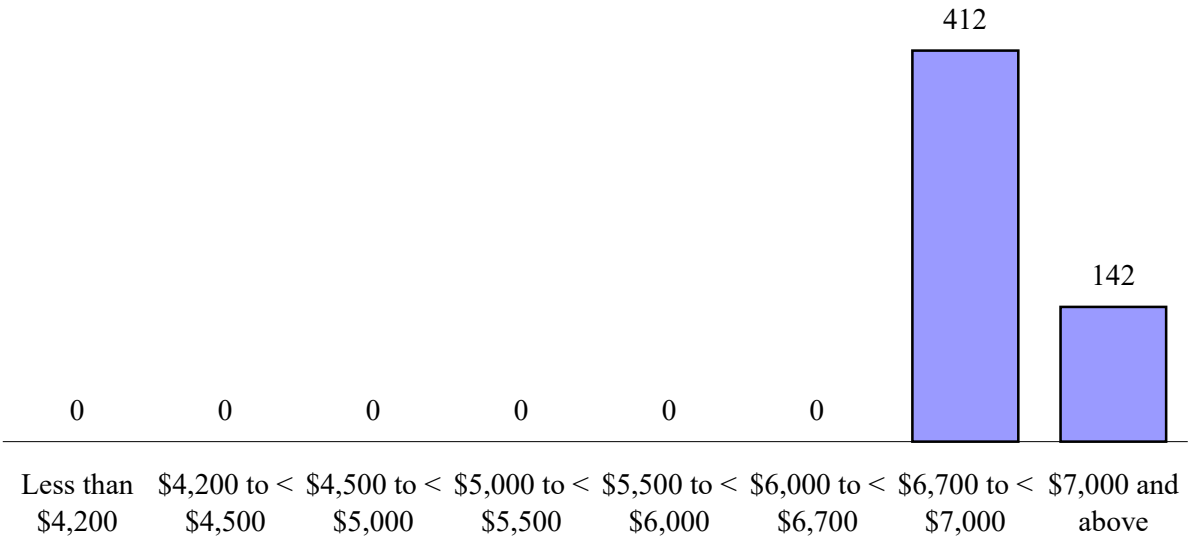
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Exhibit 29
Before School Finance Reform
512 Districts Below $6,700 Per Pupil in FY 1994



Source: Michigan Department of Education.

Exhibit 30
After School Finance Reform
No Districts Below $6,700 Per Pupil in FY 2003



Source: Michigan Department of Education.

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Proposal A has substantially reduced school funding inequities. In FY 1994, the ten lowest-revenue school districts had weighted average per pupil revenues of $3,476, while the ten highest-revenue school districts had weighted average per pupil revenues of $9,726, nearly three times more than the ten lowest-revenue school districts (see Exhibit 31). By FY 2003, the ten lowest revenue school districts had a weighted average per pupil foundation allowance of $6,700 (minimum guarantee), while the ten highest revenue districts had a weighted average foundation allowance of $11,389, less than twice as much as the minimum foundation allowance (see Exhibit 32).

Charter Schools

School reform was also an integral part of Proposal A. The creation of new publicly-chartered school academies afforded parents an alternative to traditional public schools. Since the adoption of Proposal A, 189 publicly-chartered school academies are currently in operation throughout the state. Exhibit 33 illustrates the growth of the number of publicly-chartered schools since their inception. Charter schools are public schools organized by teachers, parents, or others (e.g., university, community college, or any nonprofit organization) and chartered by a public entity, such as a local school board, the State Board of Education, a public university, or a department of state government. While charter schools enjoy the operational autonomy of a private school, they are held accountable to a public governmental authority.

Charter schools have no prescribed local service population and no local revenue base. Pupils may select a school based on its curriculum or other criteria (e.g., location). All applicants have an equal chance of admission. The foundation grant follows the student to attend the charter school of his or her choice.

Although the number of charter schools has grown substantially since 1994, the vast majority of students still attend traditional public schools. In the FY 2002 school year, approximately 64,260 pupils attended Michigan charter schools (see Exhibit 34) while approximately 1.65 million attended Michigan K-12 public schools. Overall, charter school students comprise 3.7 percent of all public K-12 students.

Schools of Choice

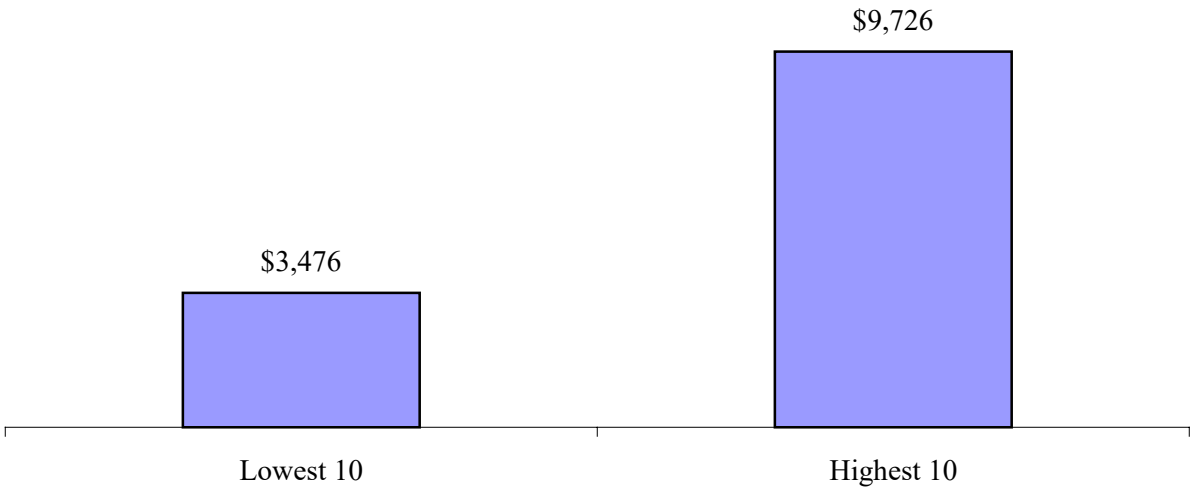
Another aspect of Proposal A was the enactment of "schools of choice" which allows students to attend a public school in a district other than the one in which he or she resides. Students are responsible for their own transportation, and all students have an equal chance of acceptance, regardless of residence. Under the current schools of choice program, local districts may opt to open their doors to students who live in other districts but reside within the same ISD. Currently, there are 554 traditional public school districts organized within 57 ISDs in Michigan. Allowing students to take their foundation grant to the public or charter school of their choice was intended to make schools more responsive to student needs and parent expectations.

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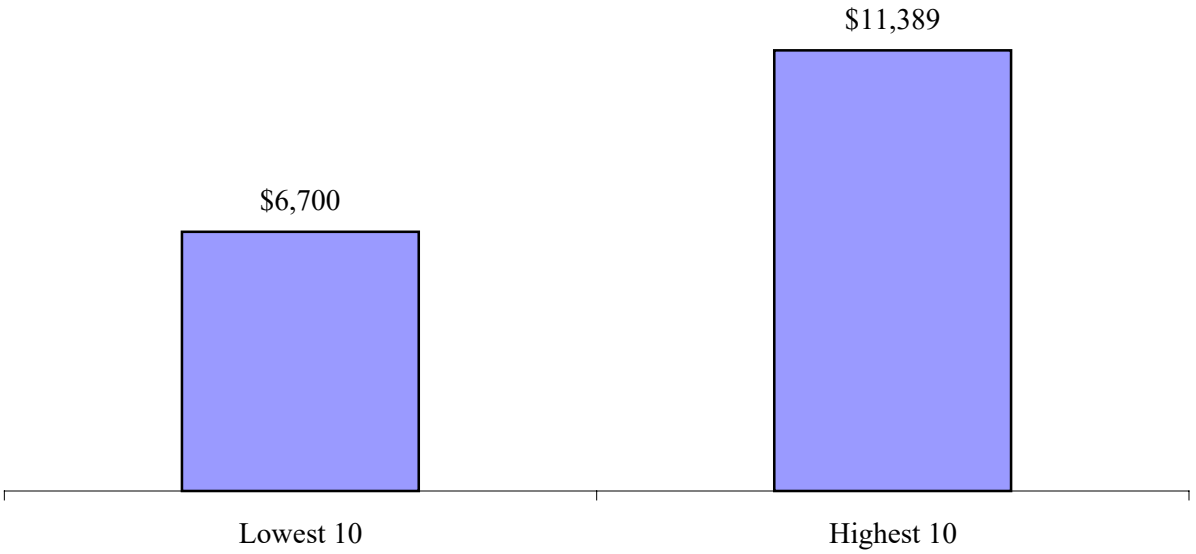
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Exhibit 31
Highest Spending Districts Outspent Lowest Spending Districts
Nearly 3 Times Per Pupil in 1993-94



Source: Michigan Department of Education.

Exhibit 32
School Spending More Equitable Between Districts
Difference Less Than Twice Per Pupil in 2002-03

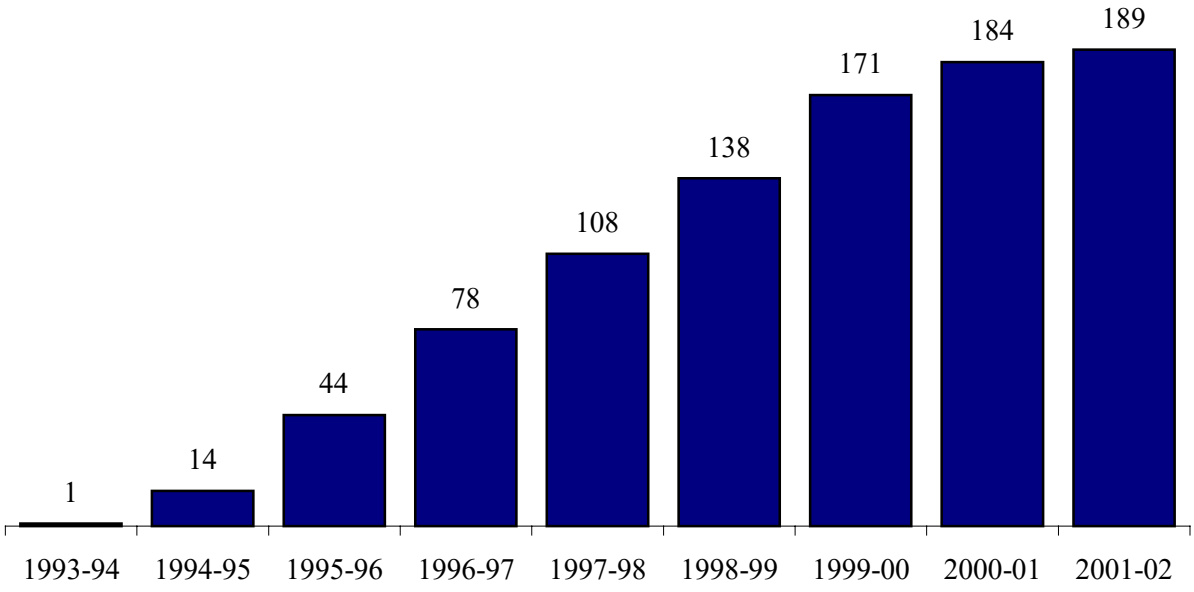


Source: Michigan Department of Education.

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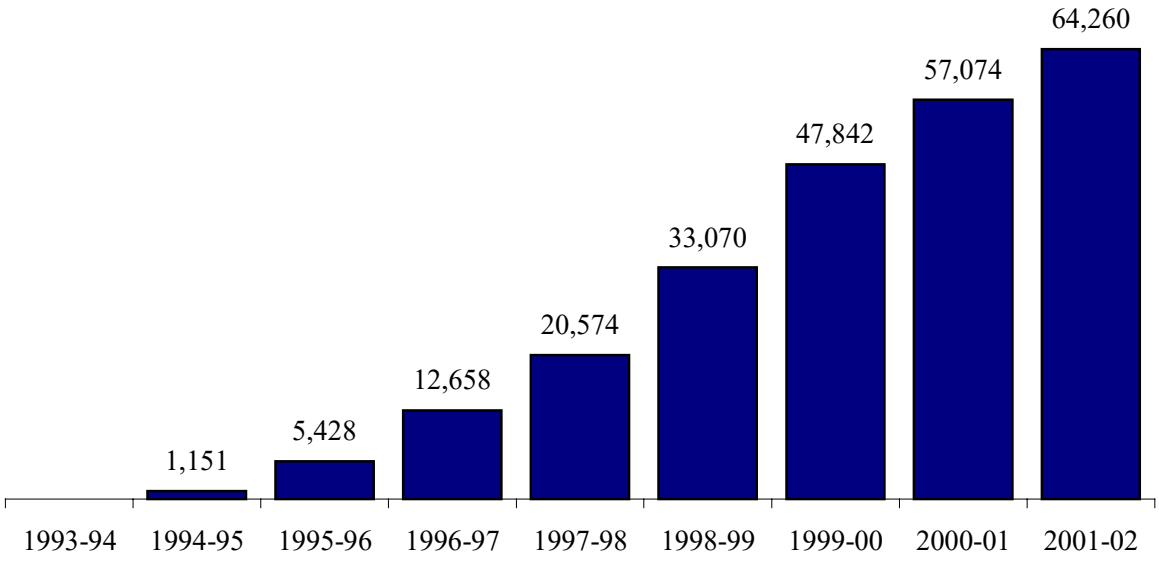
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Exhibit 33
Michigan Charter Schools



Source: Michigan Department of Education.

Exhibit 34
Students Attending Charter Schools



Source: Michigan Department of Education.

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School Vouchers

Michigan did not enact a school voucher program with its new system of charter schools, schools of choice, and foundation grants under Proposal A. Vouchers would also allow students to go to private schools. Michigan's system provides funding only for public and publicly-chartered schools.

Proposal C of 1970 amended the Michigan Constitution to prohibit direct or indirect aid to any private, denominational, or other nonpublic school. Tuition vouchers were specifically prohibited by Proposal C. Michigan voters passed Proposal C by a margin of 57 percent to 43 percent.

In November 2000, Michigan voters defeated Proposal 00-1, which would have allowed vouchers for private schools. Proposal 00-1 would have removed the general prohibition against indirect aid to a private, denominational, or other nonpublic school and remove specific prohibitions against tuition vouchers, subsidies, loans of public property or money, and other types of aid to nonpublic schools.

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VI. APPENDIX

INCREASE IN SCHOOL DISTRICTS' PER PUPIL FOUNDATION ALLOWANCES UNDER PROPOSAL A

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Increase in School Districts' Per Pupil Foundation Allowances Under Proposal A
Ranked by FY 03 Foundation Allowance

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
49020	Bois Blanc Pines School District	13,734	15,395	1,661	12.1%
42030	Grant Township Schools	10,681	12,341	1,660	15.5%
63080	Bloomfield Hills School District	10,294	11,954	1,660	16.1%
63010	Birmingham City School District	10,217	11,877	1,660	16.2%
49110	Mackinac Island Pub Schools	9,594	11,254	1,660	17.3%
58080	Jefferson Schools-Monroe Co.	9,500	11,160	1,660	17.5%
63060	Southfield Public School District	9,299	10,959	1,660	17.9%
17160	Whitefish Schools	9,270	10,930	1,660	17.9%
23490	Oneida Twp School District #3	9,022	10,682	1,660	18.4%
63280	Lamphere Public Schools	8,777	10,437	1,660	18.9%
15010	Beaver Island Comm Schools	8,627	10,287	1,660	19.2%
02020	Burt Township School District	8,428	10,088	1,660	19.7%
63200	Farmington Public School District	8,407	10,067	1,660	19.8%
11200	New Buffalo Area School District	8,367	10,027	1,660	19.8%
82055	Grosse Pointe Public Schools	8,233	9,893	1,660	20.2%
50010	Centerline Public Schools	7,885	9,545	1,660	21.1%
80040	Covert Public Schools	7,727	9,387	1,660	21.5%
81010	Ann Arbor Public Schools	7,574	9,234	1,660	21.9%
50230	Warren Consolidated Schools	7,421	9,082	1,661	22.4%
45040	Northport Public School District	7,387	9,047	1,660	22.5%
17050	Detour Area Schools	7,379	9,039	1,660	22.5%
63150	Troy Public School District	7,374	9,034	1,660	22.5%
50200	South Lake Schools	7,298	8,958	1,660	22.7%
32130	Port Hope Community Schools	7,350	8,958	1,608	21.9%
52160	Wells Township School District	7,267	8,927	1,660	22.8%
63160	West Bloomfield School District	7,225	8,886	1,661	23.0%
63040	Royal Oak School District	7,216	8,851	1,635	22.7%
32260	Colfax Township School District 1F	7,168	8,828	1,660	23.2%
27060	Marenisco School District	7,116	8,776	1,660	23.3%
82045	Melvindale Allen Park Schools	7,113	8,773	1,660	23.3%
50240	Warren Woods Public Schools	7,069	8,739	1,670	23.6%
33215	Waverly Schools	6,998	8,659	1,661	23.7%
82130	Romulus Community Schools	6,990	8,650	1,660	23.7%
82120	River Rouge City Schools	6,955	8,615	1,660	23.9%
82030	Dearborn City School District	6,933	8,594	1,660	23.9%
63100	Novi Community Schools	6,931	8,591	1,660	24.0%
82300	Grosse Ile Township Schools	6,926	8,586	1,660	24.0%
52110	Republic Michigamme Schools	6,922	8,582	1,660	24.0%
82155	Trenton Public Schools	6,874	8,542	1,668	24.3%
24020	Harbor Springs School District	6,817	8,477	1,660	24.4%
63290	Walled Lake Consolidated School District	6,792	8,437	1,646	24.2%
56010	Midland Public Schools	6,752	8,415	1,664	24.6%
11340	Bridgman Public Schools	6,694	8,354	1,660	24.8%
03080	Saugatuck Public Schools	6,671	8,331	1,660	24.9%
80240	Bangor Twp School District #8	6,652	8,312	1,660	25.0%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
63070	Avondale School District	6,606	8,266	1,660	25.1%
27080	Watersmeet Township School District	6,502	8,162	1,660	25.5%
33010	East Lansing School District	6,470	8,132	1,663	25.7%
82095	Livonia Public Schools	6,438	8,105	1,667	25.9%
63090	Clarenceville School District	6,411	8,075	1,663	25.9%
82390	Northville Public Schools	6,375	8,050	1,675	26.3%
82320	Harper Woods School District	6,341	8,008	1,666	26.3%
50090	Fitzgerald Public Schools	6,317	7,985	1,668	26.4%
33170	Okemos Public Schools	6,298	7,967	1,669	26.5%
66070	White Pine School District	6,297	7,965	1,668	26.5%
31070	Elm River Township School District	6,275	7,944	1,669	26.6%
07010	Arvon Township School District	6,266	7,936	1,670	26.7%
52100	Powell Township School District	6,261	7,931	1,670	26.7%
41110	Forest Hills Public Schools	6,257	7,927	1,670	26.7%
50100	Fraser Public Schools	6,253	7,923	1,670	26.7%
15050	Charlevoix Public Schools	6,216	7,887	1,671	26.9%
50120	Lakeshore Public Schools	6,199	7,873	1,674	27.0%
41050	Caledonia Community Schools	6,176	7,850	1,674	27.1%
51060	Onekama Consolidated Schools	6,174	7,847	1,673	27.1%
63270	Clawson City School District	6,145	7,819	1,674	27.2%
63260	Rochester Community School District	6,132	7,807	1,675	27.3%
46090	Madison School District	6,099	7,775	1,676	27.5%
63230	Lake Orion Community Schools	6,081	7,759	1,678	27.6%
50130	Lakeview Public Schools	6,050	7,732	1,682	27.8%
45020	Leland Public School District	6,050	7,728	1,678	27.7%
03440	Ganges School District #4	6,034	7,713	1,679	27.8%
82400	Riverview Community School District	6,034	7,713	1,679	27.8%
73080	Buena Vista School District	6,020	7,700	1,680	27.9%
41020	Godwin Heights Public Schools	6,015	7,695	1,680	27.9%
16070	Mackinaw City Public Schools	6,002	7,682	1,680	28.0%
25080	Carman-Ainsworth Schools	6,002	7,682	1,680	28.0%
10025	Frankfort-Elberta Area Schools	5,993	7,673	1,680	28.0%
64070	Pentwater Public School District	5,991	7,671	1,680	28.0%
50220	Van Dyke Public Schools	5,968	7,650	1,682	28.2%
63050	Berkley School District	5,966	7,649	1,683	28.2%
82140	South Redford School District	5,944	7,626	1,682	28.3%
63020	Ferndale Public Schools	5,926	7,609	1,683	28.4%
63250	Oak Park City School District	5,902	7,586	1,684	28.5%
82080	Inkster City School District	5,799	7,487	1,688	29.1%
82150	Taylor School District	5,779	7,467	1,689	29.2%
05035	Central Lake Public Schools	5,773	7,462	1,689	29.3%
82180	Flat Rock Community Schools	5,754	7,444	1,690	29.4%
81020	Ypsilanti School District	5,734	7,424	1,690	29.5%
82240	Westwood Community Schools	5,719	7,410	1,691	29.6%
50160	Mt. Clemens Community Schools	5,713	7,404	1,691	29.6%
74050	East China School District	5,711	7,403	1,692	29.6%
50020	East Detroit Public Schools	5,708	7,400	1,692	29.6%
82160	Wayne-Westland Community School District	5,211	7,396	2,185	41.9%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
05040	Bellaire Public Schools	5,699	7,391	1,692	29.7%
73190	Frankenmuth School District	5,690	7,382	1,692	29.7%
81050	Dexter Community School District	5,684	7,376	1,692	29.8%
82070	Highland Park City Schools	5,681	7,374	1,693	29.8%
49055	Engadine Consolidated Schools	5,677	7,369	1,692	29.8%
32630	Sigel Twp School District #6	5,669	7,362	1,693	29.9%
50030	Roseville Community Schools	5,659	7,352	1,693	29.9%
41040	Byron Center Public Schools	5,624	7,322	1,698	30.2%
11033	River Valley School District	5,627	7,321	1,694	30.1%
25240	Beecher Community School District	5,625	7,319	1,694	30.1%
82250	Ecorse Public School District	5,624	7,319	1,695	30.1%
50140	L'Anse Creuse Public Schools	5,607	7,302	1,695	30.2%
41090	East Grand Rapids Public Schools	5,601	7,301	1,700	30.4%
50190	Romeo Community Schools	5,584	7,280	1,696	30.4%
25010	Flint City School District	5,555	7,252	1,697	30.6%
32030	Caseville Public Schools	5,554	7,251	1,697	30.6%
82230	Crestwood School District	5,548	7,246	1,698	30.6%
50210	Utica Community Schools	5,540	7,239	1,699	30.7%
63130	Hazel Park City School District	5,536	7,234	1,698	30.7%
69030	Johannesburg-Lewiston Schools	5,519	7,218	1,699	30.8%
82430	Van Buren Public Schools	5,519	7,218	1,699	30.8%
61020	Muskegon Heights School District	5,490	7,190	1,700	31.0%
50070	Clintondale Comm Schools	5,487	7,187	1,700	31.0%
82050	Garden City School District	5,483	7,184	1,701	31.0%
25030	Grand Blanc Comm Schools	5,480	7,180	1,700	31.0%
39010	Kalamazoo City School District	5,469	7,171	1,702	31.1%
09050	Essexville Hampton School District	5,452	7,153	1,701	31.2%
82365	Woodhaven Public Schools	5,447	7,149	1,702	31.2%
33070	Holt Public Schools	5,439	7,141	1,702	31.3%
49040	Les Cheneaux Community School District	5,438	7,140	1,702	31.3%
25260	Montrose Community Schools	5,432	7,134	1,702	31.3%
70010	Grand Haven City School District	5,428	7,131	1,703	31.4%
33020	Lansing Public School District	5,401	7,105	1,704	31.5%
25200	Lake Fenton Schools	5,392	7,096	1,704	31.6%
82010	Detroit City School District	5,380	7,084	1,704	31.7%
82340	Huron School District	5,380	7,084	1,704	31.7%
81150	Willow Run Community Schools	5,378	7,083	1,705	31.7%
02010	Autrain-Onota Public Schools	5,377	7,081	1,704	31.7%
81040	Chelsea School District	5,367	7,073	1,706	31.8%
63300	Waterford School District	5,353	7,068	1,715	32.0%
82020	Allen Park Public Schools	5,364	7,068	1,704	31.8%
81120	Saline Area School District	5,361	7,066	1,705	31.8%
41145	Kenowa Hills Public Schools	5,338	7,044	1,706	32.0%
11020	St. Joseph Public Schools	5,336	7,042	1,706	32.0%
13090	Lakeview School District	5,334	7,040	1,706	32.0%
53040	Ludington Area School District	5,331	7,037	1,706	32.0%
15020	Boyne City Public School District	5,320	7,027	1,707	32.1%
82100	Plymouth Canton Community Schools	5,317	7,025	1,708	32.1%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
25230	Bentley Community School District	5,299	7,007	1,708	32.2%
73010	Saginaw City School District	5,275	6,983	1,708	32.4%
41160	Kentwood Public Schools	5,268	6,977	1,709	32.4%
61010	Muskegon City School District	5,249	6,958	1,709	32.6%
63110	Oxford Area Community School District	5,249	6,958	1,709	32.6%
50170	New Haven Community Schools	5,238	6,948	1,710	32.7%
63190	Clarkston Community School District	5,233	6,947	1,714	32.7%
82405	Southgate Community School District	5,219	6,930	1,711	32.8%
05010	Alba Public Schools	5,215	6,925	1,710	32.8%
13020	Battle Creek Public Schools	5,213	6,924	1,711	32.8%
05065	Ellsworth Community Schools	5,202	6,913	1,711	32.9%
81080	Manchester Community School District	5,195	6,906	1,711	32.9%
32090	Owendale Gagetown Area School District	5,192	6,904	1,712	33.0%
19125	Pewamo Westphalia Comm Schs	5,186	6,898	1,712	33.0%
63030	Pontiac City School District	5,172	6,884	1,712	33.1%
46050	Britton Macon Area School District	5,154	6,867	1,713	33.2%
41120	Godfrey Lee Public School District	5,153	6,866	1,713	33.2%
45010	Glen Lake Community School District	5,146	6,860	1,714	33.3%
33060	Haslett Public Schools	5,145	6,858	1,713	33.3%
47010	Brighton Area Schools	5,142	6,856	1,714	33.3%
61190	Orchard View Schools	5,125	6,839	1,714	33.4%
70020	Holland City School District	5,119	6,838	1,719	33.6%
49070	Moran Township School District	5,118	6,833	1,715	33.5%
46130	Sand Creek Community Schools	5,110	6,825	1,715	33.5%
61230	North Muskegon Public Schools	5,110	6,825	1,715	33.6%
33040	Dansville Agricultural School	5,107	6,822	1,715	33.6%
82290	Gibraltar School District	5,037	6,818	1,781	35.4%
23060	Grand Ledge Public Schools	5,099	6,815	1,716	33.6%
47060	Hartland Consolidated Schools	5,100	6,815	1,715	33.6%
19070	Fowler Public Schools	5,098	6,814	1,716	33.6%
43040	Baldwin Community Schools	5,098	6,814	1,716	33.6%
13130	Tekonsha Community Schools	5,098	6,813	1,715	33.6%
63220	Huron Valley Schools	5,090	6,806	1,716	33.7%
39050	Galesburg Augusta Community Schools	5,086	6,802	1,716	33.7%
25210	Westwood Heights School District	5,068	6,784	1,716	33.9%
41010	Grand Rapids City School District	5,066	6,782	1,716	33.9%
05060	Elk Rapids Schools	5,062	6,779	1,717	33.9%
21065	Big Bay De Noc School District	5,062	6,779	1,717	33.9%
24040	Pellston Public School District	5,061	6,778	1,717	33.9%
33130	Mason Public Schools	5,059	6,776	1,717	33.9%
50050	Armada Area Schools	5,056	6,773	1,717	34.0%
37010	Mt. Pleasant City School District	5,044	6,762	1,718	34.1%
63240	South Lyon Community Schools	5,039	6,756	1,717	34.1%
38170	Jackson Public Schools	5,034	6,752	1,718	34.1%
01010	Alcona Community Schools	5,027	6,745	1,718	34.2%
33230	Williamston Community Schools	5,026	6,744	1,718	34.2%
23590	Roxand Twp School District #12	5,018	6,737	1,719	34.3%
70300	Spring Lake Public School District	5,017	6,735	1,718	34.3%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
13010	Albion Public Schools	5,009	6,728	1,719	34.3%
58110	Whiteford Agricultural School District	5,009	6,728	1,719	34.3%
63140	Madison Public Schools	5,009	6,728	1,719	34.3%
25110	Kearsley Community Schools	5,008	6,727	1,719	34.3%
46020	Addison Community Schools	4,998	6,717	1,719	34.4%
23090	Potterville Public Schools	4,996	6,715	1,719	34.4%
41080	Comstock Park Public Schools	4,995	6,715	1,720	34.4%
82110	Redford Union School District	4,996	6,715	1,719	34.4%
58010	Monroe Public Schools	4,991	6,710	1,719	34.5%
02070	Munising Public Schools	3,875	6,700	2,825	72.9%
02080	Superior Central School District	4,589	6,700	2,111	46.0%
03010	Plainwell Community Schools	4,558	6,700	2,142	47.0%
03020	Otsego Public Schools	4,024	6,700	2,676	66.5%
03030	Allegan Public Schools	3,949	6,700	2,751	69.7%
03040	Wayland Union Schools	4,362	6,700	2,338	53.6%
03050	Fennville Public Schools	4,516	6,700	2,184	48.4%
03060	Martin Public Schools	4,394	6,700	2,306	52.5%
03070	Hopkins Public Schools	4,102	6,700	2,598	63.3%
03100	Hamilton Community Schools	4,407	6,700	2,293	52.0%
04010	Alpena Public Schools	3,961	6,700	2,739	69.2%
05070	Mancelona Public Schools	4,768	6,700	1,932	40.5%
06010	Arenac Eastern School District	3,918	6,700	2,782	71.0%
06020	Au Gres Sims School District	4,716	6,700	1,984	42.1%
06050	Standish Sterling School District	3,738	6,700	2,962	79.2%
07020	Baraga Township School District	4,041	6,700	2,659	65.8%
07040	L'Anse Area Schools	4,448	6,700	2,252	50.6%
08010	Delton-Kellogg School District	4,501	6,700	2,199	48.8%
08030	Hastings Area School District	4,675	6,700	2,025	43.3%
08050	Thornapple-Kellogg School District	4,598	6,700	2,102	45.7%
09010	Bay City School District	4,184	6,700	2,516	60.1%
09030	Bangor Township Schools	4,339	6,700	2,361	54.4%
09090	Pinconning Area Schools	4,386	6,700	2,314	52.8%
10015	Benzie County Central School	3,836	6,700	2,864	74.7%
11010	Benton Harbor Area Schools	4,364	6,700	2,336	53.5%
11030	Lakeshore School District	4,187	6,700	2,513	60.0%
11160	Galien Township School District	4,557	6,700	2,143	47.0%
11210	Brandywine Public School District	4,206	6,700	2,494	59.3%
11240	Berrien Springs Public School District	4,344	6,700	2,356	54.2%
11250	Eau Claire Public Schools	4,160	6,700	2,540	61.1%
11300	Niles Community School District	4,560	6,700	2,140	46.9%
11310	Buchanan Community School District	4,267	6,700	2,433	57.0%
11320	Watervliet School District	4,552	6,700	2,148	47.2%
11330	Coloma Community Schools	3,902	6,700	2,798	71.7%
11670	Hagar Twp School District #6	3,628	6,700	3,072	84.7%
11830	Sodus Twp School District #5	3,161	6,700	3,539	111.9%
12010	Coldwater Comm Schools	4,566	6,700	2,134	46.7%
12020	Bronson Community School District	4,004	6,700	2,696	67.3%
12040	Quincy Community School District	4,045	6,700	2,655	65.6%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
13050	Athens Area Schools	4,649	6,700	2,051	44.1%
13070	Harper Creek Comm Schools	4,690	6,700	2,010	42.9%
13080	Homer Community Schools	4,397	6,700	2,303	52.4%
13095	Mar Lee School District	4,264	6,700	2,436	57.1%
13110	Marshall Public Schools	4,664	6,700	2,036	43.7%
13120	Pennfield School District	4,903	6,700	1,797	36.6%
13135	Union City Community School District	4,091	6,700	2,609	63.8%
14010	Cassopolis Public Schools	4,526	6,700	2,174	48.0%
14020	Dowagiac Union Schools	3,997	6,700	2,703	67.6%
14030	Edwardsburg Public Schools	4,226	6,700	2,474	58.5%
14050	Marcellus Community Schools	4,188	6,700	2,512	60.0%
15030	Boyne Falls Public School District	4,149	6,700	2,551	61.5%
15060	East Jordan Public School District	4,881	6,700	1,819	37.3%
16015	Cheboygan Area Schools	4,119	6,700	2,581	62.6%
16050	Inland Lakes School District	4,647	6,700	2,053	44.2%
16100	Wolverine Community School District	3,675	6,700	3,025	82.3%
17010	Sault Ste Marie Area Schools	4,270	6,700	2,430	56.9%
17090	Pickford Public Schools	4,931	6,700	1,769	35.9%
17110	Rudyard Area Schools	3,951	6,700	2,749	69.6%
17140	Brimley Area Schools	4,264	6,700	2,436	57.1%
18010	Clare Public Schools	4,497	6,700	2,203	49.0%
18020	Farwell Area Schools	3,890	6,700	2,810	72.2%
18060	Harrison Community Schools	3,905	6,700	2,795	71.6%
19010	Dewitt Public Schools	4,718	6,700	1,982	42.0%
19100	Bath Community Schools	4,851	6,700	1,849	38.1%
19120	Ovid Elsie Area Schools	4,832	6,700	1,868	38.7%
19140	St. Johns Public Schools	4,924	6,700	1,776	36.1%
20015	Crawford Ausable Schools	3,843	6,700	2,857	74.4%
21010	Escanaba Area Public Schools	4,520	6,700	2,180	48.2%
21025	Gladstone Area Schools	4,439	6,700	2,261	50.9%
21060	Rapid River Public Schools	4,581	6,700	2,119	46.2%
21090	Bark River Harris School District	4,246	6,700	2,454	57.8%
21135	Mid Peninsula School District	4,114	6,700	2,586	62.9%
22010	Iron Mountain City School District	4,289	6,700	2,411	56.2%
22025	Norway Vulcan Area Schools	4,012	6,700	2,688	67.0%
22030	Breitung Twp School District	4,348	6,700	2,352	54.1%
22045	North Dickinson County School District	4,505	6,700	2,195	48.7%
23010	Bellevue Community School District	4,435	6,700	2,265	51.1%
23030	Charlotte Public Schools	4,795	6,700	1,905	39.7%
23050	Eaton Rapids Public Schools	4,694	6,700	2,006	42.7%
23065	Maple Valley School District	3,889	6,700	2,811	72.3%
23080	Olivet Community Schools	4,466	6,700	2,234	50.0%
24030	Littlefield Public School District	4,562	6,700	2,138	46.9%
24070	Petoskey Public Schools	4,831	6,700	1,869	38.7%
25040	Mt. Morris Consolidated Schools	4,689	6,700	2,011	42.9%
25050	Goodrich Area Schools	4,449	6,700	2,251	50.6%
25060	Bendle Public Schools	4,727	6,700	1,973	41.7%
25070	Genesee School District	4,676	6,700	2,024	43.3%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
25100	Fenton Area Public Schools	4,804	6,700	1,896	39.5%
25120	Flushing Community Schools	4,549	6,700	2,151	47.3%
25130	Atherton Community School District	4,917	6,700	1,783	36.2%
25140	Davison Community Schools	4,519	6,700	2,181	48.2%
25150	Clio Area School District	4,632	6,700	2,068	44.6%
25180	Swartz Creek Community Schs	4,868	6,700	1,832	37.6%
25250	Linden Community School District	4,400	6,700	2,300	52.3%
25280	Lakeville Community School District	4,469	6,700	2,231	49.9%
26010	Beaverton Rural Schools	3,779	6,700	2,921	77.3%
26040	Gladwin Community Schools	4,462	6,700	2,238	50.1%
27010	Bessemer City School District	4,337	6,700	2,363	54.5%
27020	Ironwood Area Schools	4,332	6,700	2,368	54.7%
27070	Wakefield Township School District	4,425	6,700	2,275	51.4%
28010	Traverse City School District	4,588	6,700	2,112	46.0%
28035	Buckley Community School District	4,612	6,700	2,088	45.3%
28090	Kingsley Area School	3,834	6,700	2,866	74.8%
29010	Alma Public Schools	4,691	6,700	2,009	42.8%
29020	Ashley Community Schools	4,743	6,700	1,957	41.3%
29040	Breckenridge Community Schools	4,477	6,700	2,224	49.7%
29050	Fulton Schools	4,815	6,700	1,885	39.1%
29060	Ithaca Public Schools	4,562	6,700	2,138	46.9%
29100	St. Louis Public Schools	4,646	6,700	2,054	44.2%
30010	Camden Frontier Schools	4,283	6,700	2,417	56.4%
30020	Hillsdale Community Public Schools	4,174	6,700	2,526	60.5%
30030	Jonesville Community Schools	4,384	6,700	2,316	52.8%
30040	Litchfield Community Schools	4,530	6,700	2,170	47.9%
30050	North Adams-Jerome Public Schools	4,077	6,700	2,623	64.4%
30060	Pittsford Area Schools	4,545	6,700	2,155	47.4%
30070	Reading Community Schools	4,135	6,700	2,565	62.0%
30080	Waldron Area Schools	4,719	6,700	1,981	42.0%
31010	Hancock Public Schools	4,096	6,700	2,605	63.6%
31020	Adams Township School District	4,321	6,700	2,379	55.1%
31030	Calumet Public Schools	3,858	6,700	2,842	73.7%
31050	Chassell Township School District	4,092	6,700	2,608	63.7%
31100	Dollar Bay-Tamarack City Area Schools	4,413	6,700	2,287	51.8%
31110	Houghton-Portage Township Schools	4,248	6,700	2,452	57.7%
31130	Lake Linden Hubbell School District	4,033	6,700	2,667	66.1%
31140	Stanton Township School District	3,842	6,700	2,858	74.4%
32010	Bad Axe Public Schools	3,590	6,700	3,110	86.7%
32040	Church School District	2,826	6,700	3,874	137.1%
32050	Elkton Pigeon Bayport School District	4,486	6,700	2,214	49.4%
32060	Harbor Beach Community Schools	4,588	6,700	2,112	46.0%
32080	North Huron School District	4,951	6,700	1,749	35.3%
32170	Ubly Community Schools	3,814	6,700	2,886	75.6%
32250	Bloomfield Township School District 7F	4,272	6,700	2,428	56.8%
32610	Sigel Twp School Dist #3 - Adams School	2,762	6,700	3,938	142.6%
32620	Sigel Twp School District #4	3,982	6,700	2,718	68.3%
32650	Verona Township School District 1F	3,286	6,700	3,414	103.9%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
33100	Leslie Public Schools	4,624	6,700	2,076	44.9%
33200	Stockbridge Community Schools	4,563	6,700	2,137	46.8%
33220	Webberville Community Schools	4,834	6,700	1,866	38.6%
34010	Ionia Public Schools	4,229	6,700	2,471	58.4%
34040	Palo Community School District	4,437	6,700	2,263	51.0%
34080	Belding Area School District	4,053	6,700	2,647	65.3%
34090	Lakewood Public Schools	4,323	6,700	2,377	55.0%
34110	Portland Public School District	4,443	6,700	2,257	50.8%
34120	Saranac Community Schools	4,020	6,700	2,680	66.7%
34140	Berlin Twp School District #3	4,513	6,700	2,187	48.4%
34340	Easton Twp School District 6#	3,737	6,700	2,963	79.3%
34360	Ionia Twp School District #2	3,926	6,700	2,774	70.6%
35010	Oscoda Area Schools	4,317	6,700	2,383	55.2%
35020	Hale Area Schools	4,848	6,700	1,852	38.2%
35030	Tawas Area Schools	4,086	6,700	2,614	64.0%
35040	Whittemore Prescott Area School District	3,985	6,700	2,715	68.1%
36015	Forest Park School District	4,850	6,700	1,850	38.1%
36025	West Iron County School District	4,690	6,700	2,010	42.9%
37040	Beal City School	4,707	6,700	1,993	42.3%
37060	Shepherd Public School District	4,640	6,700	2,060	44.4%
38010	Western School District	4,761	6,700	1,939	40.7%
38020	Vandercook Lake Public Schools	4,437	6,700	2,263	51.0%
38040	Columbia School District	4,456	6,700	2,244	50.3%
38050	Grass Lake Community Schools	4,773	6,700	1,927	40.4%
38080	Concord Community Schools	4,669	6,700	2,031	43.5%
38090	East Jackson Public Schools	4,850	6,700	1,850	38.1%
38100	Hanover Horton Schools	4,237	6,700	2,463	58.1%
38120	Michigan Center School District	4,788	6,700	1,912	39.9%
38130	Napoleon Community Schools	4,503	6,700	2,197	48.8%
38140	Northwest School District	4,153	6,700	2,547	61.3%
38150	Springport Public Schools	4,379	6,700	2,321	53.0%
39020	Climax Scotts Community Schools	4,944	6,700	1,756	35.5%
39030	Comstock Public Schools	4,858	6,700	1,842	37.9%
39065	Gull Lake Community Schools	4,722	6,700	1,978	41.9%
39130	Parchment School District	4,923	6,700	1,777	36.1%
39140	Portage Public Schools	4,738	6,700	1,962	41.4%
39160	Schoolcraft Community Schools	4,422	6,700	2,278	51.5%
39170	Vicksburg Community Schools	4,410	6,700	2,290	51.9%
40020	Forest Area Community School District	3,919	6,700	2,781	71.0%
40040	Kalkaska Public Schools	3,920	6,700	2,780	70.9%
40060	Excelsior District #1	3,727	6,700	2,973	79.8%
41025	Northview Public School District	4,769	6,700	1,931	40.5%
41026	Wyoming Public Schools	4,952	6,700	1,748	35.3%
41070	Cedar Springs Public Schools	4,172	6,700	2,528	60.6%
41130	Grandville Public Schools	4,468	6,700	2,232	49.9%
41140	Kelloggsville Public Schools	4,559	6,700	2,141	47.0%
41150	Kent City Community Schools	4,380	6,700	2,320	53.0%
41170	Lowell Area School District	4,577	6,700	2,123	46.4%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
41210	Rockford Public Schools	4,402	6,700	2,298	52.2%
41240	Sparta Area Schools	4,448	6,700	2,252	50.6%
44010	Lapeer Community Schools	4,496	6,700	2,204	49.0%
44020	Almont Community Schools	4,152	6,700	2,548	61.4%
44050	Dryden Community Schools	4,785	6,700	1,915	40.0%
44060	Imlay City Community Schools	4,102	6,700	2,598	63.3%
44090	North Branch Area Schools	4,198	6,700	2,502	59.6%
45050	Suttons Bay Public School District	4,087	6,700	2,613	63.9%
46010	Adrian City School District	4,825	6,700	1,875	38.9%
46040	Blissfield Community Schools	4,483	6,700	2,217	49.5%
46060	Clinton Community Schools	4,225	6,700	2,475	58.6%
46070	Deerfield Public Schools	4,763	6,700	1,937	40.7%
46080	Hudson Area Schools	4,303	6,700	2,397	55.7%
46100	Morenci Area Schools	4,525	6,700	2,175	48.1%
46110	Onsted Community Schools	4,484	6,700	2,216	49.4%
46140	Tecumseh Public Schools	4,874	6,700	1,826	37.5%
47030	Fowlerville Community Schools	4,534	6,700	2,166	47.8%
47070	Howell Public Schools	4,803	6,700	1,897	39.5%
47080	Pinckney Community Schools	4,403	6,700	2,297	52.2%
48040	Tahquamenon Area Schools	4,108	6,700	2,592	63.1%
49010	St. Ignace City School District	4,242	6,700	2,458	57.9%
50040	Anchor Bay School District	4,785	6,700	1,915	40.0%
50080	Chippewa Valley Schools	4,880	6,700	1,820	37.3%
50180	Richmond Community Schools	4,758	6,700	1,942	40.8%
51020	Bear Lake School District	4,679	6,700	2,021	43.2%
51045	Kaleva Norman - Dickson Schools	3,975	6,700	2,725	68.6%
51070	Manistee Area Public Schools	3,923	6,700	2,778	70.8%
52015	N.I.C.E. Community Schools	4,965	6,700	1,735	34.9%
52040	Gwinn Area Community Schools	3,782	6,700	2,918	77.2%
52090	Negaunee Public Schools	4,560	6,700	2,140	46.9%
52170	Marquette City School District	4,153	6,700	2,547	61.3%
52180	Ishpeming Public School District	4,162	6,700	2,538	61.0%
53010	Mason County Central School District	4,358	6,700	2,342	53.7%
53020	Mason County Eastern School District	4,418	6,700	2,282	51.7%
53030	Freesoil Community School District	4,355	6,700	2,345	53.8%
54010	Big Rapids Public Schools	4,406	6,700	2,294	52.1%
54025	Chippewa Hills School District	4,553	6,700	2,147	47.2%
54040	Morley Stanwood Comm Schools	3,962	6,700	2,738	69.1%
55010	Carney Nadeau Public Schools	4,084	6,700	2,616	64.1%
55100	Menominee Area Public Schools	4,417	6,700	2,283	51.7%
55115	North Central Area Schools	4,349	6,700	2,351	54.1%
55120	Stephenson Area Public Schools	3,992	6,700	2,708	67.8%
56020	Bullock Creek School District	4,751	6,700	1,949	41.0%
56030	Coleman Community School District	4,559	6,700	2,141	47.0%
56050	Meridian Public Schools	4,572	6,700	2,128	46.5%
57020	Lake City Area School District	3,935	6,700	2,765	70.3%
57030	Mcbain Agricultural School District	4,064	6,700	2,636	64.9%
58020	Airport Community School District	4,446	6,700	2,254	50.7%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
58030	Bedford Public School District	4,378	6,700	2,322	53.0%
58050	Dundee Community Schools	4,239	6,700	2,461	58.1%
58070	Ida Public School District	4,429	6,700	2,271	51.3%
58090	Mason Consolidated School District	4,382	6,700	2,318	52.9%
58100	Summerfield School District	4,326	6,700	2,374	54.9%
59020	Carson City Crystal Area School District	4,761	6,700	1,939	40.7%
59045	Montabella Community School District	4,301	6,700	2,399	55.8%
59070	Greenville Public Schools	4,244	6,700	2,456	57.9%
59080	Tri County Area Schools	4,064	6,700	2,636	64.9%
59090	Lakeview Community Schools	4,037	6,700	2,663	66.0%
59125	Central Montcalm Public Schools	4,612	6,700	2,088	45.3%
59150	Vestaburg Community Schools	4,246	6,700	2,454	57.8%
60010	Atlanta Community Schools	4,510	6,700	2,190	48.6%
60020	Hillman Community Schools	4,085	6,700	2,615	64.0%
61060	Mona Shores School District	4,626	6,700	2,074	44.8%
61065	Oakridge Public Schools	4,347	6,700	2,353	54.1%
61080	Fruitport Community Schools	4,869	6,700	1,831	37.6%
61120	Holton Public Schools	4,009	6,700	2,691	67.1%
61180	Montague Area Public Schools	4,363	6,700	2,337	53.6%
61210	Ravenna Public Schools	4,775	6,700	1,925	40.3%
61220	Reeths Puffer Schools	4,500	6,700	2,200	48.9%
61240	Whitehall School District	4,660	6,700	2,040	43.8%
62040	Fremont Public School District	4,507	6,700	2,193	48.7%
62050	Grant Public School District	4,418	6,700	2,282	51.6%
62060	Hesperia Community School District	4,337	6,700	2,363	54.5%
62070	Newaygo Public School District	4,182	6,700	2,518	60.2%
62090	White Cloud Public Schools	4,482	6,700	2,218	49.5%
62470	Big Jackson School District	4,552	6,700	2,148	47.2%
63180	Brandon School District	4,719	6,700	1,981	42.0%
63210	Holly Area School District	4,844	6,700	1,856	38.3%
64040	Hart Public School District	4,236	6,700	2,464	58.2%
64080	Shelby Public Schools	4,412	6,700	2,288	51.8%
64090	Walkerville Rural Community Schools	4,331	6,700	2,369	54.7%
65045	West Branch-Rose City Area Schools	3,978	6,700	2,722	68.4%
66045	Ewen-Trout Creek Consolidated Schools	4,237	6,700	2,463	58.1%
66050	Ontonagon Area Schools	4,237	6,700	2,463	58.1%
67020	Evart Public Schools	4,225	6,700	2,475	58.6%
67050	Marion Public Schools	4,068	6,700	2,632	64.7%
67055	Pine River Area Schools	4,584	6,700	2,116	46.1%
67060	Reed City Area Public Schools	4,051	6,700	2,649	65.4%
68010	Mio Au Sable Schools	3,746	6,700	2,954	78.9%
68030	Fairview Area School District	4,315	6,700	2,385	55.3%
69020	Gaylord Community Schools	4,419	6,700	2,281	51.6%
69040	Vanderbilt Area School	4,193	6,700	2,507	59.8%
70040	Allendale Public School District	4,796	6,700	1,904	39.7%
70070	West Ottawa Public School District	4,888	6,700	1,812	37.1%
70120	Coopersville Public School District	4,013	6,700	2,687	67.0%
70175	Jenison Public Schools	4,451	6,700	2,249	50.5%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
70190	Hudsonville Public School District	3,887	6,700	2,813	72.4%
70350	Zeeland Public Schools	4,653	6,700	2,047	44.0%
71050	Onaway Area Community School District	3,398	6,700	3,302	97.2%
71060	Posen Cons School District	4,501	6,700	2,199	48.9%
71080	Rogers City Area Schools	3,943	6,700	2,757	69.9%
72010	Gerrish Higgins School District	4,129	6,700	2,571	62.3%
72020	Houghton Lake Comm Schools	4,797	6,700	1,903	39.7%
73030	Carrollton School District	4,707	6,700	1,993	42.4%
73040	Saginaw Township Community Schools.	4,797	6,700	1,903	39.7%
73110	Chesaning Union Schools	4,779	6,700	1,921	40.2%
73170	Birch Run Area School District	4,277	6,700	2,423	56.7%
73180	Bridgeport-Spaulding Community Schools	4,858	6,700	1,842	37.9%
73200	Freeland Community School District	4,249	6,700	2,451	57.7%
73210	Hemlock Public School District	4,598	6,700	2,102	45.7%
73230	Merrill Community School District	4,623	6,700	2,077	44.9%
73240	St. Charles Community Schools	4,524	6,700	2,176	48.1%
73255	Swan Valley School District	4,504	6,700	2,196	48.8%
74010	Port Huron Area School District	4,554	6,700	2,146	47.1%
74030	Algonac Community School District	4,914	6,700	1,787	36.4%
74040	Capac Community School District	4,247	6,700	2,453	57.8%
74100	Marysville Public School District	4,684	6,700	2,016	43.0%
74120	Memphis Community Schools	4,833	6,700	1,867	38.6%
74130	Yale Public Schools	4,552	6,700	2,148	47.2%
75010	Sturgis Public School District	4,308	6,700	2,392	55.5%
75020	Burr Oak Community School District	4,412	6,700	2,288	51.8%
75030	Centreville Public Schools	4,967	6,700	1,733	34.9%
75040	Colon Community School District	4,178	6,700	2,522	60.4%
75050	Constantine Public School District	4,281	6,700	2,419	56.5%
75060	Mendon Community School District	4,449	6,700	2,251	50.6%
75070	White Pigeon Community School District	3,975	6,700	2,725	68.6%
75080	Three Rivers Community Schools.	4,156	6,700	2,544	61.2%
75100	Nottawa Community School	3,776	6,700	2,924	77.5%
76060	Brown City Community School District	4,281	6,700	2,419	56.5%
76070	Carsonville-Port Sanilac School District	4,024	6,700	2,676	66.5%
76080	Croswell Lexington Community Schools	3,934	6,700	2,766	70.3%
76090	Deckerville Community School District	4,099	6,700	2,601	63.4%
76140	Marlette Community Schools	4,428	6,700	2,272	51.3%
76180	Peck Community School District	4,115	6,700	2,585	62.8%
76210	Sandusky Community School District	4,206	6,700	2,494	59.3%
77010	Manistique Area Schools	4,329	6,700	2,371	54.8%
78020	Byron Area Schools	4,504	6,700	2,196	48.8%
78030	Durand Area Schools	4,559	6,700	2,141	47.0%
78040	Laingsburg Community School District	4,911	6,700	1,789	36.4%
78060	Morrice Area Schools	4,808	6,700	1,892	39.4%
78070	New Lothrop Area Public School District	4,730	6,700	1,970	41.6%
78080	Perry Public School District	4,534	6,700	2,166	47.8%
78100	Corunna Public School District	4,827	6,700	1,873	38.8%
78110	Owosso Public Schools	4,226	6,700	2,474	58.6%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
79010	Akron Fairgrove Schools	4,485	6,700	2,215	49.4%
79020	Caro Community Schools	4,350	6,700	2,350	54.0%
79030	Cass City Public Schools	4,048	6,700	2,652	65.5%
79080	Kingston Community School District	4,193	6,700	2,507	59.8%
79090	Mayville Community School District	4,607	6,700	2,093	45.4%
79100	Millington Community Schools	4,710	6,700	1,990	42.2%
79110	Reese Public Schools	4,250	6,700	2,450	57.7%
79145	Unionville Sebewaing Area Schools	4,664	6,700	2,036	43.6%
79150	Vassar Public Schools	4,185	6,700	2,515	60.1%
80010	South Haven Public Schools	3,819	6,700	2,881	75.4%
80020	Bangor Public Schools	3,954	6,700	2,746	69.5%
80050	Decatur Public Schools	4,112	6,700	2,588	63.0%
80090	Bloomingdale Public School District	4,087	6,700	2,613	63.9%
80110	Gobles Public School District	4,588	6,700	2,112	46.0%
80120	Hartford Public School District	4,521	6,700	2,179	48.2%
80130	Lawrence Public School District	4,412	6,700	2,288	51.9%
80140	Lawton Community School District	4,443	6,700	2,257	50.8%
80150	Mattawan Consolidated School District	3,891	6,700	2,809	72.2%
80160	Paw Paw Public School District	3,825	6,700	2,875	75.2%
81070	Lincoln Consolidated School District	4,978	6,700	1,722	34.6%
81100	Milan Area Schools	4,958	6,700	1,742	35.1%
81140	Whitmore Lake Public School District	4,438	6,700	2,262	51.0%
82040	Dearborn Heights School District #7	4,771	6,700	1,929	40.4%
82060	Hamtramck Public Schools	4,526	6,700	2,174	48.0%
82090	Lincoln Park Public Schools	4,849	6,700	1,851	38.2%
82170	Wyandotte City School District	4,810	6,700	1,890	39.3%
83010	Cadillac Area Public Schools	4,270	6,700	2,430	56.9%
83060	Manton Consolidated Schools	4,265	6,700	2,435	57.1%
83070	Mesick Consolidated School District	3,805	6,700	2,895	76.1%

(1) Includes section 20j payment

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EXHIBIT C

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STATE OF MICHIGAN
IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Court of Appeals No. 334663

Plaintiffs,

v

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants.

AFFIDAVIT OF PATRICK MCCARTHY

State of Michigan)
)ss.
County of Ingham)

Patrick McCarthy, being first duly sworn, deposes and says as follows:

1. I am over the age of eighteen and have personal knowledge of the facts stated in this Affidavit and, if sworn as a witness, I am competent to testify to these facts.

2. I am employed by the Michigan Department of Transportation (MDOT) as the Division Administrator of the Financial Operations Division. I have held this position since May 2016. Prior to that, I was employed as Manager of the Project Accounting and Financial Support Section with MDOT and held that position for 6 years.

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3. In my current position, I am responsible for MDOT's budget development and serve as the Chief Financial Officer. I oversee the project accounting for over $1 billion of road and bridge, aeronautics, and multi-modal projects, oversee the distribution of over $1 billion of Michigan Transportation Fund (MTF) funds annually to local road agencies, develop bond official statements, and maintain specialized accounts receivable.

4. MDOT has jurisdiction over more than 9,500 miles of roads, known collectively as the state trunkline system, which is comprised of M-, US-, and I-designated roadways and over 4,500 bridges. Roads not designated as trunkline are locally owned and local municipalities are responsible for maintenance and capital improvements.

5. MDOT, through MCL 247.651 et seq. (Act 51), which is the State's comprehensive transportation statute, has various transportation related duties and transportation funds to administer.

6. Among its duties, MDOT is responsible for the maintenance of state trunkline roads, including but not limited to repairs, construction, snow removal, and right of way maintenance.

7. MDOT meets its obligations to maintain trunkline roads through a combination of its own workers and equipment and contracts with 64 county road commissions that maintain trunkline roads located in their respective counties. These agreements are commonly known as County Maintenance Contracts.

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8. MDOT also oversees certain transportation funds found in Act 51 and disbursements made from those funds under the requirements of Act 51. These funds include but are not limited to the Michigan Transportation Fund (MTF), the Comprehensive Transportation Fund (CTF), the State Trunkline Fund (STF), the Transportation Economic Development Fund (TEDF), and various other sub funds. Each fund created by Act 51 provides how certain transportation revenue will be allocated and for what general transportation purposes, subject to sufficient annual appropriations by the Legislature.

9. Among the spending provisions found in Act 51 are funds that MDOT disburses to Local Governments for local transportation projects and local purposes.

10. When a contractual payment is made to a local road commission for maintenance or work done on a state trunkline road that payment is made from the STF. Likewise, expenses for MDOT's employees and equipment related to maintaining state trunkline roads are also paid from the STF. Those aggregated expenses are found in the 2015 Budget Bill, PA 84 2015, Art. XVII §110 under Highway Maintenance. For 2015, the aggregate amount appropriated for trunkline road maintenance was $310,692,000, all of which was from the STF.

11. None of the contractual payments to Local Governments for maintenance of trunkline roads were included in § 201 as spending to Local Governments for purposes of Const 1963, art 9, § 30.

12. The payments listed in the 2015-16 § 201 report that came from or through the STF that were counted as spending to Local Governments for purposes

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of Headlee § 30 include: grants to local programs ($33,000,000), the local bridge program ($26,828,600), and spending by the economic development fund ($23,385,200). The total appropriation for spending to Local Governments from the STF was $83,213,800. None of this spending from the STF was through contractual agreements with Local Governments to maintain state trunkline roads. All of this spending was for local transportation projects.

I DECLARE THE ABOVE STATEMENTS TO BE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. FURTHER AFFIANT SAYETH NOT.

Patrick McCarthy, Division Administrator
Financial Operations Division
Michigan Department of Transportation

Subscribed and sworn to before me
this 1 day of November, 2016.

Rose M. Cowin
_____, Notary Public
Ingham County, Michigan
My Commission expires: November 16, 2022
Acting in the county of _____

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

Supreme Court Case No. 160658

v.

Court of Appeals Case No. 334663

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

APPENDIX – VOLUME 4
PLAINTIFFS-APPELLANTS APPENDIX TO TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

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(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

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Brief in Support of Answer to Complaint w/ Exhibits A-C, Filed Nov 1, 2016 (Doc No 25)	00317a-00516a
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Reply Brief in Support of Complaint, Filed Dec 21, 2016 (Doc No 33)	00517a-00531a
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Exhibit 5, Table D: *Shortfalls in Adjusted State Payments Increase Since Proposal A,* Filed Dec 6, 2017 (Doc 71)	00801a-00802a
Exhibit 6, Affidavit of Robert Kleine, Filed Dec 6, 2017 (Doc 71)	00803a-00814a
Exhibit 7, Affidavit of Mitchell Bean, Filed Dec 6, 2017 (Doc 71)	00815a-00824a
Exhibit 13, *Headlee Criticizes Proposal A As Tax Shift And Tax Increase*, The Detroit News, May 14, 1993, at 2B Filed Dec 6, 2017 (Doc 71)	00825a-00827a
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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.
_____/

REPLY BRIEF ON NEW ISSUES/AFFIRMATIVE DEFENSES RAISED BY DEFENDANTS' ANSWERING BRIEF

NOW COME Plaintiffs, Taxpayers for Michigan Constitutional Government, Steve Duchane, Randall Blum, Sara Kandel, by and through their attorneys and for their *Reply Brief on New Issues Raised by Defendants' Answering Brief* do hereby state as follows,

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I. STATEMENT OF ISSUES PRESENTED

1. DO PLAINTIFFS HAVE STANDING TO BRING A MANDAMUS CLAIM TO ENFORCE THE HEADLEE AMENDMENT'S IMPLEMENTING LEGISLATION WHEN SUCH CLAIM IS BROUGHT WITH A CLAIM UNDER THE CONSTITUTIONAL PROVISIONS GIVING RISE TO THE IMPLEMENTING LEGISLATION?

   Plaintiffs Answer: Yes
   Defendants Answer: No

2. DO PLAINTIFFS MEET MICHIGAN COURT RULES 7.206(E)(1)(a) AND 2.112(M)'S PLEADING REQUIREMENTS WHERE EACH CLAIM INVOLVES DEFENDANTS' VIOLATIONS OF ART. 9, § 30 OF MICHIGAN'S 1963 CONSTITUTION?

   Plaintiffs Answer: Yes
   Defendants Answer: No

3. IS APPLICATION OF RES JUDICATA IMPROPER WHERE DEFENDANTS CANNOT SHOW A SINGLE PRIOR CASE WHERE PLAINTIFFS ARE IN PRIVITY TO ANY PRIOR PARTIES AND WHERE THE PENDING CLAIM CLEARLY DOES NOT ARISE FROM THE SAME TRANSACTION AS ANY PRIOR CASE?

   Plaintiffs Answer: Yes
   Defendants Answer: No

II. DISCUSSION

A. Plaintiffs Possess Legal Standing to Request Mandamus Relief When Defendants Violate Implementing Legislation of The Headlee Amendment.

Plaintiffs allege that Defendants have failed to comply with the clear legal requirements set forth in MCL 21.235, MCL 21.241, and MCL 21.242. (Pls' Compl, at 14-16 and 22, ¶¶ 83, 86-90, 121). Defendants improperly assert that Plaintiffs lack standing to enforce a statutory obligation due from one branch of state government to another. Much of Defendants' argument rests on *Waterford School Dist v State Bd of Educ*, 130 Mich App 614 (1983). Defendants however misinterpret this case and do not give proper weight and deference to the conferral of standing and explicit cause of action created under art. 9, § 32.

The Michigan Constitution provides that:

> Any taxpayer of the state shall have standing to bring suit in the Michigan State Court of Appeals to enforce the provisions of Sections 25 through 31, inclusive, of this Article and, if the suit is sustained, shall receive from the applicable unit of government his costs incurred in maintaining such suit. Const 1963, art 9, § 32.

To be entitled to relief, a Plaintiff must have standing. "Standing is the legal term used to denote the existence of a party's interest in the outcome of a litigation; an interest that will assure sincere and vigorous advocacy." *Waterford Sch Dist v State Bd of Educ*, 98 Mich App 658, 662 (1980). Defendants further cite *Waterford* as precedent for a limitation on Plaintiffs standing to vindicate a public wrong or enforce a public right where Plaintiff is not hurt in any manner differently than the citizenry at large. However, it appears that Defendants failed to continue reading the rest of *Waterford*. The proposition cited by Defendants was set out by this Court to contrast it with the constitutional and statutory changes that have been made to standing requirements in Michigan. *Waterford Sch Dist*, 98 Mich App at 663.

Defendants also fail to address the decision in *Lansing Sch Educ. Ass'n v Lansing Bd. of Educ*, where the Michigan Supreme Court held that anytime there exists a legal cause of action, the plaintiff has standing. 487 Mich 349, 372 (2010). Defendants argue that Plaintiffs must show harm that is different from the harm to the public at large, however, that is not the law where there is an explicit cause of action. Article 9, § 32 creates a legal cause of action to enforce art 9, §§ 25-34 and its associated implementing legislation, which is integral to the enforcement of the constitutional provisions. *Lansing Sch Educ Ass'n* 487 Mich 349, 372 (2010).

The Constitution states:

> The Legislature shall implement the provisions of Sections 25 through 33, inclusive, of this Article. Const 1963, art 9, § 34.

Article 9, §§ 25-33 are not self-executing. *Durant v. State Bd. of Educ.*, 424 Mich 364, 381(1985).

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In order for Plaintiffs, and taxpayers generally, to hold State government accountable to the requirements of art 9, §§ 25-34, the State must be mandated to comply with its implementing legislation. The Supreme Court and this Court have repeatedly recognized the Headlee Amendment as a "taxpayer revolt." *Durant v State Bd. of Educ*, 424 Mich 364, 378 (1985); *Oakland Cty. v Dep't of Mental Health*, 178 Mich App 48, 53 (1989). It is inconsistent with this judicially recognized intent to hold that taxpayers are entitled to enforce the constitution, but are not entitled to enforce the implementing legislation requiring the State to give taxpayers the information necessary for such enforcement. The Section 30 Compliance Report prepared by Defendants, which is mandated by MCL 18.1497, contains the following representation,

> [T]he reports have been presented in accordance with the *legal requirements* set forth in Sections…18.1497 of the Michigan Complied Laws. These Sections provide statutory language *to implement Article 9, Section 30* of the State Constitution. Ex 1 of Pls' Compl. (emphasis added).

The implementing legislation is a necessary and integral part of the interpretation, implementation, and enforcement of the Headlee Amendment. *Durant v. State Bd. of Educ*, 424 Mich 364, 381(1985).

While mandamus may be an extraordinary remedy, it should be remembered that art 9, § 32 is an extraordinary constitutional provision. At no time in the State's history has the Michigan Constitution included an explicit cause of action for taxpayers to enforce the Constitution's provisions, other than the rights granted to taxpayers under § 32. The People of the State of Michigan thought it imperative to grant to the taxpayers of this State the responsibility of holding the State accountable. It is inconsistent with the intent of the People to hold that the taxpayers are entitled to enforce art. 9, §§ 25-34 under art. 9, § 32, but are not entitled to the information required to be furnished under the implementing legislation of those sections.

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B. Plaintiffs Meet Michigan Court Rule Pleading Requirements For Their Claims Challenging Defendants' improper and Inaccurate Article 9, § 30 Calculations.

Claimants seeking enforcement pursuant to art 9, § 32 of the 1963 Michigan Constitution must "conform[] with the special pleading requirements of MCR 2.112(M)." MCR 7.206(E)(1)(a). The first sentence of MCR 2.112(M) applies to counts I-IV of Plaintiffs' Complaint and provides:

> In an action brought pursuant to Const 1963, art 9, § 32, alleging a violation of Const 1963, art 9, §§ 25-34, the pleadings shall set forth with particularity the factual basis for the alleged violation or a defense and indicate whether there are any factual questions that are anticipated to require resolution by the court. MCR 2.112(M).

Plaintiffs claim and Defendants admit that Proposal A spending and payments to public school academies are included within the amount of state spending in the form of aid that is paid to Local Governments. The Parties' dispute regarding whether certain payments to county road commissions for state trunk line roads and for other state obligations is within state calculations is irrelevant to the issue of whether Plaintiffs sufficiently state a claim under § 30.

Plaintiffs also specifically identify in Count IV of their Complaint the mandates involved in *Mahaffey v Attorney Gen*, 222 Mich App 325 (1997), *Durant v State of Michigan*, 456 Mich 175 (1997) and *Adair v State*, 486 Mich 468 (2010) as being included in Defendants' calculation of the amount of state spending in the form of aid that is paid to Local Governments under § 30. Defendants admit that the State payments made in *Mahaffey*, *Durant* and *Adair* were to fund mandates to Local Governments and, thereafter, the payments were included in calculating the § 30 proportion of state spending that is paid to Local Governments. (D's Ans. Brief at 6, ¶ 3 and 7, ¶ 1). Funding of mandates is not permitted to be included in calculating the § 30 proportion, since doing so reduces the proportion of funding to which Local Governments are otherwise entitled.

No further proof with respect to the extent of Plaintiffs' harm is necessary to sustain

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Plaintiffs' claims concerning Defendants' accounting practice of counting the payment items identified in Counts I - IV of Plaintiff's Complaint. Plaintiffs' claims can be established merely by proving that Defendants' calculations were improperly made since, as Defendants' acknowledge, Plaintiffs' claims present legal issues concerning whether Defendants properly include certain categories of state spending within their calculations of the amount of state spending in the form of aid that is paid to Local Governments.

Finally, Plaintiffs fulfill MCR 7.206(E)(1)(a)'s pleading requirements by requesting discovery and development of a factual record for Counts I - IV of Plaintiffs' Complaint.

Defendants' attempt to reframe Plaintiffs' properly pleaded claims alleging Defendants' improper calculation of the proportion of total state spending paid to all units of Local Government as involving either: 1) state mandates to Local Governments to provide new services without corresponding state funding (Provision on Unfunded Mandates, or "POUM"); or 2) state reduction of the state-financed proportion of the necessary costs of existing activities or services required of Local Governments by state law (Maintenance of Support Provision, or "MOS") under MCR 2.112(M). (Answr at 20, ¶¶ 15, 16; D's Ans. Brief at 14-16). POUM and MOS claims are art 9 §29 claims **not** art 9 §30 claims which are alleged in this case.

Defendants fail to distinguish between pleading standards for actions challenging the State's characterization of state spending paid to Local Governments as in this case and *Oakland County v Dept of Mental Health*, 178 Mich App 48 (1989) and those requiring heightened pleading requirements under MCR 2.112(M) for POUM or MOS claims as in the *Durant* and *Adair* decisions. Defendants' misguided interpretation of Headlee Amendment precedent mischaracterizes Plaintiffs' allegations and improperly seeks to impose § 29 standards of pleading on Plaintiffs' properly pleaded § 30 claims by incorrectly suggesting that only one applicable

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pleading standard exists for all Headlee Amendment actions.

Plaintiffs may not, however, adopt Defendants' recommended pleading standards for either PUOM or MOS claims under MCR 2.112(M) as Plaintiffs' claims in the present case unequivocally involve violations of art. 9, § 30, read in conjunction with § 25. Finally, Defendants overlook MCR 2.112(M)'s directive that the pleading standards they urge Plaintiffs to adopt apply solely to "action[s] involving Const 1963, art 9, § 29." MCR 2.112(M).

Plaintiffs seeking enforcement under § 32 have a right to have the § 30 proportion properly calculated by Defendants as well as Defendants' payments made to items ineligible to be counted excluded from the § 30 calculation. Defendants' improper application of MCR 7.206(E)(1)(a) and 2.112(M) to Counts I-IV of Plaintiffs' Complaint would deprive Plaintiffs of relief afforded them under art. 9, § 32 of Michigan's 1963 Constitution. (See *supra*, p 2, ¶ 1)

C. Res Judicata Does Not Apply to Any of Plaintiffs' Claims.

Defendants wholly fail to meet ***their burden*** of showing the applicability of res judicata to any of Plaintiffs' claims. "[T]he burden of proving the applicability of res judicata is on the party asserting it." *Sloan v Madison Heights*, 425 Mich 288, 295 (1986). Here, the Defendants bear that burden and have not met it.

To invoke res judicata, the proponent must show three elements. The Michigan Supreme Court requires Defendants to show that: (1) the prior action was decided on the merits; (2) both actions involve the same parties or their privies, and (3) matters in the second case that arising out of the same transaction as the first case were, or could have been, resolved in the first. *Washington v Sinai Hosp*, 478 Mich 412, 418 (2007) (citations omitted). See also *Adair v Michigan*, 470 Mich 105, 121 (2004) and *Dart v Dart*, 460 Mich 573, 586 (1999).

While Michigan adopts a "broad" approach to res judicata through expanded application

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of the third element, our courts have not adopted the cursory application of res judicata that the Defendants' suggest. Rather, all three elements must be rigorously met before the defense applies.

Defendants seek to marshal the *Adair* line of cases in support of res judicata. Defendants however fail to identify which specific case they are arguing bars the present action. A review of each reveals that none apply.

- In *2004 Adair*, school districts and taxpayers brought suit based on alleged violations of Mich. Const. art. 9, § 29. *Adair v State*, 470 Mich 105 (2004). Plaintiffs' allegations were based on the costs of: a) seven new administrative rules requiring new special education activities; b) Mich. Comp. Laws § 380.1284, requiring an increase in the hours of pupil instruction; and c) record keeping requirements related to the creation of Michigan's Center for Educational Performance and Information (CEPI) by Mich. Exec. Order No. 2000-9. *Id* at 115.
- In *Adair I*, school districts and taxpayers again brought suit based on alleged violations of Mich. Const. art. 9, § 29. *Adair v State*, 486 Mich 468 (2010). Plaintiffs' allegations were based on the costs of recordkeeping and reporting requirements imposed by Mich. Exec. Order 2000-9, which created the CEPI, and MCL 388.1752 which required school districts to maintain records and report information to the CEPI. *Id* at 473-474.
- In *Adair II*, school districts and taxpayers again brought suit based on alleged violations of Mich. Const. art. 9, § 29. *Adair v State*, 497 Mich 89 (2014). Plaintiffs alleged that the State failed to fund the costs of recordkeeping and reporting requirements related to the CEPI during the 2010-2011 and 2011-2012 fiscal years. *Id* at 97.
- In *Adair III*, the identical school districts and taxpayers that were in the previous *Adair* litigation again brought suit based on alleged violations of Mich. Const. art. 9, § 29. *Adair v Mich Dep't of Ed*, ___ Mich App ___, 2016 Mich. App. LEXIS 1742 (2016). Plaintiffs alleged that the State failed to fund the costs of recordkeeping and reporting requirements related to the CEPI during the 2012-2013, 2013-2014, and 2014-2015 fiscal years. *Id* at 1. The Court of Appeals upheld the special master's application of res judicata, finding that the suit sought to reopen litigation of the base rate established in *Adair II*. *Id* at 14-15.

Defendants wholly fail to meet ***their burden*** to show that any of the parties in the *Adair* cases are in privity to those in the present case or that the present case concerns the same transaction arising from the same operative facts as those in any *Adair* case.

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1. Plaintiffs are Not in Privity to any Parties in a Prior Action.

The second element of res judicata requires "that the parties in the later suit be the same or be those in privity with them." *Adair v State*, 470 Mich. 105, 121 (2004). To establish privity, the present Plaintiffs must be shown "to be so identified in interest with another party that the first **litigant represents the same legal right that the later litigant is trying to assert**." *Id* at 122 (emphasis added). At its *most encompassing and least restrictive*, privity "requires both a 'substantial identity of interests' and a 'working functional relationship' in which the interests of the nonparty are presented and protected by the party in the litigation." *Id* (quoting *Baraga Co v State Tax Comm*, 466 Mich 264, 269 -270 (2002)).

In this case, there is no privity between the Plaintiffs or any of the parties in any prior litigation. No fair analysis could find that the *Adair* litigants represented the same legal right that the Plaintiffs have asserted. Defendants have not articulated any substantial identity of interest or any functional relationship between the Plaintiffs and the parties in *Adair*. And, in no way can the interests of the present Plaintiffs be said to have presented and represented in the *Adair* litigation.

In *Adair*, the plaintiffs were hundreds of school districts – many identical between cases. The individual plaintiffs were taxpayers from within the party school districts. Those cases were art. 9, §29 claims based on unfunded state mandates. If successful, the individual school districts would have received payments for the costs of the mandated activity and this money would have counted against the total allocation of funds to all local governments. Counties, cities and townships would have received none of these funds and likely seen their funding reduced.

In the present case, the claims are based on art. 9, §30 and no school districts are a party. This lawsuit is based on the failure of the State to properly calculate and pay the proper proportion of total state spending to all units of Local Government, *taken as a group* – including counties,

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cities, and townships. The group interests of funding for all units of Local Government rather than increased funding for a specific subgroup (school districts) that may detract from the amount allocated to the other subgroups (counties, cities, townships, etc.) clearly has the potential for conflict such that it cannot be found, as a matter of law, that the Plaintiffs in this case were represented and protected by the parties in the *Adair* litigation

2. Same Transaction or Occurrence That Could Have Been

The Michigan Supreme Court "has taken a broad approach … holding that it bars not only claims already litigated, but also every claim **arising from the same transaction** that the parties, could have raised but did not." *Adair v State*, 470 Mich at 121 (emphasis added). The present claim was not litigated in any previous lawsuit. As a result, the Defendants must prove that Plaintiffs' claim arises from the same transaction as the claims in the *Adair* cases.

Defendants thus must meet "the "**transactional test.**"[1] *Washington v Sinai Hosp*, 478 Mich 412, 420 (2007) (emphasis added); See also *Askew v Ann Arbor Public Schools*, 431 Mich 714, 731-732 (1988) (emphasis added). Under the test, the matter concerns the same transaction as the prior claim when it arises from "**a single group of operative facts**." *Washington,* at 420 (emphasis added) and *Adair*, 470 Mich at 124 (emphasis added). The Michigan Supreme Court clarifies further that courts must pragmatically ask: "**whether the facts are related in time, space, origin or motivation, whether they form a convenient trial unit**." *Adair*, 470 Mich at 125 (emphasis added). The Defendants have not and cannot show that the present case arises from the same transaction and from the same group of operative facts as any of the *Adair* cases.

[1] Notably, the "same transaction" requirement is substantially the same as that for compulsory joinder of claims under MCR 2.203 (A). Res judicata has traditionally be used to bar claims that were required to be joined in a previous action. Defendants seek to expand the doctrine to now also bar claims subject to the rules of permissive joinder under MCR 2.203 (B). If permitted, the doctrine of res judicata would be radically altered to render permissive joinder rules null in Headlee claims with likely unintended results in all other causes of actions.

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None of the *Adair* litigation can be fairly said to arise from the same transaction as the present case. In *2004 Adair*, the case arose from new state-mandated activity arising from seven new administrative rules concerning special education activities; a new statute requiring an increase in the hours of pupil instruction; and CEPI recordkeeping and reporting requirements arising from a new executive order. *Adair I, Adair II,* and *Adair III* related to the same recordkeeping and reporting requirements as *2004 Adair*. Neither the Plaintiffs' claims for relief, nor any of the administrative rules, statutes, or the executive order, nor the facts of the mandated activity underpinning any of the *Adair* claims are at issue in the present case. Since the facts raised by and at issue in the *Adair* cases are unrelated to those in the present case in time, space, origin, motivation and would not form a convenient trial unit, they cannot fairly be found to compose a single operative group of facts and thus, do not arise from the same transaction. Res judicata therefore does not apply.

D. Factual Issues

Defendants' argue that no factual discovery is needed concerning Counts I; Count II; and Count IV. Plaintiffs agree that liability can be determined first, and that factual development would only become necessary to determine the amount of underspending - at the remedy stage.

III. CONCLUSION

Plaintiffs respectfully pray that this Honorable Court enter an order denying Defendants standing, insufficient pleading, and res judicata arguments and grant a briefing schedule to directly proceed to a full hearing on the merits under MCR 7.206 (E)(3) on the legal liability issues raised by Counts I, II, and IV of Plaintiffs' Complaint and that factual development be reserved until after a decision on the merits of the legal issues.

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Respectfully Submitted,

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.
_____/

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2016, I electronically filed the attached *Reply Brief On New Issues/Affirmative Defenses Raised By Defendants' Answering Brief* with the Clerk of the Court using the TrueFiling system, which will send notification of such filing to all electronic case filing participants.

Respectfully Submitted,

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STATE OF MICHIGAN
IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

v

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants.

Court of Appeals No. 334663

DEFENDANTS REPLY TO PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF COMPLAINT

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Dated: January 4, 2017

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I. Plaintiffs' claims, whether under § 29 or § 30, must fail, both procedurally and legally.

A. Heightened pleading requirements apply to all Headlee claims.

MCR 2.112(M) sets a heightened pleading requirement that applies to all Headlee claims, regardless of which section they fall under. While it is true that MCR 2.112(M) requires even further specificity for POUM and MOS claims made under § 29, the rule still requires that all Headlee pleadings for actions brought under § 32 alleging a violation of §§ 25-34 "shall set forth with particularity the factual basis for the alleged violation." These heightened pleading requirements are also incorporated in MCR 7.206(E)(1)(a) for all Headlee enforcement actions. See also *Adair v State*, 497 Mich 89 (2014).

Plaintiffs incorrectly argue that because they are not alleging § 29 claims, they need not comply with the heightened pleading requirements, and fulfill their pleading obligation by requesting discovery and development of a factual record. (Pls' Reply at 5.) This assertion not only ignores, but contravenes MCR 2.112(M)'s requirements. Furthermore, Plaintiffs concede that their claims "present legal issues concerning whether Defendants properly include certain categories of state spending within their calculations of the amount of state spending in the form of aid that is paid to Local Governments." (*Id.*) Despite this concession, however, Plaintiffs still fail to identify which funded mandates they contend were improperly included for purposes of § 30, and fail to identify the funding statutes involved. Therefore, regardless of how they couch their claims – i.e., whether § 29 or § 30, and

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whether strictly legal or in some respects factual – Plaintiffs failed to meet their burden to plead their claims with sufficient specificity. MCR 2.112(M); MCR 7.206(E)(1)(a); *Adair*, 497 Mich 89 (2014).

Finally, the Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government, prepared annually by the State Budget Office and transmitted to the State House and Senate, details the percentage of total state spending allocated to local governments, the basis of accounting, statutory definitions, discussions of revenue sources and adjustments, and Headlee base year calculations. Despite this, and other public reports detailing spending to local governments, Plaintiffs still fail to make specific allegations, but instead erroneously disclaim their responsibility to do so.

B. Plaintiffs concede that this case does not involve § 29 unfunded mandate claims.

In arguing that the pleading requirements of MCR 2.112(M) should not apply to their claims, Plaintiffs concede that their claims are not § 29 unfunded mandate claims. Plaintiffs note that "POUM and MOS claims are art 9 § 29 claims *not* art 9 § 30 claims, which are alleged in this case." (Pls' Reply Br at 5, emphasis in original.) Plaintiffs thus confirm that they are not making any art 9 § 29 claims.

Because Plaintiffs admit that they are not making § 29 claims, this Court should dismiss any claims in the Complaint that present as § 29 claims based on unidentified unfunded mandates; they are either improperly pled or abandoned. (e.g., Pl's Compl ¶ 21, 22, 26, 51, 52, 78-85, 91, 92, passim.)

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C. Plaintiffs' purported § 30 claims lack merit.

The Headlee Amendment only guarantees the local government its proportionate share of the cost of mandated activities and a base proportionate share of total state spending – it does not guarantee an overall net increase in state funding nor does it guarantee any discretionary funds. *Adair v Michigan*, 302 Mich App 305, 321-23 (2013). Section 30 is a straight-forward provision that states, in its entirety, that "the proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978–79." Thus, by its plain text, § 30 does *not* exclude § 29 payments from spending to local governments.

At the time that the Headlee Amendment was enacted, much of the State spending to local governments took the form of discretionary spending (i.e., not earmarked for a specific state mandated activity). However, nothing in the plain language of article 9, §§ 25-34 requires that the Legislature continue to fund local units of government at an amount in excess of constitutional requirements. Likewise, nothing prevents the legislature from reducing non-mandated funding (or discretionary funds) while simultaneously, and perhaps inversely, increasing spending to local governments to cover a new state mandated activity.

Plaintiffs' claim as articulated in the reply – i.e., that funded mandates must be excluded from the § 30 calculation – fails as a matter of law because both the language of § 30 and the case law interpreting it allow its inclusion. Similarly, Plaintiffs cite prior unfunded mandate cases to argue that funded state mandates must, for some reason, be excluded from the § 30 calculation. This position is

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confusing in light of the language and plan of the Headlee Amendment, i.e., that any state spending paid to a local government constitutes "State spending paid to units of local government" for Headlee purposes, and thus is properly included in the § 30 calculation. MCL 18.1304(3).

Moreover, Plaintiffs' exhibits demonstrate that state payments to Local Governments exceeded the constitutional requirements. The excess is documented by the annual State Budget Office report, discussed above. The statement for fiscal year 2015 shows that total state spending paid to units of local government was $16,313,100,000, or 55.25% of total state spending from state sources. (Ex 1 to Pl's Br, at 4.) In other words, the State provided $1.9 billion in excess of what was constitutionally required. (Id.) Plaintiffs have not identified their generic mandates nor have they provided any legal support for excluding those mandates from the § 30 calculation, much less identified $1.9 billion worth.

II. Plaintiffs have not demonstrated standing to seek mandamus.

Plaintiffs still fail to establish a legal right – standing – to seek mandamus and further fail to show that mandamus is an appropriate remedy. Although Michigan law does provide a private cause of action relative to the *constitutional* Headlee provisions, the same cannot be said of the Headlee implementing *statutes*.

Having no statutory cause of action, Plaintiffs seek mandamus citing two statutes, MCL 21.235 and MCL 21.242, both involving interactions between two branches of state government, the executive and the legislature. Neither involves duties or rights directed toward individual taxpayers. Plaintiffs have no right to

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the relief sought; mandamus is improper when the "allegations fail to show that [Plaintiffs] would be adversely affected" by the alleged wrong. *Inglis v Public School Emp Retirement Bd*, 374 Mich 10, 12 (1964).

Plaintiffs cannot proceed past the first requirement for mandamus as they fail to identify "plaintiff's right and defendant's wrong" relative to the cited statutes. *Id* at 12. These are basic elements "necessary to give rise to a cause of action;" there must be a "violation of some positive legal right, or the breach of a legal duty *resulting in damage to plaintiff*.'" *Id* at 12 quoting *Michigan Law and Practice*, Vol 1, Actions, p. 108. Simply put, "a cause or right of action does not arise for the refusal or discontinuance of a public duty which does not inflict special injury on plaintiff." *Id* quoting *CJS Action* § 10, p. 993.

Perhaps for this reason, for more than a century it has been "settled policy . . . to deny the writ of mandamus to compel the performance of public duties by public officers, except where a specific right is involved not possessed by citizens generally." *Id* at 12 quoting *Wilson v Cleveland*, 157 Mich 510, 511 (1909). Plaintiffs fail to meet this standard and lack standing to seek mandamus as to the referenced statutes. Plaintiffs mandamus request should be dismissed.

Finally, Plaintiffs' mandamus request is doubly improper as it relates to MCL 21.235 as Michigan Courts have long held that "mandamus will not lie to compel the Governor to act, regardless of whether the actions sought to be compelled are discretionary or ministerial. *Musselman v Governor of Michigan,* 200 Mich App

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656, 663 (1993) citing *Sutherland v Governor*, 29 Mich 320 (1874); *Germaine v Governor*, 176 Mich 585 (1913); *Born v Dillman*, 264 Mich 440 (1933).

III. Plaintiffs' lawsuit is barred by res judicata.

As a provisional matter, Plaintiffs claim that Defendants have not identified which prior *Adair* case bars the present action. But Defendants made clear that Plaintiffs' claims could have been brought in *any* of the *Adair* or *Durant* actions discussed in Defendants' brief, for which reason this action is barred by any of the prior cases individually, and, concomitantly, collectively.

More fundamentally, Plaintiffs ignore that taxpayers cannot segregate their various Headlee claims by bringing successive Headlee suits arguing alternative theories in each suit. A taxpayer is required to bring all Headlee claims against the State to allow the Court to make a single decision on all issues rather than through piecemeal litigation that could have conflicting results.

A. Plaintiffs are in privity with the *Adair/Durant* taxpayers.

Plaintiffs claim that the *Adair* litigants[1] did not represent the same legal right Plaintiffs assert: "[i]f successful, the individual school districts [in the *Adair* cases] would have received payments for the costs of the mandated activity," which "would have counted against the total allocation of funds to all local governments. Counties, cities and townships would have received none of these funds and likely seen their funding reduced." (Pls' Reply Br at 8.) In other words, inclusion of school

[1] Plaintiffs appear to ignore the *Durant* cases, which Defendants maintain also have claim preclusive effect in this case.

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district mandate funding in the calculation of total local government funding would result in funding reductions for counties, cities, and townships.

But that is *precisely* what Plaintiffs are alleging here – i.e., the inclusion of previously unfunded mandates in the calculation of overall state spending to local governments purportedly results in funding reduction, and thus a "tax shift." Plaintiffs attempt to distinguish their claims by couching them as representative of all local unit "group interests," instead of merely interests of "specific subgroups." However, this is a distinction without a pertinent difference: the interests of all local units were, by Plaintiffs' own telling, at stake in *Adair* (and also *Durant*). The possibility that some *Adair* plaintiffs' interests may have conflicted with others is neither established nor of any import. Plaintiffs do not cite any case law in support of this distinction, and do not attempt to say how it is relevant aside from a conclusory statement that their interests in this case were not represented in *Adair*.

Plaintiffs also state that no school districts are a party to this action. But the *Adair* (and *Durant*) series of cases were taxpayer suits to enforce the Headlee Amendment under § 32 (any taxpayer of the state shall have standing to bring suite to enforce the Headlee amendment) – their ranks included taxpayers from various Michigan counties, whose interests in local government spending and preventing a purported "tax shift" were the same as Plaintiffs here. Plaintiffs also ignore that they too are taxpayers of the school districts. Their interest as taxpayers cannot be isolated to one local government group – a taxpayer of a school district is a taxpayer of a local government. There is no distinction between types of taxpayers. And all

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taxpayers have the same interest in enforcing the Headlee Amendment's taxation and spending requirements. The inclusion of school district plaintiffs in the prior suits is irrelevant to the privity issues concerning these taxpayers.

B. This action could have been brought in any of the prior Adair/Durant actions.

Plaintiffs allege that Defendants cannot show that this action arises from the same transaction and same operative facts as the *Adair* actions. Plaintiffs attempt to distinguish the *Adair* actions from this action: "[n]either the [*Adair*] Plaintiffs' claims for relief, nor any of the administrative rules, statutes, or the executive order, nor the facts of the mandated activity" in *Adair* are at issue in the case.

But the question of whether the particular mandated activity is the same ignores the operation of res judicata as a legal doctrine – i.e., that it bars not only claims that were brought, but those that could have been.[2] *Dart v Dart*, 460 Mich 573, 586 (1999). Thus, in an early, but procedurally significant, decision in the first *Adair* litigation, the Court determined that all but three of the taxpayers' 20 claims were barred by *res judicata* or release. *Adair v Michigan,* 470 Mich 105, 125-129 (2004). The Court determined that these claims were based on statutes or rules in effect prior to July 31, 1997—the date the Court had decided *Durant v Michigan,* 456 Mich 175 (1997) (*Durant I).* The *Durant I* taxpayers had raised similar Headlee claims challenging decreases in funding for special education and school lunch

[2] Plaintiffs claim that Defendants "seek to expand" the doctrine of compulsory joinder under MCR 2.203. Defendants make no such claims, and make no references to joinder or MCR 2.203, but instead only seek proper application of res judicata.

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programs. Thus, in looking back to the *Durant I* claims and disposition, the *Adair* Court initially dismissed 17 of the school districts' claims because they could have been raised in the previous *Durant I* litigation, even though such claims did not involve special education funding or school lunch programs. *Adair,* 470 Mich at 125-128 (2004). In doing so, the Court also rejected the taxpayers' argument that res judicata did not apply because *Durant I* involved a different type of Headlee claim (MOS) than *Adair* (POUM). *Id.* at 117.

Furthermore, by Plaintiffs' own account of the *Adair* litigation, any payments to individual school districts for unfunded mandates would have "counted against the total allocation of funds to all local governments," and thus reduced funding to counties, cities, and townships. Therefore, the issue of what counts in the total local government spending – i.e., § 30 calculation/methodology – was implicated throughout *Adair/Durant*, and could have been litigated (and rejected) accordingly.

Finally, Plaintiffs do not identify any specific mandated activity. As a result, it is impossible to determine if any of the mandated activity in *Adair* (or *Durant*) is at issue here. Plaintiffs try to have it both ways: on the one hand, they deny any responsibility to plead particular mandates; on the other hand, they conclusively state that the "alleged" mandated activity here is not the same as in *Adair*.

Notwithstanding Plaintiffs' inconsistency, their attempts to draw distinctions between this action and *Adair* only serve to demonstrate that they have privity with the *Adair* taxpayers, and that their claims concerning § 30 methodology, funding

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reductions, and a purported "tax shift" could have been litigated in the *Durant* or *Adair* litigation. For these reasons, the doctrine of res judicata bars this action.

RELIEF REQUESTED

Plaintiffs' claims fail factually, legally, and procedurally. Under MCR 7.206(E)(3), this matter is postured for dismissal. This Court should dismiss the Plaintiffs' complaint with prejudice.

Respectfully Submitted,

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

v.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

Supreme Court Case No. 160658

Court of Appeals Case No. 334663

APPENDIX – VOLUME 5
PLAINTIFFS-APPELLANTS APPENDIX TO TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

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(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.
_____/

PLAINTIFFS' MOTION FOR SUMMARY DISPOSITION TO ENFORCE THE HEADLEE AMENDMENT PROVISIONS OF THE MICHIGAN CONSTITUTION

NOW COME Plaintiffs, Taxpayers for Michigan Constitutional Government, Steve Duchane, Randall Blum, Sara Kandel, pursuant to MCR 2.116 (9) & (10), by and through their attorneys and for their *Motion for Summary Disposition*, do hereby state as follows:

1. On June 13, 2017, this Honorable Court entered an order directing the parties to file cross motions for summary disposition.

2. On October 2, 2017, this Honorable Court amended prior scheduling orders to provide that the motions for summary disposition be filed on or before December 6, 2017.

3. Plaintiffs' lawsuit arises from Defendants' violations of taxpayer rights under the Headlee Amendment of the Constitution of the State of Michigan of 1963.

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4. Article 9, § 25 and § 30 of the Michigan Constitution prohibit the State of Michigan from reducing the proportion of state spending in the form of aid that is paid to units of local government. Article 9, § 25 also prohibits the state from shifting the tax burden to local governments.

5. The proportion of total state spending that is required to be paid in the form of aid to local governments is 48.97%. Defendants have repeatedly violated art. 9, § 25 and § 30 by improperly including various state spending within their calculations of the amount of state spending in the form of aid that is paid to local governments.

6. Specifically, the Defendants improperly include Proposal A spending, spending on charter schools, and spending to compensate local governments for the costs of state mandates within payments in the form of aid that is paid to local government.

7. By improperly including such expenditures in their calculations, the Defendants thereby reduce the constitutionally required proportion of state spending in the form of aid that is actually paid to local governments.

8. Article 9, § 25 prohibits the state from including amounts generated by a tax shift that places a direct or indirect tax burden on local governments. Proposal A payments arise from a tax shift on Michigan taxpayers. The tax shift occurred through provisions that sharply limited school districts' ability to collect local property taxes to pay for schools, while imposing new state taxes with the new revenue then being paid to school districts. The state then used the Prop. A tax revenue to reduce the amount of spending in the form of aid that was paid pursuant to art. 9 § 30. In so, doing the state places a tax burden on local governments who are forced to replace the lost revenue through new taxes in order to maintain existing services. In effect, school districts were

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held harmless by the state's replacing revenue from local taxes with revenue from state taxes. However, local governments as a group were shorted in violation of the Headlee Amendment.

9. The state further inflates its calculation of art. 9 § 30 spending in the form of aid that is paid to local governments by including ineligible payments to charter schools. Payments to charter schools are improper because charter schools clearly do not meet the definition of local government that is found in art. 9, § 33 of the Headlee Amendment. In order for charter schools to qualify as local governments, they must be school districts that are political subdivisions of the state, as these terms were commonly understood at the time the Headlee Amendment was adopted. Quite simply, charter schools are not school districts or political subdivisions of the state as those terms were understood in 1978.

10. The state also improperly includes spending to fund state mandates as payments in the form of aid to local governments. Pursuant to art. 9, § 29 of the Michigan Constitution, the state is required to provide funding for the costs of new activities and services imposed on local government, while maintaining the proportion of spending in the form of aid that is paid to local governments pursuant to art. 9, § 30. The two provisions balance each other by ensuring that new mandates receive new funding while pre-existing activities and services receive continued funding. Including these spending to fund new state mandates in the calculation of the § 30 proportion frustrates the purpose of the Headlee Amendment and is prohibited.

11. Finally, Public Act 101 requires the Governor to annually publish a report of the amount of state disbursements required to be paid to each local unit of government for the necessary cost of each state requirement and the total amount of all disbursements required to be paid to local government. MCL 21.235. By its own admission, the state does not prepare that required report.

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12. The actions of the Defendants violate art. 9, § 25 and § 30 of the Michigan Constitution, MCL 21.235 of the State Disbursements to Local Units of Government Act, PA 101 of 1979 and MCL 18.1349 of the Management and Budget Act, PA 431 of 1984.

13. Being that there are no genuine issues of material fact on the Defendants liability and that Defendants have asserted no valid defense to Plaintiffs' claims, Plaintiffs are entitled to summary disposition at this time.

WHEREFORE, Plaintiffs respectfully pray that this Honorable Court enter an order proving the following relief:

a. Declaratory relief holding that the Defendants failed to maintain the proportion of state spending in the form of aid that is paid to local governments as required by art. 9, § 25 and § 30;

b. Declaratory relief holding that the Defendants' including Prop. A spending within its calculations of spending in the form of aid that is paid to local governments, constitutes an unlawful tax shift prohibited by art. 9, § 25;

c. Declaratory relief holding that the Defendants are prohibited from including spending from Prop. A, payments to charter schools, and spending to fund state mandates within calculations of spending in the form of aid that is paid to local governments under art. 9, § 25 and § 30;

d. Injunctive relief restraining the Defendants from including spending from Prop. A revenue, payments to charter schools, and spending to fund state mandates in their calculations of the proportion of state spending in the form of aid that is paid to local governments to meet the requirements of art. 9, § 25 and § 30;

e. Mandamus relief directing the Defendants to take all actions necessary to accomplish the compilation and publication of the state mandates report required by MCL 21.235 for fiscal years 2015-2016 and 2016-2017 and in all future years;

f. For fiscal years 2015-2016, 2016-2017 and for all fiscal years through the date that judgment is entered, mandamus relief directing the State of Michigan to make up shortfalls in the proportion of state spending in the form of aid that is constitutionally required to be paid to units of local government art. 9, § 25 and § 30 and an order for discovery and further proceedings to determine the amount of monetary relief to which local governments are entitled;

g. For attorneys' fees and costs; and

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h. For such further relief as is just and equitable.

Respectfully Submitted,

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Date: December 6, 2017

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THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.
_____/

CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2017, I electronically filed the attached *Motion for Summary Disposition* with the Clerk of the Court using the TrueFiling system, which will send notification of such filing to all electronic case filing participants.

Respectfully Submitted,

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Defendants.
_____/

PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION TO ENFORCE THE HEADLEE AMENDMENT PROVISIONS OF THE MICHIGAN CONSTITUTION

ORAL ARGUMENT REQUESTED

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STATEMENT OF QUESTIONS INVOLVED

1. DOES TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT HAVE STANDING TO BRING THIS ACTION WHEN IT IS A TAXPAYER UNDER ARTICLE 9, § 32 OF THE MICHIGAN CONSTITUTION AND ITS MEMBERSHIP IS COMPOSED OF INDIVIDUALS AND MUNICIPALITIES THAT HAVE STANDING TO BRING A HEADLEE CLAIM?

   Plaintiffs' Answer: Yes.

2. DOES THE STATE ENGAGE IN AN IMPERMISSIBLE TAX SHIFT PLACING A TAX BURDEN ON LOCAL GOVERNMENTS AND THEREBY VIOLATE ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION WHEN IT INCLUDES PROPOSAL A REVENUE IN THE CALCULATION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS?

   Plaintiffs' Answer: Yes.

3. DOES THE STATE VIOLATE ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION WHEN PAYMENTS TO CHARTER SCHOOLS WHICH ARE NOT LOCAL GOVERNMENTS UNDER ARTICLE 9, § 33 ARE INCLUDED IN THE CALCULATION OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS?

   Plaintiffs' Answer: Yes.

4. DOES THE STATE VIOLATE ARTICLE 9, § 25 AND § 30 OF THE MICHIGAN CONSTITUTION WHEN IT INCLUDES PAYMENTS TO FUND STATE MANDATES WITHIN CALCULATIONS OF STATE SPENDING IN THE FORM OF AID THAT IS PAID TO LOCAL GOVERNMENTS?

   Plaintiffs' Answer: Yes.

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I. SUMMARY OF ARGUMENT

The State of Michigan has shorted local governments billions of dollars annually by failing to make the proper amount of constitutionally required payments under the Headlee Amendment, Constitution of 1963, Article 9, §§ 25 to 34. Funds unconstitutionally retained by the state have, therefore, been available to annually satisfy state budgetary and programmatic objectives. As a result, Michigan taxpayers and their local governments have been severely damaged by the state's actions.

The Headlee Amendment establishes a balanced fiscal framework for local governments, limiting them in their ability to raise local taxes, but protecting them against state action imposing financial burdens on them and their taxpayers. Michigan taxpayers, the primary beneficiaries of the Headlee Amendment, are authorized under art. 9, § 32 to enforce the Headlee Amendment to insure the state's strict compliance with its terms in upholding the balanced fiscal framework. The state has consistently failed to strictly comply.

Article 9, § 25 and § 30 of the Michigan Constitution prohibit the state from reducing the proportion of state spending in the form of aid that is paid to local governments below the proportion existing at the time the Headlee Amendment was adopted. The proportion of total state spending in the form of aid that is required to be paid to local governments is 48.97%. Defendants have repeatedly violated art. 9, § 25 and § 30 by improperly including various expenditures within their calculations of the amount of state spending in the form of aid that is paid to local governments. The Defendants thereby impermissibly inflate the reported proportion that is paid to local governments. The state's inflated reporting hides the fact that the proportion of state spending in the form of aid that is paid to local governments has, in violation of the state Constitution, markedly decreased from pre-Headlee Amendment levels.

First, Article 9, § 25 prohibits the state from including amounts generated by a tax shift

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that places a direct or indirect tax burden on local governments. The prohibitions found in § 25 are intended to protect Michigan taxpayers by prohibiting the state from shifting the tax burden, directly or indirectly, to local governments, who may be required to pass the burden onto local taxpayers through increased local taxes and fees.

Proposal A payments arise from a tax shift on Michigan taxpayers that sharply limits school districts' ability to collect local property taxes, while imposing new state taxes to replace lost local property tax revenues. Payments from revenues derived from state taxes are, thereafter, included in the proportion of state spending in the form of aid paid to local governments under art 9, § 30. Counting payments from this tax shift in calculating the § 30 proportion sharply reduces state revenues that were previously paid to local governments to support other local government services. This creates an artificial surplus of state revenues that are kept by the state and used for the state's own purposes but imposes a tax burden on local government to replace lost state revenue. In effect, school districts were held harmless by the state's replacing revenue from local taxes with revenue from state taxes. However, local governments as a group were shorted when the state then counted the revenue from those state taxes within art. 9, § 30 calculations of the amount of state spending in the form of aid that is paid to local governments. This is precisely the type of shifting of the tax burden that the Headlee Amendment was intended to prohibit.

Second, the state further inflates its calculation of art. 9 § 30 spending in the form of aid that is paid to local governments by including ineligible payments to charter schools. Payments to charter schools are improper because charter schools clearly do not meet the definition of local government in art. 9, § 33 of the Headlee Amendment. For charter schools to qualify as local governments, they must be school districts that are political subdivisions of the state, as these terms were commonly understood at the time the Headlee Amendment was adopted.

In 1978 at the time the Headlee Amendment was adopted, school districts were commonly

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understood to be political subdivisions of the state possessing the power to act on behalf of and provide local services for citizens within geographically limited areas of the state. At that time, school districts operated under elected boards directly accountable to local citizens and exercised delegated sovereign powers from the state, including the power to tax as well as comprehensive police and eminent domain powers. Charter schools have none of these characteristics and are thus not school districts as commonly understood in 1978 and intended under the Headlee Amendment and its implementing legislation.

In 1993, the state enacted an elementary and secondary school reform experiment that radically departed from the state's traditional public educational structure by establishing public school academies, commonly referred to as charter schools, to compete with traditional school districts that constituted political subdivisions of the state and local governments under the Headlee Amendment. While the state is free to engage in such experimentation, the radical break from common understandings of school districts prevents charter schools from being found to be local governments for purposes of the Headlee Amendment.

Consequently, the Department of Technology, Management and Budget's action of including state funds paid to charter schools within the proportion of aid that is paid to local governments under art. 9, § 30 wrongfully inflates the proportion of state spending in the form of aid that is paid to local govern and, in fact, reduces payments to local governments.

Third, the state improperly includes spending to fund state mandates as payments in the form of aid to local governments. The state has long imposed mandates that require local governments to perform services which they have not voluntarily elected to perform. Pursuant to art. 9, § 29 of the Michigan Constitution, the state is required to provide funding for the costs of such activities and services. Payments to cover state mandates, however, cannot be considered state spending in the form of aid that is paid to local governments for purposes of calculating the

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art. 9, § 30 proportion. They are payments to fulfill a state obligation and not to provide aid to local governments in providing local services as intended by the Headlee Amendment. Including these payments in the calculation of the § 30 proportion frustrates the purpose of the Headlee Amendment to support the fiscal integrity of local governments as expressed in art. 9, § 25, § 29 and § 30 and is prohibited under the Michigan Supreme Court's understandings of the Headlee Amendment as expressed in *Schmidt v Dep't of Educ*, 441 Mich 236; 490 NW2d 584 (1992).

As a result, each of these actions of the Defendants violate art. 9, § 25 and § 30 of the Michigan Constitution.

II. STATEMENT OF FACTS

Plaintiff taxpayers bring this lawsuit to enforce the Headlee Amendment to the Michigan Constitution of 1963. In 1978, the Headlee Amendment was placed on the ballot as Proposal E and was approved by voters. The initiative intended to protect the state's taxpayers against the unrestrained increase in state and local taxes and to prevent the state from undermining the fiscal integrity of its local governments. As stated in the Drafters' Notes: "The spirit of the times from which this proposal grew was the 'tax revolt' and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted."[1]

The Headlee Amendment added ten sections to the Constitution, art. 9, §§ 25 to 34. The Amendment establishes a balanced fiscal framework for local governments, limiting them in their ability to raise local taxes, but protecting them against state action imposing financial burdens upon them and their taxpayers. Michigan taxpayers, as the principal beneficiaries of Proposal E, were authorized under art. 9, § 32 to enforce the Headlee Amendment in order to hold the state

[1] See attached Exhibit 1, Taxpayers United Research Institute, Drafters' Notes – Tax Limitation Amendment, at 2, (February 15, 1979) (unpublished) (on file with the Library of Michigan) (hereafter "Drafters' Notes").

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accountable for strictly complying with its terms.

Specifically, art. 9, § 25 and § 30 require the state to annually maintain a minimum level of spending in the form of aid that is paid to local governments ("Constitutional Aid"). Under the Headlee Amendment, the minimum level of Constitutional Aid that the state is required to pay to local government is the *proportion* of state spending from state sources that was paid to local government in 1978, the base year. The base year proportion is 48.97%.[2] As a result, the Michigan Constitution requires that 48.97% of all state revenues from state sources must be spent in the form of aid paid to local governments in Michigan.

The State of Michigan consistently violates its constitutional obligation to make the minimum proportional payments of state revenues to local government. Relying upon faulty interpretations of art. 9, § 25 and § 30, the state miscalculates the amount of spending in the form of aid that is paid to local governments. As a result, local governments to their material detriment have been shorted billions of dollars over more than two decades and the shortage has contributed to the financial stress of local governments throughout Michigan.

The Department of Technology, Management and Budget (DTMB) is the office that is assigned responsibility to develop and implement the state's budget. Each year, the DTMB generates faulty calculations of spending in the form of aid that is paid to local governments.

The State of Michigan's fiscal year begins on October 1st and ends on September 30th of the following calendar year. MCL 18.1491. As part of the budget process for each fiscal year, the DTMB is required to compile an itemized statement of total state spending from state revenue sources and of spending in the form of aid that was paid to local governments during the previous

[2] Following the adoption of the Headlee Amendment, the base year proportion was initially set at 41.6%. Following a legal challenge, the base year proportion was revised during the 1990s to the present rate of 48.97%.

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year. MCL 18.1497. The DTMB's statement is due by May 31 of each year. *Id.* The itemized statement is to ensure that the state is meeting the proportion of spending that is required to be paid to local governments under art. 9, § 25 and § 30 of the Michigan Constitution. If the DTMB finds that the proportion of spending in the previous fiscal year was less than required by the Constitution, the DTMB is required to report the amount of additional payments to units of local government that are necessary to meet the requirements of art. 9, §25 and § 30. See MCL 18.1497.

The DTMB then transmits the itemized statement to the Office of the Auditor General ("OAuG"). *Id.* The OAuG then reviews and comments upon the DTMB's statement before it is published by submission to the Legislature, on or before June 30 each year. *Id.*

On or about June 7, 2016, the DTMB transmitted its itemized statement of state spending in the form of aid that was paid to local governments for the 2015-2016 fiscal year to the OAuG. [3] On or about June 30, 2017, the DTMB transmitted its itemized statement of state spending in the form of aid that was paid to local governments for the 2016-2017 fiscal year. [4] Both years the DTMB did not report a shortfall in the constitutionally required proportion of state spending paid to local governments. After review, the OAuG also failed to report a shortfall in the required spending. The DTMB then reported to the Legislature its calculation of the proportion of state spending in the form of aid that was paid to local governments and again failed to report any shortfall during the 2015-2016 and 2016-2017 fiscal years.[5]

The DTMB and OAuG's failure to report a shortfall in the proportion of state spending that

[3] See attached as Exhibit 2, OAuG's "Independent Accountant's Review Report" and DTMB's "Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government-Legal Basis" (June 7, 2016).

[4] See attached as Exhibit 3, OAuG's "Independent Accountant's Review Report" and DTMB's "Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government-Legal Basis" (June 29, 2017).

[5] See Exhibits 2 & 3.

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is paid to local governments is based upon faulty understandings of art. 9, § 25 and § 30. Specifically, the DTMB has improperly included as Constitutional Aid: (1) spending from Proposal A revenue that constitutes a prohibited "tax shift" that places a tax burden on local governments under art. 9, § 25; (2) payments made to Public School Academies ("charter schools") that are not within art. 9, § 33's definition of local governments; and (3) payments made to local governments pursuant state mandates required to be funded by art. 9, § 29.

A. State Spending from Proposal A Revenue.

In 1993, the Michigan Legislature enacted Public Act 145 of 1993 ("PA 145"), which restricted local governments from levying taxes for school operations.[6] The new law eliminated an estimated $6.9 billion from school finances and led to a crisis in school funding. On the heels of the crisis, the Legislature placed Proposal A of 1994 ("Prop. A") on the ballot and the voters approved the proposal. Proposal A replaced local property taxes with an increase in the sales, cigarette and use taxes and added an education tax and real estate transfer tax (together "Prop. A revenue"). S.J.R. S of 1994. The restrictions on local governments to levy taxes for school operations and its replacement with new state taxes is a tax shift under the Headlee Amendment.

After the adoption of Prop. A, the DTMB began including payments to school districts from Prop. A revenue when calculating the amount of required Constitutional Aid that is paid to local governments. The Defendants admit and do not dispute that the state includes spending from Prop. A revenue when calculating the amount state spending in the form of aid that is paid to local governments.[7]

[6] See attached as Exhibit 4, Citizens Research Council, STATE AND LOCAL REVENUES FOR PUBLIC EDUCATION IN MICHIGAN, 3 (Report 363, Sept. 2010).

[7] See Defendant's Answer, Dkt. 24 at 2, ¶ 7.a. ("Defendants admit that Proposal A spending is included as spending in the form of aid to local governments."). At this stage of proceedings,

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While the state has authority to institute reform of public school funding, art. 9, § 25 prohibits DTMB from including payments from Prop. A revenue within in its calculation of Constitutional Aid to local governments under art. 9, § 30. The DTMB must exclude these payments because they are generated by a "tax shift" that places a "tax burden" on local government in violation of art. 9, § 25.

Prepared by former state Treasurer, Robert Kleine, and former Director of the state House of Representatives' House Fiscal Agency, Mitchell Bean, the table attached at Exhibit 5 details the shortfalls in Constitutional Aid spending and highlights the tax burden imposed on local governments by the impermissible tax shift.[8] The data clearly shows that DTMB's unconstitutional counting of Prop. A revenue has supplanted other state revenues paid to local governments as a group and have materially reduced Constitutional Aid below the minimum required level of 48.97%. In so doing, the state clearly places a tax burden on local governments as a group.

The improper inclusion of payments from Prop. A revenue and payments to charter schools within calculations to meet art. 9, § 30 obligations has resulted in shortfall of more than $64 billion in Constitutional Aid payments to local governments since 1994. The annual shortfall has risen from $1.5 billion in fiscal year 1994-95 to more than $4.5 billion in fiscal year 2015-16. When such payments are excluded, state spending in the form of aid to local governments has declined from 40.9% of state spending in fiscal year 1994-95 to 33.7% in 2015-16.[9]

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discovery has not occurred regarding the specific amount of Prop. A spending that is included within the State's calculations of art. 9, § 30 spending.

[8] See Exhibit 5, Table D: Shortfalls in Adjusted State Payments Increase Since Proposal A. See also Exhibits 6 & 7, Affidavits of Robert Kleine and Mitchell Bean respectively.

[9] *Id.*

B. State Spending paid to Charter Schools.

The DTMB also improperly includes payments to charter schools when calculating the amount of required Constitutional Aid that is paid to local governments each fiscal year. The Defendants again admit and do not dispute that the state includes payments to charter schools when calculating the amount state spending in the form of aid that is paid to local governments.[10]

Article 9, § 33 of the Headlee Amendment defines local governments as "political subdivisions of the state", including "school districts", among other political subdivisions. However, under the Public School Academies Act, charter schools are not political subdivisions of the state or school districts, as commonly understood by the voters at the time the Headlee Amendment was adopted in 1978.

Political subdivisions of the state were commonly understood to possess the power to act on behalf of and provide local services for citizens within geographically limited areas of the state. Moreover, school districts in 1978 operated under elected boards that remained accountable to local citizens and exercised delegated sovereign powers from the state, including the power to tax as well as comprehensive police and eminent domain powers. Charter schools have none of these characteristics.

The Michigan Attorney General's published opinions charter schools have found that charter schools are not school districts. Attorney General Mike Cox determined that "a public school academy is not a "school district."" OAG, 2003-2004, No. 7154, p 122 (March 31, 2004). Similarly, Attorney General Frank J. Kelley had also found that "it is clear that the Legislature did not intend to equate PSAs with school districts as a general proposition. OAG, 1995-1996, No.

[10] See Defendant's Answer, Dkt. 24 at 2, ¶ 7.b. and 62 ("Defendants admit that spending on charter schools is included as spending in the form of aid that is paid to local governments.") and at 9, ¶ 62. At this stage of proceedings, discovery has not occurred regarding the specific amount charter school payments that is included within the State's calculations of art. 9, § 30 spending.

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6915, p 204 (September 4, 1996). No Michigan court or subsequent attorney general has found differently than these two attorneys general.

The multiple private and public parties involved in charter schools further distinguish charter schools from school districts as commonly understood in 1978. Private entities, such as corporations and even labor organizations, initiate the charter school application process through proposed contracts to an authorizing body. Charter schools are organized as private nonprofit corporations and are administered under either a private board of directors, private for profit and nonprofit education management organizations ("EMOs"), or some combination of both pursuant to a contract to operate the schools. EMOs are private corporations that perform varied tasks – from minimal administrative functions to comprehensive formation, management and operation of the schools.

Findings from the state's Center for Educational Performance and Information further illustrate charter schools' departure from common understandings of school districts as local governments at the time the Headlee Amendment was adopted. As of June 16, 2016, 85 percent of Michigan's charter schools offered statewide pupil enrollment.[11] Additionally, education management organizations provided complete educational services for 56 percent of charter schools.[12] An additional 28 percent delegated some amount of their educational functions, while only 14 percent independently delivered their educational functions as self-managed schools.[13] Taken together, 51 percent of all charter schools delegate their complete educational functions to private EMOs while possessing no authority to serve or act on behalf of any geographic limited

[11] Data calculated from statistics found within various reports at State of Michigan, Public School Academy Districts With Education Service Providers and Chartering Agencies (June 16, 2016). Available online at: http://cepi.state.mi.us/eem/reports.aspx. See Exhibit 8.

[12] *Id.*

[13] *Id*.

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area of the state.[14]

Charter schools are thus not "local governments" as defined by art. 9, § 33 and MCL 18.1115(5). As a result, state spending paid to such entities must be excluded from calculations to determine the amount of Constitutional Aid paid by the state to meet the requirements of art. 9, § 25 and § 30.

The table prepared by former state Treasurer, Robert Kleine, and former Director of the state House of Representatives' House Fiscal Agency, Mitchell Bean found in Exhibit 5 also tabulates the adverse impacts of the state's impermissible inclusion of payments to charter schools within the state's calculations of spending in the form of aid that is paid to local governments. Again, the effect is to reduce Constitutional Aid paid to local governments below the amounts required by art. 9, § 30.[15]

Figure 1 depicts the combined tax burden on local governments' revenue by the state's improperly including spending from Prop A revenue and payments to charter schools within its calculation of state spending to meet art. 9, §30 obligations.[16]

[14] *Id*.

[15] See Exhibit 5.

[16] See Exhibit 9, Three charts showing burden on local government budgets from Prop. A and charter school payments. Information derived from data found in Exhibit 5.

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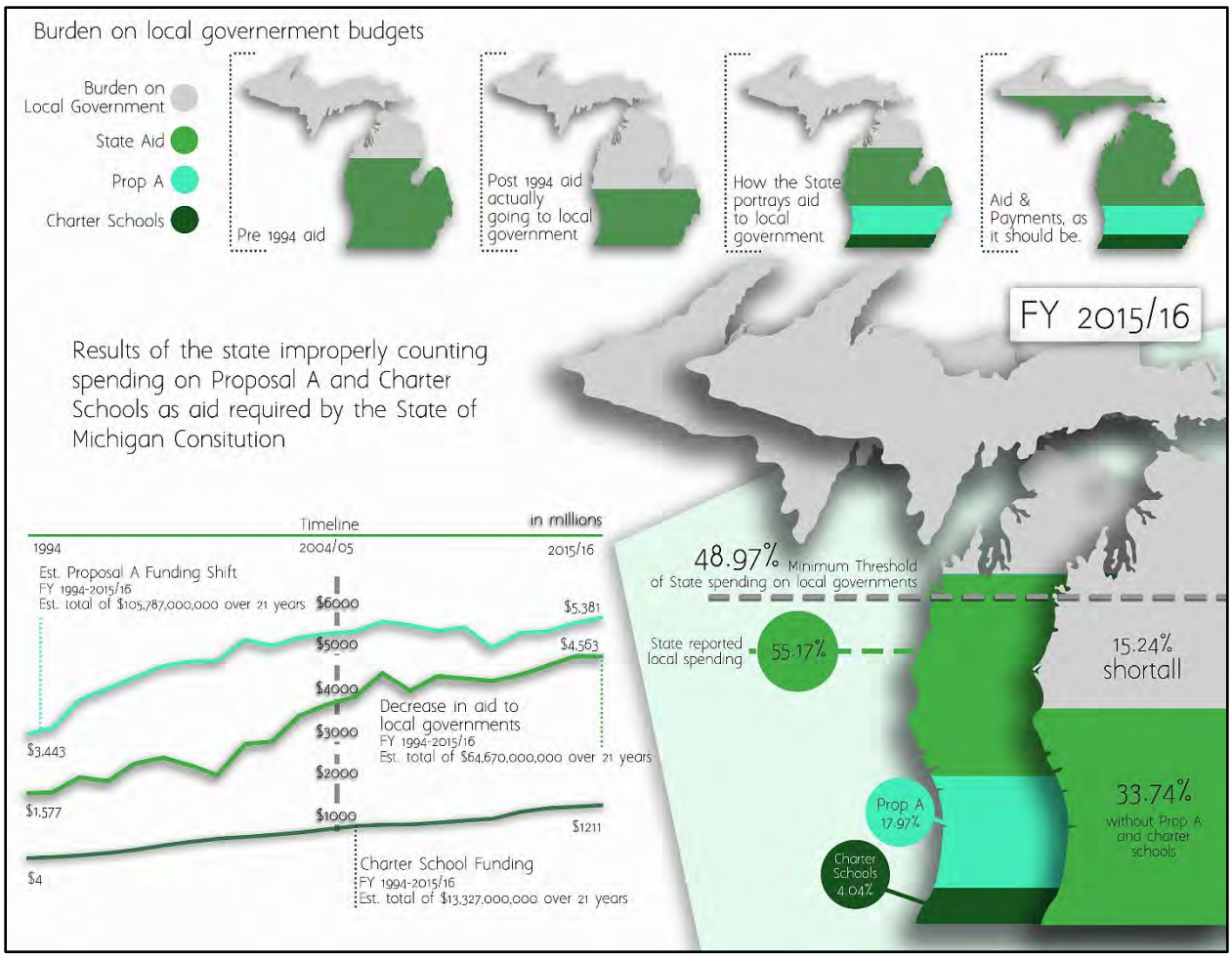


Figure 1. Burden on Local Gov't from wrongfully including spending from Prop. A revenue and payments to charter schools.

C. State Mandates.

The Defendants finally err by including spending that is paid to local governments to meet the funded mandate requirements of art. 9, § 29.[17] The Defendants wrongfully include spending for state mandated activity imposed on local governments as payments made to local governments in the form of aid in calculating the § 30 proportion.

In addition to the art. 9, § 29 requirement that the state fund new or increased activity

[17] See Defendant's Answer, Dkt. 24 at 2, ¶ 7.b. ("Defendants admit that spending on charter schools is included as spending in the form of aid that is paid to local governments."). At this stage of proceedings, discovery has not occurred regarding the specific amount spending to fund state mandates that is included within the State's calculations of art. 9, § 30 spending.

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imposed on local government, the State Disbursements to Local Units of Government, Public Act 101 of 1979 ("PA 101") at MCL 21.242 specifically prohibits the state from reducing the state financed proportion of the necessary costs of existing activities or services required of local units of government by existing law.

In tandem with these requirements, state law also requires the Defendants to annually publish a separate report of state mandated activity along with the disbursements paid to local government to cover the costs of that activity. MCL 21.235. By its own admission, the state does not prepare the required report.[18] The state's failure to prepare the mandated report prevents taxpayers from knowing what mandated activity is funded and what is unfunded. Furthermore, it prevents taxpayers from specifically identifying mandated activity that is included within art. 9, § 30 calculations and what, if any, mandated activity is not included.

However, the state budget identifies some areas of state mandated activity that is improperly counted as Constitutional Aid. Examples of state mandated activity that are improperly included within calculations of Constitutional Aid spending are found in the cases of *Mahaffey v Attorney Gen*, 222 Mich App 325; 564 NW2d 104 (1997), *Durant v State Dep't of Educ*, 238 Mich App 185; 605 NW2d 66 (1999), and *Adair v State*, 486 Mich 468; 785 NW2d 119 (2010). Each case involved claims that the state imposed unfunded mandates upon local governments. *Mahaffey* involved increased costs to local government related to state-mandated informed consent before an abortion. In that case, the state was found to have violated the Headlee Amendment at art 9, § 29 and was required to pay local governments for the costs of implementing the informed consent law, MCL 333.1705. *Mahaffey,* at 341. Ever since the court's decision, the state has included its payments to local governments to fund informed consent activities within calculations to meet art.

[18] Defendant's Answer, Dkt. 24 at 13, ¶ 90 and 18, ¶ 121. ("Defendants admit that the reporting requirements in MCL 21.241 have not been completed.").

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9, § 30 obligations. See 84 PA 2015 §§ 201, 1220; and 268 PA 2016 §§ 201, 1220.

In *Durant*, plaintiffs alleged that the state failed to appropriate funds for certain state-mandated special education programs, transportation and services. The court determined that the Headlee Amendment required state funding for the mandated activities. The state improperly includes its payments for the mandated activity within calculations to meet art. 9, § 30 obligations. 85 PA 2015 at §§ 31d(2), 51c, and Enacting §1(1); and 249 PA 2016 at §§ 31d(2), 51c, and Enacting §1(1). And, in *Adair*, the court found that the state failed to provide funding for new record keeping requirements imposed on schools. Again, the state includes these payments as spending in the form of aid to local units of government. 85 PA 2015 at § 152a and Enacting §1(1); and 249 PA 2016 at § 152a and Enacting §1(1).

The Defendants improperly include these appropriations and other funding for state mandated activity as spending paid to local governments to meet the minimum requirements of art. 9, § 25 and § 30.

D. Standing of the Organizational Plaintiff

Taxpayers for Michigan Constitutional Government ("TMCG") has standing to bring Plaintiffs' claims. TMCG is a nonprofit corporation incorporated in the State of Michigan. The organization is composed of twenty (20) individual members who have full voting privileges. The individual members are residents of the State of Michigan and are taxpayers in the state.[19] Additionally, the organization is also composed of twenty (20) municipalities who are nonvoting associate members.[20]

[19] See Exhibit 10, Affidavit of TMCG Treasurer, Steve Duchane.

[20] *Id.*

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III. DISCUSSION

A. Taxpayers for Michigan Constitutional Government has Standing.

Taxpayers for Michigan Constitutional Government has standing under standards established by the Michigan Constitution and the Michigan Supreme Court.

The first method of establishing standing to assert a Headlee violation is by showing that TMCG, as an organization, is a "taxpayer" for Headlee purposes. Article 9, § 32 of the Headlee Amendment grants any "taxpayer" with standing to enforce the Headlee Amendment.

There is no explicit definition of what a "taxpayer" is for Headlee purposes in Michigan case law or statutes. In the absence of a specific definition, the court looks first to the plain meaning of the term to understand the drafter's intent. As stated by the Michigan Supreme Court, "the primary objective of constitutional interpretation is to determine the original meaning of the provision … at the time of ratification." *Nat'l Pride at Work, Inc v Governor of Mich*, 481 Mich 56, 67; 748 NW2d 524 (2008). The original meaning is determined based on the rule of "common understanding." *People v Nutt*, 469 Mich 565, 573; 677 NW2d 1 (2004). The court determines the common understanding by the term's plain meaning at the time of ratification. *Nat'l Pride at Work, Inc*, 481 Mich at 67-68. To determine the plain meaning of a term, Michigan courts commonly refer to the definition found in dictionaries. *People v Duncan*, 494 Mich 713, 723; 835 NW2d 399 (2013).

The dictionary defines "taxpayer" as "one that pays taxes or is liable to pay a tax." Webster's Third New International Dictionary 2345 (3d ed. 1976), Thus, any person or entity that pays taxes is a taxpayer with standing to bring suit under the Headlee Amendment. The definition is not dependent on the amount of taxes paid or degree of tax of liability.

Nonprofit corporations such as TMCG, do, in fact, pay state sales taxes during certain periods of their existence and on certain items. At the time of bringing suit in this case and prior

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to their receiving 501(c)(3) status, TMCG paid sales tax on all purchases for items such as travel expenses and meals consumed during meetings with public officials and supporters and basic office supplies.[21] Moreover since gaining 501(c)(3) status, TMCG has not claimed an exemption and has paid sales taxes for similar items. As a result, TMCG is a "taxpayer" under the common understanding and plain meaning of that term and has standing to bring the claims in this case.

Even if it is not found to be a taxpayer, TMCG has organizational standing to bring Headlee Amendment claims. A nonprofit membership organization has standing to bring a claim if its members would have standing. The Michigan Supreme Court holds that "a nonprofit organization has standing to bring suit in the interest of its members if its members would have standing as individual plaintiffs." *Michigan Citizens for Water Conservation v Nestle Waters North America Inc*, 479 Mich 280, 296; 737 NW2d 447, 456 (2007) (overruled on other grounds). See also, *Nat'l Wildlife Fed'n v Cleveland Cliffs Iron Co*, 471 Mich 608, 629; 684 NW2d 800 (2004); *Trout Unlimited, Muskegon White River Chapter v White Cloud*, 195 Mich App 343, 348; 489 NW2d 188 (1992); and *Karrip v Cannon Twp*, 115 Mich App 726, 733; 321 NW2d 690 (1982).

Taxpayers for Michigan Constitutional Government is composed of twenty individual members and twenty cities as associate members. The individual members reside in Michigan and are taxpayers under art. 9, § 32.[22] There is no question that each could bring this lawsuit in their own names.

Additionally, TMCG has associate members who are municipal corporations. Michigan courts have found that municipal corporations have standing to bring Headlee Amendment claims. In *Wayne County Chief Exec v Governor*, the Court of Appeals considered whether a county

[21] *Id.*

[22] *Id.*

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executive and the county itself had standing to bring a Headlee Amendment claim. The court held "that because plaintiffs are effectively representing the interests of taxpayers, § 33

properly grants plaintiffs standing to bring this suit pursuant to § 29 of the Headlee Amendment." 230 Mich App 258, 271; 583 NW2d 512 (1998). See also, *Oakland Cnty v State*, 456 Mich 144, 168; 566 NW2d 616 (1997) ("local units of government have standing to sue on behalf of the public they represent" under the Headlee Amendment); and *Waterford School Dist v State Bd of Ed*, 98 Mich App 658, 666; 296 NW2d 328 (1980).

Since both members and associate members of the TMCG have standing individually to bring a Headlee Amendment claim, there is no question that TMCG has standing to bring such claims on their behalf.

B. Headlee Amendment Requirements.

In 1978, Michigan voters adopted the Headlee Amendment that added art. 9, §§ 25 to 34 to the Michigan Constitution. Article 9, § 25 sets forth the intention of the Amendment:

> Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct voter approval. [Const 1963, art 9, § 25].

Section 25 further sets forth specific prohibitions:

> The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the proportion of state spending in the form of aid to local governments, or from shifting the tax burden to local government. [*Id*].

The Headlee Amendment thus limits the power of local governments to increase property taxes.[23] In exchange, the Amendment provides protections for local governments by prohibiting the state: 1) from imposing future unfunded mandates; 2) from reducing the proportion of state

[23] Property taxes are the principal source of tax revenue for local governments.

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spending in the form of aid that is paid to local governments; and 3) from directly or indirectly shifting the tax burden to local governments.

This proportional payment requirement is expressly set forth in art. 9, § 30, as follows:

> The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79. [Const 1963, art 9, § 30].

The constitutional requirements of art. 9, § 30 were also codified by the Management and Budget Act at MCL 18.1349.

1. The Headlee Amendment Establishes A Balanced Framework That Functions Correctly Only If All Three Prohibitions Are Upheld.

The Headlee Amendment was adopted to slow rising taxes in state and local governments. The Amendment thus placed specific limitations on state and local governments' power to raise taxes. Const 1963, art 9, § 25.

The Headlee Amendment's drafters however recognized that the revenue limitations could have unintended harmful effects if not coupled with specific prohibitions. The drafters therefore prohibited the state from: (1) imposing unfunded mandates upon local governments; (2) reducing the proportion of spending in the form of aid that is paid to local governments; and (3) directly or indirectly shifting the tax burden onto local governments. See Const 1963, art 9, § 25. See also *Schmidt v Dep't of Educ*, 441 Mich 236, 254-255; 490 NW2d 584 (1992) and Drafters' Notes – Tax Limitation Amendment at 3.

As a result, the Headlee Amendment creates a balanced framework. The framework gives control of tax increases to the voters while ensuring that existing activities and services of local governments will be maintained and any future state mandated requirements that impose costs on the local governments will be fully funded by additional state payments. The framework however can only function correctly if all three prohibitions are observed. If one is ignored or falters, then

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the intent of the voters who adopted the Amendment is defeated and without these prohibitions, the revenue limitations imposed by the Amendment are no longer economically viable.

If all three of the Headlee Amendment's prohibitions are not faithfully observed, the Amendment's framework unravels with harmful effect. In the presence of strict tax limitations on local governments, new unfunded mandates from the state increase the costs and expenses of local governments and leave no available avenue to pay for the increased costs except to reduce existing activities and services or to increase taxes. A reduction in funding for existing activities and services of local governments by reducing the proportion of state spending paid to them would have the same effect. And, a shift of the tax burden likewise forces local governments to choose between cutting existing activities and services or increasing local taxes to maintain existing obligations. In each instance, the outcome places severe stress upon the finances of local governments. In each instance, the outcome is one that the voters who approved the Headlee Amendment sought to prevent.

Thus, the framework established by the Headlee Amendment balances its limitations on local governments' power to raise taxes and increase revenue with a corresponding check on state governments' power to reduce funding or transfer of costs to local governments by prohibiting unfunded mandates, prohibiting reductions in the proportion payments in the form of aid, and prohibiting tax shifts. In so doing, the Headlee Amendment controls revenue growth while maintaining funding for existing programs and requiring identifiable funding for new activities and services. In this way, the Headlee Amendment provides a viable economic framework that prevents local governments from experiencing the severe economic distress that can result from the unbridled costs of unfunded state mandates, irresponsible cuts in state aid, and unseen shifts in the tax burden to local governments.

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2. State Spending In The Form Of Aid Paid To Local Government Fails To Meet The Requirements Of Art. 9, § 30.

The state has consistently miscalculated Constitutional Aid required to be paid to local governments by art. 9, § 30. Miscalculations were first identified in *Oakland Cnty v Dep't of Mental Health*, 178 Mich App 48; 443 NW2d 805 (1989*)* appeal dismissed and remanded sub nom *Cnty of Oakland v Michigan Dep't of Mental Health*, 437 Mich 1041; 471 NW2d 619 (1991). The *Oakland Cnty,* case resulted from the DTMB's classifying state payments for mental health services to counties as spending paid to local governments in satisfaction of the state's art. 9, § 30 obligation. *Oakland Cnty*, 178 Mich App at 56.

Beginning in 1981, the state offered local governments shared management contracts, which allowed for local control of state mental health facilities and state reimbursement for the expenses. *Id.* at 57. Oakland County refused to enter into the shared management contract. In 1985, Oakland County filed suit alleging that the classification of payments to state-owned state-operated mental health facilities as payments to local governments was unconstitutional. *Id.* at 58. This court held that mental health services are an obligation of the state and money to discharge that obligation, even though "technically paid to a unit of local government, remains state spending because the county is merely discharging the obligation of the State." *Id.* at 59-60. As part of the resolution of the lawsuit, the DTMB recalculated the proportion of spending that must be paid to local governments and set it at 48.97%, where it stands today.

The Defendants however continue to improperly include various forms of state spending in their calculations of state spending that is paid to local governments for purposes of meeting the requirements of the Headlee Amendment. By including payments from Prop. A revenue, payments to charter schools, and payments to cover the costs of state mandates, Defendants overstate the amount of art. 9, § 25 and § 30 spending that is paid to local governments and also

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engage in an illegal tax shift placing a tax burden on local governments. When these items are subtracted, state spending in the form of aid that is paid to local governments falls significantly below 48.97% of total state spending and thereby violates Const 1963, art 9, § 25 and § 30 and MCL 18.1349.

C. Proposal A Revenue Should Not Be Included in Calculations of Spending in the Form of Aid that is Paid to Local Government to Meet the Requirements of art. 9, § 30.

Although Prop. A was adopted after the Headlee Amendment of 1978, it did not alter its enforceability. There is no conflict between enforcing both the balanced fiscal structure of the Headlee Amendment and, at the same time, enforcing public school funding reform instituted by Prop. A. The two Amendments are consistent. The drafters of Prop. A expressed no intent to include Prop. A funding in the state's calculation of the proportion of spending that is paid to local governments to meet art. 9, § 25 and § 30 requirements. Likewise, the drafters of Prop. A did not express any intent to alter or amend the Headlee Amendment. On the contrary, the drafters expressed intent to amend art. 9, §§ 3. 5. 8, 11 and 36, but specifically made no express or implied reference to art. 9, §§ 25 to 34 of the Headlee Amendment. *Durant v State*, 456 Mich 175, 202; 566 NW2d 272, 284 (1997).[24]

Every year since 1994, DTMB has violated the Headlee Amendment by including "tax shift" funding prohibited by art. 9, § 25 when calculating the proportion of spending that must be paid to local governments. This results from the Michigan Legislature enacting PA 145 of 1993, which restricted local governments from levying taxes for school operations, eliminating an

[24] Important to the decision in this case also is the material fact that Michigan taxpayers were totally unaware when Prop. A was placed upon the ballot in 1994 that state tax revenues taken out of their pockets and paid to the state to replace their former payments to local school districts would be used by DTMB to reduce state payments to local governments that provide their other daily services. If taxpayers were made aware, they would not have supported Prop. A.

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estimated $6.9 billion in revenue.[25] Then, in 1994, the people of the State of Michigan adopted Prop. A, which replaced the billions of dollars lost in locally raised taxes with billions of dollars in state taxes. The state then sent these newly imposed taxes back to local governments, mostly in the form of education funding from the School Aid Fund. Through Prop. A, school districts were held harmless for the loss of revenue from local taxes that paid for school operations, but local governments as a whole were shorted by the state then counting revenue from state taxes within art. 9, § 30 calculations of the amount of state spending in the form of aid that is paid to local governments.

Between 1994 and 1995, the first year following the implementation of Prop. A, reported state payments to units of local government increased by 52%.[26,27] This reported increase was caused by the DTMB including payments from revenue generated by Prop. A in its calculations of the proportion of spending paid to local governments to meet the requirements of art. 9, § 25 and § 30. By including Prop. A payments in this calculation, the state supplanted other state spending previously paid to local governments, placing a tax burden on local governments to further raise local taxes to offset lost state revenue. This shift of tax burden created a cushion so that the state could reallocate resources away from local governments and appropriate those revenues for their own uses. The effects of this tax shift would have its greatest impact on local governments until an economic downturn hit Michigan. Using the Prop. A funds as a buffer to keep the state above the proportion of spending required to be paid to local governments by art. 9, §25 and § 30, the state balanced its own budget while forcing local governments to make a difficult

[25] See Exhibit 4 at p. 3.

[26] See attached Exhibit 11, State of Michigan, Detail Expenditures to Units of Local Government, Fiscal Year Ended September 30, 1994.

[27] See attached Exhibit 12, State of Michigan, Detail Expenditures to Units of Local Government, Fiscal Year Ended September 30, 1995.

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choice: cut services or raise taxes.

Proposal A thus replaced the billions of dollars lost in locally raised taxes with billions of dollars in state taxes imposed upon the same Michigan taxpayers. Michigan taxpayers were subject to a combination of state taxes to replace local property taxes to fund their local school districts. State tax revenues resulting from this tax shift flow into the state School Aid Fund and are then paid out to local school districts. Thereafter, these payments are added to the art. 9, § 30 proportion by DTMB, thereby reducing Constitutional Aid to other local governments serving Michigan taxpayers, and placing a burden upon these local governments to increase local taxes on Michigan taxpayers to replace reduced Constitutional Aid or to cut local services.

This accounting practice violates the Headlee Amendment and allows the state to retain revenues previously paid to local governments to fill shortfalls in the state annual budget and fund state programmatic objectives. In effect, Michigan taxpayers, as a group, now pay the same amount of tax to support local schools as they were paying before Prop. A, but have state payments to support other local services cut. This is precisely the practice that Michigan taxpayers intended to prohibit by adopting the Headlee Amendment.

Notably, the Headlee Amendment also imposes a material taxing and revenue limitation upon the state in art. 9, §§ 26 and 27. The state circumvents this limitation on its own taxing authority by capturing funds previously spent on local governments. Retaining funds required to be paid to local governments helps the state to avoid financial stress of its own during lean times.

The accounting maneuver outlined above is specifically prohibited by art. 9, § 25, which provides that the "state is prohibited… from [directly or indirectly] shifting the tax burden to local government." Const 1963, art 9, § 25. While the state can continue to fund public education with taxes levied under Prop. A, the state cannot count the Prop. A revenue toward its obligation to meet the Constitutional Aid required by art. 9, § 30.

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As noted above, the People of the State of Michigan adopted Michigan Constitution art. 9, §§ 25 to 34 in order to halt rising taxes at both the state and local levels. On the one hand, the Headlee Amendment places specifically defined limitations on the revenues of both state and local governments. On the other hand, it provides protections for units of local government, by enacting three prohibitions restricting the state from imposing economic burdens on local governments. The three prohibitions create a balanced economic framework that serves to keep taxation under the direct control of the voters while ensuring that citizens' local services are maintained. The framework can only function correctly if all three aspects are upheld. If one falters, then the intent of the voters is defeated, and local governments experience severed economic distress. Through the tax shift resulting from the state's including Prop. A revenue in its calculation of the Constitutional Aid to local governments, the state violates the prohibition on tax shifts stated at art. 9, § 25 and contravenes the intent of the voters who adopted the Headlee Amendment.

1. Including Proposal A Revenue Within Calculations Of Required Constitutional Aid Constitutes A Shift Of The Tax Burden To Local Government That Is Prohibited By Art. 9, § 25.

After the adoption of Prop. A, the DTMB began including the Prop. A revenue within the state's calculation of spending in the form of aid paid to local governments to meet the requirements of art. 9, § 30. The net effect is that local taxpayers throughout Michigan pay a state tax to replace their local property tax in order to support public schools, while having their corresponding state tax payments used by DTMB to reduce state revenue from other sources previously paid to their local governments.

Commenting on Prop. A, Richard Headlee, the namesake and a drafter of the Headlee Amendment, concluded that "the proposal had turned into a major tax shift." Charlie Cain, *Headlee*

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Criticizes Proposal A As Tax Shift And Tax Increase, The Detroit News, May 14, 1993, at 2B.[28]

Richard Headlee states further:

> The constitution guarantees local governments 41.6 percent of all state revenues for local programs. Without recalculation of the Section 30 requirements, the state would count the $1.8 billion of sales tax revenue as spending for local governments, thereby *gutting Section 30* and protection of local government revenue sharing. [*Id*].

Michigan voters prohibited tax shifts for the very reason that Richard Headlee posits - shifting of funding responsibility between state and local governments in this manner allows the state to decrease the revenue it sends to local governments for local programs. It allows the state to impose its priorities on local governments and force local governments to cope by either raising taxes or cutting local services.

The balanced framework that limits local governments from imposing new taxes, but also prevents the state from shifting a tax burden onto them is memorialized in the Michigan Constitution, which specifically prohibits the state "from shifting the tax burden to local government." Const 1963, art 9, § 25. Further fortifying this position, the drafters' notes accompanying the Headlee Amendment are unequivocal:

> Section 25 specifically prohibits the state from circumventing the intent of the amendment by shifting tax burdens from the state to local government levels. Any action by the state which would result, *directly or indirectly*, in increased local taxation through a shift in funding responsibility is *clearly prohibited* by this Section. [Drafters' Notes at 2-3 (emphasis added)].

As previously discussed, in order for the intent of the people to be properly expressed, each part of the Headlee Amendment must be upheld. *Schmidt*, 490 NW2d at 591.

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[28] See attached Exhibit 13. At the time of Richard Headlee's comments to constitutional proportion of state spending required to be paid in the form of aid to local governments was 41.6%. The subsequent resolution of the *Oakland Cnty v Dep't of Mental Health*, 178 Mich App 48, required the DTMB to recalculate the proportion of spending that must be paid to local governments and set it at 48.97%.

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The Michigan Supreme Court has clearly spoken in *Schmidt* as to what constitutes a tax shift that places a tax burden on local governments under art. 9, § 25. *Schmidt* was a case involving unfunded mandates prohibited by art. 9, § 29 and undertook a thorough analysis of tax shifts prohibited by art 9, § 25.

As emphasized in *Schmidt*, the clear intent of the voters when adopting Headlee was to preclude the Legislature from shifting any funding obligation onto local governments. *Schmidt*, 490 NW2d at 590. The Court reasoned that because the voters intended that the state provide full funding for any new mandated service or activity, the voters also intended that the state be precluded from circumventing that prohibition by shifting the tax burden to local governments. *Id.* at 592. The Court goes a step further, implying that when art. 9, § 25 and §30 are read together they create "absolute prohibition of any shifting to local government." *Schmidt*, 490 NW2d at 592.

The Michigan Supreme Court had previously confirmed this position in *Durant*, where the Court held that:

> [T]he people have said that shifting of the tax burden to local taxpayers is a matter of constitutional dimension; it is banned; and, through § 32, the ban must be enforced. The people having spoken through their constitution, the policy debate is no longer open. [*Durant v State*, 456 Mich 175, 220; 566 NW2d 272, 291 (1997)].

Under the Court's analysis in *Schmidt*, the DTMB's treatment of Prop. A revenue shifts the burden onto local taxpayers by forcing local governments to raise taxes in order to provide the same local services. This practice is strictly prohibited by the Michigan Supreme Court's understandings of the Michigan Constitution.

DTMB's treatment of Prop. A revenue as included within Constitutional Aid to local governments circumvents the prohibition against the state shifting its tax burden onto units of local government, placing a major burden on units of local government. Ultimately, it forces local governments to raise local taxes in order to maintain local services. However, the balanced fiscal

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framework of the Headlee Amendment limits the ability of local governments to raise local property taxes, the precise reason why tax shifts are prohibited by the Headlee Amendment. Drafters' Notes at 10-11.

This accounting scheme, which amounts to a shell game, allows the state to cut funding for local governments by the amount the state provides from Prop. A revenue to local public schools without affecting its compliance with art. 9, § 30 requirements. The DTMB's treatment of the Prop. A revenue allows the state to budget for additional state programming in the economic boom years or to balance the state budget by cutting funding to local governments in lean years. The losers in all of this are local governments which must absorb the cuts in state aid while having very limited options for raising replacement revenues. This results in severe economic distress for local governments.

The violation of the Headlee Amendment by DTMB's miscalculations of Constitutional Aid is determined entirely by its effect on local governments and Michigan taxpayers and not by DTMB's intent. There would be no question that the state Legislature and DTMB violate the letter and spirit of the Headlee Amendment if they intentionally engaged in a scheme to eliminate a local property tax and replaced it with a state tax for the purpose of reducing the amount of state revenues paid in the form of aid to local governments and then used the savings for other state purposes. Plaintiffs are not alleging that the state intentionally withheld state revenues required to be paid to local governments under Art 9, § 30. Plaintiffs maintain that DTMB is creatively or mistakenly interpreting the eligibility of payments to be included in calculating Constitutional Aid. However, whether the error in calculating the required amount of Constitutional Aid was intentional or innocent is of no consequence in this case. In both cases a violation of the Headlee Amendment has occurred with material damage to local governments and their taxpayers.

The Defendants must be required to recalculate the proportion of state spending that was

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paid to local governments to meet the requirements of art. 9, § 30 for fiscal years 2015-16 and 2016-2017 and must maintain compliance in all future years. Allowing DTMB to classify Prop. A revenue within Constitutional Aid required by art. 9, § 30 forces local governments to either raise taxes or cut services in the same manner disapproved of by the Michigan Supreme Court in *Schmidt*. *Schmidt*, 490 NW2d at 590. See also *Cnty of Oakland*, 443 NW2d at 810-11.

In summary, DTMB's treatment of Prop. A revenue violates the Headlee Amendment, specifically 9, § 25 and § 30. Counting spending from Prop. A revenue that is paid to local governments in order to satisfy the requirements of art. 9, § 25 and § 30 constitutes a tax shift prohibited by art. 9, § 25. Therefore, the Prop. A revenue must be excluded from the state's calculation of Constitutional Aid required by art. 9, § 25 and § 30.

D. Spending Paid To Charter Schools Should Be Excluded From State Calculations Under Article 9, § 30 Because Charter Schools Are Not Within the Definition Of A Local Government Under The Headlee Amendment.

Charter schools are not local governments under art. 9, § 25 and § 30 and, therefore, payments to charter schools by the state cannot be included in calculating the proportion of state payments to local governments under art. 9, § 30. Only school districts that are also political subdivisions of the state, as those terms were commonly understood in 1978, are local governments, as defined in art. 9, § 33 and implemented by the Legislature pursuant to Act 57 of 1979 adopted as authorized by art. 9, § 34.

1. The Headlee Amendment's Definition of Local Government Must Be Construed In Accordance With The Voters' Common Understanding At The Time Of The Amendment's Adoption.

Michigan courts have long recognized that the primary rule of constitutional construction is the rule of common understanding. *Traverse City Sch Dist v Att'y Gen*, 384 Mich 390, 405; 185 NW2d 9 (1971). The rule is described as follows:

> A constitution is made for the people and by the people. The

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> interpretation that should be given it is that which reasonable minds, the great mass of the people themselves, would give it " … the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but rather that *they have accepted them in the sense most obvious to the common understanding, and ratified the instrument in the belief that that was the sense designed to be conveyed*." [*Id*. (citing with approval Justice Thomas Cooley's Const Lim 81) (emphasis added)].[29]

Under the rule of common understanding, certain principles are clear. First, "a provision must be given the interpretation that the great mass of people would give it. The intent to be arrived at is that of the people." *Traverse City Sch Dist*, 384 Mich at 405. Next, courts "must construe [constitutional provisions] as the people did *in their adoption*." *Lockwood*, 357 Mich at 555 (emphasis added). And, finally, "the circumstances surrounding the adoption of the constitutional provision … may be considered" to clarify a term's meaning. *Traverse City Sch Dist*, at 405.

This court must therefore determine whether charter schools were within voters' common understanding of the terms "political subdivision of the state" and "school districts" at the time of the Headlee Amendment's adoption.

The Michigan Constitution provides that, "The proportion of total state spending paid to all units of local government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." Const 1963, art 9, § 30. "Local government" is specifically defined within the Headlee Amendment. Local governments are defined as:

> *[A]ny political subdivision of the state, including, but not restricted to, school districts*, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and

[29] See also, *Studier v Mich Pub Sch Emples Ret Bd*, 472 Mich 642, 652; 698 NW2d 350, 357 (2005); *Carman v Sec'y Of State*, 384 Mich 443, 450-53; 185 NW2d 1, 11-17 (1971); *Lockwood v Comm'r of Revenue*, 357 Mich 517, 555; 98 NW2d 753 (1959); *People v Dean*, 14 Mich 406, 417-8 (1866); and *Syntex v Dep't Of Treasury*, 188 Mich App 383, 385; 470 NW2d 665, 667 (1991).

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> authorities created by other units of local government. [Const 1963, art 9, § 33].

Pursuant to the authority provided in Michigan's Constitution, art. 9, § 34, to implement the Headlee Amendment, the state Legislature defines "local government" as follows:

> Unit of local government means a political subdivision of this state, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties and authorities, *if the political subdivision has as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the state and has the power to act primarily on behalf of that area.* [MCL 18.1115(5) (emphasis added)].[30]

School districts, accordingly, as local governments under the Headlee Amendment must be political subdivisions of the state having as their primary purpose the provision of services for citizens within geographically limited areas of the state. Charter schools do not meet these constitutional and legislative criteria.

Two Michigan Attorney Generals have rendered opinions that charter schools are not school districts as the term was commonly understood in 1978, discussed in further detail *infra* within parts D(*2*)(ii)(*b*)-(*c*) and (*2*)(iii) of this brief. See also OAG, 2003-2004, No 7154, p 122 (March 31, 2004) and OAG, 1995-1996, No 6915, p 204 (September 4, 1996). In 1996, Attorney General Frank Kelley found that the state "has not generally defined the term "[s]chool district" to include [public school academies]." OAG, No. 6915 at p 204. Likewise, in 2004 Attorney General Mike Cox found "that a public school academy is not a "school district"." OAG, No 7154 at p 122.

Rather, charter schools are legislatively defined as school districts for one specific purpose — to receive monies from the state School Aid Fund. The Legislature defines charter schools as

[30] Note, MCL 18.1115 (5), was amended multiple times – in 1982, 1984, 1988, 1999 and 2012. Throughout, the Legislature has consistently defined a local government as a "political subdivision [having] as its primary purpose the providing of local government services for citizens in a geographically limited area of the state and [having] the power to act primarily on behalf of that area."

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public schools under art. 8, § 2 and as school districts "for the purposes of Article 9, Section 11." MCL 380.501(1).[31] As shown through its silence, the Legislature did not intend for their inclusion within the definition of local government under art. 9, § 34.

This court therefore must apply the rule of common understanding to determine whether charter schools are local governments within the Headlee Amendment.

2. Charter Schools Are Not Within Voters' Common Understanding Of The Term 'Local Government' At The Time The Headlee Amendment Was Adopted.

Charter schools are not local governments for purposes of the Headlee Amendment since they meet neither the commonly understood meanings of 'political subdivisions of the state' or 'school districts' at the time the Amendment was adopted.

i. Charter schools lack the commonly understood characteristics of school districts.

Charter schools cannot be considered school districts under art. 9, § 33 of the Headlee Amendment because they do not comport with the voters' common understanding of that term at the time of the Amendment's adoption in 1978.

In 1978, the commonly understood meaning of the term "school district" was a public school system operating within geographically limited areas of the state under an elected governing board empowered to act on behalf of these regions. See 1976 SC 380.626; 1147, 73. 111, 211, 317 and 411; 85, 143, 250, 361 and 431 (describing school district residents and boundaries, elected boards, and school boards' power to act on behalf of the district for Primary, Fourth, Third, Second

[31] Note, The Legislature establishes public school academies ("charter schools") at Sections 6A (MCL 380.501-9)(public school academies), 6B (Repealed. 1994, Act 416, Eff July 30, 1997), 6C (*Id*. at 521-9) (urban high school academies), 6E (*Id*. at 551-61) (schools of excellence) and MCL 380.1311b-m (strict discipline academies). Each type of charter school is described substantially similarly to those at Section 6A. Plaintiffs' summary judgement motion refers to charter schools described at Section 6A unless noted otherwise.

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and First Class Districts). See also *Detroit Edison v East China Sch Dist,* 366 Mich 638; 115 NW2d 298 (1962); and *Foster v Bd of Educ,* 326 Mich 272; 40 NW2d 310 (1949) (elected school boards' operation within defined geographical territories and school districts' power to borrow funds after a vote of qualified electors). Significantly, state government enacted legislation to implement the Headlee Amendment with the voters' understanding of these characteristics in mind.

School districts in 1978 embodied voters' common understanding of the term "school districts" as either Primary, Fourth, Third, Second, or First Class Districts. 1976 SC 380.11. At the Amendment's adoption, resident taxpayers determined whether to alter or maintain the delivery and quality of governmental services within their geographically defined areas by voting on taxation and bonding issues presented to them by their local governmental unit's elected leadership. *Foster,* 326 Mich at 273-4.

School districts in 1978 also possessed three sovereignty powers. *Fizer v Onekama Consol Schs*, 83 Mich App 584, 587; 269 NW2d 234, 236 (1978) (discussing taxing authority) and *Bd of Educ v Michigan Bell Tel Co*, 51 Mich App 488, 491, 495; 215 NW2d 704, 705-6 (1974) (discussing police and eminent domain powers).

Charter schools possess insufficient sovereign powers when measured against school districts in 1978. First, school districts in 1978 possessed full taxation power. 1976 SC 380.1211(1). In contrast, charter school boards of directors cannot tax the citizens they serve since charter schools "… may not levy ad valorem property taxes or [other] tax[es] for any purpose. MCL 380.503(9). Without the ability to solicit direct citizen input into the governmental services they are charged to deliver, charter schools cannot regulate the frequency, quality, or amount of educational services to their constituents in the manner provided by school districts in 1978. That they require neither the taxation power nor citizen oversight of their service related expenditures differentiates them from local governments contemplated by the Amendment's drafters. Drafters'

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Notes at 3.

In addition to exercising a comprehensive police power throughout their respective governmental units, the governing boards of school districts in 1978 regulated personnel, health and transportation matters for the districts. 1976 SC 380.1231-2, 1252 and 1321(regulating employees, nursing services and transportation). Conversely, charter schools possess no general police power[32] and any nominal regulatory function they may perform is based upon the authority of school districts, generally and not the schools' own discretion. MCL 380.504(2).

Finally, charter schools may exercise their sole sovereign power only after express written approval from their authorizing body in contrast to the school districts in 1978 who possessed full eminent domain power. *Id*. at § 503(10); and 1976 SC 380.1621-34.

Drafters included "school districts," as that term was commonly understood at the Amendment's adoption, within their description of political subdivisions of the state at art. 9, § 33. Therefore, school districts that were considered political subdivisions of the state reflect one example of the voters' understanding of the term 'political subdivision of the state' in 1978. Since charter schools are not within the voters' common understanding of school districts at the Amendment's adoption it follows that they may not be considered political subdivisions of the state under this section.

ii. Charter schools lack the commonly understood characteristics of a political subdivision of the state.

Charter schools may not be considered political subdivisions of the state included at art. 9, § 33 of the Headlee Amendment because they do not comport with the voters' common understanding of that term at the Amendment's adoption.

[32] James N. Goerner, The Origination of Michigan's Charter School Policy: An Historical Analysis, p 94 (2011) (unpublished Ed.D. dissertation, Michigan State University) (on file with author), *available at* ProQuest Dissertations & Theses A & L (917941169).

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School districts were political subdivisions of the state at the time of the Headlee Amendment's adoption. *Bowie v Coloma Sch Bd*, 58 Mich App 233, 238-9, 241; 227 NW2d 298, 301-2 (1975). In *Bowie*, the Michigan Court of Appeals held that deletion of the words, "or political subdivision thereof," from a statute governing wages paid on state construction projects similarly indicated no affirmative legislative intent to include school districts within its provisions. *Bowie*, 58 Mich App at 241. The *Bowie* court reasoned that exclusion of the term "school district" in light of the Legislature being "well aware that by its prior enactments school districts had been defined as "political subdivisions," combined with representatives' equation of the term "political subdivision" with school districts that "g[o]t down into *local* areas and down to the boards of education" established that "political subdivision[s]" were not intended for inclusion within the statute. *Id.*

As in *Bowie*, the Legislature excludes the descriptor 'political subdivision of the state' from its detailed definition of charter schools despite extensive use of the term in Michigan statutory law to describe school districts and other public entities.[33] MCL 380.501(1). Under *Bowie*, such an omission supports legislative intent not to define charter schools as political subdivisions of the state. Also, charter schools are administered by self- selected boards of directors, unlike boards of education with power to ask school tax electors to raise taxes for building and equipping school facilities. *Id*. at § 502(3)(b) and *Bowie*, at 242. Charter schools further differ from school districts described in *Bowie* because they cannot issue bonds, require their boards to set tax rates, levy millages, or submit bond proposals for voter approval. MCL 380.504a(g); *Bowie*, at 239-41 (suggesting that school district bonding authority is a "local" area).

Charter schools are not school districts or political subdivisions as those terms were

[33] For example, MCL 168.646a (2), 550.1951, 500.2901(c)(iv) and 257.603(1) (defining school districts, cities, counties, villages and districts as political subdivisions of the state.).

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commonly understood in 1978 and therefore are not local governments as defined in art. 9, § 33 of the Headlee Amendment.

a. Unlike political subdivisions of the state, charter schools independently operate and serve citizens statewide.

In legislation implementing the Headlee Amendment, the Legislature defined "units of local government" as:

> [A] political subdivision of this state, including school districts ... *if the political subdivision has as its primary purpose the providing of local governmental service for citizens in a geographically limited area of the state and has the power to act primarily on behalf of that area.* **[**MCL 18.1115(5) (emphasis added)].

The Legislature's definition reflects its understanding of what constituted a "unit of local government" based upon its knowledge of the voters' understanding of this term in 1978. The Michigan Supreme Court "gives deference to a deliberate act of the Legislature, and does not inquire into the wisdom of its legislation." *Council of Orgs And Others For Educ About Parochiaid*, 455 Mich 557, 570; 566 N.W.2d 208 (1997) (citing *Twp of Dearborn v Dearborn Twp Clerk*, 334 Mich 673, 690; 55 NW2d 201 (1952). Each political subdivision of the state included at art. 9, § 33 must operate in accordance with the Legislature's directives. Const 1963 art 9, § 34.

b. Charter Schools Act Independently And On Behalf Of Their Own Corporate Purposes Rather Than On Behalf Of Citizens Residing In Geographically Limited Areas.

The Headlee Amendment recognizes citizen electors' interactive relationships with their local governments as fundamental to their political subdivision's fiscal health. Drafters' Notes at 3. In the charter school model, the Legislature omits the characteristic boundary and residency requirements which allow such relationships to form between charter schools and their patrons. OAG, 2003-2004, No 7154, p 122 (March 31, 2004). It follows that citizens are inconsequential to a charter school's operation since citizens choosing to patronize charter schools are denied

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participatory roles in school governance and administration. MCL 380.502(3)(b), (e)(i) and (f). For example, authorizing bodies have sole discretion over charter school contract revocations unlike school districts included as political subdivisions of the state in 1978 whose closure was controlled by the availability of elected officials for the district. *Id*. at § 507(7) and 1976 SC 380.12(1). Accordingly, charter schools cannot act on behalf of citizens who are valueless to their existence.

Charter schools lack residents and cannot advocate for citizens receiving their services since these individuals utilize the schools merely as educational service delivery vehicles. The Michigan Attorney General articulated this principle as follows:

> General powers school districts, MCL 380.11a(1) and first class school districts, MCL 380.401, occupy territory within defined geographical boundaries and have residents who live within those boundaries. See MCL 380.626. Public School Academies, in contrast, have no defined geographical territory assigned to them. *Accordingly, section 1147, which gives a school-aged person who is a "resident of a school district" the right to attend school in that district, has no application to public school academies.* [OAG, 2003-2004, No 7154, p 122 (March 31, 2004) (emphasis added)].

The Attorney General's Office affirmed its prior determination that "the Legislature did not intend to equate [charter schools] with school districts as a general proposition" when it opined that "[charter schools are not school districts] for all purposes of the [Revised School] Code; particularly for purposes of section 1147." *Id*. (affirming OAG, 1995-1996, No 6915, p 204 (September 4, 1996)).

c. Charter Schools Operate And Deliver Education Services To Citizens Statewide.

School districts and political subdivisions of the state in 1978 operated and served citizens within bounded geographically limited areas of the state. See *Penn School Dist v Bd of Educ*, 14 Mich App 109; 165 NW2d 464 (1968).; *In re Apportionment of Lapeer Cnty Bd of Comm'ns*, 39

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Mich App 666; 198 NW2d 33 (1972). The United States Supreme Court has opined that "casually ignor[ing] or treat[ing] [the boundary lines between districts] as a mere administrative convenience [is] contrary to the history of public education … and no single tradition in public education is more deeply rooted than local control over the operation of schools." *Milliken v Bradley*, 418 US 717, 741-2; 94 SCt 3112; 41 LEd 2d 1069 (1974).

The Attorney General's opinion that charter schools have no geographic territory assigned to them is supported by the Public School Academy Act ("PSA Act") which imposes no physical boundaries or geographically defined service areas for charter schools. OAG, 2003-2004, No 7154, p 122 (March 31, 2004). The Michigan Attorney General states:

> General powers school districts, MCL 380.11a(1) and first class school districts, MCL 380.401, occupy territory within defined geographical boundaries and have residents who live within those boundaries. See MCL 380.626. Public School Academies, in contrast, have no defined geographical territory assigned to them. *Accordingly, section 1147, which gives a school-aged person who is a "resident of a school district" the right to attend school in that district, has no application to public school academies.* [OAG, 2003-2004, No 7154, p 122 (March 31, 2004) (emphasis added)].

The Attorney General's opinion cites the Revised School Code in effect in 1979 and reflects his findings of the voters' common understanding of school districts in 1978.

The Legislature provides for all charter schools to operate and serve citizens outside of bounded geographically limited areas. Schools authorized by the governing boards of state public universities and federal tribally controlled community college boards can be located anywhere in the state. MCL 380.502(2)(d),(e) and 552(17)(b). Charter schools authorized by community colleges and located on the grounds of active or closed federal military installations outside the bounds of any community college district can also issue contracts for charter schools to operate absent location limits. *Id*. at § 502(2)(c) (providing that charter schools authorized by community college boards shall not operate in a school district organized as a school district of the first class).

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The private nonprofit corporations established by charter schools in furtherance of their public purposes similarly have no location restrictions. *Id*. at § 504a(f). Even school district, intermediate school district, community college boards and two or more agencies acting jointly can each authorize one cyber school to operate and serve up to 10,000 students outside legislative guidelines. *Id*. at § 552(6)(a)-(c) and (e).

An authorizer's geographic boundaries are relevant only if charter school applicants submit proposed contracts to authorizing bodies having such limitations. In this way, the Legislature provides that private parties choose a charter school's location and, accordingly, whether it falls within the purview of the Headlee Amendment's implementing legislation. *Id*. at § 502(3)(g) and (i). This formation method contrasts sharply with that of political subdivisions of the state at the Amendment's adoption whose geographic parameters and corresponding service areas were controlled by the state. See *supra* Part D(*2*)(ii)(*c*) and (iv)(*a*) of this brief.

Charter schools also deliver their educational services to citizens who choose to patronize them rather than those within geographically limited areas of the state. In addition to charter schools authorized by governing boards of statewide authorizers, those authorized by school districts, intermediate school districts and community colleges also "*may* be open to all individuals who reside in th[e] state who meet the admission policy … and *shall* be open to all pupils who reside within the geographic boundaries of that authorizing body who meet the admission policy." MCL 380.504(3) (emphasis added). The latter provision does not mandate that charter schools actually *serve* in limited geographic areas but is instead a requirement triggered only if students choose to enroll in these schools. In other words, it is possible that charter schools required to prioritize enrollment for students within their boundaries never operate or enroll these students. They can also "prioritize enrollment for pupils meeting specific age or grade criteria despite authorizer jurisdiction and enrollment requirements. *Id* at § 504(4)(a)-(c).

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Establishing charter schools is a state obligation; not a local one. Const 1963, art 8, § 1. In addition, "our forefathers envisioned public education to be under the control of the Legislature, which is under the command of the entire state electorate." *Council of Orgs And Others*, 455 Mich at 577.

Under the Headlee Amendment's implementing legislation, governmental services are described as "local," as are the citizens and geographically limited areas they serve. The United States Supreme Court has recognized that local control over the educational process affords citizens an opportunity to participate in decision-making, permitted the structuring of school programs to fit local needs, and encourages "experimentation, innovation, and a healthy competition for educational excellence." *San Antonio v Rodriguez Indep Sch Dist*, 411 US 1, 50; 93 SCt 1278; 36 LEd 2d 16 (1973).

Charter schools do not deliver local education services to citizens who utilize them. First, charter school boards of directors are dissimilar to elected school boards at the Headlee Amendment's adoption who possessed powers to adopt local standards. MCL 380.502(1) and 1976 SC 380.1282. Also, charter school incorporators determine their own educational curriculum and assessments without considering local citizen input or standards. MCL 380.502(3)(e)(ii). Similarly, education management organizations hired to provide curriculum for Michigan charter schools are permitted to provide identical curricula to schools nationwide. See MCL 380.523c(2)(a) and (c).

iii. The Public School Academy Act shows the legislature's intent that charter schools function as a separate system within the state's system of schools.

The Legislature establishes charter schools as their own system of schools within the state's system in accordance with its constitutionally delegated authority under art. 8, § 2 of the Michigan Constitution. Charter schools are quasi-public entities, formed and supervised by multiple

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autonomous private and public bodies. Each type of charter school is called a "public school academy" and described similarly, with some exceptions, under the PSA Act. See MCL 380.501(1), 521, 551 and 1311b (defining public school academies, urban high school academies, schools of excellence and strict discipline academies).

The Legislature defines charter schools as governmental agencies so that state funds are paid to a public entity, not a private one, in compliance with art. 8, § 2 of the Constitution. The term "governmental agency" does not describe an agency relationship where the entity; presumably, the charter school, acts as fiduciary of another or has authority to act on behalf of the government. Michigan law enables charter schools to act on their own behalf; not on behalf of the State of Michigan. MCL 380.504a.

Charter schools are "bodies corporate;" organized as private, nonprofit corporations under Michigan's nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192. See MCL 380.502(1).

The Legislature "did not intend to equate [charter schools] with school districts as a general proposition." OAG, 1995-1996, No 6915, p 204 (September 4, 1996) (emphasis added). In this connection, section 501 of the PSA Act does not describe charter schools as school districts, political subdivisions of the state, or local governments, but instead provides:

> A public school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX … and for the purposes of section 1225 and section 1351a … A public school academy is a body corporate and is a governmental agency. [MCL 380.501(1)].

Notably, charter schools are not described as school districts for purposes of art. 9, § 30 and § 33 of the Michigan Constitution.

"The history of an "act" adopted by the Legislature may be examined as a part of the process of determining legislative intent." *Bowie*, 58 Mich App at 236. Repealed section 6B of

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the Revised School Code demonstrates clear legislative goals for charter schools to differ from and compete with school districts within the meaning of art. 9, § 33. Specifically, charter schools were "[t]o provide parents and pupils with greater choices among public schools, *both within and outside their existing school districts*" in order "to determine whether state educational funds c[ould] be more effectively, efficiently and equitably utilized by allocating funds on a per pupil basis directly to the school *rather than through school district administration*." Repealed. 1994, Act 416, Eff. July 30, 1997.

iv. Private Involvement In Charter School Formation And Governance Replaces State Control Measures Reflective Of School Districts.

The Michigan Supreme Court recognizes that there is "no requirement in [the] [C]onstitution that the state must have exclusive control of the school system." *Council of Orgs And Others*, 455 Mich at 572. The Court further reasoned that "[t]he Legislature has had the task of defining the form and the institutional structure through which public education is delivered in Michigan since the time Michigan became a state." *Id*. at 571.

Charter schools' separate and competitive public education delivery system however diminishes state control reflective of school districts at art. 9, § 33 to mere supervision by public entities. While permissible under art. 8, § 2, the Legislature's actions produce school districts lacking sufficient state control for inclusion as local governments under art. 9, § 33 of the Headlee Amendment.

a. State control of school districts included in art. 9, § 33 of the Headlee Amendment.

Direct and indirect state control of school districts included at art. 9, § 33 facilitates the delivery of governmental services within geographically defined areas and reflects the characteristics of school districts commonly understood to be political subdivisions of the state and local governments. *See supra* Parts D(*2*)(i)-(ii) of this brief. Laws providing for citizen

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control of geographically limited state subdivisions illustrate indirect state control. See *Eaton v Baker*, 334 Mich 521; 55 NW2d 77 (1952) (citizens control political subdivisions through elected boards of education).

Recognizing that "no requirement in the 1835 Constitution that the members of the school board for local district be elected by the local voters" the state indirectly controls its school districts, as political subdivisions of the state, in other ways. *Council of Orgs And Others*, 455 Mich at 577. For example, laws providing for public official recall in 1978 provided citizens a response mechanism to actions undertaken by their elected leadership. 1976 SC 380.1105.

State established school district boundaries and pupil membership based on resident population directly controlled school districts in 1978. *Id*. at §§ 3(5) and 6(2) (describing boundaries for constituent and intermediate school districts); §§ 80, 102, 202, 303 and 402 (describing pupil membership of Primary, Fourth, Third, Second and First Class school districts). Boundaries define, for subdivision leadership, the geographic and political parameters they must work within when projecting the financial and governance needs of their resident constituents.

b. Private involvement in charter school formation and governance replaces state control measures.

Private and diverse governance choices made during the charter school application process replace state control measures for school districts considered to be political subdivisions of the state and local governments in 1978. MCL 380.502(3)(e)(i) and (f).

The Legislature authorizes the formation of charter schools pursuant to contracts between private entities and authorizing bodies which may or may not be local governments under art. 9, § 33 of the Amendment. *Id*. at § 501(2)(d). An authorizer's act of "contracting" with private entities "evidences the [school's] authorization, establishes [its contract], and confirm[s] the status of a [charter school] as a public school in this state." *Id*.

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Charter school governance methods are privately determined by the schools' applicants. *Id*. at § 502(3)(e)(i). School district governance is also replaced with private and public body oversight and administration by several private and public bodies. *Id*. at §§ 502(1), 503c(2)(a),(c) and 507(1)(d). First, privately appointed boards of directors administer charter schools. *Id*. at 502(1) and (3)(b). Private entities form charter boards in their contract applications; supplying the selection method, qualifications and names of proposed board members to an authorizing body. *Id*. at § 502(3)(b). It is only after receipt of the charter application that authorizers adopt the resolution establishing the board of directors for the charter school. *Id*. Appointed board members are unaccountable to citizens. *Decisions and Orders of the National Labor Relations Board, Charter School Admin Servs And MEA/NEA (CSAS)*, 353 NLRB 394, 396, No 35 (2008) Discretionary board removal and appointment are optional corrective measures preceding discretionary school reconstitution. MCL 380.507(8). That citizens may reject the charter school delivery model to receive educational services elsewhere does not hold answerable appointed board members who are immune from citizen recall proceedings. Finally, charter revocation controls an authorizer's participation in the charter school contract; not the school's daily administration. *Id*. at § 507(7).

The Legislature shares authorizers' minimal oversight sufficient for art. 9, § 11 funding with private educational management organizations administering the schools whose boards account solely to shareholders.[34] *Id*. at 503c(2)(a) and *CSAS*, 353 NLRB at 396.

c. The role of authorizing bodies in the charter school model.

The Legislature establishes charter schools and authorizing bodies as separate entities with

[34] *Council of Orgs And Others*, 455 Mich at 571 has no bearing on Plaintiffs' claims before this court because the case did not address whether charter schools could be considered local governments at art. 9, § 33, but instead whether they were constitutional under art. 8, § 2 and § 3 of the Michigan Constitution of 1963.

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separate leadership bodies. *Id*. at §§ 502(1) and 501(2). Authorizers included as local governments at art. 9, § 33 do not govern the schools they authorize: private applicants individually determine the governance method for their school. *Id*. at § 502(3)(e)(i) and (f). Under the PSA Act, the term "governance" refers to the ways charter schools' boards of directors "organize and administer" the schools. *Id*. at § 502(1).

The Michigan Supreme Court holds that authorizing bodies provide effective partial control sufficient for charter schools as public schools and for their school district function of receiving public funds under art. 9, § 11 of the Constitution. *Council of Orgs And Others*, 455 Mich at 572-77. As the schools' fiscal agents, authorizing bodies monitor charter school *contracts*, rather than control the schools directly. MCL 380.507(1)(d)-(e),(3) and 502(6). Where the Legislature proscribes enforcement directives for authorizer oversight, it allows for contract terms to dictate the specific accountability mechanisms employed rather than providing for them with laws uniformly holding charter schools accountable. *Id*. at § 507(1)(e).

3. Designation of charter schools as public schools under art.8 § 2 of the Michigan Constitution has no bearing on whether they are political subdivisions of the state under art. 9, § 33.

The Legislature defines charter schools as both public schools and limited purpose school districts under the PSA Act. *Id*. at § 501(1).

Public schools at the Amendment's adoption existed were "in" or "of" school districts commonly understood as political subdivisions of the state. See 1976 SC 380.81(1) and 131(1), 252(1), 331(4) and 431(2). Therefore, the Michigan Supreme Court's holding that voters would have considered charter schools to be public schools has no bearing on whether charter schools fall within the purview of art. 9, § 33 of the Amendment since the Legislature as a general rule described public schools and school districts as separate and distinct entities at the Amendment's adoption. See *Council of Orgs And Others*, 455 Mich at 576 (inquiring into the common

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understandings of "public school[s]" and "private, denominational or other nonpublic" school); and The School Code of 1976 (Preamble); Act 451, 1976 p 1541; (Imd Eff Jan 13, 1977).

For the reasons stated above, the Department of Technology, Management and Budget's payments to charter schools are required to be excluded from its calculation of minimum proportional payments to local governments under art. 9, § 33 of the Headlee Amendment. Charter schools cannot be considered school districts, political subdivisions of the state, or local governments in accordance with the voters' common understanding of those terms at the Amendment's adoption.

E. The State Is Prohibited From Including Spending to Fund State Mandates In Calculations Of Constitutional Aid Made To Meet The Requirements Of Art. 9, § 30.

The state has imposed mandates upon local governments that require local governments to perform services which they have not voluntarily chosen to perform and improperly counts funding for state mandated activity as spending in the form of aid to local governments. Article 9, § 29 of the Michigan Constitution reads:

> The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of unit of Local Government unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI Section 18. [Const 1963, art. 9, § 29].

Article 9, § 29's requirement to provide funding to local governments for the costs of new state mandates does not constitute payments in the form of aid, as the term is used in § 25 and § 30. Rather, it constitutes payments to offset new burdens imposed upon local governments by the state. Nonetheless, the DTMB has included spending to support state mandated activities, such

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those found in *Mahaffey v Attorney Gen*, 222 Mich App 325; *Durant v State*, 456 Mich 175; and *Adair v State*, 486 Mich 468 in calculating Constitutional Aid under art. 9, § 30.

In *Judicial Attys Ass'n v State*, the Michigan Supreme Court noted that art. 9, § 29 "is only triggered by a mandate that requires local units to perform a new activity or perform an existing activity at an increased level from that previously required of local units." 460 Mich 590, 606; 597 NW2d 113 (1999). In that case the Court determined that since local units of government were traditionally responsible for "trial court operations" before Headlee, the new law did not violate the Headlee Amendment even though the costs of the law were imposed on local government. *Id*. at 593-95. The Court implicitly recognized the balanced structure of the Headlee Amendment. New or increased state requirements require new funding from the state, while pre-existing state requirements are addressed by 9, § 30's requirement that the state maintain the same proportional funding to local units of local government that existed in 1978. The balanced framework of the Headlee Amendment requires that art. 9, § 29 and § 30 be read together.

The drafters of the Headlee Amendment explicitly expressed concern that the state would attempt to impose funded mandates and thereby reduce their required payments to local governments. "The State is prohibited from reducing the State financed proportion of existing specific programs required of local governments by state law or state directive. Future mandated programs shall be fully funded. It seeks to obviate any temptation the state might have to fund a new mandated program (e.g., rapid transit) by shifting funds from a previously mandated program (e.g., K-12 education)." Drafters' Notes at 10. Despite this effort to eliminate temptation, the DTMB has repeatedly misclassified funding for state mandates as payments to local governments.

Notably, the state codified, in part, existing understandings art. 9, § 29 when it enacted the Disbursements to Local Units of Government, Public Act 101 of 1979 ("PA 101"), MCL 21.231 *et. seq*. In addition to requiring the funding of all new state mandates as required by art. 9, § 29,

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the statute specifically prohibits the state from reducing the state financed proportion of the necessary costs of activities or services required of local units of government by existing law, *unless the existing law is repealed*. MCL 21.242. The statute thus encapsulates the dual requirements of art. 9, § 29 and § 30 – that the state must fully fund new mandates imposed on local governments and must maintain the existing proportion of state spending paid to local governments to compensate them for existing activities and services. Otherwise, the state effectively reduces its share of the compensation paid to local governments for existing activities and services when it includes payments for newly enacted mandates within its calculation of the required Constitutional Aid to meet art. 9, § 30 obligations.

There have been few cases involving unfunded mandates in Michigan. *Durant* is the leading authority on the issue and involved increased costs for local governments arising as the result of newly mandated special education programs and transportation. *Durant v State Bd of Educ*, 424 Mich 364; 391, 381 NW2d 662, 673 (1985). The Court held that the new mandates violated art. 9, § 29 because costs of the unfunded mandates effectively reduced the amount of categorical aid it provided to school districts, requiring them to make up the shortfall through other sources, such as unrestricted aid. *Durant*, 381 NW2d at 673 (1985).

The intent of the Headlee Amendment, as expressed by the people in art. 9, § 25 was to forestall new legislation which would require local governments to pay for the costs of new or expanded local activities and services and to prohibit the state from shifting the tax burden to local governments. Const 1963, art 9, § 25. This portion of the argument focuses on the interplay between art. 9, § 25, § 29 and § 30. While § 29 prohibits the state from imposing unfunded mandates upon local governments, § 25 prohibits the state from shifting the tax burden onto local governments. When the state imposes mandates upon local governments, whether funded or unfunded, it forces local governments to choose whether to cut existing services or to raise taxes.

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This practice is forbidden under the Michigan Supreme Court's interpretation of the Headlee Amendment in *Schmidt*. *Schmidt*, 490 NW2d at 590. Taking this practice to its logical conclusion, the state could theoretically impose mandates upon local governments that require the entirety of their funding.

In *Oakland Cnty*, Oakland County argued that state funding to local governments suffers when the state uses revenue prohibited by the Headlee Amendment framework. *Oakland Cnty*, 443 NW2d at 810-11. As discussed above, state mandates cannot be counted in the Constitutional Aid required by art. 9, § 30 because doing so would result in a prohibited tax shift analogous to the reasoning regarding state obligations discussed in the previous section and by the Court in *Oakland Cnty*. When the state increased the proportion of spending required to be paid to local governments from 41.61% to 48.97% following resolution of *Oakland Cnty*, the appropriate remedy is to exclude ineligible payments from the calculation altogether. Allowing DTMB to classify state mandate payments as aid to local governments under § 30 forces local governments to either raise taxes, cut services or use unrestricted aid in the same manner posited by the Supreme Court in *Durant*. *Durant*, 381 NW2d at 673 (1985). See also *Oakland Cnty*, 443 NW2d at 810-11.

The drafters' notes accompanying art. 9, § 29 refer to § 25 emphasizing that the state is prohibited from requiring any new or expanded activities by local governments without full state financing or from shifting the tax burden to local government. Drafters Notes at 2 and 8-10. Also, the drafters' notes contemplate raising the percentage when the state mandates additional or expanded activities stating that increased § 29 activities would tend to raise the proportion of total state spending paid to local governments. Drafters Notes at 9-10. The reference to the tax shift prohibition seeks to ensure that the state cannot force local governments to use other money or raise new money to make up for the deficit caused by the state mandate. That is precisely what

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would happen if the state can count spending to fund state mandates to satisfy the proportion of spending that must be paid to local governments. Allowing the state to count the payments for these mandates, would erode, if not gut, the requirements of art. 9, § 30 and render local governments unable to continue to provide the same level of local services in the face of increasing state mandates.

Michigan law requires the Defendants to annually publish a separate report of state mandated activity along with the disbursements paid to local governments to cover the costs of that activity. Public Act 101 requires the Governor to include with the annual budget recommendation an accompanying report of the amount of state disbursements required to be paid to each local unit of government for the necessary cost of each state requirement and the total amount of all disbursements required to be paid to local government. MCL 21.235. The state admits that it does not prepare that required report and again, admits that it includes funding for state mandates within the proportion of state spending in the form of aid that was paid to local governments.

The Defendants must be required to recalculate the proportion of state spending that was paid to local governments to meet the requirements of art. 9, § 30 for fiscal years 2015-16 and 2016-2017 and must maintain compliance in all future years. Additionally, the Defendants must be required to compile and publish the state mandates report required by MCL 21.235 for fiscal years 2015-2016 and 2016-2017 and in all future years.

IV. RELIEF REQUESTED

As a result of Defendants' violations of art. 9, §§ 25 and 30 the Michigan Constitution, Plaintiffs request that this Honorable Court enter Judgment against Defendants, providing:

a. Declaratory relief holding that the Defendants failed to maintain the proportion of state spending in the form of aid that is paid to local governments as required by art. 9, § 25 and § 30;

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b. Declaratory relief holding that the Defendants' including Prop. A spending within its calculations of spending in the form of aid that is paid to local governments, constitutes an unlawful tax shift prohibited by art. 9, § 25;

c. Declaratory relief holding that the Defendants are prohibited from including spending from Prop. A, payments to charter schools, and spending to fund state mandates within calculations of spending in the form of aid that is paid to local governments under art. 9, § 25 and § 30;

d. Injunctive relief restraining the Defendants from including spending from Prop. A revenue, payments to charter schools, and spending to fund state mandates in their calculations of the proportion of state spending in the form of aid that is paid to local governments to meet the requirements of art. 9, § 25 and § 30;

e. Mandamus relief directing the Defendants to take all actions necessary to accomplish the compilation and publication of the state mandates report required by MCL 21.235 for fiscal years 2015-2016 and 2016-2017 and in all future years;

f. For fiscal years 2015-2016, 2016-2017 and for all fiscal years through the date that judgment is entered, mandamus relief directing the State of Michigan to make up shortfalls in the proportion of state spending in the form of aid that is constitutionally required to be paid to units of local government art. 9, § 25 and § 30 and an order for discovery and further proceedings to determine the amount of monetary relief to which local governments are entitled;

g. For attorneys' fees and costs; and

h. For such further relief as is just and equitable.

Respectfully Submitted,

By: /s/ John C. Philo
John C. Philo (P52721)
SUGAR LAW CENTER
FOR ECONOMIC & SOCIAL JUSTICE
4605 Cass Avenue, Second Floor
Detroit, Michigan 48201
(313) 993-4505/Fax: (313) 887-8470
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Tracy Anne Peters (P76185)
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Co-Counsel - Attorneys for Plaintiffs

Date: December 6, 2017

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.
_____/

CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2017, I electronically filed the attached *Brief in Support of Plaintiffs' Motion for Summary Judgment* with the Clerk of the Court using the TrueFiling system, which will send notification of such filing to all electronic case filing participants.

Respectfully Submitted,

By: /s/ John C. Philo
John C. Philo (P52721)
SUGAR LAW CENTER
FOR ECONOMIC & SOCIAL JUSTICE
4605 Cass Avenue, Second Floor
Detroit, Michigan 48201
(313) 993-4505/Fax: (313) 887-8470
Co-Counsel - Attorneys for Plaintiffs

Date: December 6, 2017

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EXHIBIT 2

OAG's "Independent Accountant's Review Report" and DTMB's "Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government-Legal Basis" (June 7, 2016)

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STATE OF MICHIGAN
STATE BUDGET OFFICE
LANSING

RICK SNYDER
GOVERNOR

JOHN S. ROBERTS
DIRECTOR

June 13, 2016

Michigan State Senate
c/o Mr. Jeff Cobb, Secretary
State Capitol
Lansing, Michigan 48909

Michigan House of Representatives
c/o Mr. Gary L. Randall, Clerk
State Capitol
Lansing, Michigan 48909

Dear Mr. Cobb and Mr. Randall:

Transmitted under this cover is a schedule entitled "Statement of Revenue Subject to Constitutional Limitation - Legal Basis." The statement is submitted pursuant to Sections 18.1350(a) through 18.1350(e) of the Michigan Compiled Laws for the purpose of demonstrating compliance with Article 9, Sections 26 and 33 of the Michigan Constitution for the fiscal year 2015.

The statement has been reviewed by the Office of the Auditor General and a copy of the independent accountant's review is enclosed.

If you have questions regarding this report, please contact Mr. Michael J. Moody, Director, Office of Financial Management, at 373-1010.

Sincerely,

John S. Roberts
State Budget Director

Enclosure

cc: D. Posthumus, Executive Office
Senate Appropriations Committee
House Appropriations Committee
Ellen Jeffries, Senate Fiscal Agency
Mary Ann Cleary, House Fiscal Agency

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OAG
Office of the Auditor General
Doug A. Ringler, CPA, CIA
Auditor General
201 N. Washington Square, Sixth Floor • Lansing, Michigan 48913 • Phone: (517) 334-8050 • www.audgen.michigan.gov

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INDEPENDENT ACCOUNTANT'S REVIEW REPORT

The Honorable Rick Snyder, Governor
Members of the Legislature

We have reviewed the accompanying Statement of Revenue Subject to Constitutional Limitation - Legal Basis (Statement) of the State of Michigan for the fiscal year ended September 30, 2015. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the accompanying statement as a whole. Accordingly, we do not express such an opinion.

Management is responsible for the preparation and fair presentation of the accompanying Statement in accordance with Sections 18.1350a - 18.1350e of the *Michigan Compiled Laws*, which provide statutory language to implement Article IX, Sections 26 and 33 of the Michigan Constitution, and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the accompanying Statement.

Our responsibility is to conduct the review in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance that there are no material modifications that should be made to the accompanying Statement. We believe that the results of our procedures provide a reasonable basis for our report.

The accompanying Statement was prepared for the purpose of complying with the *Michigan Compiled Laws* cited above, as discussed in Note 1, and is not intended to be a presentation in conformity with accounting principles generally accepted in the United States of America.

Based on our review, we are not aware of any material modifications that should be made to the accompanying Statement for the fiscal year ended September 30, 2015 in order for it to be in conformity with the basis of accounting described in Note 1.

This report is intended solely for the information and use of the Governor, the Legislature, and the State's management and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Doug Ringler

Doug Ringler
Auditor General
June 7, 2016

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State of Michigan

Statement of Revenue Subject to Constitutional Limitation Legal Basis

Fiscal Year Ended September 30, 2015

Prepared by

State Budget Office
Office of Financial Management

June 7, 2016

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MICHIGAN
STATEMENT OF REVENUE SUBJECT TO CONSTITUTIONAL LIMITATION - LEGAL BASIS
Fiscal Year Ended September 30, 2015
(In Millions)

Total Revenue and Other Financing Sources - General Fund and Other Includable Funds (Note 2)		$ 52,570.1
Less Statutory Exclusions (Note 3):		
Interfund transfers between includable funds	$ 1,262.9	
Interfund borrowing costs	0.7	
Proceeds from bonds and notes	0.0	
Financing provided by capital leases	25.4	
Federal revenue	20,783.0	
Debt service	274.8	
Property tax credits (Note 4)	549.5	
Other statutory exclusions:		
Special Medicaid reimbursements	120.9	
Tobacco settlement reimbursements	191.0	
Prior year expenditure reimbursements	126.5	
Out of period tax refunds	455.0	
Other exclusions	141.7	(23,931.4)
Addition for Refundable and Nonrefundable Tax Credits (Note 4)		638.9
Total Revenue Subject to Limitation		$ 29,277.6
Personal Income of Michigan (Note 5)		$ 386,471.0
Section 26 Base Ratio (Note 6)		x 9.49%
Section 26 Revenue Limitation		36,676.1
Total Actual Revenue Subject to Limitation		29,277.6
Amount Over (Under) Limit		$ (7,398.5)

The accompanying notes are an integral part of this financial statement.
Column detail may not add to totals because of rounding.
See Independent Accountant's Review Report.

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MICHIGAN
NOTES TO THE STATEMENT OF REVENUE SUBJECT TO
CONSTITUTIONAL LIMITATION – LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015

NOTE 1 – BASIS OF ACCOUNTING AND PRESENTATION

The Statement of Revenue Subject to Constitutional Limitation - Legal Basis is presented in compliance with Public Act 504 of 1988, primarily Sections 18.1350a - 18.1350e of the Michigan Compiled Laws (MCL). P.A. 504 provides statutory language to implement Article 9, Sections 26 and 33 of the State Constitution. These legal provisions, which prescribe how compliance with the revenue limitation is determined, are outlined in the notes that follow. This statement is not intended to be a presentation in accordance with generally accepted accounting principles.

MCL Section 18.1350a provides that the calculation of State revenue shall not be adjusted after the filing of the report required for June 30, 1989, unless changes in generally accepted accounting principles would substantially distort the comparability of the base year. Because of changes in those principles regarding fund classifications and to provide comparability to the base year report, State revenues in this report include the General Fund, the permanent funds, and selected special revenue and capital projects funds.

NOTE 2 – TOTAL REVENUE AND OTHER FINANCING SOURCES

P.A. 504 defines total State revenue, for the purpose of determining the revenue limit, as the combined increase in net current assets of the General and special revenue funds. As explained in Note 1, total State revenue in this report also includes the permanent funds and certain capital projects funds and excludes certain special revenue funds in order to provide comparability to the base year report. The amount on the line titled "Total Revenue and Other Financing Sources – General Fund and Other Includable Funds" is calculated based on revenues reported in the *State of Michigan Comprehensive Annual Financial Report* (SOMCAFR). These revenues are derived using generally accepted accounting principles (GAAP). Additional information regarding the State's revenue recognition and accrual policies is included in Note 1 (Summary of Significant Accounting Policies) and Note 6 (Taxes Receivable) of the 2015 SOMCAFR.

NOTE 3 – STATUTORY EXCLUSIONS

P.A. 504 provides for exclusions from the revenue limit. These exclusions are provided for two primary reasons: 1) to eliminate those revenue sources which are excluded under Article 9, Section 33 of the State Constitution; and 2) to eliminate duplicate revenue arising from the methods used to account for the recognition of certain financial resources and the flow of these resources between the includable funds. The specific exclusions from the revenue limit are as follows:

a. Financing sources which have previously been counted as revenue for purposes of the revenue limit, such as beginning fund balance, expenditure refunds including reimbursement of tobacco-related health costs and prior year accounts payable write-offs, and transfers between the funds included in the calculation of revenue subject to Constitutional limitation.

   During fiscal year 2015, the General Fund incurred short-term interfund borrowing costs, resulting in interest income to select special revenue, capital projects, and permanent funds totaling $.7 million. This interest income has been excluded from the calculation of State revenue, similar to the treatment used for transfers.

b. Current assets generated from transactions involving capital assets and long-term obligations in which total net assets do not increase, such as capital lease transactions and financing provided by bond proceeds.

c. Revenues, such as Special Medicaid reimbursements and child support collections, which are not available for normal public functions of the General Fund or other includable funds.

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d. Federal aid is excluded in the line titled "Federal revenue."

e. Taxes imposed for the payment of principal and interest on voter approved bonds and loans to school districts authorized under Article 9, Section 16 of the State Constitution. This revenue is excluded in the line titled "Debt service."

f. Tax credits based on actual tax liabilities including the imputed tax components of rental payments (See Note 4).

g. Refunds or payments of revenues recognized in a prior period include out of period tax refunds.

h. The effects of restatements of beginning fund balances required by changes in generally accepted accounting principles.

NOTE 4 – TAX CREDITS

General: The Constitution requires that "...Total State Revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, but shall include the amount of any credits not related to actual tax liabilities...." This language results in adjustments to the revenue reported in the GAAP-based SOMCAFR "Schedule of Revenue and Other Financing Sources" to compute the amount of revenue subject to the revenue limit.

The State's tax laws provide for several types of individual income and Michigan business tax credits. Some credits are accounted for as revenue reductions in the SOMCAFR while others are reported as revenues and expenditures. The accounting and type of credit determines the adjustment to revenue that is necessary, as described below.

Statutory exclusion for property tax credits: Revenues and expenditures are reported in SOMCAFR for individual income tax credits which can be received even if they exceed the individual's tax liability (i.e., "refundable" tax credits). The property tax credit is the primary credit that falls into this category. All refundable individual income tax credits must be included in revenue for purposes of computing total State revenue subject to limitation, except for the property tax credit. Because these credits are reported as revenues and expenditures, the property tax credits for the year are subtracted from total State revenue subject to limitation on the line "Property tax credits" on the Statement of Revenue Subject to Constitutional Limitation - Legal Basis.

Addition for certain refundable and nonrefundable tax credits: Revenue reductions are recorded for those individual income tax credits that are limited by the amount of an individual's tax liability before considering such credits (i.e., "nonrefundable" tax credits). Revenue reductions are also recorded for both refundable and nonrefundable Michigan business tax credits. Those credits that do not meet the statutory exclusion described in Note 3 must be added back to the total State revenue subject to limitation. This adjustment totaled $.3 million in individual income tax credits and $638.6 million in Michigan business tax credits and is reported on the line "Addition for Refundable and Nonrefundable Tax Credits" on the Statement of Revenue Subject to Constitutional Limitation – Legal Basis.

NOTE 5 – PERSONAL INCOME OF MICHIGAN

Personal income of Michigan is defined by Article 9, Section 33 of the State Constitution as total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce (USDOC), or its successor agencies. Article 9, Section 26 of the State Constitution requires that the personal income of Michigan for 1977 be used for computing the fiscal year 1979 limit. For each subsequent

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year's computation, personal income of Michigan for a calendar year is defined by MCL Section 18.1350a(a) as total annual personal income as officially reported by USDOC. MCL Section 18.1350b(2) further specifies that the personal income amount used shall be either the prior calendar year or the average of the previous 3 calendar years, whichever is greater. For the fiscal year 2015 computation, the prior calendar year was used.

NOTE 6 – SECTION 26 BASE RATIO

The Section 26 base year ratio is 9.49%. This is the ratio of fiscal year 1979 "Total Revenue Subject to Limitation," to the calendar year personal income of Michigan in 1977 (See Note 5).

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EXHIBIT 3

OAG's "Independent Accountant's Review Report" and DTMB's "Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government-Legal Basis" (June 29, 2017)

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RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
STATE BUDGET OFFICE
LANSING

ALTON L. PSCHOLKA
DIRECTOR

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June 30, 2017

Michigan State Senate
c/o Mr. Jeff Cobb, Secretary
State Capitol
Lansing, MI 48909

Michigan House of Representatives
c/o Mr. Gary L. Randall, Clerk
State Capitol
Lansing, MI 48909

Dear Mr. Cobb and Mr. Randall:

This letter transmits the "Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis" for fiscal year 2016, which has been prepared in accordance with Sections 18.1115(5), 18.1303-18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws for the purpose of demonstrating compliance with Article 9, Section 30 of the Michigan Constitution.

The computed percentage of total state spending from state sources paid to local governments for fiscal year 2016 is 55.17%, which is $1.9 billion more than the minimum required.

The statement has been reviewed by the Office of the Auditor General and a copy of their independent accountant's review letter is enclosed.

If you have questions regarding this report, please contact Mr. Michael J. Moody, Director, Office of Financial Management, at 373-1010.

Sincerely,

Alton L. Pscholka
State Budget Director

Enclosure

cc: D. Ackerman, Executive Office
Senate Appropriations Committee
House Appropriations Committee
Ellen Jeffries, Senate Fiscal Agency
Mary Ann Cleary, House Fiscal Agency

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OAG
Office of the Auditor General
Doug A. Ringler, CPA, CIA
Auditor General
201 N. Washington Square, Sixth Floor • Lansing, Michigan 48913 • Phone: (517) 334-8050 • audgen.michigan.gov

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INDEPENDENT ACCOUNTANT'S REVIEW REPORT

The Honorable Rick Snyder, Governor
Members of the Legislature

We have reviewed the accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis (Statement) of the State of Michigan for the fiscal year ended September 30, 2016 and the related notes to the Statement. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the Statement as a whole. Accordingly, we do not express such an opinion.

Management's Responsibility for the Financial Statement
Management is responsible for the preparation and fair presentation of the Statement in accordance with Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the *Michigan Compiled Laws*, which provide statutory language to implement Article IX, Section 30 of the Michigan Constitution; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the Statement so that it is free from material misstatement, whether due to fraud or error.

Accountant's Responsibility
Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the Statement for it to be in accordance with the basis of accounting described in Note 1. We believe that the results of our procedures provide a reasonable basis for our conclusion.

Accountant's Conclusion
Based on our review, we are not aware of any material modifications that should be made to the accompanying Statement in order for it to be in accordance with the basis of accounting described in Note 1.

Emphasis of Matters
As discussed in Note 1, the accompanying Statement was prepared for the purpose of complying with the *Michigan Compiled Laws* cited above and is not intended to be a presentation in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 6, the State is involved in litigation which challenges payments that should be counted toward, or excluded from, the proportion of total State spending from State sources paid to units of local government calculation.

Our conclusion is not modified with respect to these matters.

Restriction on Use
This report is intended solely for the information and use of the Governor, the Legislature, and the State's management and is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Doug Ringler

Doug Ringler
Auditor General
June 29, 2017

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State of Michigan

Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government Legal Basis

Fiscal Year Ended September 30, 2016

Prepared by

State Budget Office
Office of Financial Management

June 29, 2017

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MICHIGAN
STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES
PAID TO UNITS OF LOCAL GOVERNMENT-LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2016
(In Millions)

TOTAL STATE SPENDING (Note 2)		
Expenditures and Transfers		
General Fund	$ 34,545.5	
Other Operating Funds	19,112.6	
Nonoperating Funds and Component Units	108.1	
Adjustment to General Fund Expenditures and Transfers	(124.3)	
Total Net Expenditures and Transfers:		$ 53,641.9
Interfund Transfer Deductions (Note 2)		
From General Fund to Other Operating Funds	(156.2)	
From Other Operating Funds to		
General Fund and to Other Operating Funds	(1,101.8)	
Subtotal	(1,258.0)	
Less: Interfund Transfer of		
Federal Funds	1.4	
Total Interfund Transfer Deductions:		(1,256.5)
Expenditure Adjustments (Note 3)		
Debt Service	(274.6)	
Refunds (net)	(481.0)	
Accounts Receivable Write-Off	(5.0)	
Total Expenditure Adjustments:		(760.5)
TOTAL STATE SPENDING		51,624.8
NON-STATE FUNDING		
Federal Revenue	(20,868.9)	
Local Revenue	(108.9)	
Private Revenue (Note 4)	(195.1)	
Total Non-State Funding:		(21,172.9)
Budget Stabilization Fund (Note 5)		
Deposits	95.0	
Withdrawals	-	
Total Budget Stabilization Fund Adjustments:		95.0
TOTAL STATE SPENDING FROM STATE SOURCES		$ 30,546.9
STATE SPENDING PAID TO UNITS OF LOCAL GOVERNMENT		$ 16,852.5
PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT (Notes 2 and 7)		55.17%
Excess of actual payments to units of local government over minimum proportion required of 48.97% (Note 7)		$ 1,893.7

The accompanying notes are an integral part of this financial statement.
Note that column detail may not add to totals because of rounding.
See Independent Accountant's Review Report.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2016

NOTE 1 – BASIS OF ACCOUNTING AND PRESENTATION

The accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis is presented in accordance with legal requirements set forth in Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws (MCL). These sections provide statutory language to implement Article 9, Section 30 of the State Constitution. This statement is not intended to be a presentation in accordance with generally accepted accounting principles.

NOTE 2 – STATUTORY DEFINITIONS

The following definitions were used in the preparation of the financial statement:

a. Total State Spending – MCL Section 18.1305(1) defines total State spending as the sum of State operating fund expenditures, not including transfers for financing between funds. Transfers between operating funds continue to be excluded from total State spending, which eliminates the potential for duplicate counting. Transfers from operating funds to nonoperating funds are not excluded, however, and are considered a part of total State spending.

b. State Operating Fund – MCL Section 18.1304(2) defines a State operating fund as a State fund entity established by law to provide direct financial support for services delivered to the public pursuant to the State budget. Prior to fiscal year 2001, the State's operating funds consisted of the General Fund and select special revenue funds. The State's implementation of the Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments, for fiscal year 2001 resulted in some operating funds being reclassified as permanent funds. The State's implementation of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, for fiscal year 2011 resulted in some operating funds being reclassified as capital projects funds. Accordingly, the financial statement includes the General Fund, the permanent funds, and certain special revenue, capital projects, and fiduciary funds of the State of Michigan.

   The financial statement also includes nonoperating fund and component unit expenditures. The expenditures have been included because, during the computation of the base year proportion of total State spending from State sources paid to units of local government, the expenditures were recorded in the General Fund. The inclusion of these expenditures provides for consistency of the current year computation with the base year.

   The financial statement excludes certain General Fund expenditures on the line titled "Adjustment to General Fund Expenditures and Transfers." These expenditures are excluded because, during the computation of the base year, the expenditures were recorded in funds that were not considered operating funds. The exclusion of these expenditures provides for consistency of the current year computation with the base year.

c. Total State Spending From State Sources – MCL Section 18.1305(2) defines total State spending from State sources as the sum of State operating fund expenditures, not including transfers for financing between funds, federal aid, and restricted local and private sources of financing.

d. Unit of Local Government – MCL Section 18.1115(5) defines a unit of local government as a political subdivision of this State, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the State and has the power to act primarily on behalf of that area.

e. State Spending Paid to Units of Local Government – MCL Section 18.1304(3) defines State spending paid to units of local government as the sum of total State spending from State sources paid to a unit of local government. The section further provides that State spending paid to units of local government does not include payments made under a contract agreement for the providing of services to the State or to State property, and loans made by the State to a unit of local government.

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Also included in total State spending paid to units of local government are payments made on behalf of units of local government. Section 18.1350 requires the inclusion of expenditures as payments to units of local government if the expenditures relate to functions performed by the units of local government and the State assumed the financing and administration of the function after December 22, 1978.

f. Proportion of State Spending From State Sources Paid to Units of Local Government – MCL Section 18.1303(5) defines it as the proportion of total State spending from State sources paid to all units of local government in a fiscal year. This proportion shall be calculated by dividing a fiscal year's State spending from State sources paid to units of local government by total State spending from State sources for the same fiscal period. The proportions as calculated are expressed in terms of percentages.

NOTE 3 – EXPENDITURE ADJUSTMENTS

Debt Service - Revenue dedicated to the repayment of voter approved bonds and loans to school districts authorized under Article 9, Section 16, of the State Constitution is not considered a State source for purposes of the computation of the State revenue limit under Article 9, Section 26, of the State Constitution. Therefore, expenditures recorded for the actual debt service payments are also not considered to be State spending from State sources for this statement.

Refunds – MCL Section 18.1350(2) states that refunds or other repayments of prior year revenues shall not be considered in the determination of total State spending. As such, the following adjustments have been made to total State spending:

a. As explained in more detail in the *State of Michigan Comprehensive Annual Financial Report*, the State accounts for certain income tax credits as expenditures. These expenditures, the most significant of which are related to property taxes, were not considered expenditures in the base year and are, therefore, subtracted in determining total State spending to provide consistency with the base year.

b. Certain individual income and Michigan business tax credits that are not based on actual tax liabilities are added back to State spending by reducing the “refunds” exclusion for other credits. The reason for counting these tax credits as total State spending is that the tax revenues, which finance the tax credit programs, are considered State sources of financing for the purposes of the computation of total State revenue as defined by Article 9, Section 26 of the State Constitution. Because the tax revenue is considered a State source of revenue, the expenditure of the revenue is considered State spending for purposes of this statement.

c. Tax refunds that are recorded in a fiscal year after the tax revenue has been recognized are recorded as expenditures, rather than as revenue reductions. Therefore, these refunds of prior year revenue have been subtracted in order to exclude them from total State spending.

Accounts Receivable Write-offs - Write-offs of prior year accounts receivable are recorded as expenditures. Because the write-off of a prior year accounts receivable is an adjustment to prior year revenue, the amount of such write-offs recorded as an expenditure is subtracted to be appropriately excluded from total State spending.

NOTE 4 – PRIVATE REVENUE

Private revenue has generally been defined for the preparation of this statement as revenue received from nonpublic entities, in which the use is restricted by the entity remitting the revenue or restricted by the State Constitution, statute, or an appropriation act. A statutory definition has not been developed. Significant sources of fiscal year 2016 private revenues are hospital contributions ($121.1 million), child support offset collections ($8.5 million), and collections for care of patients, wards, and inmates ($14.4 million).

The child support offset collections are received by the State Disbursement Unit from State and federal tax return offsets. The amounts collected are reimbursements to the State for excess payments made by the Temporary Assistance to Needy Families program. Also, a portion of the collections must be returned to the federal government as a repayment of the federal share of the excess Temporary Assistance to Needy Families payments. The hospital contributions were voluntary contributions received from hospitals and restricted for use to finance increased payments to hospitals with a disproportionate share of indigent clients. The collections for care of patients, wards, and inmates are from the individuals in State custody, their families, or insurance providers to reimburse the State for a portion of the cost of care provided to these individuals.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2016 (CONTINUED)

NOTE 5 – BUDGET STABILIZATION FUND ADJUSTMENTS

Deposits to the Counter-Cyclical Budget and Economic Stabilization Fund are added to total State spending. When withdrawals are made from the fund, the withdrawal is subtracted from total State spending, so that the funds previously deposited are not counted as spending twice.

During fiscal year 2016, the fund received a deposit of $95.0 million from the General Fund.

During fiscal year 2014, $194.8 million was transferred to the Michigan Settlement Administration Authority to support the Detroit bankruptcy settlement. The withdrawal will be repaid to the fund in the amount of $17.5 million annually from tobacco settlement funds, beginning in fiscal year 2015. Repayments are not included in deposits to avoid double counting as the funds were added to State spending at the time of their original deposit.

NOTE 6 - LITIGATION

Taxpayers for Michigan Constitutional Government v The State of Michigan: On September 7, 2016, plaintiffs filed suit against defendants in the Michigan Court of Appeals under the provisions of the Headlee Amendment to the Michigan Constitution. Plaintiffs named the Department of Technology, Management and Budget, the Office of the Auditor General, and the State as defendants. Among its provision, Section 30 of the Headlee Amendment requires that "The proportion of total state spending paid to all units of local government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." The figure was recalculated in 1993 based on prior litigation. This means that each year, State spending in the form of aid to local governments, in the aggregate, must be at least 48.97 percent of total state spending from state revenue sources, as those terms are defined.

This case involves payments that should be counted toward, or excluded from, the 48.97 percent calculation. Plaintiffs allege that Proposal A funding, Charter School funding, and certain other issues, previously litigated, should not count toward the 48.97 percent. It is impossible at this early point in the litigation to estimate the potential fiscal impact of this case. Plaintiffs' pleadings do not quantify a specific dollar amount in contention.

NOTE 7 – BASE YEAR SPENDING PROPORTION

Article 9, Section 30 of the State Constitution requires the State to maintain the proportion of State spending to local units in at least the same proportion as that which was in effect in fiscal year 1979 (base year). The base year proportion was originally computed to be 41.61%.

Effective with fiscal year 1993, a recalculation was made of the base year proportion as a consequence of a settlement agreement reached on the County of Oakland v State of Michigan lawsuit, which was settled in 1991. The recalculated base year proportion is 48.97%.

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EXHIBIT 4

Citizens Research Council, State And Local Revenues For Public Education In Michigan, 3 (Report 363, Sept. 2010)

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STATE AND LOCAL REVENUES FOR PUBLIC EDUCATION IN MICHIGAN

SEPTEMBER 2010

REPORT 363

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STATE AND LOCAL REVENUES FOR PUBLIC EDUCATION IN MICHIGAN

SEPTEMBER 2010

REPORT 363

This CRC report was made possible by grants from the W.K. Kellogg Foundation, the Frey Foundation, the PNC Foundation, ArvinMeritor, the Richard C. and Barbara C. Van Dusen Family Fund, and a consortium of education groups including the Tri-County Alliance for Public Education, Michigan Association of School Boards, Metropolitan Detroit Bureau of School Studies, Inc., Michigan Association of School Administrators, Michigan School Business Officials, Middle Cities Education Association, Michigan Association of Intermediate School Administrators, Michigan PTSA, Michigan Association of Secondary School Principals, and the Michigan Elementary and Middle School Principals Association.

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Public K-12 Education in Michigan

Entering 2010, Michigan residents find public primary and secondary education facing numerous challenges:

- State revenues are falling;
- Local revenue growth is stagnating;
- K-12 education service providers are facing escalating cost pressures, with annual growth rates outpacing the projected growth in available resources;
- Spikes in the level of federal education funding resulting from the American Recovery and Reinvestment Act of 2009 (ARRA) will produce a budgetary "cliff" when the additional dollars expire; and
- School district organization and service provision structures are being reviewed with the goals of reducing costs and increasing efficiencies.

Because of the critical importance of education to the state, its economy, and its budget, the Citizens Research Council of Michigan (CRC) plans a long-term project researching education in Michigan with an emphasis on the current governance, funding, and service provision structures and their sustainability.

Because of the breadth of topics and issues touched upon in each of these areas, it was determined that, in some cases, it would be necessary to address each broad issue through multiple reports. Since the topic of education finance is so complex, we have divided the subject matter into three reports.

This report represents the first analysis that will be produced by CRC on school finances in Michigan. This first report focuses primarily on the state and local revenues available to support public education, with particular attention paid to the structure of the financing system and changes to it over time. This report also covers the major factors, economic, political, and demographic, that influence performance of state and local revenues. The discussion of federal funding is reserved for the second education finance report because state and local officials exercise very limited control over the amount and distribution of these funds.

The second report will concentrate on the distribution of state, local, and federal resources among local and intermediate school districts. Considerable attention will be directed at the per-pupil foundation allowance grant, which is responsible for allocating the vast majority of state and local resources among districts, and the key challenges facing this system. This report also will look at the methods and policies for targeting resources to specific subsets of schools and students throughout the state via categorical funding and the changes to this type of funding over time. Finally, the role of federal funding and the related programs will be covered in this report.

A third report will be an in-depth examination of school expenditures, including those growing spending pressures that contribute to fiscal distress at the local level. We will take a close look at the causes and implications of deficits in school districts and the state laws and processes that govern such occurrences.

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Citizens Research Council Education Project

In 2009, CRC was approached by a consortium of education interests and asked to take a comprehensive look at education in Michigan. CRC agreed to do this because of the importance of education to the prosperity of the state, historically and prospectively, and also because of the share of the state budget that education demands. Education is critical to the state and its citizens for many reasons: 1) A successful democracy relies on an educated citizenry. 2) Reeducating workers and preparing students for the global economy are both crucial to transforming Michigan's economy. 3) Education is vital to state and local budgets. 4) Public education represents a government program that many residents directly benefit from, not to mention the indirect benefits associated with living and working with educated people. As with all CRC research, findings and recommendations will flow from objective facts and analyses and will be made publicly available. Funding for this research effort is being provided by the education consortium and some Michigan foundations. CRC is still soliciting funds for this project from the business and foundation communities.

The goal of this comprehensive review of education is to provide the necessary data and expertise to inform the education debate in Lansing and around the state. This is a long-term project that will take much of the focus of CRC in 2010 and into 2011. While an overall project completion date is unknown, CRC plans to approach the project in stages and release reports as they are completed. Topic areas CRC plans to study include education governance, K-12 revenues and school finance, school district spending analyses, public school academies (PSAs) and non-traditional schools, school district service provision and reorganization, and analyses of changes to Michigan's educational system.

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Summary

Financial support for Michigan public elementary and secondary education continues to be a major public policy issue despite the fact that significant resources are dedicated to serving nearly 1.7 million children each year. In state Fiscal Year 2007-2008 (FY2008) Michigan schools received $16.2 billion in state and local revenues for on-going operations. This support equaled 4.6 percent of Michigan personal income in FY2008. Although public education is a priority, there are concerns that it is currently under-funded, and that spending pressures will outpace the resources available each year in the future.

Some of the current concerns about the financial support for education can be better understood in the context of the financing system and its components. Specifically focusing on the financing system's design and the economic, political, and demographic factors affecting it provides valuable insights into the outputs it generates, such as the level of resources in the aggregate or on a per-pupil basis. The structure of the system and its components influences how resources grow year-over-year. Michigan's education financing system is influenced by a variety of factors, most notably the underlying economic bases upon which public revenues (primarily taxes) are derived, demographic changes involving the aging of the Michigan populace, and modifications to state law, specifically tax policy changes. Furthermore, because financing public education is a state responsibility as a result of Proposal A of 1994, these finances have to be understood in the larger context of aggregate state finances.

Most of the recent discussion on the issue of school finance and recommendations for reform focus on the amount of state financial support for education. Central to this discussion is the slowdown in state School Aid Fund revenue growth arising from the transformation of Michigan's economy dating back to the beginning of the last decade. Compounding the effects of the structural changes in the economy was the failure of the Michigan economy to exhibit any sustained rebound from the mild 2000-2001 recession. These factors combined to negatively affect the state's ability to increase support for education throughout much of the last decade, especially in relation to economic activity and prices. Recently, the Great Recession of 2008 decimated state tax revenues from all sources, causing actual year-over-year declines in FY2009 and FY2010. The revenue picture facing Michigan schools beginning in the early 2000s is much different than that immediately following the Proposal A reforms, when the state's economic picture was much brighter.

Looking forward and absent state policy changes, state support for education will be contingent on Michigan's recovery from the Great Recession. Both the strength and duration of a recovery will be factors in determining the level of state resources in the near term. However, future state revenues, regardless of their ultimate level, will face new demands arising from the decline in property values that will drive down property taxes dedicated to schools. Property taxes exhibited considerable stability since the adoption of Proposal A. Any growth in state tax revenues dedicated to schools is likely to be negatively affected by the loss of local revenues, thereby continuing the fiscal pressures of the past into the foreseeable future. Prospectively, and over the longer-term, annual growth potential of education revenues will be contingent on the structural relationships between the tax bases and economic activity in the state. It is expected that demographic, legal, and economic factors will combine to further weaken the relationships in the future. Given the extremely centralized nature of the financing system, only state, and not local, policy makers have the authority to address these weaknesses.

Michigan's Education Revenue Structure: State-Dominated Financing System

The school finance reforms of the mid-1990s ushered in a completely new method for financing public education in Michigan. The most visible and most significant fiscal effect of the school finance reforms was the shift in primary responsibility for funding education. The reforms centralized education revenue-raising responsibility at the state level, accompanied by an increase in level of earmarked revenues for education.

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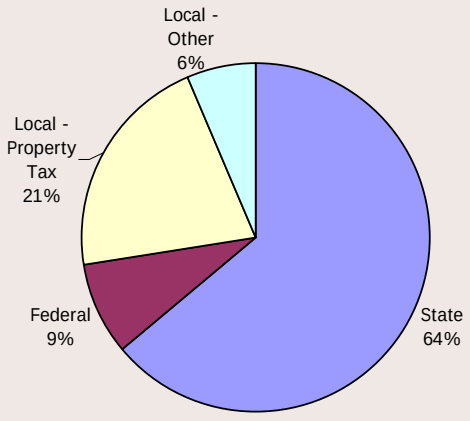
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Centralization had both "direct" and "indirect" aspects. In a direct sense, existing state taxes were increased and new taxes authorized. Revenues from these state tax changes were designed to replace the resources generated by local property taxes following substantial rate reductions. Furthermore, the new system strictly limited "local-option" revenue supplementation. In terms of indirect effects, the reforms created stringent caps on local property tax rates and tax base growth such that the "local" revenues generated by the system are effectively "state" revenues. Taken together, the various aspects of centralization resulted in a school finance system that is entirely state-run in terms of annual operating revenues for schools. Given the practical realities of the current financing system, state-controlled revenues (directly or indirectly) comprise nearly 85 percent of the total operating funding for local schools (**Chart A)**. As a result, state, not local, policy makers control the purse strings of Michigan's local schools.

Proposal A created a real mismatch in terms of crafting annual budgets at the school district level, something that did not exist before Proposal A. State officials effectively control the purse strings, but local school boards and administrators are responsible for setting the spending priorities. During times of expanding budgets, this may not be viewed as problematic; however, in austere times, the fiscal arrangement proves more difficult for achieving required budget balance.

School finance centralization helped achieve specific, long-standing tax policy objectives. Specifically, the tax landscape in the state changed on a number of fronts: 1) property tax burden fell to below the U.S. average; 2) the consumption tax burden increased relative to the national average; and 3) the overall composition of major taxes (property, consumption, and income) became more balanced and more closely mirrored the U.S. average.

Chart A
School Operating Revenues by Source: FY2008



Source: National Public Education Financial Survey

Economic Performance Key Factor

Centralization directly linked education finances to the performance of the Michigan economy, both in terms of the dedicated state taxes (consumption and income) as well as the discretionary resources (General Fund allocation) available to schools each year. Since the adoption of Proposal A, Michigan went from being a state in the top one-third in terms of individual wealth in 1995 to one that is in the bottom fourth of all states today. This significant economic slide has had profound effects on education funding, as well as the finances of other public services.

Economic performance over the past 15 years (1995 through 2009) should be divided into three distinct subperiods and school finances examined accordingly. The first period (1995 through 2000) was characterized by steady and stable economic growth, measured in terms of employment level and the amount of income earned. In contrast, during the second period (2001 through 2008), employment levels declined and annual personal income growth slowed in nominal terms and in some years declined in real terms. Although Michigan was affected by the mild 2001 recession during this period, the fundamental economic problem which directly influenced public education finances centered on the complete transformation of the economic base, led by the auto sector.

The third and most recent period (2009 to present) is marked by a continuation of the job losses and income declines of the previous period, but at an accelerated rate because of the severe national recession that took hold in 2008. The recessionary effects of today have been compounded by the fact that Michigan's economy continues to undergo the final stages of a massive "rebalancing", with a concentrated shift away from its traditional manufacturing base.

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Table A
School Aid Fund Revenue Annualized Growth Rates: FY1997 to FY2009

Revenues	FY1997 to FY2000	FY2001 to FY2008	FY1997 to FY2008	FY2008 to FY2009
State Taxes	6.2%	2.0%	3.1%	-8.6%
Lottery Transfer	1.7%	3.4%	2.1%	-2.2%
General Fund Transfer	4.6%	-31.6%	-18.5%	123.5%
Total State-Source School Aid Fund	5.9%	1.5%	2.7%	-7.8%
Michigan Personal Income	5.6%	2.2%	3.1%	-3.0%
U.S. CPI	2.2%	2.8%	2.7%	-0.3%

Source: Michigan Department of Education; U.S. Dept. of Commerce; U.S. Dept. of Labor; May 2010 Consensus Revenue Estimates adjusted for personal property tax exemptions

On-Going Operating Revenue Performance

From FY1997 to FY2008, total state-source School Aid Fund revenues grew from $8.6 billion to $11.5 billion, an increase of 34 percent, equal to an annualized rate of 2.7 percent. This average growth rate was equal to the annual rate of change in the U.S. Consumer Price Index (CPI) over the same period, but slightly below Michigan personal income growth (3.1 percent per year). Viewed over the entire period, growth of the SAF appears to have fared relatively well; however, this picture changes significantly when the component pieces of the Fund are dissected and the period is broken into three sub-periods corresponding to Michigan' economic performance (See **Table A**).

During the initial years following Proposal A's adoption, state operating revenue growth was strong due to the strength of major tax collections, but per-pupil revenue growth was moderate because of rising student enrollments. Causes of Michigan's weak state education revenue growth from FY2001 to FY2008 include the mild 2001 recession and economic restructuring and, to a lesser extent, tax policy changes that effectively narrowed the bases of major taxes dedicated to funding schools. The tepid growth of the major taxes was not observed in per-pupil funding levels as this period was marked by declining student enrollments. In contrast to the first two sub-periods in which state revenues exhibited some degree of growth, revenues over the current period (FY2009 and FY2010) will decline in response to the Great Recession's impact on the Michigan economy, the first such occurrence since Proposal A. The very severe national recession has established the new "base" level of state funding from which future state revenues will grow.

Annual changes in minor state education taxes have been influenced by a number of factors different from those which affected major tax receipts. Growth of these taxes benefited from a number of tax rate increases and the adoption of new taxes.

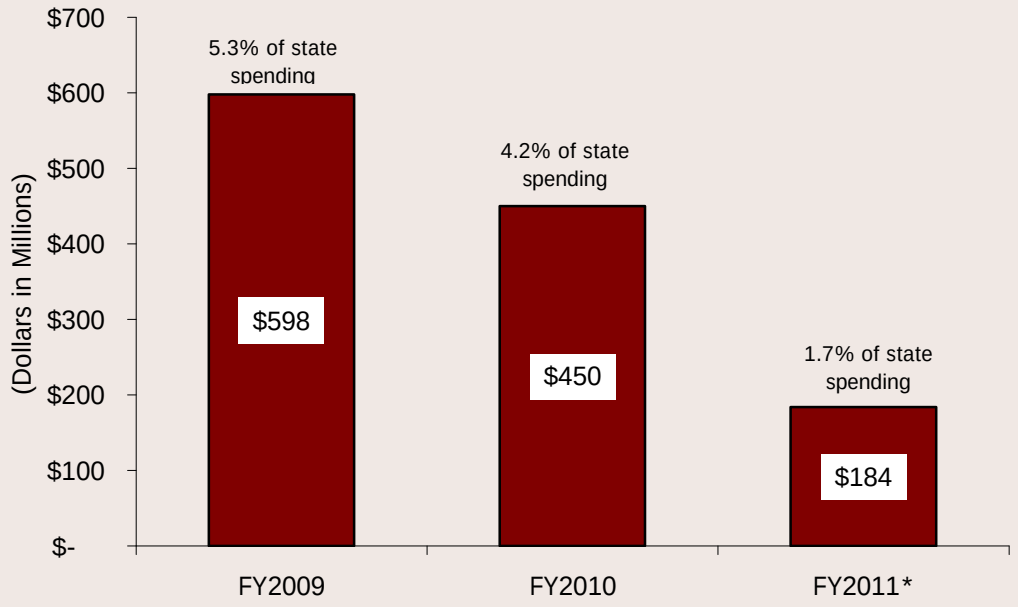
At the same time that growth in dedicated tax revenues has been slowing or declining (FY2001 to present), the annual General Fund allocation to schools was pared back and funding responsibility for certain items shifted from the General Fund to the School Aid Fund. The "safety value" previously available to finance schools and provided by the General Fund was effectively shut off as discretionary resources were re-allocated to other areas of the state budget in the annual appropriation process. Today, discretionary state funds do very little to supplement dedicated education revenues. Future General Fund allocations to schools will be tied to the performance of General Fund taxes, the composition of which is different from the state School Aid Fund.

In contrast to the ebbs and flows of state sources over last decade, local operating revenues have exhibited steady growth dating back to 1995. Stability

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Chart B
ARRA Funds Used to Achieve SAF Budget Balance: FY2009 through FY2011



* Based on Enacted FY2011 budget (Public 110 of 2010).

was provided by the property tax, which varies little over the business cycle vis-à-vis consumption and income taxes. Until recently, the appreciation in the property tax base was not adversely affected by changes in the Michigan economy; however, the bursting of the housing bubble is affecting property values and property tax growth has stopped. The long-term challenges facing the property tax as a revenue source for schools relates to state tax limitations that will constrain tax base growth during the eventual real estate market recovery.

Tax revenues, especially those based on economic activity, will always be subject to the ups and downs of the business cycle, but public finance systems can be designed to moderate such volatility through the composition of tax sources. Operational support for Michigan's public schools comes from a balanced mix of major tax sources (consumption, income, and property) with no single source being dominant. Stability is further enhanced through earmarking of state revenues and indexed growth rates for some minor tax sources (i.e., Michigan Business Tax). Michigan's system of state and local school finance exhibits greater revenue stability than the state's General Fund.

Non-recurring Resources Supporting Schools

Schools have not had to deal with the full effects of stagnating and declining state resources because state policy makers have provided substantial amounts of non-recurring resources to maintain education spending levels since FY2001. Initially, accumulated reserves, both School Aid Fund and Rainy Day Fund, were used to augment on-going revenues. Additionally, a one time change involving the collection of the statewide property tax was enacted to increase cash receipts in one year (effectively reducing receipts in the next year). At the local level, districts have been drawing down fund balances to maintain programs and to reduce the level of annual spending cuts in response to state aid performance.

Recently, the state and local operating revenue declines in FY2009 and FY2010 will not be fully reflected in the level of education services delivered. The $934 million (8.2 percent) reduction in state-dedicated funding in FY2009 will be partially offset by the availability of temporary funding provided through the 2009 federal "stimulus" legislation. Significant levels of non-recurring federal monies are being used in FY2009 and FY2010 (**Chart B**). Michigan will be receiving additional federal resources ($318 million), through another new "stimulus" program, to prop up the FY2011 School Aid Fund budget. The fiscal effects of Michigan's heavy reliance on substantial amounts of one-time and temporary

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funding are that they produce revenue "cliffs" in the out-years and perpetuate an imbalance between on-going resources and on-going spending. These resources do nothing to achieve structural balance in Michigan education finances.

Long-Term Fiscal Imbalance

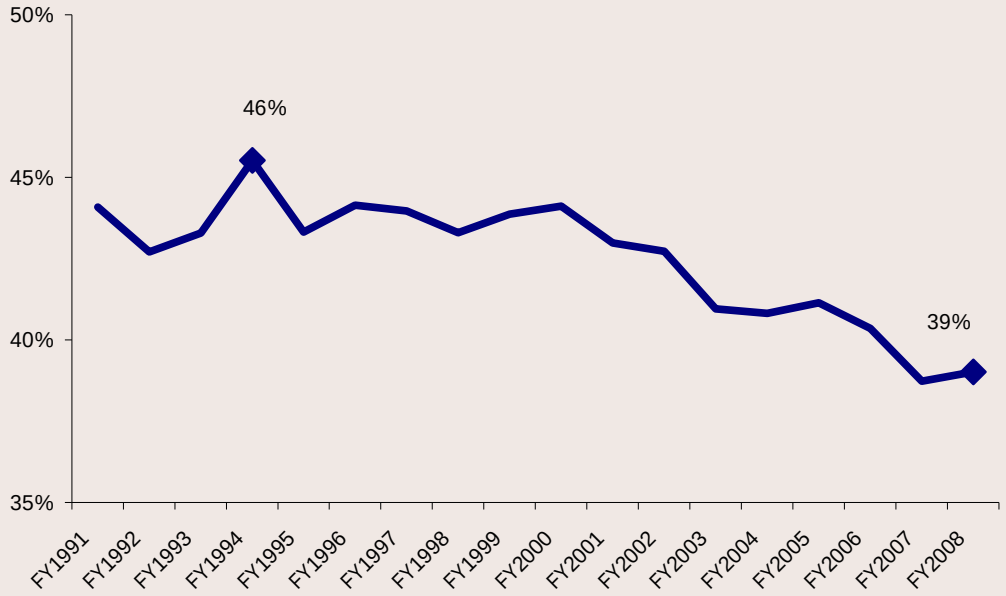
Recent events have focused attention of policy makers and taxpayers on the revenue volatility as it relates to state taxes and funding for public services, particularly public education and the $165 per-pupil reduction that occurred in FY2010. These current events, however, obscure a more fundamental, long-term problem that plagues K-12 education finances in Michigan. Since the early 2000s, the state has failed to come to grips with the dual structural deficits affecting its major operating funds, General Fund and School Aid Fund. Instead of fixing the problems in a permanent, sustainable fashion, the state has relied on a series of "stop gap" measures dating back to FY2001 to achieve budget balance.

CRC's previous efforts to scope and quantify the structural budget deficit facing public education reveals that spending pressures at the local level are expected to grow at a rate of 4.7 percent annually, while operating revenues (based on current tax structure and moderately improving economic climate) are projected to growth 3.0 percent per year. Long-term challenges on both sides of the budget ledger contribute to an estimated 1.7 percentage point difference between spending pressures and available resources (about $400 million annually over the forecast period). Specifically, personnel costs driven primarily by health care spending for current and retired school employees along with wage and salary increases will contribute to the growth on the expenditure side. The expected future growth in school revenues will be influenced by the relationships between the state's economic base and the taxes dedicated to financing, along with tax policies that narrow the base of these taxes.

Enhancing Stability in Education Finances

Emerging from the Great Recession, state policy markers and Michigan citizens should focus their attention on the long-term prospects for school funding. Despite the relative stability of school finances vis-à-vis the state's General Fund, at least in the short-run, long-term growth of the education financing system will not match economic growth because of the current tax structure and projected economic and demographic trends. Individuals are receiving a greater portion of their income from nontaxable sources. Consumers are purchasing an increasing amount of untaxed services in relation to taxed goods and they are avoiding the use tax through Internet and remote purchases (**Chart C**). The state's work-

Chart C
Taxable Sales as Percent of Personal Income: FY1991 to FY2008



Source: State of Michigan, Comprehensive Annual Financial Reports; U.S. Department

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ing-age population is shrinking, while the general population is aging at a faster rate than other states, which will likely reduce tax receipts because older residents have different consumption preferences. Also, older residents receive more of their income from untaxed sources such as pensions and transfer payments (i.e., Social Security).

As the economy continues to transform and if the school finance system remains unchanged, the link between state education revenues and economic activity will continue to weaken. Policy actions will be required to "re-connect" the school funding system with the direction of the Michigan economy if tax receipts are to grow commensurate with broad measures of economic activity. Furthermore, legal provisions superimposed on property taxes (state and local) will accentuate the disconnect between overall education revenue growth and what is taking place in the economy as property tax receipt growth will experience a drag associated with the deterioration of the tax base. Without state revenue restructuring or attempts to address various and inter-connected property tax limitations, the delivery of public education services will have to be re-calibrated to match a revenue system that grows more slowly in the future, because the option to influence overall revenue growth vial the local property tax is extremely restrained.

Repairing the weakened relationships between state education taxes and the economy will enhance the current level of stability in the education finance system. Specific actions to enhance stability will have to focus on the major sources of school funding, both state and local taxes. At the state level, broadening Michigan's consumption tax base to include the growing service sector is likely to enhance revenue stability and preserve the long-term sales tax yield. A broad-based consumption tax would also provide some protection during recessionary periods against wide fluctuations in yields associated with a goods-dominated tax. Re-configuring the sales tax base entails a host of complex issues (i.e., administrative, equity, definitional), including the decision whether a net tax increase or a net tax decrease is a desired end-product.

Changing the projected growth path of the income tax will require modifying the rate structure, deductions, and/or credits. If Michigan were to substitute a graduated income tax for its current flat rate tax, considerable additional growth in revenues could be realized because income growth over much of the last half-century has been concentrated in high income earners.

To modify the projected growth path of the 6-mill State Education Tax coming out of the period of declining tax base would require a statutory change in the tax rate or changes to the Michigan Constitution to alter the modified acquisition value system of property valuation. For local school operating taxes, policy marker will have to confront the complex relationships of Michigan's various property tax limitations. Proposal A did not amend the Headlee Amendment's property tax limitations, nor did it specify how the Headlee Amendment provisions should be applied to the new measure of taxable value and "pop ups" in value (following transfer of ownership). The resulting statutory implementation of these limitations has had a compounding affect creating greater aggregate limitation than either Headlee or Proposal A was designed to achieve individually. One response that would enhance stability would involve redefining the tax base "growth" to exclude "pop ups" to allow the tax base of existing property to grow at a rate that approximates, or slightly exceeds, inflation. Another option would be to provide for the effective exemption of the "required" local school operating millage (18 mills in most cases) from the Headlee tax rate "roll back" provisions.

Finally, some contend that the school finance system's primary failure is the lack of local options to raise operating revenue, separate from the "required" local taxes. One option that could provide additional stability to school finances, at least at the individual local level, would be to allow districts to ask voters for additional millage, subject to a state-determined cap. The current ISD-wide enhancement millage could be eliminated or modified to effect more local choice over the ultimate level of financial resources available to each district annually.

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State and Local Revenues for Public Education in Michigan

Introduction

Public K-12 education in Michigan provides a prime example of the federalist system, complex governance, and intergovernmental finance systems. Despite shared responsibility among levels of government, strong language in the 1963 Michigan Constitution entrusts the state government with ultimate authority over public K-12 education. The Constitution further allocates authority and responsibility among the executive and legislative branches of state government, as well as the constitutionally created state board of education. Although plenary power over educational matters rests with the state government, considerable authority has been delegated to local school districts, especially functions dealing with the delivery of elementary and secondary education services. Financing education is one very important area where authority is highly centralized at the state level, specifically with the legislature, and where there is little local decision-making responsibility. [Note about term "education": Michigan state government finances, via the legislative appropriations process, education services provided at various governmental levels and through many different entities. Hereafter, references to "education" are meant to refer to public K-12 education provided through traditional local and intermediate school districts, as well as public school academies, unless otherwise specified. The term does not include private or parochial education.]

Financial support for public education in Michigan continues to be a major public policy issue, despite the fact that significant resources are dedicated to serving nearly 1.7 million children each year. In state Fiscal Year 2007-2008 (FY2008) Michigan schools received $16.2 billion in state and local revenues for on-going operations.[1] This total does not include $1.5 billion in federal revenues and nearly $1.9 billion in state and local revenues spent on capital projects. State and local revenues supporting education equaled 4.6 percent of Michigan personal income in 2008. Education is a priority, but there are concerns that public education is currently under-funded and that, prospectively, spending pressures will outpace the resources available each year. There is further concern that state and local resources are distributed inequitably among Michigan school children.

Some of the current concerns about financial support for education can be better understood in the context of the financing system and its components. Focusing on the system's design and the economic, political, and demographic factors affecting it, provides valuable insights into the outputs it generates, such as the level of resources in the aggregate or on a per-pupil basis. These outputs, however, do not directly translate into specific educational outcomes. Michigan's education financing system is influenced by a variety of factors, most notably the underlying economic bases upon which public revenues (primarily taxes) are derived, demographic changes, and modifications to state law. Because of the predominant role played by state government, Michigan's education finances also have to be understood in the larger context of aggregate state finances.

Prior to the approval of Proposal A in March 1994, the responsibility for funding schools and the decisions regarding annual resource levels were the province of local officials and residents. Not surprisingly, in this environment, the experiences of Michigan's 550-plus districts varied widely. Two areas where inter-district differences were most stark were: 1) per-pupil revenue levels and 2) local property tax effort. Largely as a consequence of the growing disparities in these two areas, voters were asked nearly a dozen times over the 20-year period preceding Proposal A to amend Michigan's Constitution to address some aspect of the school finance system. Each time, change was rejected.

Unlike previous attempts at reform, the changes brought about by Proposal A represented a transformational, as opposed to a marginal, shift in the way school revenues were raised and how these revenues were distributed to local districts. The constitutional and statutory changes enacted in 1993 and early-1994 revamped Michigan's school finance

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system by destroying the old one and ushering in a completely new one. The seismic nature of the reforms meant that elected officials in Lansing and in local communities, along with school officials and citizens, had little experience with the operations of such a system. Thus, in a real sense, the new financing system was an experiment.

Today, the financing for Michigan's education system is extremely centralized at the state level. Resource availability, both in terms of local and state revenues, is governed largely by decisions rendered in Lansing. At the same time that budgetary resource decisions are set centrally, nearly all spending determinations remain at the local level with a couple of noteworthy exceptions (e.g., retirement benefits funding). For many local school districts, operating under such a system has posed challenges in recent years. Such a "command and control" finance system leaves few options available for raising additional revenues, regardless of local preferences for education services. In this sense, today's system stands in marked contrast to that which existed prior to the 1994-95 school year.

Most of the recent discussion on school finance and recommendations for change focuses on the level of state financial support for education. Central to this discussion is the slowdown in state School Aid Fund revenue growth due to the nearly decade-long recession Michigan has experienced. Michigan's budget problems began with the mild 2000-2001 recession from which the state economy never fully recovered, and the transformation of Michigan's manufacturing-dependent economic base, which accelerated during the 2000s. These factors materially affected major tax revenue growth, especially in comparison to the experience of the 1990s. The changes in state revenue growth, combined with tax policy changes enacted during the late-1990s and early-2000s, negatively affected the state's ability to increase support for education throughout the decade. Recently, the Great Recession decimated state tax revenues from all sources, including those dedicated to the School Aid Fund. The revenue picture facing Michigan schools over the last ten fiscal years is much different than the picture immediately following the Proposal A reforms.

Looking forward and absent state policy changes, state support for education will be contingent on Michigan's recovery from the Great Recession. Both the strength and duration of a recovery will be factors in determining the level of state resources in the near term. Future revenues will continue to be affected by the decline in property values and the contraction of the tax base. The mechanics of the foundation allowance program will put additional strain on state resources to make up for lost property tax revenues at the local level in order to avoid future per-pupil funding reductions. Given the current system's limits on local districts' ability to raise local property tax rates for operations, greater significance is placed on state revenue performance going forward.

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Current Financing System: Historical and Descriptive

The origins of the current education financing system date back to before the enactment of a series of reforms in 1993 and 1994 and have as their roots a number of failed attempts at finance reform throughout the 1970s and 1980s and stretching into the early 1990s. While pieces of today's school financing system resemble components espoused in earlier attempts at school finance reform, the current system is unique in its content and scope. And while the origins of today's education finance system can be traced to a long history of contemplated constitutional and statutory changes, the most significant event in the history of the current system dates back to a single legislative action that occurred in 1993.

The origins of the current education financing system date back to before the enactment of a series of reforms in 1993 and 1994 and have as their roots a number of failed attempts at finance reform throughout the 1970s and 1980s and stretching into the early 1990s.

Michigan's most dramatic step toward education finance reform occurred in the summer of 1993 with the elimination of the property tax as the primary revenue source for funding local school operations. This bold step was taken without an alternative funding mechanism identified to replace the lost revenue. Furthermore, Senate Bill 1 of 1993 (PA 145) did not embrace any other issue related to the concerns surrounding Michigan's school finance system at the time, i.e., issues dealing with property tax base growth, assessments, etc. Despite its limited scope, the complete elimination of the main source of school operating revenues effective for FY1995 was enough to spur five months of in-depth deliberations that would eventually break the 20-year impasse on school finance reform. By the end of the 1993 calendar year, the Michigan Legislature had completed work on a new school funding allocation method, abandoning the power-equalization system for a per-pupil foundation system. The only unresolved piece of the reform picture was how to finance the new system. This question was left to the Michigan electorate to decide in the spring of 1994 at a special statewide election. Michigan voters opted for a plan to increase the sales tax and other minor taxes over an alternative statutory plan that was based on an increase in the individual income tax rate and single business tax rate.

Elimination of the Property Tax and the New Revenue Structure

Public Act 145 eliminated all property taxes for local school operating purposes effective with the 1994 calendar year and the 1994-95 school year (state FY1995). The Act exempted all property from local and intermediate school district (ISD) operating millages, but did not affect debt and building and site millages. Further, community college millages were specifically excluded from the exemption. The legislation made no provision for the replacement of the lost revenue, estimated to total $6.9 billion in 1994 for all units of local government affected (See **Table 1**).

The elimination of the local property tax for school operations resulted in substantial property tax re-

Table 1
Property Tax Reduction under PA 145 of 1993
(Dollars in Millions)

School districts:	
Local K-12	($6,020)
ISDs	(510)
Fiscal impact of assessment freeze	(128)
Tax abatements and tax increment financing	(180)
Property tax administrative fees	(39)
Total property tax reduction	($6,877)

Source: Michigan Department of Treasury

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lief. The average statewide property tax rate (all levies) in 1993 was 56.64 mills and the average school operating millage rate (33.91 mills) constituted 67 percent of this total figure. The highest school operating millage was 45.67 mills and the lowest 7.8 mills. Fifty-three districts (10 percent of the total) had rates of 40 mills or higher and 257 districts (49 percent) levied millages at or above the statewide average tax rate. From a tax rate perspective alone, PA 145 resulted in a monumental property tax rate cut.

As a result of the property tax elimination, local school districts lost an estimated $6 billion and ISDs lost $510 million. It is estimated that the property tax accounted for nearly two-thirds of the total $10 billion in combined state and local support for local district and ISD operations in FY1994.

The option to increase state taxes to fully replace the lost locally derived revenues faced legal, political, and administrative constraints. Of particular note was the state revenue limit of Article IX, Section 26 of the 1963 Constitution.

The repeal of the local property tax as the primary funding mechanism for public education raised a number of questions. Chief among these was the question of how the revenues would be replaced. A number of previous attempts at school finance reform over the preceding 20-year period aimed to replace a portion of the property tax with an increase in a state tax, most often the sales tax. Given the sizeable loss of local revenue brought about by PA 145 ($6.9 billion), it would have been impossible to achieve even partial replacement without heavy reliance on one or more of the four major state taxes in effect at the time: single business, individual income, sales and/or use. Another option would have been the creation of new tax, such as a statewide property tax.

The option to increase state taxes to fully replace the lost locally derived revenues faced legal, political, and administrative constraints. Of particular note was the state revenue limit of Article IX, Section 26 of the 1963 Constitution, which limits the amount of state revenue that can be collected in any state fiscal year to a set percentage of state personal income. Michigan was nearly $3.2 billion below the state revenue limit in FY1993, the last full year prior to the reforms, however, this was far short of the needed amount to fully replace the $6.9 billion in lost local property tax resources.[2] Given this legal constraint, the legislature needed to rely, to some degree, on a local tax source to secure full replacement of the lost local property tax revenue. Further, because of the limited revenue options available to local school districts and the use of the property tax in the past, some type of local property tax was going to be part of the final revenue picture for schools.

Adjusting the Revenue Limit to Accommodate the Shift in Education Funding

In addition to establishing a state revenue limit and describing the mechanics of the limit, Section 26 of Article IX also provides for the adjustment of the limit if programs are transferred from one level of government to another. Such a transfer has to occur as a result of a constitutional amendment and the total amount of state and local revenue collected after the change cannot exceed the amount that would have been authorized without such a change. In other words, an increase in state revenues has to be accompanied by an equal or greater reduction in local revenues. The inclusion of this provision in Section 26 recognized the fact that responsibility for the provision of public services can change over time.

The major shift in financing public education services from the local level to the state level contained in both the statutory and constitutional plans of the mid 1990s could have triggered an adjustment to the Section 26 revenue limit. The school finance reform proposals did not broach the topic of adjusting the Section 26 revenue limit; therefore, the issue of replacement revenues resulting from PA 145 was constrained by the existing state revenue limit.

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Another constraint on revenue replacement was the constitutional limitation on the maximum state sales tax rate. Article IX, Section 8 of the Michigan Constitution prohibited the legislature from imposing a sales tax of more than four percent. In order for the legislature to be able to raise the sales tax rate, voter approval was needed.

The Michigan Legislature responded to the passage of PA 145 on two distinct fronts. First, it engaged in an effort to redesign the mechanism for distributing education funding. A primary goal of this effort was to address the per-pupil financial disparities that existed under the pre-1993 funding model. There was a general consensus that this objective could be achieved through centralizing, at the state level, the system for determining annual per-pupil revenue amounts. This would require the abandonment of the power-equalization method in favor of a per-pupil foundation grant. The Legislature completed its work on the new per-pupil foundation program in late December and the Governor signed the package of bills on December 31, 1993.

Proposal A established the first-ever per-pupil revenue floor for schools in Michigan, beginning in FY1996. The FY1996 per-pupil funding floor was set equal to each local district's combined state and local per-pupil operating revenue in FY1995.

The second area of legislative debate following passage of PA 145 dealt with financing the new system. During the months that followed adoption of PA 145, the Legislature developed two revenue replacement proposals. The main component of the first plan involved amending the Michigan Constitution to raise the sales and use tax rates from four to six percent. The backup statutory plan relied on a combination of increased income and single business tax revenues. Both plans shared similarities, but also exhibited key differences. In March 1994, voters were asked how they preferred to pay for the new school funding model developed by the Michigan Legislature. The two choices presented to the voters did not allow for a continuation of the existing system, something previous attempts had provided for and which voters opted for every time.

At a statewide special election held on March 15, 1994, Michigan voters approved the ballot proposal (Proposal A) and its method for funding schools going forward. Proposal A amended a number of sections of the 1963 Michigan Constitution related to financing public elementary and secondary education:

- Allowed school operating taxes to be imposed on a non-uniform basis as to rate, allowing owner occupied homes to be taxed at a lower rate (Article IX, Section 3).
- Limited assessment increases on individual parcels of existing property to the lesser of five percent or the rate of inflation beginning in 1995 (Article IX, Section 3).
- Increased the state sales tax rate from four to six percent, beginning May 1, 1994, and dedicated the additional revenue to the School Aid Fund (Article IX, Section 10).
- Guaranteed that each local school district, beginning in FY1996 and thereafter, would receive at least as much combined state and local operating revenue per pupil as it did in FY1995 (Article IX, Section 11).
- Required a three-fourths vote of the legislature to increase school operating tax rates above those in effect on February 1, 1994 (Article IX, Section 3).[3]

Proposal A established the first-ever per-pupil revenue floor for schools in Michigan, beginning in FY1996. The FY1996 per-pupil funding floor was set equal to each local district's combined state and local per-pupil operating revenue in FY1995. Under the new language, the new per-pupil funding floor does not apply to any district in any year in which the district levies a school operating millage rate less than it levied in 1994. The Constitution did not prescribe the method for funding the new per-pupil floor as this was detailed in the statutory changes that accompanied the ballot proposal.

Proposal A also added a new vote threshold to increase school operating taxes (Article IX, Section 3). This new language requires a super-majority (three-fourths) approval of the members of both the Michigan Senate and House of Representative to pass a

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law that increases operating taxes above the level in existence on February 1, 1994. Previously, the Michigan Constitution did not contain any special provision regarding the passage of laws related to school operating taxes.

The approval of Proposal A triggered numerous changes in state tax law to supplement the constitutional increase in the sales taxes used to finance the new education funding system. Changes affected both the local district contribution and the state aid payment portion of the new foundation allowance. These changes are summarized in **Table 2**.

The new legislation enacted subsequent to Proposal A's passage restored a portion of the local operating property tax for local school districts, but at a significantly reduced level. Additionally, property taxes for operating purposes were levied at the state level for the first time. The new state property tax (State Education Tax) took effect in 1994, was levied at the rate of 6 mills, and applied to all property classes.

The Michigan Legislature fully restored the three types of operating taxes used to finance intermediate school districts (general operating, vocational-technical education, and special education); however, statutory caps were placed on the maximum tax rate for each type of tax, subject to local voter approval.

The local property tax also took effect in 1994 with the base limited to property classified as business, including rental housing, and second homes. The rate of the new "non-homestead" tax was capped at 18 mills or the rate in effect in 1993, whichever was less. The proceeds from the local property tax were retained locally and used as the first dollars toward funding the new per-pupil foundation allowance. In addition to these primary operating taxes, state law allowed some higher-spending school districts to levy additional mills, known as "hold-harmless" mills, to maintain their higher level of spending. The only supplemental local operating tax available to all districts was a three-mill enhancement tax. Authoriza-

Table 2
Statutory Tax Changes of School Finance Reforms

	Pre-Proposal A	Post-Proposal A
New Taxes		
State Education Tax (property)	None	6 mills on all property
State Real Estate Transfer Tax	None	2 percent**
Other Tobacco Products Tax	None	16 percent of wholesale price
Tax Rate Changes		
Local property tax	8 - 40 mills (varied by district)	18 mills on non-homestead property*
Individual Income Tax	4.6 percent	4.4 percent
Use Tax	4 percent	6 percent
Cigarette Tax	25 cents per pack	75 cents per pack
Tax Base Changes		
Use Tax – interstate phone calls	None	Included

Notes:

* Or the rate levied in 1993, whichever is less

** Public Act 330 of 1993 created the new tax and established the rate of $10 per $500 (two percent) of value of property transferred; however, before it took effect, the rate was changed to $3.75 per $500 (0.75 percent) of the property value under PA 3 of 1994.

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tion for districts to levy this millage expired after 1996 and was replaced by a three-mill regional property tax levied at the intermediate school district level.

Proceeds from other state taxes were dedicated to the School Aid Fund. A new state-level Real Estate Transfer Tax (rate of 0.75 percent of the value of property) was created. [Note: This new tax accompanied an existing county-level real estate transfer tax, levied at 0.11 percent of the value of property.] The use tax rate was increased by two percentage points to 6 percent to complement the constitutional sales tax rate increase included in Proposal A. The use tax base was also expanded to include certain interstate phone calls. A tax on non-cigarette tobacco products was enacted at a rate of 16 percent of the wholesale prices. The cigarette tax was increased by 50 cents per pack (to a total of 75 cents per pack). Finally, the personal income tax rate was reduced on May 1, 1994, at the same time that the sales and use tax rates increased to 6 percent. Beginning October 1, 1994, 14.4 percent of the gross personal income tax collections were deposited in the School Aid Fund.

Michigan's school finance reforms changed the fiscal and tax landscape on a number of fronts. As a result of the property tax cuts, Michigan's property tax burden fell to below the U.S. average.

Impacts of Michigan's New Education Revenue Structure

Michigan's school finance reforms changed the fiscal and tax landscape on a number of fronts. As a result of the property tax cuts, Michigan's property tax burden fell to below the U.S. average. The sales tax burden increased relative to the national average and the overall composition of major taxes became more balanced. Changing the mix of state and local taxes also caused the financing system to be more centralized with a greater degree of state tax earmarking. Some of these changes were most pronounced immediately following the reforms and are still visible today, such as the high degree of funding centralization at the state government level. Other effects of the changes, such as the overall tax composition in the state, have slowly faded as a result of other tax policy changes and economic activity that has occurred over the years.

Property Tax Burden and Tax Composition

A specific goal of the school finance reforms was to reduce the reliance on property taxation to finance elementary and secondary education. Over the 20-plus years prior to Proposal A, a general consensus had developed that property taxes in Michigan were unduly burdensome. Although its total elimination as a funding source for schools, as contemplated under PA 145 of 1993, did not materialize, property taxes were reduced substantially as a result of school finance reform. The shift from the local property tax to the state sales tax helped achieve this objective without decimating the aggregate funding for schools.

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Table 3
Statewide Ad Valorem Property Tax Rates and Levies: Pre- and Post-Proposal A

	1993			1995		
	Rate (mills)	Levy (millions)	Percent of Total	Rate (mills)	Levy (millions)	Percent of Total
Counties	6.22	$ 1,042.3	11.0%	6.28	$ 1,143.5	16.1%
Townships	3.36	283.4	3.0%	3.68	344.6	4.9%
Cities	15.45	1,288.0	13.6%	15.95	1,411.5	19.9%
Villages	11.94	50.7	0.5%	12.34	56.8	0.8%
Schools						
Operating	*33.91*	*6,381.3*	*67.2%*	*9.26*	*2,477.4*	*35.0%*
Debt and Site	*2.54*	*454.8*	*4.8%*	*3.03*	*554.5*	*7.8%*
ISD/Community College	*4.3*	*		*4.36*	*	
State Education Tax	*0*			*6.0*	*1,092.8*	*15.4%*
Subtotal	*40.75*			*22.65*		
Total	56.64	$ 9,500.5	100%	38.88	$ 7,081.1	100%

* ISD/Community College levy totals included in operating and debt totals.

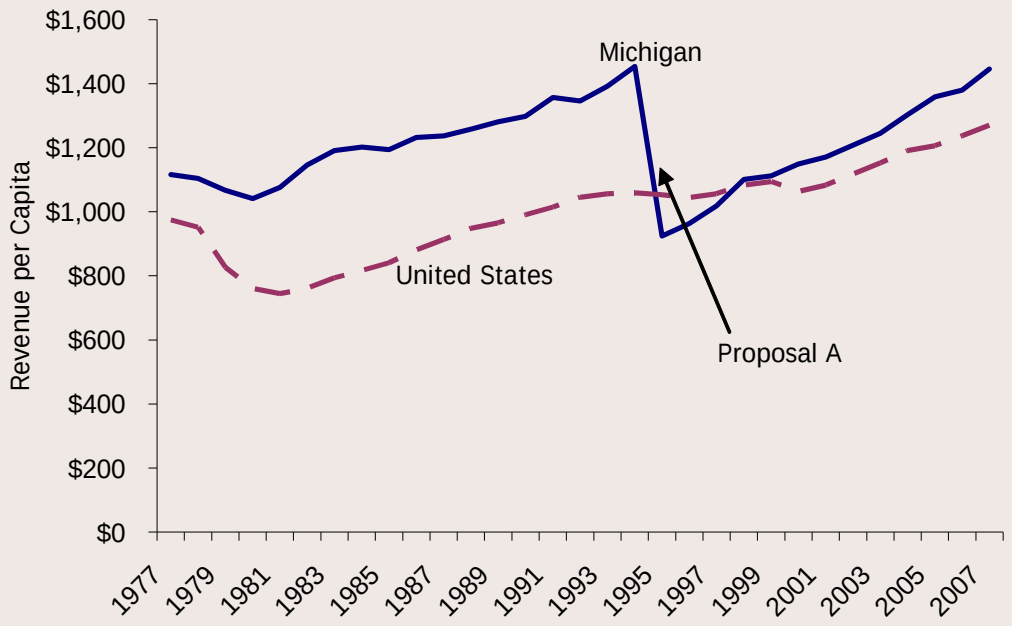
Sources: State Tax Commission, Ad Valorem Property Tax Levy Report. Michigan Department of Treasury, Property Tax Report, 2007.

The overall reduction in Michigan property taxes is clearly seen in the comparison of statewide average tax rates and tax levies, immediately prior to and following Proposal A (See **Table 3**). The average total millage rate fell nearly 18 mills. The statewide average school operating millage rate fell from almost 34 mills in 1993 to just over 15 mills in 1995 (including the 6-mill State Education Tax), a 56 percent reduction. The amount of school operating taxes paid by Michigan property taxpayers, individuals and businesses, declined by $2.8 billion, from $6.4 billion in 1993 to $3.6 billion (including SET receipts) in 1995. The reduction also changed the composition of the overall property tax burden in Michigan. Previously, school operating taxes accounted for over two-thirds of the total property tax levy. Following the reforms, school operating property taxes (including the SET) made up one-half of the total.

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Chart 1
Real State and Local Property Tax Revenue Per Capita
Michigan and U.S. Average



Source: U.S. Census Bureau

Chart 1 illustrates the change in Michigan's property tax burden relative to the U.S. average over the years. The effect of Proposal A is evidenced in the steep decline that occurred from 1994 to 1995. On a per-capita basis, Michigan residents were paying property taxes 37 percent higher than the U.S. average in 1994. In 1995, Michigan dipped to 12 percent below the national average. Since that time, Michigan's per-capita property tax burden has grown faster than the national average and now it is above the national figure (about 14 percent); though the difference is less than in 1994.

The chart also shows the disparate growth rates between Michigan and the U.S. as a whole, which were not materially affected by the Proposal A changes. Michigan's higher growth rate, both pre- and post-Proposal A, is a function of two factors. Michigan local governments are almost entirely dependent on property taxes for their own-source revenues. Where other states authorize their local governments to levy local-option sales, income, motor fuel, or payroll taxes, local governments in Michigan rely on state aid and property taxes. This is because these other taxes are prohibited or local governments have opted against using them. For example, only 22 cities have elected to impose a municipal income tax. Given the lack of revenue options for local government in Michigan, property taxes are the main source of revenue for cities, villages, townships, counties, K-12 schools, community colleges, and those special districts with taxing authority. Second, the Michigan assessment system endeavors to produce assessments that reflect current market value. Some states allow several years to pass between reassessments, resulting in slower growth of their property tax base.

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The shift from the property tax to general sales tax as the major financing mechanism for education changed Michigan's overall tax composition. Tax composition, or tax reliance, refers to relative shares of each major tax type (e.g., property, sales, income, etc.). Because different levels of government have different responsibilities for funding public services in each state, both state and local tax data must be included in comparisons of tax composition. Failure to examine both state and local taxes can skew inter-state comparisons of tax reliance. A state's tax composition provides insight into the basic method and relative weight given to each major tax type. Michigan's relatively high property tax burden compared to other states prior to the school finance reforms was reflected in its tax composition at the time. Compared to the U.S. average, Michigan relied more heavily on property taxes and less on general (not selective such as motor fuel, tobacco, and alcohol) sales taxes to finance government services at the state and local level (See **Table 4**). After implementation of the school finance reforms in Michigan, property taxes constituted a smaller share of the total tax picture and the portion attributable to general sales taxes increased. Also, Michigan's overall tax composition more closely resembled the U.S. average figures. Since that time, however, the property tax burden has increased.

After implementation of the school finance reforms in Michigan, property taxes constituted a smaller share of the total tax picture and the portion attributable to general sales taxes increased. Also, Michigan's overall tax composition more closely resembled the U.S. average figures.

Table 4
State and Local Tax Composition, U.S. Average and Michigan

	1992		1997		2008	
	U.S.	Michigan	U.S.	Michigan	U.S	Michigan
Property Taxes	32%	44%	29%	29%	31%	38%
General Sales Taxes	24%	18%	25%	27%	23%	22%
Income Taxes	25%	26%	27%	32%	27%	25%
Other Taxes	19%	12%	19%	12%	19%	16%

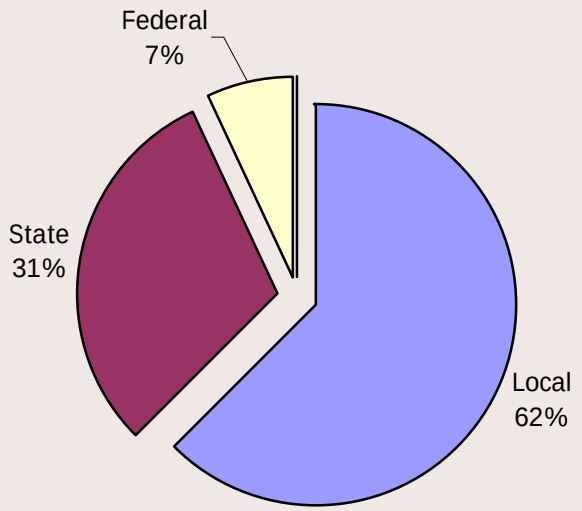
Source: U.S. Census Bureau, State and Local Government Finances.

Notes:
1) "general sales " does not include "selective sales taxes", such as motor fuel, tobacco, alcohol , these are included in the "other" category.
2) "income" includes both "individual" as well as "corporate" income taxes as defined by the U.S. Census.

Numbers do not add because of rounding.

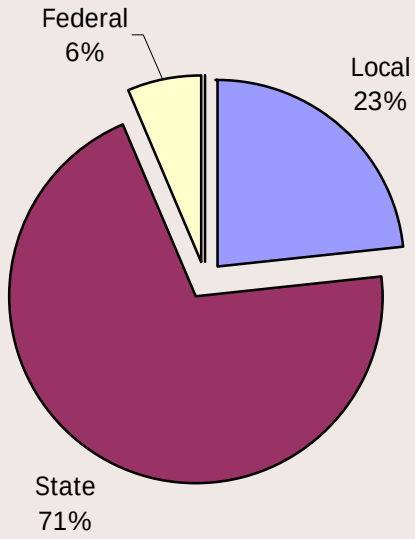
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Chart 2
Operating Revenues by Source: FY1994



Source: National Public Education Financial Survey

Chart 3
Operating Revenues by Source: FY1995



Source: National Public Education Financial Survey

Centralized Revenue System

The school finance reforms centralized education revenue-raising responsibility at the state level, effectively eliminating a balkanized system at the local government level. This shift is clearly visible in the shares of total operating revenues by source supporting public education services in Michigan before and after the reforms (See **Charts 2** and **3**).[4] In the years leading up to the reforms the education finance system had been criticized on a number of fronts; however, its fragmentation became a clear rallying point for public displeasure when a district was forced to close early in 1993 because of its failure to garner public support for increased local property taxes to fund operations.[5]

State government's expanded role in education financing was accompanied by an increase in the portion of state revenues specifically earmarked for education and deposited in the School Aid Fund (SAF). Following the adoption of the reforms, the composition of the SAF changed dramatically as a result of new constitutional and statutory tax revenue earmarking provisions. Prior to the reforms, earmarked taxes (both constitutional and statutory) comprised slightly more than two-thirds of the total state-generated revenue going to the SAF in FY1993, with the remainder (about one-third) coming from the discretionary General Fund allocation, which were subject to the demands of the broader state budget. Following the reforms and after implementation of the increased income tax earmarking, the SAF was almost entirely comprised of dedicated state revenues and the General Fund played a much smaller role in percentage terms.

While the effects of centralization on the entire (statewide) financing system are clear from the percentage shares of each operating revenue source before and after the reforms, centralization also affected the relationship between state and local revenues received at the individual district level. This can be seen in the functioning of the per-pupil foundation grant. The grant amount for each district each year was determined at the state level (either by statute or legislative decision) and this amount was guaranteed, regardless of the performance of the school operating property at the local district level. State aid was provided to make up the difference between

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the per-pupil grant amount and the per-pupil operating tax revenues generated by the 18 mills.

Less clearly visible in the "state" and "local" revenue breakout immediately after Proposal A is the fact that the new school finance system subjected "local" property tax revenues to strict controls. Given these controls, the "local" property taxes, especially the 18-mill non-homestead tax, were effectively state-level taxes. Existing constitutional limits on property tax growth were added to by both constitutional and statutory changes that accompanied the new school financing system. The new tax limitations pertain to both the rate and base components of the local property taxes authorized for school operations. Further, the new system provided little opportunity for local voters to supplement funding derived through the per-pupil foundation grant (i.e., combination of state aid and the "required" non-homestead local property taxes.)

State limitations capped the maximum rate of the local operating tax for local schools at 18 mills for most districts. For intermediate school districts, the rates of the three property taxes used to support programming and services (i.e., general operating, special education, and vocational-technical education) were subject to separate caps based on the rates levied before Proposal A (i.e., 1.5 or 1.75 times the 1993 rate, depending on the specific tax). While local and intermediate school district property tax rates were capped as to their maximum level, they were subject to the "Headlee" tax rate rollback provisions of the Michigan Constitution contained in Article IX, Section 31.[6] Subjecting these taxes to this constitutional provision meant that the maximum rates, after being initially approved by the local voters, were not guaranteed indefinitely. Instead, tax rates could be reduced based on tax base growth and remain at their lower level until voters approved an "override" vote of the previous tax rate rollback. For local districts, adding to the sense of centralization is the fact that, under the foundation program, it is assumed that the full 18-mill tax is being levied and state aid funding is distributed on this assumption; however, in many cases, a portion of these mills have been rolled back pursuant to state law. Thus, while the state sets the per-pupil funding level and the required tax effort to achieve this funding amount each year, state law effectively prevents local districts from receiving their full foundation amount when tax rates have been reduced and the state does not make up for the previous rate rollbacks.

> Taken together, the direct (e.g., shift from local to state revenues) and indirect (e.g., new tax limitations and limited opportunity to supplement) effects of centralization resulted in a school finance system that, for all intents and purposes, is best characterized as almost entirely state-run in terms of the level of operating revenues available each year.

Existing and new tax base growth limitations contributed to the level of centralization in the new school finance system. Constitutional tax base growth limitations at the unit-wide level, already in place as a result of the Headlee amendment, were added to by Proposal A's tax base growth cap at the individual parcel level. Proposal A instituted a per-parcel growth limitation, which effectively controlled the growth potential of the tax base at the local level.

Proposal A permitted very little supplementation of existing resources with other operating taxes, which added to the amount of centralization present in the system. Only traditionally high-spending local districts were able to levy "hold harmless" millages to maintain the above-average per-pupil resource levels; however, these millages were strictly controlled by state law. During a brief transition period (tax years 1994 to 1996), all local schools were able to levy "enhancement" millages at the district level, with the proceeds of such a tax retained entirely by the district. This tax was replaced by a regional tax (intermediate school district), beginning in tax year 1997, that involved tax base sharing among districts and required tax revenues to be shared equally on a per-pupil basis. Under both "enhancement" millage authorizations (pre- and post-1997), the maximum rate was capped in state law at three mills, thus limiting the potential level of revenue supplementation. Intermediate school districts were not provided with any additional source options to supplement existing resources following the Proposal

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A reforms, but they were provided additional room to raise tax rates above those in effect in 1993 for all three existing sources.

Taken together, the direct (e.g., shift from local to state revenues) and indirect (e.g., new tax limitations and limited opportunity to supplement) effects of centralization resulted in a school finance system that, for all intents and purposes, is best characterized as almost entirely state-run in terms of the level of operating revenues available each year. This centralization is apparent both when operating revenues are viewed in the aggregate at the statewide level and when they are examined at the individual district level. Despite the fact that "local" property taxes are levied, collected, and retained by individual districts, the amount of these resources is controlled by tax base and tax rate limitations established in the Michigan Constitution and contained in state law. As a result, the "local" resources under the current funding mechanism could be described more accurately as "state-controlled" revenues. When these "local" school operating property taxes are considered to be outside of the control of local officials, the breakout of "state" and "local" operating funding is much different – state-controlled revenues (directly or indirectly) comprise nearly 85 percent and local revenues comprise only six percent (**Chart 4**).

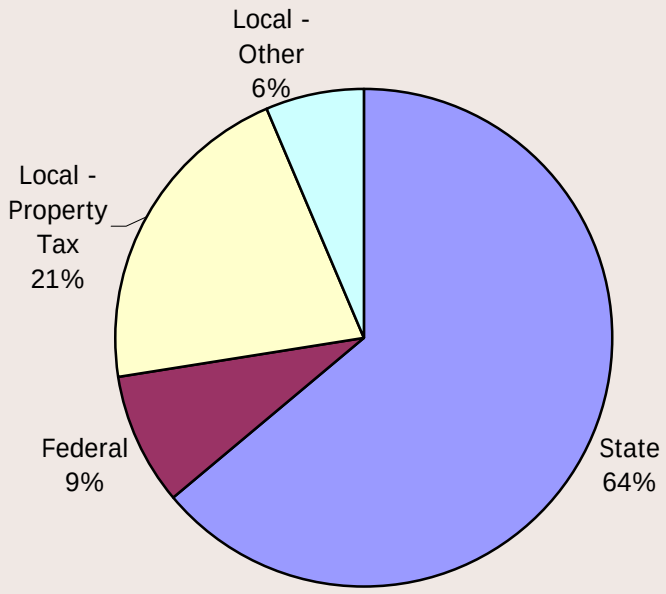
Adding to centralization, or at least the perception thereof, is the constitutional requirement that any law to increase school operating property taxes must be approved by three-fourths of each chamber of the Michigan Legislature. Proposal A did not define the term "school district operating taxes" and neither the legislature nor the courts have attempted to do so since the requirement was added to the Michigan Constitution.[7] Therefore, while the legislature can authorize an increase in the maximum tax rates for local and intermediate districts, doing so requires a super-majority vote which is more difficult to achieve.

State Revenue Limit

Shifting responsibility to the state level for education funding caused Michigan to approach, and slightly exceed, the constitutional state revenue limit in the years following Proposal A. Prior to the school finance reforms in FY1993, Michigan was $3.2 billion, or 19 percent, below the limit contained in Article IX, Section 26 of the 1963 Constitution. As noted above, there was no effort to modify the limit, as allowed under the provisions of Section 26, to accommodate the new financing system for K-12 education. The entire $3.2 billion gap between actual and allowable state revenues was eliminated with the increase in the various state taxes to fund schools.

In the first full year operating under Proposal A (FY1995), Michigan exceeded the limit by $110 million, or about 0.5 percent, the first time that the cap had been surpassed since the provision was added to the constitution in 1978. In the mid-1980s, the state approached the limit but never exceeded it.

Chart 4
School Operating Revenues by Source: FY2008



Source: National Public Education Financial Survey

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The fact that the revenue cap was reached is evidence that further state support of the new school finance system was not possible without invoking changes to the limit itself.

The gap between actual revenue collections and the constitutional cap grew slightly over the next three years and was $640 million in FY1998. The cap was reached and slightly exceeded in FY1999 and FY2000, due to strong major tax revenue growth in these years. The experience of these two years prompted a series of phased-in tax rate reductions for Michigan businesses and individuals. These tax cuts, coupled with the concurrent general slowing of the economy in late 2000 and early 2001, caused actual state revenues to be $2.4 billion below the constitutional limit for FY2001. The gap between the limit and actual revenue receipts grew each year as the earlier tax cuts and subsequent ones, along with slow economic, limited revenue growth. State revenues were $5.3 billion below the cap in FY2007, before a series of general tax increases were enacted in late 2007 that narrowed the gap. In FY2009, actual revenue collections were $7.7 billion below the Section 26 limit as the economy soured again.

Spending Decisions Largely Untouched

Although the school finance reforms concentrated revenue-raising decisions at the state capitol in Lansing, spending decisions remained the province of local school districts with one significant exception. Responsibility for employer-paid retirement benefit funding was affected in a material way. In the post-Proposal A era, local school administrators and locally-elected school boards continued to be responsible for determining annual budgets and allocating state-determined resources among competing needs within districts. Local personnel are responsible for determining pay and benefits for current employees.

Prior to the implementation of Proposal A, the State of Michigan and public school districts shared in the financing of the employers' shares of contributions to Michigan Public School Employees Retirement System (MPSERS). Those contributions, expressed as a percentage of active employee payrolls, prefunded the actuarial costs of the defined benefit plan provided to public school employees plus the costs of health benefits for retirees on a pay-as-you-go basis. However, Proposal A changed the fiscal relationship between the state and local schools, by passing the full responsibility for financing the employers' contributions to the locals.

The new arrangement required the entire annual retirement contribution to be financed through a district's foundation allowance. This meant that this new fiscal responsibility was in direct competition with other spending pressures faced by school districts (wages and health insurance for current employees, fuel and utility costs, etc.). A district's ability to meet annual increases mandated by changes in the retirement contribution rate would be largely contingent on annual changes in the foundation allowance provided to the individual district. Every year, a system-wide contribution rate is determined for MPSERS, which is the same for each district and applied to each districts' active payroll; however, under the foundation allowance program, at least during the initial years following Proposal A's adoption, annual increases in per-pupil funding varied among the individual districts. Annual changes in the retirement rate are contingent on a number of factors, including the performance of the retirement investment portfolio relative to actuarial assumptions; the number of retirees drawing benefits; and the costs of health care increases. Annual changes in an individual district's foundation allowance were the result of policy decisions by state lawmakers. In an environment where a district's payroll and the retirement rate increase year-over-year, its foundation allowance would have to increase by the same combined percentage amount (assuming no change in enrollment) to ensure that the same percentage of the district's overall resources are available to finance retirement benefits from one year to the next. In such a scenario, if the foundation allowance does not rise by this amount, resources would have to be re-allocated from other budget components to satisfy the retirement contribution for the year.

At the same time that Proposal A created a very centralized revenue, full responsibility for retirement funding was added to local districts' budgets, which effectively reduced the spending discretion at the local level. The real prospect that the retirement contribution rate would increase in future years (as it did in the first couple of years following Proposal A), meant that the per-pupil foundation allowance would have to rise commensurately to ensure that retirement contributions did not require greater shares of overall local budgets.

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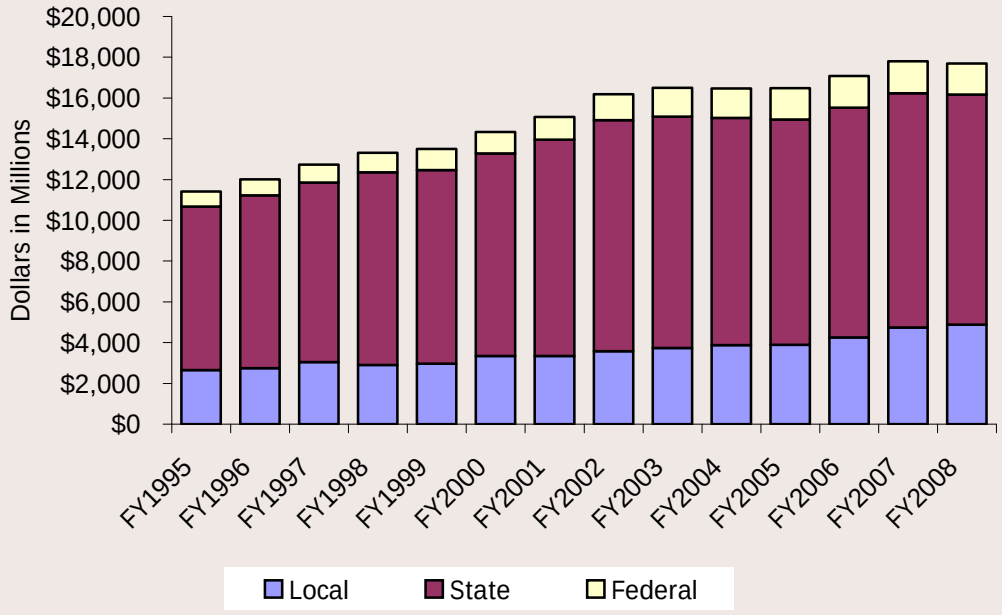
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Education Finances Since Proposal A

Since the adoption of Michigan's current education finance system, state and local operating revenues, both in the aggregate and at the individual source level, have varied depending on the time frame of interest. The annual amount of revenues from federal sources has also varied: Because federal dollars represent, in the aggregate, a relatively minor share of the total and their use is restricted by federal law and rules, the main focus here is on state and local operating revenue performance.

Between FY1995 and FY2008, the total amount of operating revenues from all sources (state, local and federal) increased from $11.4 billion to $17.7 billion, an increase of 55 percent, (See **Chart 5**).[8] This equates to a compound average annual growth rate of 3.4 percent over the 13-year period.[9] Total operating revenues grew at the same annual rate (3.4 percent) as Michigan personal income (a broad measure of economic activity in the state) and faster than the U.S. Consumer Price Index (a broad measure of the cost of goods and services), which increased at an average annual rate of 2.7 percent. Overall, operating revenues for Michigan schools in the aggregate, since the adoption of Proposal A, appear to have performed well based on these average annual calculations. This picture changes when the period is divided into distinct time frames and when operating revenues are scaled on a per-pupil basis by major revenue source (state versus local). Also, the performance of school revenues varies depending on the type of tax that is examined, e.g. property, income, sales, etc.

Chart 5
Operating Revenues by Source: FY1995 to FY2008

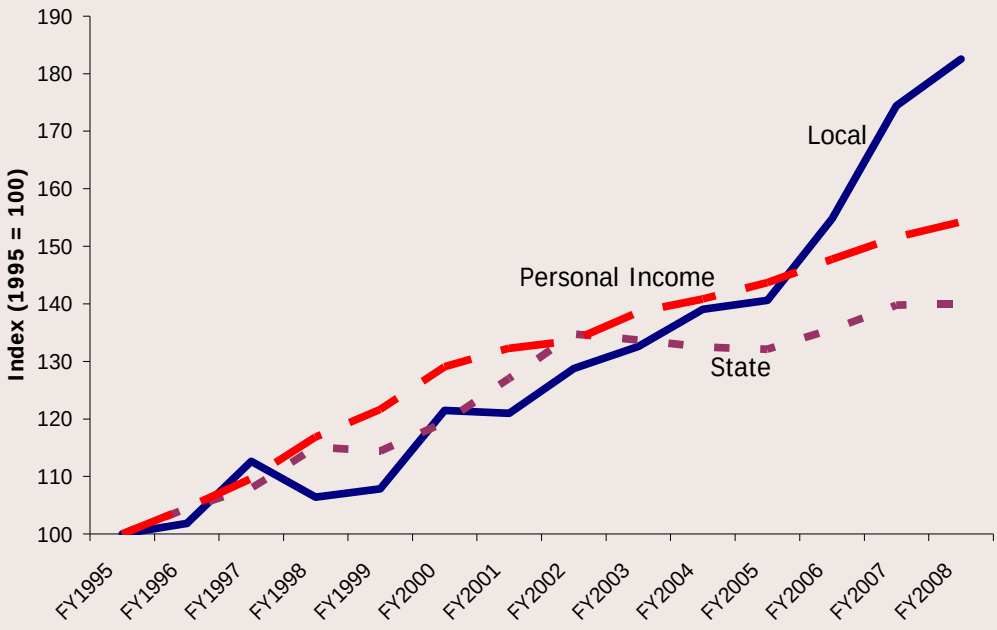


Source: National Public Education Financial Survey

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Chart 6
Growth of State and Local Operating Per Pupil Revenues and Personal Income



Source: National Public Education Financial Survey; U.S. Department of Commerce; U.S. Department of Labor.

A better understanding of the resources available to educate children can be obtained by examining the revenues from state and local sources on a per pupil basis. **Chart 6** illustrates state and local per-pupil revenues and compares their growth to personal income growth over the period. While both major sources tended to track overall economic activity in the state in the early years following Proposal A, their paths diverge markedly beginning in FY1998. Growth of local per-pupil revenues remained strong through much of the early 2000s and accelerated in recent years, largely due to concomitant enrollment declines. On the other hand, state revenues, more acutely tied to overall economic activity in the state, basically plateaued in FY2002 and rose only minimally in recent years as a result of declining student enrollments.

The preceding discussion was designed to provide a very global picture of public education finances since Proposal A. The remainder of this section focuses, in more detail, on specific issues important to this global picture. The next section reviews Michigan's economic performance since 1995, the most important factor influencing state revenue growth. Next, public education spending is contrasted with the other spending financed by the General Fund. Attention is then given to the performance of both state and local revenue sources over the last 15 years. Finally, drawing on previous work conducted by CRC, a projection of public education finances in the future is presented.

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Michigan's Economic Performance

State and local government finances have to be considered in the context of Michigan's economic performance. Economic activity affects public finances in a variety of ways, but the most visible is on the revenue side of public budgets. Taxes, which comprise the majority of resources for public budgets, are based on economic activity (consumption and payrolls) and wealth (property values). Taxes that are based on consumption or payroll activity are more sensitive to changes in economic performance than taxes based on wealth. These consumption and payroll taxes, collectively, provide the majority of resources for the State of Michigan's two main budgets, the General Fund and the School Aid Fund. As previously noted, property taxes play a much larger role in financing local government services in Michigan. Although diminished, property taxes continue to provide a significant level of operating assistance for local schools. As a revenue source, these taxes tend to be more stable relative to consumption and income taxes. This stability has helped moderate the volatility associated with the major state taxes supporting public education in Michigan. Tax revenue volatility general refers to cyclicality - the relationship between revenues and the business cycle.

Under Michigan's highly-centralized education finance system, the performance of the Michigan economy is a key determinant in the level of resources available each year, especially in light of the dominant role played by consumption and income taxes.

Under Michigan's highly-centralized education finance system, the performance of the Michigan economy is a key determinant in the level of resources available each year, especially in light of the dominant role played by consumption and income taxes. Economic performance over the past 15 years (1995 through 2009) can be divided into three distinct time frames. State-source education revenues mirrored the performance of the broader economy during each period, which they were designed to do under the Proposal A financing system. The first period (1995 through 2000) was characterized by steady and stable economic growth, measured in terms of employment levels and the amount of income earned. In contrast, during the second period (2001 through 2008), employment levels declined and annual income growth slowed in nominal terms and in some years declined in real terms. Although Michigan was affected by the mild 2001 recession during this period, the fundamental economic problem which directly influenced public education finances centered on the complete transformation of the auto industry. The third and most recent period (2009 through today) is marked by a continuation of the job losses and income declines of the previous period, but at an accelerated rate because of the severe national recession that officially began in December 2007. The recessionary effects have been compounded by the fact that Michigan's economy continues to undergo a massive "rebalancing" (i.e., concentrated shift away from its traditional manufacturing base).

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Table 5
Michigan Wage and Salary Employment: 1995 to 2010*

Year	Employment Level (thousands)	Annual Change	Annual Percent Change
1995	4,269		
1996	4,352	83	1.9%
1997	4,439	87	2.0%
1998	4,513	74	1.7%
1999	4,585	72	1.6%
2000	4,676	91	2.0%
2001	4,564	(112)	(2.4%)
2002	4,487	(77)	(1.7%)
2003	4,416	(71)	(1.6%)
2004	4,399	(17)	(0.4%)
2005	4,389	(10)	(0.2%)
2006	4,326	(63)	(1.4%)
2007	4,267	(59)	(1.4%)
2008	4,162	(105)	(2.5%)
2009	3,876	(286)	(6.9%)
2010*	3,830	(46)	(1.2%)

Source: U.S. Department of Labor

* May 2010 Consensus Revenue Estimate

No single metric captures the entirety of a state's economic performance. However, two broad measures, when taken together, can paint a fairly clear picture of what is taking place in a state economically. Generally, measures of employment and income (both on total and per-capita bases) are used to describe the health of Michigan's economy over the years. **Table 5** summarizes the employment picture in Michigan. The variation in the annual change figures reveal the three separate periods previously noted. Michigan's total employment level grew each year between 1995 and 2000, averaging 1.8 percent per year. After peaking at 4.7 million jobs in 2000, the yearly total employment figure dropped to just under 4.2 million jobs by 2008, representing an annualized rate of decline of 1.3 percent. The employment pictured worsened during the 2008 recession as Michigan job losses accelerated and employment levels dropped almost another 300,000 jobs, or nearly seven percent, between 2008 and 2009. Current projections are for employment levels to continue to decline, but at a much lower annual rate in 2010 (-1.2 percent).

The Michigan employment situation looked very similar to the U.S. job market during the 1995 through 2000 period and early into the 2001 through 2005 period. Coming out of the brief 2000-2001 recession, the U.S. job market rebounded in 2004, but the Michigan employment level continued to decline throughout the mid- to late-2000s. The significant job losses in the 10-year period that began in 2001 has caused Michigan's job base to mirror what it was in the mid-1980s. While both U.S. and Michigan employment levels are off from their June 2000 peaks, Michigan has lost nearly 18 percent of its jobs compared to the nation, which has lost 0.7 percent.

The loss of such a significant number of jobs is devastating for individuals and families. It is also important from a public finance perspective for two reasons. First, and most obvious, is the loss of eco-

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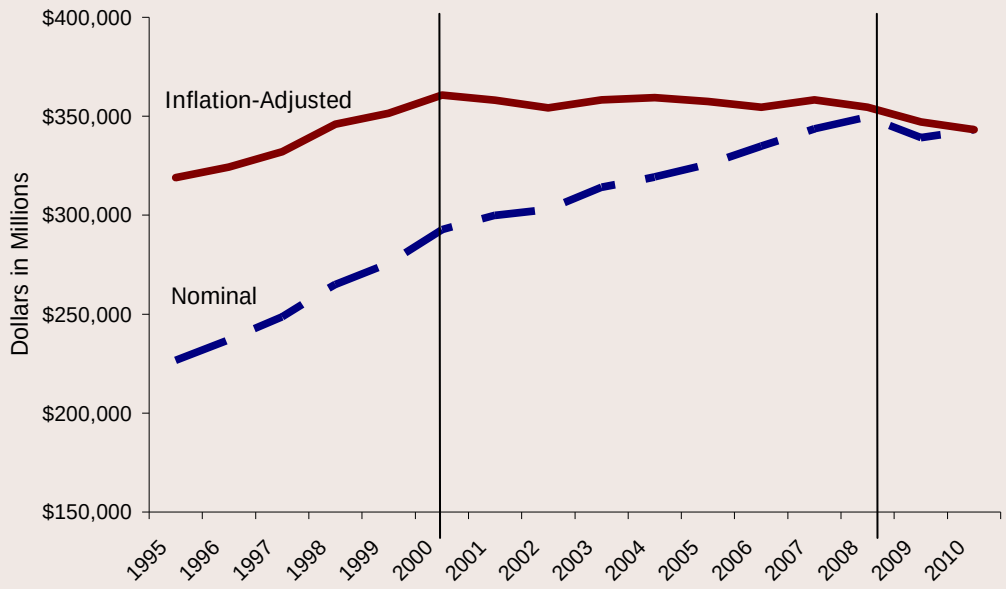
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nomic activity associated with the jobs. A reduction in the number of jobs directly translates into lower payroll tax receipts because fewer taxpayers are employed. Second, without jobs, residents change their consumption behavior, including items that are subject to taxation. Declines in consumption directly result in lower sales and use tax receipts. In Michigan, both income and sales taxes finance public education.

Changes in wage and salary employment are reflected in the personal income generated in the state. The metric of personal income, which includes wages and salaries, captures the overall health of a state's economy. **Chart 7** presents Michigan income over the entire period in nominal and real (inflation adjusted or constant 2010 dollars) terms. The three sub-periods (1995 to 2000, 2001 to 2007, and 2008 to present) are delineated by the change in the direction and/or slope of the respective line in the chart. Through 2000, both real and nominal personal income saw positive annual changes. Beginning in 2001 and extending through 2007, growth in actual income slowed while real income stagnated, basically exhibiting flat growth During the most recent period, both actual and real income levels experienced annual declines.

Average per-capita personal income is a useful metric for comparisons among states or with the nation

Chart 7
Michigan Personal Income: 1995 to 2010
Real and Nominal

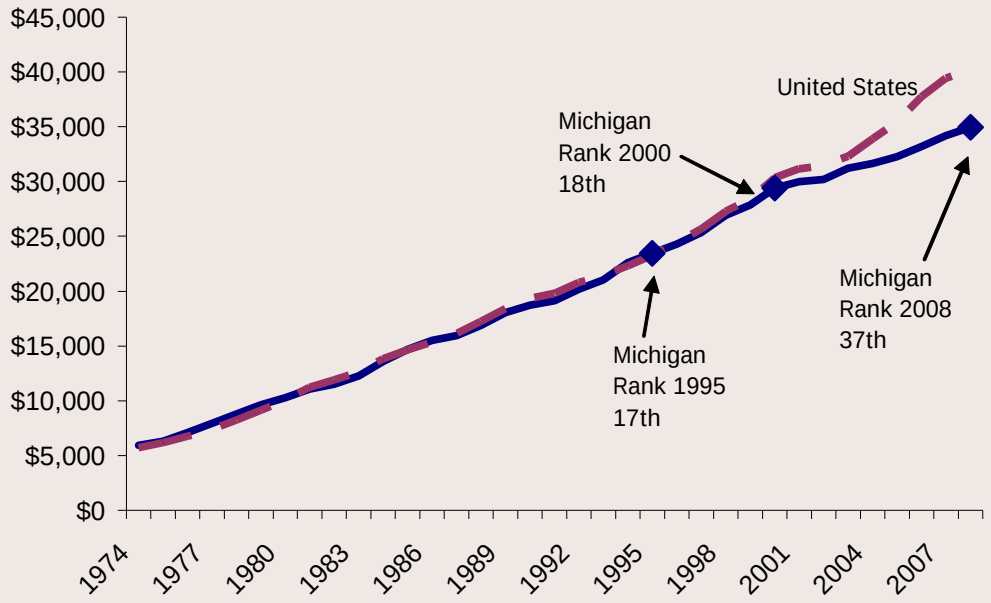


Source: U.S. Department of Commerce; May 2010 Consensus Revenue Estimate

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Chart 8
Michigan and U.S. Per Capita Personal Income: 1974 to 2008



Source: U.S. Department of Commerce

as a whole. Michigan's position relative the U.S. average is shown in **Chart 8**. This 35-year period includes Michigan's experience under the current education finance system created by Proposal A as well as the finance system that preceded it.

Following the adoption of Proposal A in 1994, Michigan's per-capita income national rank was 17th, which was minimally above the national average. Over the next five years the state's position slipped marginally to 18th among the 50 states; by 2000, Michigan's per-capita income was three percent below the U.S. figure. Since that time, a growing gap has developed between Michigan and U.S. per capita personal income, causing Michigan's position to drop to 37th in 2008. Michigan went from being a state in the top one-third in terms of individual wealth in 1995, following the adoption of the current school finance system, to one that is in the bottom fourth of all states. Michigan's per-capita personal income in 2008 is 13 percent below the national average figure and the state's ranking is expected to fall further in response to the 2008 recession.

Absent significant changes to the bases or rates of major taxes in Michigan, the new ranking is going to require a "re-calibration" of public service levels.

The implications of Michigan's slide relative to the nation are significant. First, after being a relatively "wealthy" state for most of the last 35 years, Michigan now finds itself a relatively "poor" state. Second, Michigan's current status is likely to represent a new reality rather than a temporary condition. To regain its previous ranking will require the Michigan economy to expand at a significantly faster rate than the rest of the U.S. Coupled with the effects of the recent recession, Michigan's current status most likely represents a new normal or baseline. Third, Michigan's lower per-capita figure suggests that residents' "ability to pay" for public services through taxes is diminished. Absent significant changes to the bases or rates of major taxes in Michigan, the new ranking is going to require a "re-calibration" of public service levels.

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The changes observed in Michigan's economic performance between 2000 and 2008 are largely foundational as opposed to cyclical. A massive shift away from manufacturing, which had been building for years, accelerated during the early years of the new century and effectively transformed the underlying economic base upon which state taxes depend. At the same time, the state was not immune from the effects of two national recessions since 2000, the most recent one considered to be the longest and most severe in 70-plus years. The combined economic effects of the structural changes and the two recessions on Michigan's economy have been profound. For Michigan's public education finance system, economic activity is the primary determinant of overall revenue levels since the turn of the century.

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State Revenue Performance

For the purposes of this report, state on-going resources available to schools include dedicated major taxes (sales/use, income, and property) as well as minor taxes (alcohol, tobacco, and others), annual transfers from the General Fund, and lottery proceeds deposited in the School Aid Fund (SAF). On-going revenues do not include federal resources, which state policy makers have little discretion over, or those non-recurring state resources that have been provided from time-to-time to augment permanent funding. Since the adoption of the school finance reforms, total state-source, on-going SAF revenues grew from $7.7 billion to $11.5 billion, an increase of 51 percent, from FY1995 to FY2008. This amounts to an average annual rate of change of 3.2 percent, above the 2.5 percent annual rate of change in the U.S. CPI over the same period. The aggregate revenue growth is influenced by a host of factors including, the performance of the underlying economy, changes in tax rates, changes in tax bases, and the addition of new taxes earmarked to finance schools.

In relation to broad measures of overall economic activity during this period, SAF revenues grew at a pace slightly below the average annual growth rate of Michigan personal income (3.4 percent). As was the case with total school operating revenues, when SAF revenue growth is viewed over the entire 13-year period at a macro level, it appears to have fared relatively well. However, this picture changes when the component pieces of the Fund are dissected and the larger period is broken into constituent parts and the various forces at work during each sub-period are examined.

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Table 6 looks at individual SAF revenues and their annualized growth rates over the entire period and over two distinct periods, compared to inflation and economic growth. [Note: FY1997 was the first full year of the current income tax earmarking provision and therefore is selected as the starting point for comparisons rather than FY1995, the first year of Proposal A's implementation.] The selection of FY2001 as the "break point" to divide the two sub-periods is not arbitrary, but based upon the performance of Michigan's economy, before and after this point. The robust economic growth that characterized Michigan during the mid- to late-1990s subsided by the start of FY2001 with the onset of a short, national recession. Because the underlying state economic activity upon which SAF revenues are based was very different for these two periods, it is appropriate to examine the two periods separately. A discussion of more recent revenue performance (FY2009 to today) follows a review of the first two sub-periods.

Table 6
School Aid Fund Revenue Annualized Growth Rates: FY1997 to FY2008

Revenues	FY1997 to FY2000	FY2001 to FY2008	FY1997 to FY2008
State Taxes	6.2%	2.0%	3.1%
Lottery Transfer	1.7%	3.4%	2.1%
General Fund Transfer	4.6%	-31.6%	-18.5%
Total State School Aid Fund Revenue	5.9%	1.5%	2.7%
Michigan Personal Income	5.6%	2.2%	3.1%
U.S. CPI	2.2%	2.8%	2.7%

Source: Michigan Department of Education

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Table 7
State Tax Revenue Annualized Growth Rates: FY1997 to FY2008

Revenues	FY1997 to FY2000	FY2001 to FY2008	FY1997 to FY2008
Sales / Use Tax	5.4%	0.9%	2.1%
State Education Tax	6.1%	4.9%	5.5%
Income Tax	7.5%	1.1%	2.7%
Subtotal Major Taxes	**6.0%**	**1.7%**	**2.9%**
Tobacco Taxes	3.4%	1.5%	1.8%
Real Estate Transfer Tax	10.1%	-5.5%	-1.1%
Michigan Business Tax*	NA	NA	NA
Other**	16.8%	0.1%	4.6%
Total Taxes**	**6.2%**	**2.0%**	**3.1%**
Michigan Personal Income	5.6%	2.2%	3.1%
U.S. CPI	2.2%	2.8%	2.7%

* Earmarking of a portion of Michigan Business Tax began in FY2008, so annual growth rate unavailable; however, amounts of this tax are included in collections for FY2008.

** No adjustment for restructuring of state business taxes, which affected collections of the State Education Tax, Michigan Business Tax, and Other categories beginning in FY2008.

Source: Michigan Department of Education

Revenue Growth of SAF Taxes: FY1997 to FY2008

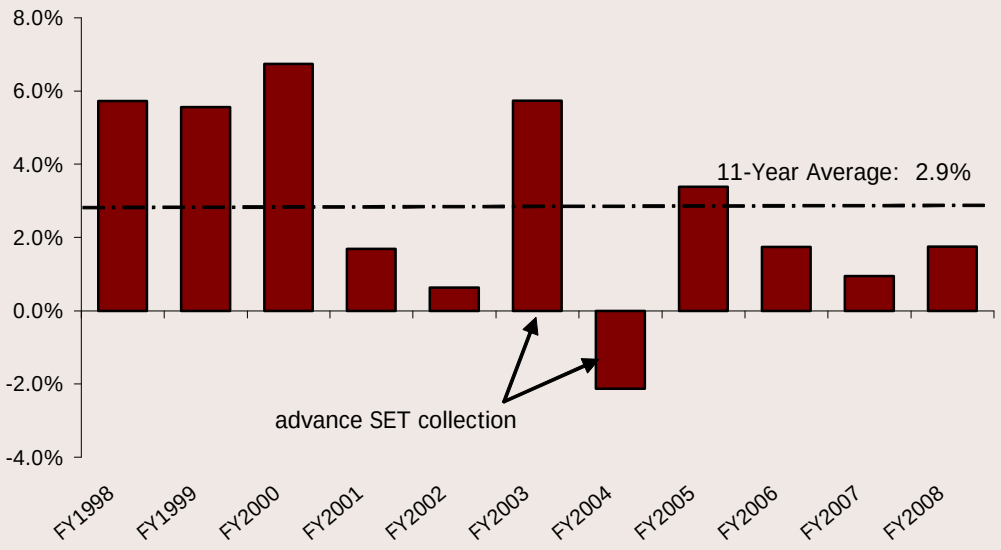
The bulk of the state tax revenues dedicated to finance education in Michigan come from three major sources: consumption, property, and individual income taxes. These represent the major on-going resources for public education, while other smaller amounts have contributed to the SAF to varying degrees over the years. On average, these three taxes collectively account for $9 of every $10 in total state taxes going to the SAF each year. Given their importance to the overall level of on-going state revenue available each year, specific attention is directed at how these taxes have performed over the period FY1997 to FY2008 (See **Table 7**).

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Chart 9 depicts, in the aggregate, year-over-year changes in the major SAF tax collections and shows the two distinct periods, pre- and post-FY2001. Over the entire period, SAF receipts from the major taxes grew 36 percent in the aggregate, or at an annualized rate of 2.9 percent. Through FY2000, however, the average annual growth rate was slightly more than double (6 percent), before slowing considerably for the remainder of the period. Receipts from the major taxes grew 1.7 percent per year from FY2001 to FY2008. Largely as a result of advancing the collection of the 6-mill State Education Tax (SET), major tax receipts grew nearly 6 percent year-over-year in FY2003 and subsequently declined 2 percent in FY2004.[10] When revenue growth is examined over the period FY2001 through FY2008, the one-time nature of the SET collection date change does not influence the annualized growth rate computed for the entire period, but it does materially affect the rates observed for two years. These intra-period annual rates are of less concern in this analysis as the focus here is the long-term growth of on-going major tax sources. It is worth noting that only one year after FY2001 (FY2005) exhibited a year-over-year increase that exceeded the annualized growth rate for the entire 11-year period (ignoring the one-time effects of the SET changes).

Chart 9
Year-Over-Year Change in Total Major* SAF Tax Revenue: FY1998 to FY2008



* Sales/Use, Income, State Education Tax

Source: Michigan Department of Education

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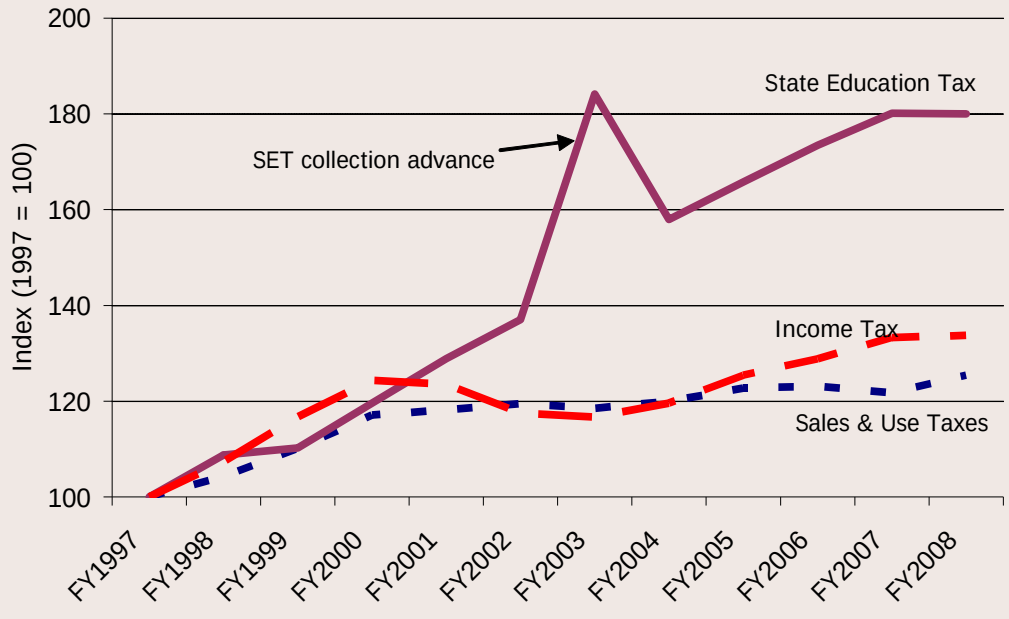
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Chart 10 illustrates the growth (index: FY1997 = 100) of the three major SAF taxes individually to show differences in their performances. Through FY2000, the performance of the individual taxes mirrored one another for the most part, showing consistent robust annual growth. Beginning in FY2001 and continuing through FY2008, the growth patterns of the consumption and income taxes look similar to each other, but very different from the growth in the 6-mill SET, which showed uninterrupted stable growth. The average annual growth rate of the SET was 5.5 percent over the entire period, compared to 2.1 percent for the sales and use taxes and 2.7 percent for the income tax. Receipts from the SET, again ignoring advance collections in FY2003, were buoyed by the relative stability that accompanies the property tax in general as well as a healthy real estate market that boosted property values in Michigan over the period.

Consumption tax and income tax receipts were relatively stable in the post-FY2000 period. Both taxes exhibited at least one episode of year-over-year declines, with SAF-dedicated income tax revenues showing declines in three consecutive years (FY2001 through FY2003). During this period, while total income tax receipts were negatively affected by the tax rate reductions enacted, the fiscal effects of the tax policy changes were entirely borne by the state's General Fund and the School Aid Fund allocation was shielded. Absent major tax policy changes during the FY2001 to FY2003 period affecting SAF taxes, the income tax and consumption tax revenue declines observed in the early 2000s were attributable mainly to the onset of the 2000-2001 national recession.

Chart 10
Growth of Major SAF-Dedicated Taxes: FY1997 through FY2008



Source: Michigan Department of Education

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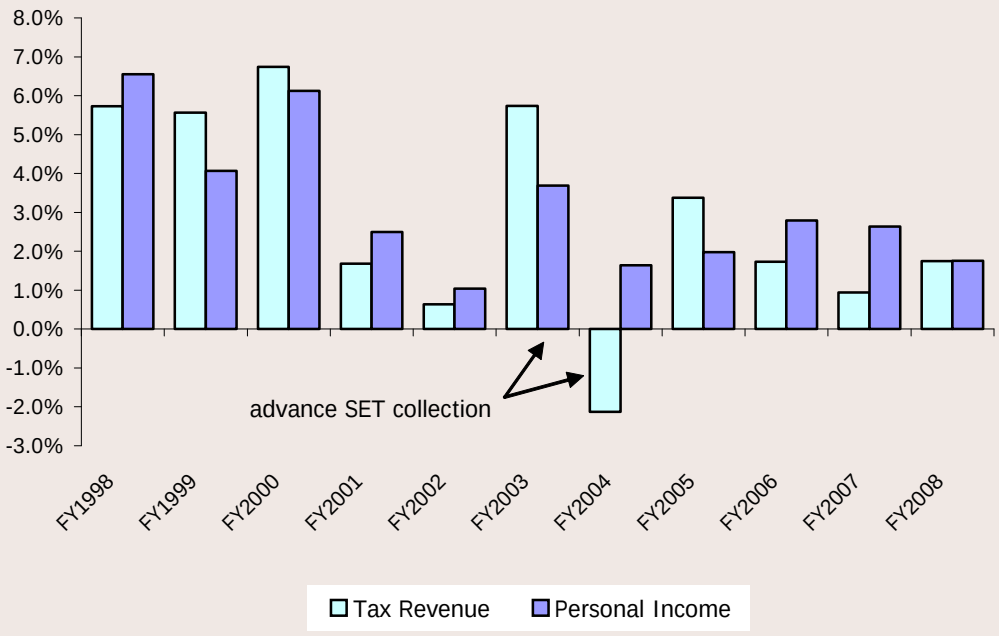
Changes in annual tax receipts, in the aggregate, generally paralleled the changes observed in the broader economy, as measured by Michigan personal income (See **Chart 11**) throughout the period. The degree of annual change, however, varies over the two different periods. Through FY2000, annual increases in tax revenue receipts generally met or exceeded changes in economic activity in the state. Both economic growth and annual changes in tax receipts eclipsed the four percent level each year. The national recession and its effects on tax receipts became evident in FY2001, when annual growth rates are halved. Following the FY2001 decline, Michigan's sustained economic malaise was further evidenced in the personal income annual growth rates between 2002 and 2008, which averaged 2.2 percent.

Other State Taxes

In addition to the major SAF taxes, state education revenues available each year also depends on the performance of minor state taxes earmarked to the SAF, which account for 10 percent of the total tax picture. These minor taxes consist of all or a portion of the receipts from the following taxes: liquor excise, cigarette, other tobacco, real estate transfer, Michigan business, industrial facilities, casino, commercial forest, and other special taxes. Of these, tobacco taxes make up about half (4.5 percent of the total) of all other SAF taxes. In the aggregate, the non-major SAF taxes have performed better than the major taxes, but their relatively small share of total revenues inhibits their ability to affect materially the overall growth rate of total SAF revenues.

Revenues from this group of taxes increased from $700 million to $1.2 billion (70 percent) from FY1997 to FY2008, which translates to an average annual growth rate of 5.0 percent. This was almost twice the growth in the inflation rate during the same period and exceeded the annualized growth rate in Michigan personal income. The annualized growth

Chart 11
Year-Over-Year Change in Major SAF Tax Revenue and Personal Income: FY1998 to FY2008



Source: Michigan Department of Education; U.S. Department of Commerce

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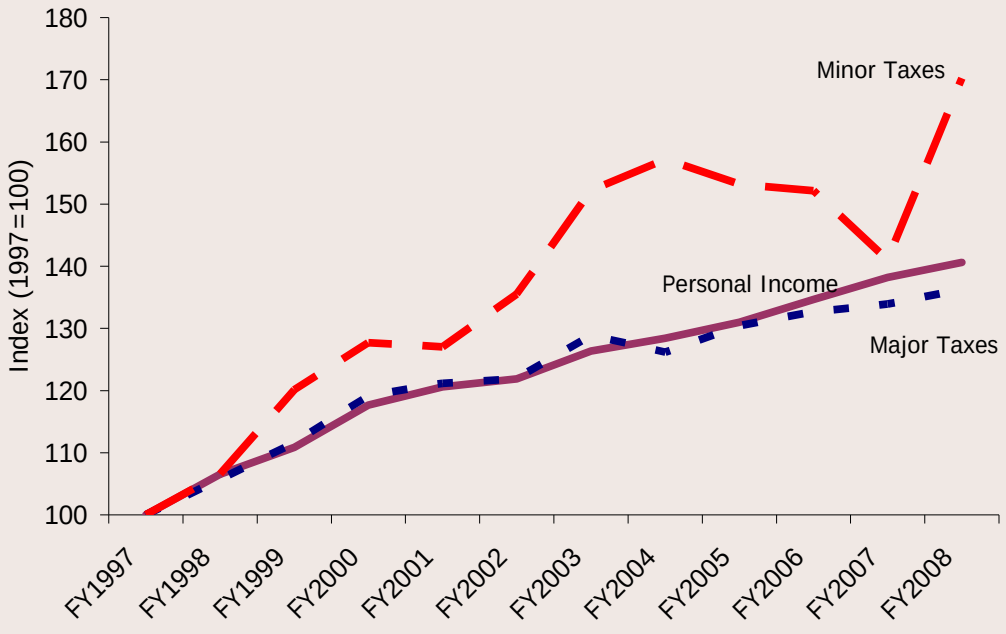
rate for these taxes as a group, at least measured against the economy and inflation, is somewhat misleading as it benefited from two important tax policy changes, both of which impacted the disposition of Michigan Business Tax (MBT) receipts to the SAF beginning in FY2008 (discussed below).

Comparing the growth of SAF major and minor taxes to changes in Michigan personal income reveals that receipts from the smaller taxes did not grow in concert with state economic activity (**Chart 12).** Minor taxes, as a group, exhibited the greatest amount of volatility between FY2005 and FY2008. After declining for three consecutive years in a row, a spike in revenue receipts occurred in FY2008 as a result of major state business tax policy changes (discussed below).

Over the entire period, growth of the minor SAF taxes was fueled by a number of factors different from those which affected major tax receipts. Of particular note, minor tax growth benefited from a number of tax rate increases and the adoption of new taxes, factors which did not contribute to the performance of the major SAF taxes since Proposal A. A series of tobacco tax increases in 2002 and 2004 were largely responsible for buoying the growth trend between FY2002 and FY2004, at least for this declining revenue source. Beginning in FY2004, tobacco tax receipts have declined each year along with collections from the industrial facilities and real estate transfer taxes, contributing to the subsequent decline in SAF receipts. Tobacco tax receipts have declined, on average, 3.5 percent annually since FY2004, indicative of the steady, long-term decline in tobacco use.

Significant changes in Michigan's business tax system, combined with new tax earmarking provisions, contributed to the FY2008 revenue spike. The series of changes affected school financing in markedly different ways. The first change did not affect

Chart 12
Growth of SAF-Dedicated Major and Minor Taxes and Personal Income: FY1997 through FY2008



Source: Michigan Department of Education; U.S. Department of Commerce

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the amount of education resources, but it did change the "state" / "local" revenue mix - state tax revenues replaced local tax revenues on a dollar-for-dollar basis. The second tax policy change responsible for the growth in minor tax growth in FY2008 involved a tax increase.

Regarding the shift from local to state resources, as part of the state's efforts to modify the business tax climate, numerous personal property tax exemptions were enacted that negatively affected state and local school tax revenues. To safeguard education from these reductions, a new revenue earmark of the MBT was enacted. The tax policy changes involved sizeable shifts in revenue-raising responsibility from the local to the state level but had no net impact on overall education finances. (See Tax Restructuring box.) The business tax re-write reduced local education funds by $342 million (full-year basis) and increased SAF revenues by an equal amount, thereby contributing to the sharp up-tick in minor tax receipts observed in FY2008 and to the strong growth rate for this category over the entire FY1997 to FY2008 period. The earmark of MBT revenue to the SAF also accounts for the exemptions of industrial personal property from the State Education Tax and the Industrial Facility Tax.

The amount of the MBT earmark to the School Aid Fund was expanded when the MBT surcharge was adopted (Public Act 145 of 2007). This changed effectively replaced, dollar-for-dollar, the tax revenues that would be collected under the new services tax (Public Act 93 of 2007). The law to expand the Use Tax base to services was repealed before taking effect on December 1, 2007. To hold schools harmless from the tax policy changes, the amount of the projected revenues ($250 million on a full-year basis) was added to the existing MBT earmark. These resources represented new, additional funds for public education in Michigan.

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Business Tax Restructuring Effects on School Finances

As part of Michigan's broad business tax restructuring efforts in 2007, certain personal property was exempted from state and local property taxes dedicated to finance education services. In order to protect schools from the revenue losses associated with the property tax changes, a portion of the annual revenues derived from the newly-created Michigan Business Tax (MBT) were dedicated to the School Aid Fund, beginning in FY2008. The changes were designed to provide property tax relief to Michigan-based businesses without harming local school finances.

Tax law changes, effective for the 2008 tax year, exempted industrial personal property from the 18-mill local school operating tax, the 6-mill SET, and the portion of the Plant Industrial Facility Tax (PA 198 of 1974) attributable to the SET and local school operating taxes.[i] As a result of these changes, all industrial personal property in Michigan is exempt from school operating property taxes (state and local). Commercial personal property also is now exempt from 12 mills of the required 18-mill local operating tax. Commercial personal property did not receive the exemption from the SET that industrial property received. Combined, these changes were estimated to reduce state and local property tax revenues dedicated to finance education by $479 million on a full-year basis (FY2009 estimate). A fixed-amount statutory earmark of Michigan Business Tax revenue was designated to the School Aid Fund to hold schools harmless from these changes in FY2008 and FY2009, with the amount increasing with inflation beginning in FY2010 and beyond.

Subsequent tax policy changes increased the level of MBT revenues earmarked to the SAF. These revenues were intended to offset the loss of use tax revenues dedicated to the SAF resulting from the repeal of a 2007 law that expanded the base of the tax to include certain services. The additional SAF revenues were available from the creation of a tax surcharge to be applied to taxpayers' MBT tax liability. The SAF earmark was increased to $729 million for FY2009, with this amount set in statute to grow with inflation beginning in FY2010. The increase in the earmark, $250 million in FY2009, represented new, additional money provided to schools. Further changes in Michigan's tax law effectively reduced the SAF earmark of MBT revenue by an amount exactly equal to the SAF's share of use tax collections on Medicaid managed care organizations (PA 440 of 2008), estimated at $112 million in FY2009.

The aggregate fiscal impact of the business tax changes and the associated earmarking provisions was intended to be revenue neutral for schools. Beyond this universal policy objective of the business tax changes, the modifications also had two other notable repercussions on school finances. First, the elimination of local property tax revenues and their replacement with an equal amount of state tax revenues represented further "centralization" of Michigan's education revenues. The respective shares of the overall financing responsibility were altered with the "state" component increasing and the "local" piece declining.

The second notable implication for school finances relates to the fixed nature of the MBT earmark to the School Aid Fund and its indexed growth factor. This provision in the business tax policy changes of 2007 is expected to provide additional stability to K-12 revenue, both in the short term as well as over the long run. In the short-run, indexing MBT revenue growth to the inflation rate rather than tying school revenues to economic activity shields school finances from the inherent volatility that accompanies MBT receipts. (Note: The MBT consists of a both a business income tax and modified-gross receipts tax.) In much the same way that the state's General Fund shouldered the full effects of the phased-in individual income tax rate reductions as a result of the earmarking provisions, the General Fund will experience the full effects of MBT revenue volatility while schools are protected. For example, General Fund MBT deposits are expected to decline 26 percent in FY2010 in response to the economy, but the SAF earmark will fall less than one-half of one percent. Over the longer-term, the indexing provision is likely to cause school revenues to increase faster than they would have if industrial personal property was still part of the state and local property tax bases. Changes in the inflation rate are likely to increase faster, at least in the long-term, than the annual growth in personal property tax receipts.

Overall, the 2007 tax policy changes that restructured Michigan's business taxes further centralized education finances at the state level, at least for K-12 districts; shielded annual school revenues from economic volatility affecting state tax receipts; and enhanced long-term stability of SAF revenue growth.

[i] Public Acts 37 to 39 of 2007.

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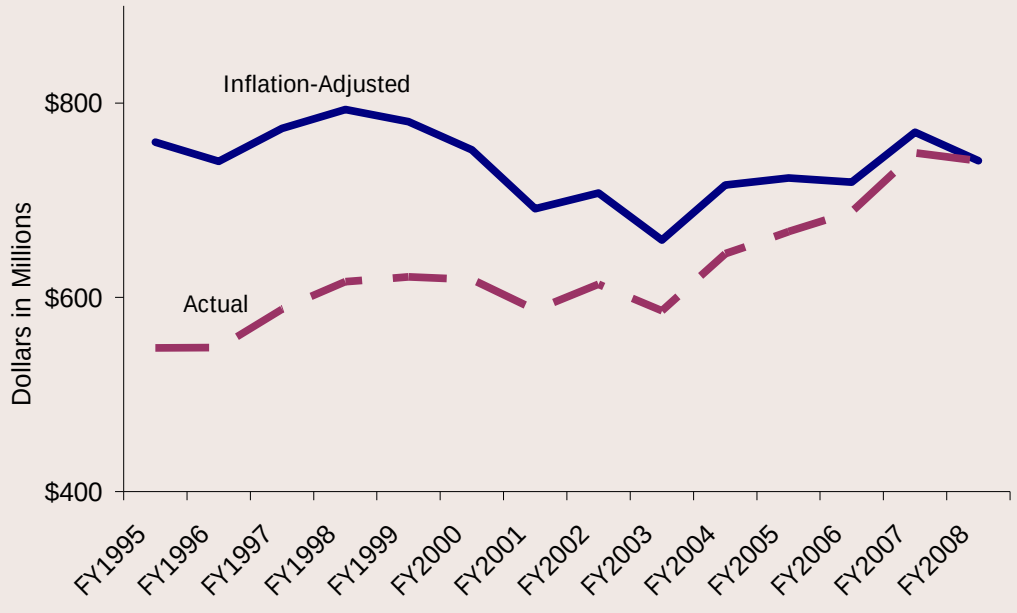
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Other On-going State Revenues: Lottery and General Fund

Lottery profits have consistently accounted for about 6 percent of the total state-source School Aid Fund revenues since Proposal A, although the specific amount has varied from year-to-year. Despite the popular misconception that the lottery contributes significantly to the funding of public education in Michigan, it actually amounts to a relatively small piece of the state contribution and an even smaller component when local operating revenues are incorporated and the entire funding picture is considered. Net lottery revenues contributed $741 million to school operational funding in FY2008. These statutorily-dedicated revenues have grown at an average annual rate of 2.3 percent, about equal to inflation from FY1995 to FY2008. This average rate, however, hides considerable year-to-year variation, as reflected in **Chart 13**. In recent years, inflation-adjusted lottery receipts have increased modestly; however, the inflation-adjusted FY2008 amount remains below the FY1995 level following a number of years of flat or negative growth.

Unlike the annual growth of major SAF taxes, lottery proceeds do not mirror changes in Michigan economic activity as measured by personal income. Year-over-year lottery sales increases (and therefore profits) tend to occur with the introduction of new games.[11] In recognition of this, the State of Michigan continuously introduces new gaming opportunities to maintain interest and sales. Since Proposal A's adoption, lottery games have experienced significant growth in competition for discretionary gaming dollars in Michigan. Today there are 19 Native American casinos in operation along with three Detroit casinos. This compares with eight Native American gaming establishments when Proposal A was adopted. Despite this considerable competition, lottery profits have been able to maintain modest annual growth since FY2004.

Chart 13
SAF Lottery Revenues: Actual and Inflation-Adjusted (FY2008 Dollars): FY1995 through FY2008



Source: Michigan Department of Education; U.S. Department of Commerce

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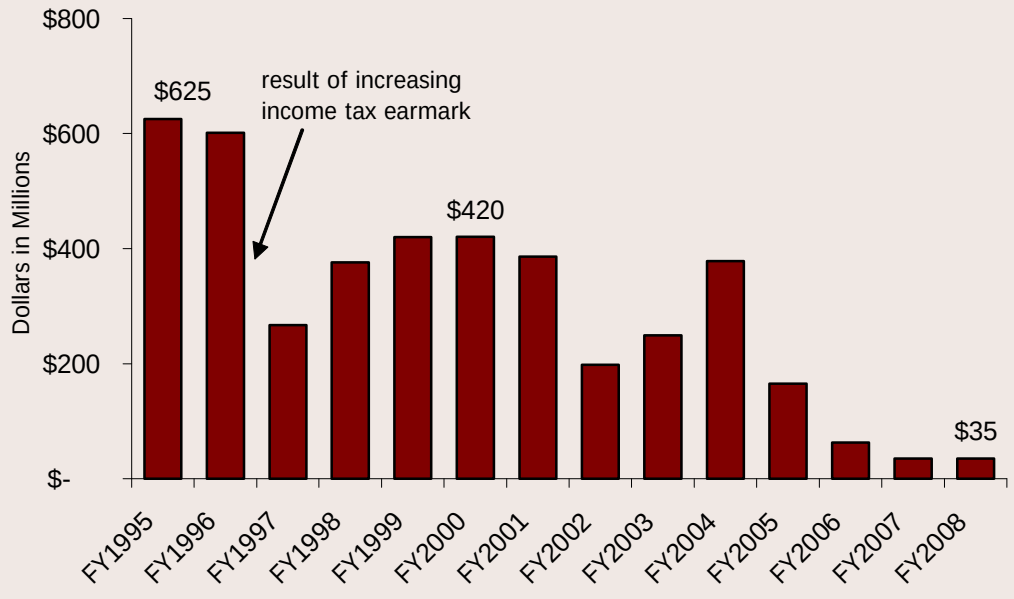
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In FY 1997, the amount of income tax revenues earmarked to the School Aid Fund was increased, and this increase was accompanied by an equal reduction in the amount transferred from the General Fund that year in order to hold the SAF harmless. Following the enactment of the income tax earmark, the General Fund transfer increased each year, peaking at $420 million in FY2000. The General Fund transfer has subsequently been reduced and is now approximately $35 million.

Historically, the annual allocation from the state's General Fund was intended to serve multiple objectives. First, a portion of the resources was used to pay certain education-related costs assignable to the General Fund, which for budgetary reasons are included in the annual SAF budget.[12] Second, General Fund dollars transferred to the SAF reflected the priority that state elected officials placed on public education vis-à-vis other competing programs. Thus, changes in total state education support were not determined solely by the changes in earmarked taxes. Third, continuation of the annual General Fund grant in the post-Proposal A period suggested that dedicated state taxes are not sufficient to support schools.

Beginning in the early 2000s, a general budgetary shift occurred with respect to the amount of the General Fund contribution to the SAF. Over the intervening years, the amount of General Fund resources transferred to the SAF was reduced, to the extent that the General Fund now does very little to supplement dedicated state education revenues (See **Chart 14**). The reduction of General Fund support to the SAF over the past nine years is a direct product of the on-going fiscal challenges facing the General Fund budget (see General Fund Budget Challenges).

Chart 14
General Fund Allocations to School Aid Fund: FY1995 through FY2008



Source: Michigan Department of Education

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Other Non-recurring State Resources

From time to time since Proposal A, School Aid Fund expenditures have been financed by state resources other than earmarked taxes, lottery proceeds, and the annual contribution from the General Fund. In some years, non-recurring state resources have been used to supplement on-going resources to help maintain spending levels, especially the per-pupil foundation grant. This practice was employed as a response to the reduction in dedicated SAF taxes resulting from the 2000-2001 recession. In other years, the extraordinary resources were used to finance new state public education obligations resulting from the Michigan Supreme Court's *Durant* decision in 1997. The use of these non-recurring resources has been excluded from the discussion regarding state revenue performance because they were always intended to represent one-time monies, rather than on-going resources, and their inclusion here would distort the picture of school finance being presented in this analysis.

Few sources of non-recurring funds have been used to support operational expenditures of the SAF, although when these funds have been provided the amounts have been significant. In FY2003, state debt (School Bond Loan Fund) restructuring provided an additional $131 million in one-time SAF revenues. State of Michigan reserves have been used too, including the transfer of $350 million from the Economic and Budget Stabilization Fund, the state's rainy day fund, in FY2002. This transfer was used to support SAF spending in both FY2002 and FY2003 and help manage through the economic downturn of the period, primarily with the goal of preserving the per-pupil foundation allowance. While the transfer shielded the per-pupil grant from a statutorily-required prorated reduction in FY2002, it was insufficient to avoid such reductions in FY2003 and FY2004. (Those reductions equated to $74 per student.)

In June 1997, the Michigan Supreme Court issued its decision on the long-standing case, *Durant et. al., v State of Michigan*. At issue was an unfunded mandate claim made by plaintiff school districts against the State of Michigan pursuant to Article IX, Section 29 of the Michigan Constitution. Specifically, the school districts in the case challenged the level of state support for special education services provided at the local level. The schools prevailed in the case, and the Supreme Court provided a financial settlement to the schools. The State of Michigan also negotiated a financial settlement to school districts not directly plaintiffs in the *Durant* case and therefore not eligible to receive a portion of the payment ordered by the Supreme Court. As a matter of fairness, the state sought a financial solution for both plaintiffs and non-plaintiffs, but the specifics for each group differed.

Payments were structured in a number of ways, including lump-sum and annual, depending whether a school was a "plaintiff" or a "non-plaintiff" district. To finance some of the required payments, the School Aid Fund received a series of annual transfers, of various amounts, from the state's rainy day fund from FY1998 to FY2003. Unlike the $350 million transfer in FY2002 to support current school operations, the rainy day fund transfers associated with the *Durant* decision were used to pay for damages incurred by local school districts as a result of past under-funding by the State of Michigan and were not intended to support on-going expenditures at the local level. [Note: A lump sum payment totaling $212 million in FY1998 to "plaintiff" districts did not include restrictions on the use of the funds. "Non-plaintiff" districts received a series of annual payments beginning in FY1999; however, unlike the payments to the "plaintiff" districts, the state placed restrictions on the use and timing of the payments received by "non-plaintiffs".] According to the Senate Fiscal Agency, a total of $414 million from the state's rainy day fund was transferred to the SAF to finance the various provisions of the *Durant* decision from FY1998 to FY2003.

The use of these non-recurring resources, particularly with respect to on-going SAF expenditures, allowed education spending to increase at a faster rate than the on-going earmarked SAF taxes when the economy slowed. No doubt, these resources were critical pieces to the overall school finance picture when they were employed; however, they do not represent monies that are available over the long-term. Including them in the discussion and figures presented in this report would result in a picture of school revenues (both annual levels and growth rates) that is artificially high.

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General Fund Budget Challenges

The State of Michigan has a long history of supporting public education with General Fund resources. These resources always played the minority role in the context of the state's overall funding responsibility, with the SAF-dedicated revenues playing the majority role. Despite this minority role, the level of General Fund dollars going to support education each year has never been immune to the challenges faced by the state's General Fund budget. This reality existed prior to the Proposal A reforms and remains true today.

General Fund support of public education cannot be examined in isolation but must be understood in the context of the state's competing needs and obligations. Earmarking provisions and other budgetary practices segregate the General and School Aid Fund budgets in theory; ultimately, however, annual appropriation decisions involving these two major funds are made simultaneously by policy makers. Each year, policy makers face seemingly infinite competing demands for finite state resources, and as a general rule, the entirety of the state budget is under consideration at the same time in the development of the annual state spending plan.

This brief summary provides a backdrop against which state education funding provided through the SAF has operated during the eight-year period, FY2000 to FY2008.

- Total General Fund revenues dropped by $471 million, or 4.8 percent, from FY2000 to FY2008.
- Over the period of FY2000 to FY2003, on-going General Fund tax receipts declined by $1.8 billion (19.2 percent).
- Adjusted for inflation, total General Fund revenues declined by $2.6 billion (21.7 percent) and tax receipts dropped by $2.5 billion (21.6 percent) between FY2000 and FY2008.
- Individual income tax receipts (largest revenue source) remained unchanged, despite a rate increase (3.9 percent to 4.35 percent) effective for FY2008.
- Single business tax receipts (second largest source) declined $507 million (21.8 percent) from FY2000 to FY2007

The on-going revenue challenges of the first half of the decade resulted from the economic decline associated with the 2001 recession as well as aggressive cuts in the personal income and single business tax rates. Other tax policy actions that contributed to the rapid decline in General Fund revenues between FY2000 and FY2003, included tax base reductions in the personal income, sales, and single business taxes.

As the economy and tax policy changes reduced General Fund revenues, state policy makers struggled to maintain required budget balance. General Fund spending was reduced, but not at the same rate as on-going revenues. To support this end, on-going spending in the General Fund was supplemented with nearly $6 billion in one-time resources between FY2000 and FY2006.[1] The heavy use of one-time resources initially reflected the lag in adopting permanent expenditure reductions, but later became a key component of the annual budget balancing equation as revenues continued their decline.

Despite severe struggles to achieve budget balance in previous years, the fiscal challenges facing the General Fund reached a public crescendo in the early fall of 2007. Facing an estimated $1.8 billion shortfall in FY2008, state government was temporarily shut down on October 1, 2008, when the requisite state appropriations were not passed by the start of the new fiscal year. The FY2008 budget was balanced with $1.1 billion in increased tax revenues.

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[i] Citizens Research Council of Michigan. *State Budget "Balance" for FY2007 Achieved with $1 Billion in Additional Non-Re*curring Resources. State Budget Note. June 2007.

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Cost-Shifting Items to the SAF Budget.

Another policy shift affecting the SAF and the General Fund has occurred in recent years. This shift does not appear in the figures presented in **Chart 14**, although its effect on annual state education revenues is the same as the decrease in the General Fund contribution to the SAF. Beginning in the mid- 2000s, a series of program transfers have been made that effectively required the SAF to pick up the financing costs of programs previously financed by other state dollars, most often General Fund resources. These programs were previously administered by other state agencies and funded in their respective budgets and subsequently transferred to the annual School Aid Fund budget via annual budget decisions. Nearly all of these transfers were made to address General Fund budget shortfalls. While the appropriateness of each item transferred to the SAF can be debated, the bottom line is that these budget decisions have resulted in more demands being placed on the finite annual resources available in the SAF.

The House Fiscal Agency reports that the FY2010 costs of the transferred programs total $209 million.[i] One of the largest transfers is the cost of borrowing to meet SAF cash flow needs (e.g., mainly associated with the receipt of state tax revenues and the timing of payments to schools).[ii] Beginning in FY2007 and again in FY2008, a portion ($22.8 million each year) of the total cost was shifted back to the SAF and by FY2009, this amount doubled to $45 million. The State of Michigan issued short-term debt in FY2003 through FY2006 to meet its cash needs, including those of SAF; however, in those years the General Fund covered all of the borrowing costs.

Other major items where financing responsibility has been transferred to the School Aid Fund include: *Durant* settlement debt financing ($39 million), School Bond Loan Redemption ($40 million), and reimbursement to renaissance zones ($26 milion).

Annual legislative determinations, primarily driven by shortfalls in the General Fund budget, have resulted in reduced annual General Fund transfers to the SAF. These direct reductions in state support for education have been exacerbated by a steady increase in the new costs that the SAF must pick up.

[i] House Fiscal Agency, *School Aid Programs Formerly Funded from GF/GP or BSF and Department Transfers*, unpublished, October 2009.

[ii] In recent years, the State of Michigan has been issuing short-term debt to finance, in part, its combined major fund (General and School Aid Fund) cash needs throughout the year. This borrowing is permitted under Article IX, Section 14 of the Michigan Constitution. This external borrowing occurs in addition to the internal borrowing within the state's Common Cash Fund in order to meet the state's cash obligations throughout the year. Because of the incongruence between the timing of tax receipts and monthly School Aid Fund payments, the Fund is required to borrow from both internal and external sources to meet its obligations. A more complete discussion of the state's cash flow borrowing experience can be found in the CRC publication, *Michigan's Deteriorating Cash Position*, Note 2007-2, May 2007.

Revenue Performance over the 2008 Recession

The 2008 recession that officially began in December 2007 has adversely affected the growth of all state taxes through FY2009.[13] The fiscal effects of the "Great Recession" are expected to continue in FY2010 with lingering effects into FY2011. For many observers of State of Michigan finances, most notably local and intermediate school districts and their constituents, the substantial declines in state education revenues became a flashpoint issue because of the budget reductions that accompanied the sharp drop in state revenues in FY2009 and the moderate decline that is currently projected for FY2010. The magnitude of the annual reductions in on-going state revenues in FY2009 had not been seen in the post-Proposal A era, indicating that the school finance system has entered uncharted waters.

Michigan's weak revenue growth from FY2001 to FY2008 is attributable to the mild 2001 recession and economic restructuring in Michigan. In contrast, the revenue performance for FY2009 and FY2010 is attributable to forces occurring outside of the state, the product of a very severe national recession. Given the recession's severity, the annual changes in FY2009 and FY2010 are not viewed as an indication of the start of a long-term trend. Current official FY2011 revenue estimates (combined General and School Aid Funds) project a reversal of the annual changes observed for the previous two years and a modest increase (2.8 percent) in baseline rev-

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enue growth. "Baseline" revenues reflect receipts before the incorporation of tax and budgetary adjustments and reflect the revenues resulting from underlying economic activity.

Although the annual FY2009 and FY2010 revenue growth rates are not indicative of a long-term trend, they will have the effect of "re-setting" state revenues, for both the General and School Aid Funds, at markedly lower levels. In the years to come, the Great Recession will have established a new base level from which state revenues will grow going forward. Because of the temporary nature of the most recent economic downturn and the steep annual declines in state revenue, it is instructive to examine state revenue performance since FY2001 in two distinct periods, FY2001 to FY2008 and afterwards.

Table 8 tracks state education revenues from FY2001 to FY2008 compared to FY2009 actual figures and current estimates for FY2010.[14] The relatively weak annual growth rates observed over the earlier eight-year period stand in stark contrast to the yearly changes in FY2009 and projected for FY2010, when both years show outright revenue declines. [Note: The data presented are adjusted to account for the personal property tax exemptions associated with the business tax changes effective 2008 and affecting MBT deposits to the SAF in FY2008 and beyond. These adjustments to the data are necessary in order to compare across the two periods because they artificially increased state revenues and reduced local revenues by an equal amount.] The declines in state funds over this two-year period were partially offset by the availability of non-recurring federal funds from the stimulus (See *American Recovery and Reinvestment act of 2009* on p. 37).

Table 8
State School Aid Revenue Changes: FY2001 to FY2010
(Dollars in Millions)

	FY2001	FY2008	Average annual growth rate	FY2009	Annual change	FY2010	Annual change
Sales / Use Tax	$5,075.9	$5,387.4	0.9%	$4,793.2	-11.0%	$4,865.7	1.5%
Income Tax	1,955.3	2,117.7	1.1%	1,895.3	-10.5%	1,815.3	-4.2%
State Education Tax	1,489.6	2,079.7	4.9%	2,040.6	-1.9%	1,893.0	-7.2%
Michigan Business Tax*	NA	205.0	NA	250.0		250.0	
Real Estate Transfer Tax	252.9	169.8	-5.5%	125.3	-26.2%	127.0	1.4%
Tobacco Taxes	383.1	424.7	1.5%	410.4	-3.4%	387.3	-5.6%
Liquor Taxes	28.4	36.9	3.8%	37.6	1.9%	38.2	1.6%
Industrial Facilities Tax	131.3	86.1	-5.8%	41.8	-51.5%	47.8	14.4%
Casino Gaming Tax	75.4	112.1	5.8%	108.1	-3.6%	109.6	1.4%
Other	15.2	17.1	1.7%	16.3	-4.7%	16.2	-0.6%
Total Taxes	9,407.1	10,636.5	1.8%	9,718.6	-8.6%	9,550.1	-1.7%
Lottery Proceeds	587.0	740.7	3.4%	724.5	-2.2%	723.0	-0.2%
Total State Revenues	9,994.1	11,377.2	1.9%	10,443.1	-8.2%	10,273.1	-1.6%

* FY2008, FY2009, and FY2010 figures are adjusted to account for the personal property tax exemptions included in the business tax changes effective 2008. Figures exclude MBT revenue designed to replace, dollar-for-dollar, lost local personal property tax revenues effective 2008.

Source: FY2001 through FY2008, Michigan Department of Treasury; FY2009 and FY2010, Consensus Revenue Estimates as of May 2010 (adjusted by CRC).

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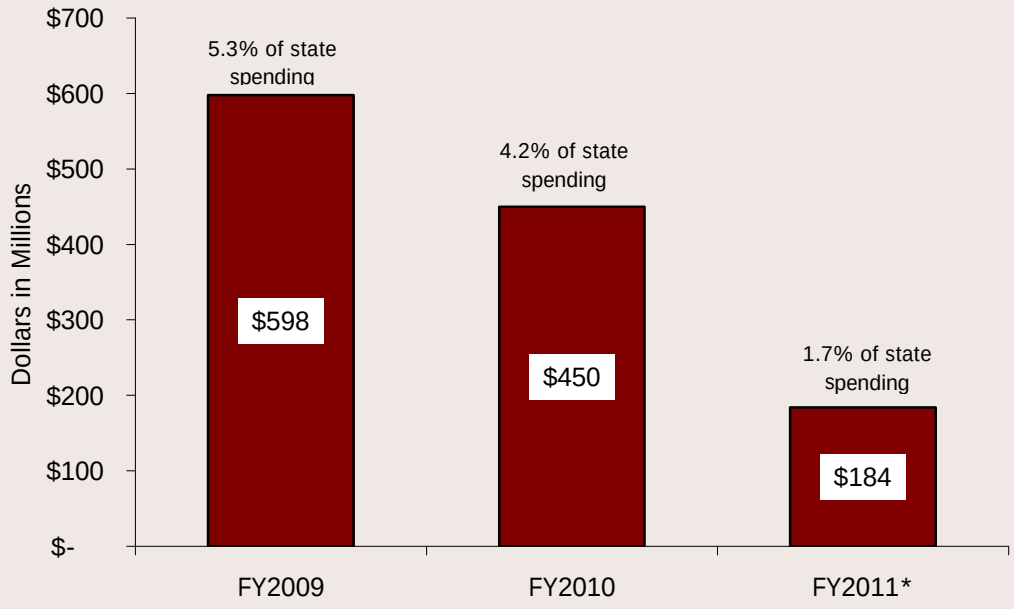
From FY2008 to FY2009:

- All state education revenues declined from their previous year levels, with an overall decline of $934 million or 8.2 percent. This compares with an average annual growth rate of 1.9 percent in the previous period.
- Of the major taxes, sales/use tax and income tax receipts declined 11 percent and 10.5 percent, respectively. State education tax collections fared better than the overall rate, but still declined 1.9 percent from FY2008. All three taxes had positive annual growth rates from FY2001 to FY2008.
- The real estate transfer tax fell 26.2 percent year-over-year. This was the only tax that had negative growth in the FY2001 to FY2008 period, falling 5.5 percent per year on average.
- Lottery proceeds are expected to fall 2.2 percent after showing modest growth of 3.4 percent per year over the previous period.

From the reduced base in FY2009, revenues are estimated to decline further in FY2010, largely due to continued economic struggles nationally and in Michigan. Specifically, year-over-year projected changes suggest:

- Two of the three major tax revenue sources (income and property) will fall and aggregate tax revenue from all sources will decline $170 million (1.6 percent).
- Income tax receipts will decline by $80 million (4.2 percent) as the state continues to shed payroll jobs.
- State education tax will decline by $147.6 million (7.2 percent), largely as a result of the declining real estate market.
- Tobacco taxes will drop again (5.6 percent), reflective of the continued decline in tobacco use.
- Lottery proceeds will remain basically stagnate at their prior year level, reflective of the limited discretionary income that residents have and competition from other gaming.

Chart 15
ARRA Funds Used to Achieve SAF Budget Balance: FY2009 through FY2011



* Based on Enacted FY2011 budget (Public 110 of 2010).

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American Recovery and Reinvestment Act of 2009

The revenue declines in FY2009 and FY2010 will not be fully reflected in the level of education services delivered in Michigan over this period. These shortfalls will be partially offset by the availability of temporary federal assistance provided through the American Recovery and Reinvestment Act of 2009 (ARRA). The ARRA legislation was enacted in the early part of 2009 and the federal resources are designed to help states mitigate cuts to public services and maintain required state budget balance over a three-year period, 2009 through 2011. Specifically, a significant portion of the $878 billion in ARRA resources targets education service providers at both the K-12 and higher education levels. The ARRA education funds are distinct from the on-going federal resources that many Michigan schools receive through the annual state School Aid Fund budget in two primary ways. First, ARRA resources are provided on a temporary basis and in a single lump sum for states to use beginning in 2009. Second, a significant portion of the funding is discretionary, in contrast to on-going federal funds that are generally restricted to specific purposes. (Note: The Michigan Department of Education reports that it will receive $2.6 billion in ARRA grants in total, one-half of which is discretionary education funding. The remainder will be used to support existing federal programs, notably Individuals with Disabilities Education Act ($401 million), Title I – Improving the Academic Achievement of the Disadvantaged ($390 million), and other smaller grant programs. [i])

With respect to undesignated funding, ARRA provides the State of Michigan with a formula allocation of $1.6 billion to support its general budgetary needs. Of this total, $1.3 billion is earmarked by federal law to finance public education services at the K-12 and postsecondary levels. Michigan's application for this funding designated a little more than $1.2 billion for K-12 education in FY2009, FY2010, and FY2011 and $68 million for public universities in FY2010.[ii] Some restrictions accompany the funds, but generally few "strings" accompany the funding and they may be used to support ongoing budget items at the local school level. Because of this freedom, these federal resources are indistinguishable from state revenues provided to local schools through the School Aid Fund and individual schools will determine how best to use these resources, keeping in mind their temporary nature.

In nominal terms, the amount of ARRA education money was not spread equally over the three years, but was "front-loaded" ($600 million) to help address the revenue decline in FY2009. The School Aid Fund budget relied on $450 million in FY2010 and the remainder ($184 million) in FY2011. The use of significant amounts of non-recurring ARRA dollars in FY2009 and FY2010 had the effect of postponing the fiscal impact associated with declines in SAF revenue declines in those years. The $600 million used in FY2009 accounted for 5.3 percent of the School Aid Fund budget and the $450 million currently set-aside for FY2010 is equal to 4.2 percent of the projected SAF budget expenditures. The remaining ARRA dollars available in FY2011 represent less than half the amount available in FY2010 (**Chart 15**).

In August 2010, additional temporary federal resources through the Education Jobs Fund (Public Law 111-226) were made available to the states to maintain and create public education jobs in the 2010-11 school year. A total of $10 billion is available for distribution to the states and Michigan's projected share of the total is $318 million. At the time of this writing, state officials are in the process of applying for the additional resources and determining how to distribute them to individual local districts in FY2011. While these decisions will influence the funding received at the local level in FY2011, both in the aggregate and on a per-pupil level, the specifics are unknown at this time. However, at a system-wide level, the additional funding will be added to the $184 million in ARRA funding currently programmed for FY2011, thus raising the amount of temporary federal resources to $500 million and increasing the portion of state education spending supported by non-recurring resources from 1.7 percent to 4.4 percent.

[i] Michigan Department of Education, *ARRA Monitoring*, presentation to Michigan State Business Officials Workshop on June 9, 2010. www.msbo.org/library/Presentations/2010BizMgr/ARRA.pdf

[ii] House Fiscal Agency. *American Recovery and Reinvestment Act Funding and Michigan's State Budget*. December 2009.

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Local Property Tax Revenues

The 1990s school finance reforms reduced substantially the role played by locally-generated revenues in the overall financing of public elementary and secondary education. In percentage terms, the roles of state and local operating revenues were reversed after the adoption of the 1994 constitutional amendment and the associated statutory changes. On a rough order of magnitude, the local responsibility for financing the operating costs of local school districts was reduced from nearly two-thirds in FY1994 to about one-quarter in FY1995. For Michigan's intermediate school districts (ISDs), which also provide specific, targeted education services (notably special education), Proposal A and its statutory reforms did not result in the same shifts in funding responsibility between levels of government.

At the time of their enactment, these constraints were deemed necessary to address taxpayer resistance to past repeated requests to raise local school operating tax rates. Also, it was argued that state efforts to correct per-pupil revenue inequities through a centralized revenue system would be partially undone if local districts could seek additional revenues through higher property taxes.

From an operating revenue perspective, local revenues remain an important component of the overall financial picture for public education; however, the performance of local tax revenue plays a much less important role in the amount of funding that an individual district receives under the Proposal A financing scheme. Property tax revenues continue to represent the largest share of the local component of school operational funding, accounting for $9 of every $10 in locally-generated resources. Although these resources are a key component of the per-pupil foundation allowance program, the state controls the amount of the grant for each district and supplies the resources to account for the difference between the grant and the locally-raised property taxes. Thus, local property tax performance does not directly determine the per-pupil revenues received in a local district under the centralized revenue structure. [Note: For intermediate school district, local property tax performance still plays an important role in determining per-pupil revenue levels each year.] **Appendix A** provides a very brief descriptive overview of local school operating property taxes in Michigan available to local and intermediate school districts. We do not discuss the role of property taxes in financing capital expenditures in this report.

By design, the new financing system placed tight limits on the ability of local school districts to generate additional revenues locally, specifically from the property tax. At the time of their enactment, these constraints were deemed necessary to address taxpayer resistance to past repeated requests to raise local school operating tax rates. Also, it was argued that state efforts to correct per-pupil revenue inequities through a centralized revenue system would be partially undone if local districts could seek additional revenues through higher property taxes.

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Operating Property Tax Revenue Performance

The property tax is the dominate own-source operating revenue for local and intermediate districts. Other local revenue sources that support school operations to varying degrees include food service, investments, and other miscellaneous revenues. Local operating property tax revenues have exhibited consistent and steady growth since the adoption of Proposal A. This consistency results from the general stability that the property tax exhibits over turbulent economic times vis-a-vis income and consumption taxes. Furthermore, this stability is also due to the various constitutional tax limitations that effectively cap property tax revenue growth for all units of local government, including schools.

Local Districts

Local operating property tax revenues, including the 18-mill, "hold harmless", and enhancement taxes, grew from $2.0 billion in FY2001 to $2.7 billion in FY2008, an aggregate increase of 39 percent, which equates to an annualized rate of 4.9 percent (**Table 9**). Annualized growth rates of the major and minor state taxes going to education were 1.7 percent and 4.3 percent, respectively, over the same period. Local property taxes fared extremely well compared to economic activity over the period as state personal income increased 2.2 percent per year. Tax receipts also outpaced increases in general prices (changes in the U.S. CPI averaged 2.4 percent per year over the same period).

In FY2009, property tax collections for operations were significantly affected by enactment of the Michigan Business Tax and related legislation, which provided certain exemptions from the 18-mill tax to industrial and commercial property. In that year there was a 9.1 percent net reduction in local property tax revenue, from $2.7 billion to $2.5 billion. This local revenue reduction was offset by increases in state funds dedicated to education in FY2008 and FY2009.

Table 9
Growth of Local and State Education Operating Taxes
(Dollars in Millions)

	Local Property Tax*	Change	Major** State Taxes	Change	Minor*** State Taxes	Change	Total Operating Taxes	Change
FY2001	$1,951.4		$8,520.8		$886.3		$11,358.5	
FY2002	2,060.3	5.6%	8,575.0	0.6%	945.3	6.7%	11,580.7	2.0%
FY2003	2,153.1	4.5%	9,066.8	5.7%	1,061.9	12.3%	12,281.8	6.1%
FY2004	2,197.2	2.0%	8,873.6	-2.1%	1,096.8	3.3%	12,167.7	-0.9%
FY2005	2,334.9	6.3%	9,173.6	3.4%	1,068.8	-2.6%	12,577.2	3.4%
FY2006	2,451.8	5.0%	9,332.7	1.7%	1,061.3	-0.7%	12,845.8	2.1%
FY2007	2,586.1	5.5%	9,420.3	0.9%	984.0	-7.3%	12,990.3	1.1%
FY2008	2,697.0	4.3%	9,584.8	1.7%	1,187.5	20.7%	13,469.2	3.7%
FY2009	2,452.6	-9.1%	8,730.7	-8.9%	1,468.5	23.7%	12,651.8	-6.1%
FY2010****	2,508.6	2.3%	8,582.1	-1.7%	1,452.8	-1.0%	12,543.5	-0.9%
Annual Rate	2.8%		0.1%		5.4%		1.1%	

* Includes three operating property taxes – basic 18-mills, "hold harmless", and regional enhancement

** Includes State Education, Sales and Use, and Income taxes

*** Includes all minor taxes dedicated to the School Aid Fund (excludes General Fund and lottery proceeds)

**** Estimates based on May 2010 revenue estimates

Source: Michigan Department of Education; Michigan Department of Treasury

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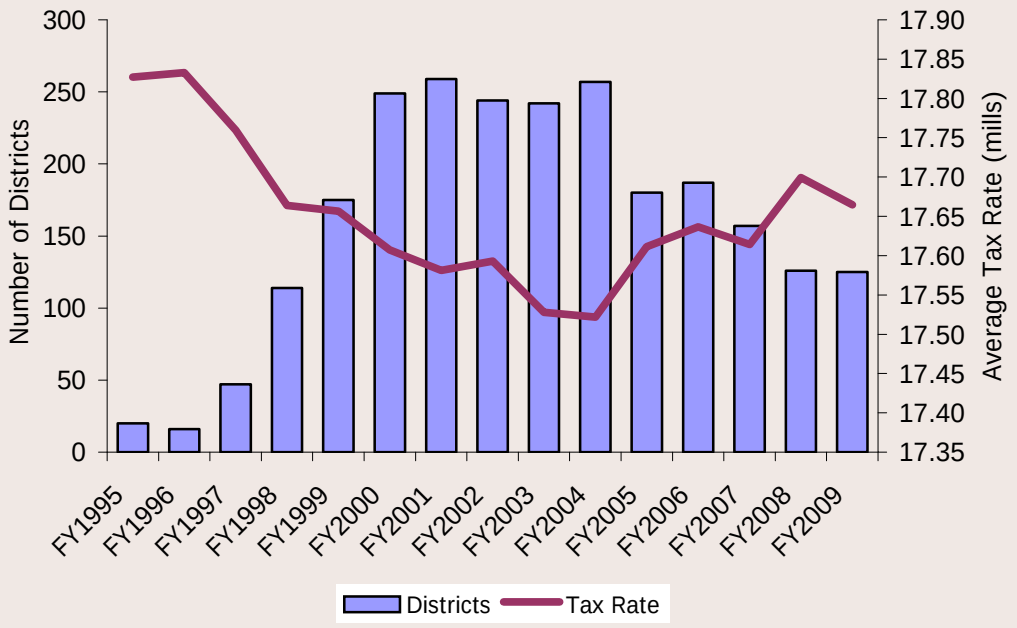
Property tax collections are projected to grow by 2.3 percent in FY2010, a much lower rate than was experienced in the period FY2001 through FY2008.

Following the adoption of Proposal A and largely as a result of the strength of the housing market and resultant growth in property values in Michigan, a number of local and intermediate school districts have experienced "Headlee rollbacks". [Note: Article IX, Section 31 of the 1963 Michigan Constitution requires property tax rates (including schools) to be "rolled back" when the growth in assessed value, excluding new construction, exceeds the growth in inflation.] As shown in **Chart 16**, initially only a few local districts were subject to constitutional tax rate reductions, but the number gradually increased. By FY2001, a total of 259 districts (47 percent of all districts statewide) in Michigan were levying fewer than 18 mills. [Note: This includes a small number of districts that were doing so prior to Proposal A and were "grandfathered" under the new financing system.]

The gradual increase in the number of districts levying fewer than 18 mills on non-homestead property is reflected in the statewide average tax rate for this local property tax. As more local districts experience millage rate rollbacks, the average figure declines, as depicted in **Chart 16**. The average figure bottomed out in FY2004 (tax year 2003) at 17.52 mills. In FY2009, the statewide average is up slightly at 17.66 mills, but still below the maximum limit.

In recent years, the number of districts levying fewer than 18 mills has declined. This is explained by a couple of factors. First, as authorization for the local school operating property tax expires, electors are asked to renew the tax at the full 18-mill rate.[15] A second reason is the approval, at the local level, of millage rate increases intended to "override" the previous Headlee rollback.[16] When these questions gain approval at the local level, the rate can be returned to the maximum 18 mills. For FY2009, 125 districts, less than half as many as FY2004, levied

Chart 16
Local Districts Levying Less than 18 Mills on Non-Homestead Property and Average Tax Rate



Source: Michigan Department of Education

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the local school operating tax at a rate below the maximum 18 mills.

Intermediate School Districts

The centralization of school finances at the state government level did not affect intermediate school districts (ISDs) as severely as it did local school districts. Although amounts vary across districts, as a group, ISDs continue to receive the majority of their funding from local sources, in much the same way as they did before Proposal A.[17] Considerable variation in property taxation exists among ISDs, something that predated Proposal A. The variation in local tax effort among ISDs explains some of the service discrepancies that exists statewide. The variation in ISD services is fully explained in a separate report, *Public Education Governance in Michigan*.[18] In FY2008, local resources comprised 60 percent of all ISD funding statewide, followed by 18 percent from state sources, and 22 percent from federal sources. Federal sources constitute a larger share of overall ISD finances compared to local districts because of the leading role ISDs play in the provision of special education services. Again, considerable variation exists among ISDs as to the component shares of each district's total budget. As is the case with local districts, the major own-source revenue available to ISDs is the property tax.

The centralization of school finances at the state government level did not affect intermediate school districts as severely as it did local school districts.

ISDs have authority to levy property taxes for: 1) general operations, 2) special education operations, and 3) vocational education operations. Authorization to levy dedicated taxes for special education or for vocational education, and as part of the school finance reform for increased general operating millages, requires voter approval. The maximum rate for each purpose is capped and all ISD tax rates are subject to Headlee tax rate rollback provisions of the Michigan Constitution.

The 57 ISDs across the state rely on the three different taxes to varying degrees. The revenue growth experienced statewide, and at the district-level, depends on a number of factors, including the rates levied for each tax and changes in the tax base within each community.

Beginning in 1995 and as part of the new financing system, a cap on the general operating tax rate that an ISD can levy was established at 1.5 times the number of mills allocated to the ISD in 1993. All districts in FY2001 levied the tax, but considerable variation existed among the rates ranging from 0.0727 mills (Livingston Educational Services Agency) to 0.4675 mills (Muskegon Area ISD). The average rate statewide was 0.2184 mills, an amount which has remained fairly constant over the years.

Statewide in FY2009, the general operating tax generated almost $63 million, an increase of 48 percent over the aggregate yield in FY2001 (See **Table 10**), despite the fact that the average tax rate declined very slightly over the period to 0.2121 mills. This shrinkage was the result of tax rate rollbacks required because of tax base growth. Growth in the total ISD tax base between FY2001 and FY2009 was 52 percent. Growth in the base (48 percent) and yield (52 percent) over the period substantially exceeded changes in the rate of inflation, which rose only 17 percent over the eight-year period.

Receipts from the general operating tax increased at a very strong and steady rate between FY2001 and FY2008, averaging 5.5 percent per year. This growth was fueled by the increase in the value of property. The year-over-year change in FY2009 was much lower (1.3 percent), a reflection of a slowdown in the escalation of property values statewide (1.1 percent). Early estimates of tax yields for FY2010 indicate a very small decrease (-0.2 percent) statewide; however, this moderate reduction hides some significant variation in the experiences at the individual district level. Again, changes reflect the declining tax bases. Although the statewide total taxable value for ISD millages is projected to decline a very modest 0.6 percent, changes at the district level range from an increase of 13.7 percent (Gogebic-Ontonagon) to a decline of 3.6 percent (Genesee).

Given ISDs' primary role to provide special education services both directly and indirectly through constituent school districts, it is not surprising that the special education property tax is the largest revenue source, yielding a little over $1 billion in FY2009

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Table 10
Intermediate School District Property Tax Bases and Yields
FY2001 to FY2010 (est.): Selected Years
(Dollars in Millions)

	Taxable Value	General Operating Millage	Special Education Millage	Vocational Education Millage	Total Yield
FY2001	$236,240	$42.3	$531.3	$122.7	$696.3
FY2005	301,486	$52.6	$862.4	$166.7	$1,081.7
FY2008	354,763	$61.6	$1,026.2	$199.0	$1,286.8
FY2009	358,723	$62.5	$1,037.8	$202.1	$1,302.4
FY2010 – est.	356,725	$62.4	$1,032.8	$201.8	$1,296.9
Annualized Growth Rates					
FY2001 to FY2008	6.0%	5.5%	9.9%	7.2%	9.2%
FY2009	1.1%	1.3%	1.1%	1.6%	1.2%
FY2010	-0.6%	-0.2%	-0.5%	0.0%	-0.4%

Source: Michigan Department of Education

and accounting for 80 percent of ISDs' total property tax collections. The statewide average rate for this tax was 2.54 mills, up from 2.40 mills in FY2001.

The Revised School Code limits an individual district's special education millage rate to 1.75 times the number of mills levied in 1993, so the maximum allowable rates vary across the state. To increase the rate above the level in effect in 1993 requires a local vote. In FY2009, all 57 districts levied this tax, with the lowest rate 0.6371 mills (Iosco Regional Education Services Agency) and the highest rate 5.6264 mills (Jackson ISD). Growth in special education property tax yields has been significant, nearly doubling between FY2001 and FY2009. This growth is a function of tax rate increases as well as growth in the property tax base. In comparison to the average general operating millage rate, which declined nearly 3 percent between FY2001 and FY2009, the statewide average special education tax rate increased from 2.40 mills to 2.54 mills, 6 percent, over the same period. The increase in the statewide average figure is evidence that ISDs have sought, and gained local approval for, rate increases above the levels in place in 1993. As was noted with the general operating tax, yields from the special education tax levy grew much slower in the most recent period (only 1.1 percent in FY2009), compared to nearly 10 percent per year on average between FY2001 and FY2008. Special education property tax accounts for the robust growth of overall ISD property taxes in recent years.

In contrast to local school district finances that are dependent on the performance state taxes, ISDs fared relatively well between FY2001 and FY2009 when state revenue growth stagnated. Looking forward, however, the revenue picture facing ISDs is likely to change with the challenges facing the property tax. Statewide figures suggest that all three ISD property tax levies will decline in FY2010 in response to falling tax bases, yielding an aggregate decline in property tax revenues (See **Table 10**).

While all ISDs levied the general operating and special education taxes in FY2009, only 31 districts levied the vocational education millage for area-wide programming in that year. Of this group, over one-half (18 districts) levied the tax at a rate in excess of 90 percent of the maximum allowed. For those districts close to the maximum rate, raising tax rates to compensate for falling property values may not be an option. (See *Raising ISD Property Tax Rates* box on p. 43.) Also, those districts that were not levying the tax in 1993 are faced with a hard cap on the maximum rate allowed (1 mill), while those that were levying the tax prior to Proposal A can increase the maximum rate by 1.5 times the millage rate in 1993.

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Raising ISD Property Tax Rates

All units of local government will experience fiscal challenges resulting from deteriorating property tax bases in the coming years; however, within the school community, ISDs will be particularly hard hit by falling property values and the attendant property tax yields because of their heavy reliance on this revenue source to support operations. Deterioration of the tax base will require tax rate increases to maintain revenue levels, or districts will have to pare back services to meet depressed revenue collections. State law authorizes ISDs to increase tax rates above those in place upon Proposal A's adoption, subject to local voter approval and subject to limitations.

Like so many local governments in Michigan, intermediate school districts have been affected to varying degrees by property tax rate rollbacks that have occurred automatically in response to escalating property tax bases in the past [Note: Headlee tax rate rollbacks of ISD tax rates are observed in the distribution of tax rates for FY2001 and FY2009.] In FY2001, the average district was levying the general operating tax at 93.3 percent of the maximum voter-approved rate and only one district was levying at the maximum (**Chart 17**).[1] By FY2009, the average operating millage rate statewide had declined to 90.6 percent of the maximum and no districts were at their authorized cap.

Headlee tax rate rollbacks affected special education millages in the same way between FY2001 and FY2009. In FY2001, the average rate for these millages statewide was 92.1 percent of the maximum and by FY2009, districts were levying at 90.4 percent of the maximum rate (**Chart 18**). Assuming districts have not done so already, the reduced tax rates resulting from the Headlee rollbacks effectively provide room for nearly all districts to increase rates, subject to voter approval, up to the levels previously authorized. Initially, rates will only be able to be raised, or restored, to the level previously authorized, i.e. via an "override" vote. However, fully restoring the "rolled back" rates may not be sufficient to make up for the decline in property tax values.

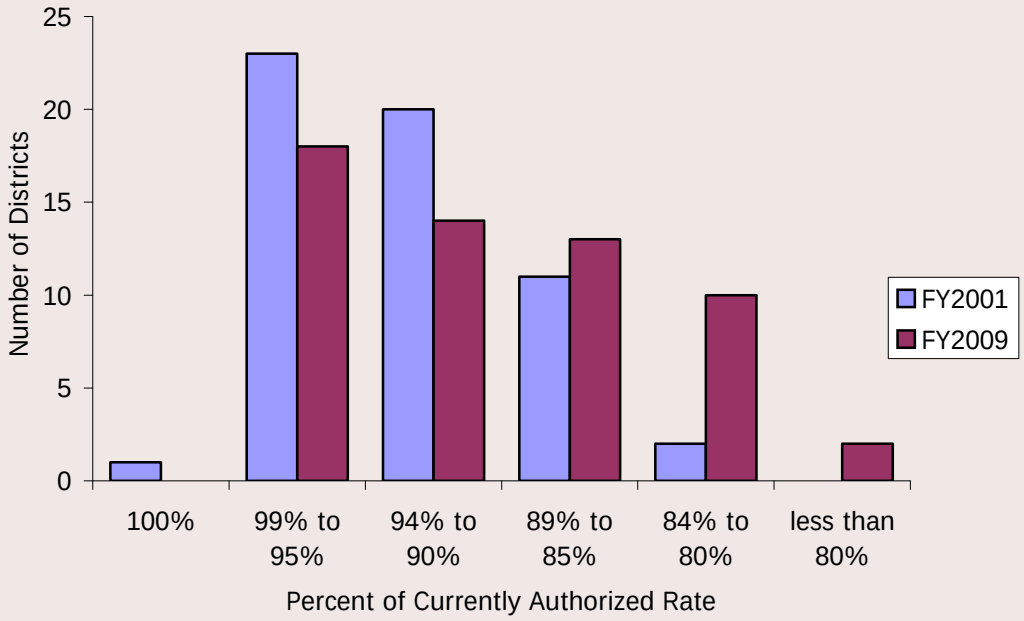
For districts with little or no room currently under voter-approved maximum rates to make up for the potential losses stemming from property values, Proposal A provided a mechanism to increase the maximum tax rate for each of the three taxes levied by ISDs. Very few districts have taken this action so far, so most have considerable room under the Proposal A rate limitation for the general operating, special education, and vocational education millages. This will allow districts to respond to falling property values by increasing rates, a response that may or may not be politically acceptable.

Thus far, few ISDs have sought voter approval to increase the general operating or the special education millage rates above those in effect when Proposal A took effect. When districts have sought to increase the maximum tax rate allowed, the special education tax rate has been increased. A total of 17 ISDs have taken the necessary steps to ask voter approval to raise the maximum special education rate allowed under state law, which means nearly three-fourths of the all districts remain well below the state statutory maximum rate allowed under Proposal A (i.e., 1.75 times 1993 rate). In one-third (six districts) of the cases where voters have been asked to raise the rate above the 1993 rate, the rate was raised to the statutory maximum (1.75 times 1993 rate). In five of the six districts, the FY2009 special education millage rate was at least 95 percent of the respective maximum rate. For these five districts, the option of raising tax rates in response to declining property values over the coming years will be constrained by the statutory caps adopted as part of the Proposal A reforms.

[1] To obtain the information regarding ISD millage rates, the Citizens Research Council of Michigan, working with the Macomb Intermediate School District, collected information from all 57 ISDs. Districts provided information pertaining to authorized millage rates and actual millage rates for three fiscal years, FY1994, FY2001, and FY2009. FY1994 represented the "base year" for purposes of determining the statutory limitations on tax rates for general operations, special education, and vocational education. Rates, both authorized and actual, for FY2001 and FY2009 were analyzed to determine how much room, if any, individual districts had under both the currently authorized limitation as well as the state-imposed limitation. Data from this survey is available, upon request, from CRC.

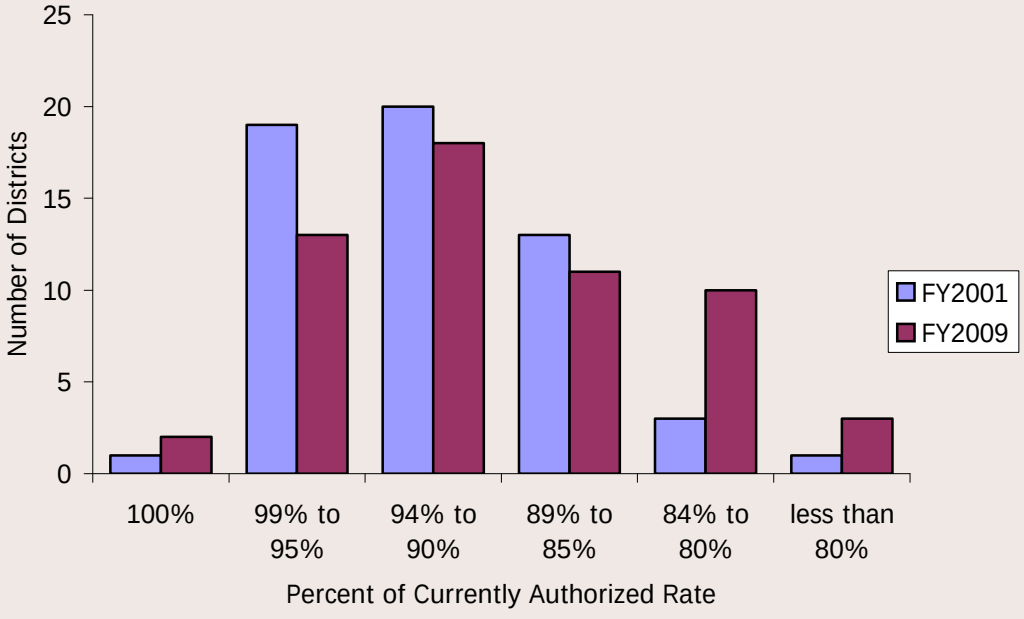
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Chart 17
ISD Operating Property Tax Levies: FY2001 and FY2009



Source: CRC Survey of ISDs

Chart 18
ISD Special Education Property Tax Levies: FY2001 and FY2009



Source: CRC Survey of ISDs

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Public Education Spending

As previously noted, the primary focus of this paper is the revenue side of the public education ledger. The broad purpose is to examine the resources, state and local, available to support public education in Michigan and the performance of these revenues since the passage of Proposal A. As part of CRC's efforts to explore school finances in a comprehensive manner, a separate analysis of school spending issues and pressures will be forthcoming. In light of the discussion about the manner in which revenues for education are obtained in Michigan, it is instructive to provide the reader with a primer on the expenditure side. To this end a general picture of public education spending and how it contrasts with state General Fund spending can be helpful.

While the majority of financial support for public education comes through the State of Michigan's annual School Aid Fund (SAF) budget, the nature and scope of education spending financed by the SAF is different than much of the programs and services financed by the other major budget,General Fund. These differences are important in the context of understanding the cost drivers within school budgets as well as how they compare with the drivers affecting other General Fund expenditures each year. Examining the unique nature of public education spending is also helpful when consideration is given to reducing expenditures at the local or intermediate district level. Because of the high concentration of personnel spending, the options for effecting major spending reductions are limited. Personnel costs tend to be "sticky" in the short-term and immediate reductions are difficult to achieve because multi-year collective bargaining agreements determine overall employee compensation.

Nature and Scope of Spending

Even though the vast majority of school revenues originate from state taxes which are appropriated through the annual State of Michigan budget, local and intermediate school district budgets bear little resemblance to the larger state budget. Less than 20 percent of the total annual expenditures made by the State of Michigan finance programs operated directly by the state. Over 80 percent of all funds appropriated in the budget each year are distributed for services delivered by organizations other than state departments and agencies in functional areas where the State of Michigan is responsible for service provision, either directly or indirectly. A large portion of state government's role as a "contract manager" to other sub-state entities is mandated in the 1963 Michigan Constitution (Article IX, Section 30), which requires that a minimum of 49 percent of state-source revenues each year must be paid to units of local government.[i]

In contrast to the state budget, the vast majority of school expenditures finance programs operated directly at the local or intermediate district level. This contrast is clearly seen in the share of personnel costs that comprise school budgets compared to the state budget. For example, the Michigan Civil Service Commission reports that approximately 11 percent of total State of Michigan expenditures in FY2009 ($44.3 billion) financed the classified payroll of state employees, a percentage that has remained fairly constant for the last 10 years.[ii] This compares with nearly 80 percent of total school operating spending ($17.3 billion) dedicated to personnel expenses for the same period. Personnel-related expenditures include payroll costs, group health insurance liabilities, and retirement (pension and other post-retirement benefits) contributions. Personnel costs in any given year are contingent on a number of factors, including the number of employees, increases in pay, changes in benefits, and required contributions to finance retiree benefits.

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[i] Article IX, Section 30 of the 1963 Michigan Constitution, added as part of the "Headlee Amendment" in 1978, requires the state to maintain the proportion of state spending to local units in at least the same proportion as that which was in effect in FY1979, the base year. The base year proportion was originally computed to be 41.61 percent. Effective with FY1993, a recalculation was made of the base year proportion as a consequence of a settlement agreement reached on the County of Oakland v State of Michigan lawsuit, which was settled in 1991. The recalculated base year proportion is 48.97 percent.

[ii] Michigan Civil Service Commission, *Thirtieth Annual Workforce Report FY2009*.

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Employee Payroll

Between FY2000 and FY2009, the number of full-time equivalent (FTE) positions reported by all school entities (local and intermediate school districts and public school academies) in Michigan fell from 210,027 FTE positions to 207,910 FTE positions, representing a very modest 1.0 percent drop (See **Table 6**). Comparing the changes by service provider reveals significant variation in personnel level over this period.

The number of FTEs in traditional local districts declined by almost 14,000 positions (-7 percent), while ISDs, in the aggregate, gained 6,700 positions (81 percent). It is likely that a number of factors can explain the two different stories. The fiscal challenges present at the local district level during this period, coupled with personnel effects that accompany declining student enrollments at the district level, account for some of the decline. To some degree, overall ISD finances were not as acutely affected by the downturn in state revenues earlier in the decade because of the large role played by local property taxes, thus personnel levels were not reduced. Similarly, although not immune to the effects of declining student numbers, aggregate ISD funding levels were not adversely affected to the same degree as local districts from the shifting demographics. Finally, it is possible that some of the ISD employment gains could be attributed to a shift in program responsibility (e.g., special education services), from the local to the intermediate district level. The fiscal constraints on local districts (declining state revenues and restrictions on local revenue supplementation) may have resulted in certain districts shedding service delivery and transferring responsibility to the ISD. The transfer of special education services to the ISD level may have been facilitated further by how the state reimbursed districts for special education costs following the *Durant* case in 1998.

The near-doubling (96 percent) of FTE levels from FY2000 to FY2009 within the charter community was almost entirely in response to the growth of the number of charter schools in the state and attendant enrollment increases. According to pupil headcount figures reported by the State of Michigan, enrollments at charters increased from 46,833 students in FY2000 to 103,444 students in FY2009, an increase of 120 percent. In contrast, the traditional K-12 district enrollment levels declined by 6.4 percent during the same time, from 1,617,010 students in FY2000 to 1,513,604 students in FY2009.

By far, teachers (non-special education) represent the largest portion of the overall education workforce accounting for 37 percent of the total FTE count for all reporting entities in FY2009. At the ISD level, teachers only represent two percent of the total workforce and special education (instructional, administrative, and support) accounts for 47 percent. Teaching positions dominate within the traditional local and charter school landscape. The average salary for the teachers statewide climbed 27 percent, from $49,044 in FY2000 to $62,272 in FY2009, an increase that outpaced changes in Michigan per-capita personal income over a similar period (16 percent) and changes in the U.S. CPI (20 percent).[iii]

[iii] Data from the Michigan Department of Education annual publication, Bulletin 1014.

Table 11
Changes in Public Education Employment Levels: Selected Years
Full Time Equivalent (FTE)

	Local Districts	ISDs	PSAs	Total
FY2000	196,588	8,311	5,127	210,027
FY2004	185,158	12,054	7,046	204,258
FY2009	182,824	15,045	10,041	207,910
Change 2000 to 2009	(13,765)	6,735	4,914	(2,116)
	-7.0%	81.0%	95.8%	-1.0%

Source: Center for Educational Performance and Information

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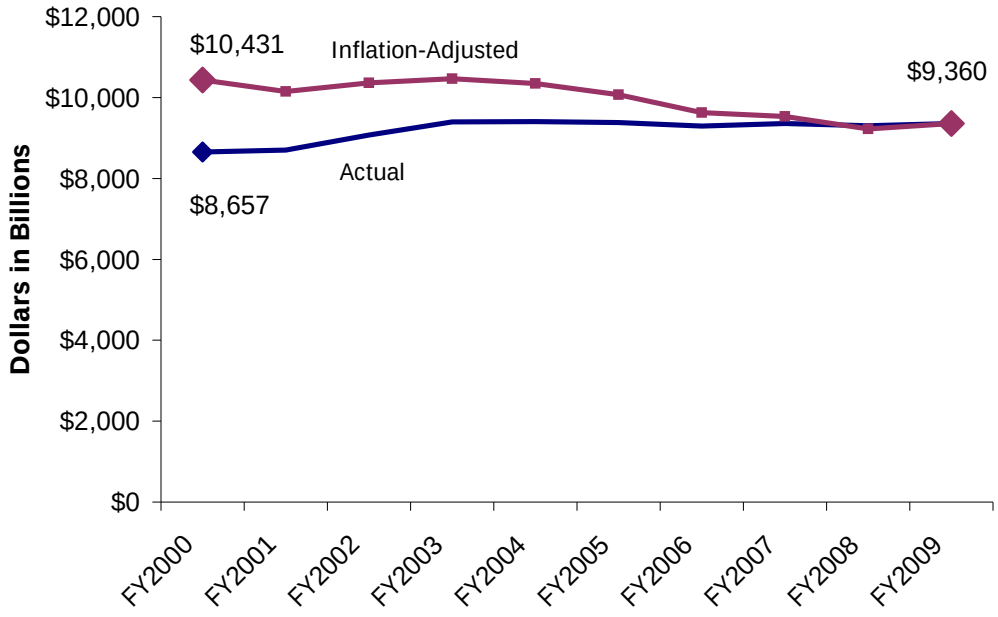
Expenditures for all school employees' salaries totaled $8.7 billion in FY2000 and $9.4 billion in FY2009. After rising consistently through FY2004 ($9.4 billion), payroll figures have remained fairly flat since. Even though FTE positions decreased, the cost of paying each employee grew due to salary and benefit cost increases. After adjusting payroll expenditures for inflation, the cost declined by 10.3 percent between FY2000 and FY2009, while FTE positions declined by 1.0 percent during the same period. **Chart 19** compares actual school employee payroll expenditures with inflation-adjusted expenditures between FY2000 and FY2009. Not included in this chart is the employers' costs of required taxes (Medicare and Social Security), which is a fixed amount of payroll (7.65 percent currently). These amounted to a little over $700 million in FY2009 and have grown commensurate with growth in payroll.

Group Insurances

In addition to payroll, other major employee-related expenses of public education providers are fringe benefits, the largest of which is health care insurance for current employees and their families. The level and type of benefits are determined at the individual school district level for the most part, and are subject to collective bargaining. In most instances, the cost of the insurance is shared by both the employer and the school employee; however, the relative shares paid by each vary across school districts and charter schools. Health insurance represents the second-largest personnel expenditure and a rapidly growing component of education budgets at all levels.

In FY2009, the total amount spent on group insurances (primarily health insurance) was $2.1 billion, almost one-quarter of the base payroll figure for the year. This

Chart 19
Public Education Payroll Expenditures: FY2000 to FY2009



Source: National Public Education Financial Survey; U.S. Department of Commerce

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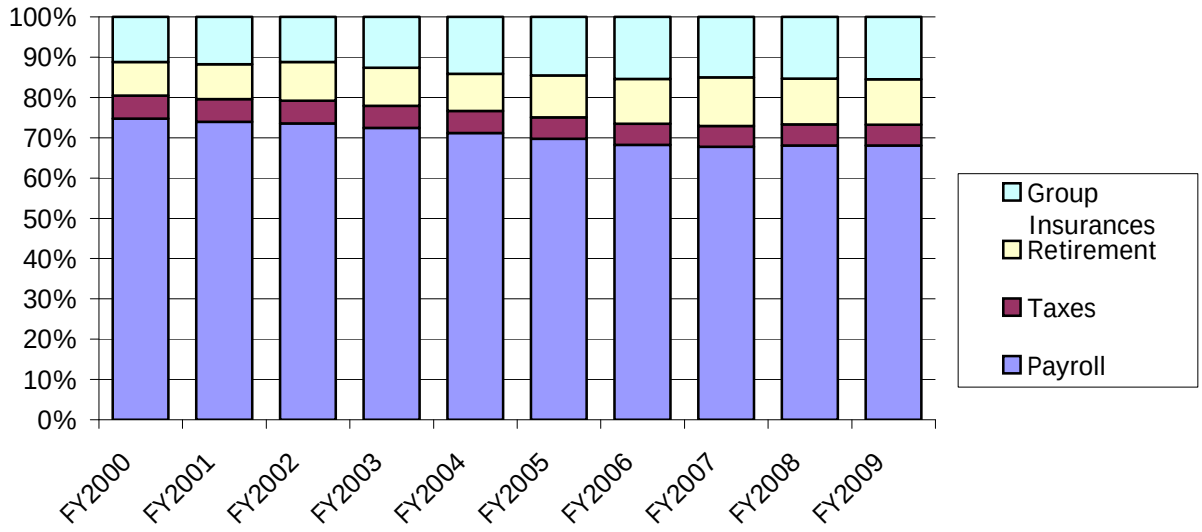
component has become an increasingly larger portion of the total employee compensation picture for schools as it has grown from $1.3 billion in FY2000, a 64 percent increase (See **Chart 20**). The cost of insurance has increased faster than any other employee-related expense during the period. This growth has occurred despite a reduction in the number of employees and in direct response to the price inflation associated with health care.

Retirement Benefits

Spending required to satisfy retirement benefits (pensions and health insurance) increased nearly 60 percent between FY2000 ($970 million) and FY2009 ($1.5 billion). Employer-paid retirement contribution amounts are calculated based on a percent of active payrolls to finance three things: 1) future pension benefits of current employees (normal cost); 2) unfunded liabilities of the pension system; and 3) health care benefits for current retirees. Normal cost is the amount needed to cover the present value of benefits earned by system members in each fiscal year and unfunded liabilities are liabilities that are not covered by assets held by the system's investment funds. In FY2009, the required contribution rate for all three components was 16.5 percent of payroll. Additional contributions required to satisfy the investment losses in the retirement portfolio for 2001 and 2002 caused the total pension component to rise from $572 million in FY2000 to $911 million in FY2009.

The growth in annual spending for retiree health was moderated to some extent through the use of reserves, which resulted in the contribution rate for this component rising from 4.6 percent of active payroll in FY2000 to 6.8 percent of active payroll in FY2009. Reserves were used to augment annual contributions for a three-year period (FY2004 to FY2006). In nominal terms, schools spent $637 million in FY2009 to finance the actual costs of retiree health, up from $398 million in FY2000. As a result of the rapid growth rate of retiree health and pension contributions, the retirement share of the overall school personnel budget increased from 8.4 percent in FY2000 to 11.3 percent in FY2009 (See **Chart 20**). A number of factors account for the rise in the employer

Chart 20
School Personnel Expenditures: FY2000 to FY2009



Source: National Public Education Financial Survey.

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contribution rate required to finance retiree health costs: 1) increased number of retirees; 2) decreased number of active employees; 3) shrinking active payroll base; and 4) general cost increases of health care services (See **Table 12**). Prospectively, if these factors continue to exhibit the same growth rates, the retiree health component of school budgets will become even larger, pulling current dollars away from other school spending.

As of September 30, 2009, there were 268,208 active members in the school retirement system and 171,922 retirees and beneficiaries receiving benefits. The number of active members has been declining since FY2003 while the number of retirees has steadily increased, meaning that, each year, there are fewer active employees to finance the benefits of more retirees. The reported payroll, the base of employer contributions, fell each year from FY2005 through FY2007, before increasing slightly in FY2008 (See **Table 12**).

Unlike the other employee-related costs facing schools, school districts have no control over the retirement contribution rate, which is set annually by the State of Michigan along with the benefit level. Because there has been no pre-funding of the retiree health benefit, current budget dollars have to be used to finance this benefit. In contrast, the pension benefits promised by the retirement system are pre-funded to satisfy future obligations; however, this component is sensitive to the performance of the systems' investments relative to actuarial assumptions.

Other Spending

After accounting for employee-related expenses, the remaining 20 percent, or about $3.5 billion, of the total operating expenditures ($17.3 billion in FY2009) comprise a number of smaller categories, the largest of which include transportation, athletics, and food. Traditionally, this cost grouping has risen at rates below the annual growth rates observed for employee/retiree health spending, but above the annual growth in inflation (U.S. CPI).

Table 12
Michigan Public School Employees' Retirement System: FY2000 through FY2009

	Active Members	Retirees and Beneficiaries	Ratio of Retiree to Active	Reported Payroll (Dollars in Millions)
FY2000	312,699	126,115	1:2.5	$8,984.7
FY2001	318,538	130,790	1:2.4	9,264.2
FY2002	326,350	135,277	1:2.4	9,707.3
FY2003	326,938	139,814	1:2.3	10,043.9
FY2004	322,494	145,378	1:2.2	10,407.1
FY2005	316,151	151,706	1:2.1	10,206.0
FY2006	308,233	157,163	1:2.0	9,806.5
FY2007	295,984	162,844	1:1.8	9,851.5
FY2008	278,642	167,265	1:1.7	9,958.1
FY2009	268,208	171,922	1:1.6	Not Available

Source: Michigan Public School Employees' Retirement System, Annual Actuarial Valuation Report

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Fiscal Outlook for Public Education

In addition to the fiscal challenges posed by Michigan's near-decade-long economic malaise, which have been exacerbated by the Great Recession, public education finances also face another serious long-term problem. Since the early 2000s, the state has failed to come to grips with the dual structural deficits affecting its major operating funds, General Fund and School Aid Fund. Such deficits are defined by a situation where a government's growth in expenditures consistently outpaces its growth in revenues. Instead of fixing the problems facing the two funds in a permanent, long-term fashion, the state has relied on a series of "stop gap" measures. Until adoption of the FY2008 state budget, annual budget balance in the two funds had been accomplished largely through such actions as delaying paying required obligations, using non-recurring revenue sources, and transferring resources from other funds to support spending in the General and School Aid Funds.[19] Despite a series of general tax increases in 2007 that generated new revenues to support the FY2008 budget, the structural problems remained largely unresolved.

Education spending was projected to grow at a rate of 4.7 percent annually, while revenues (state and local operating) were projected to grow 3.0 percent per year, resulting in a gap of 1.7 percentage points, or about $400 million each year on average.

In the spring of 2008, the Citizens Research Council issued a report entitled *Michigan's Fiscal Future,* which included, among other things, a series of projections about the performance of public education finances (state and local) for the period FY2009 through FY2017. Revenue projections based on the current financing system and a specific economic scenario were paired with projections about the spending pressures expected to face education service providers (local and intermediate school districts) over the same period. When the projections of spending pressures and revenues were combined, an increasing gap appeared representing the future structural deficit facing public education in the state. Education spending was projected to grow at a rate of 4.7 percent annually, while revenues (state and local operating) were projected to grow 3.0 percent per year, resulting in a gap of 1.7 percentage points, or about $400 million each year on average. These projections are revisited below in summary format to illustrate the long-term challenges facing the current system of financing public education. The figures are not estimates of what will happen in the arena of public education finances over the coming years, but instead represent illustrations of the factors and forces facing education budgets in the future and the likely outcomes that might materialize when reasonable estimates of revenues and spending are combined. It is not the purpose of this paper to pursue an update of *Michigan's Fiscal Future* or to provide the most up-to-date projections of school finances, rather the discussion below is intended to illustrate, in some quantifiable form, the long-term fiscal challenges facing public education.

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Revenue Projections

The revenue projections included in *Michigan's Fiscal Future* were based on a long-term view of the Michigan economy. The economic picture presented in the report was not a prediction of the performance of the Michigan economy, but rather it illustrated how the state's economy might be expected to perform under a set of assumptions about the national economy and those industries especially important to Michigan. A key assumption underlying the economic projections was that the national economy would experience a 10-year period of uninterrupted growth (2007 to 2017). In this sense, the economic scenario attempted to portray long-term trends for the Michigan economy, not necessarily the short-term ups and downs associated with the business cycle or the occurrence of a more severe economic recession. The 2008 recession and its effects on the Michigan economy and the resultant state revenue impacts were not considered in the development of the long-term projections presented by CRC in the 2008 report.

It is assumed that the long-term relationships associated with the income-, consumption-, and business-based taxes dedicated to financing education remain intact, again regardless of the recession, and that these relationships will largely determine the future growth potential of state revenues.

There is little doubt that the recession has had significant impacts on all state revenues, including the major income and consumption taxes dedicated to finance public education. Education revenues declined nearly $1 billion from FY2008 to FY2009 (ignoring the effect of state business tax restructuring). The fiscal effects of the recession are expected to be felt through calendar years 2010 and into 2011, reducing state education funding in FY2010. In terms of the long-term picture facing school funding, the recession has reduced the base from which future revenues will grow. It is not expected that the recession will affect the long-term (beginning in FY2012) growth trends of the individual taxes dedicated to the SAF, as these relationships are not materially affected by the ups and downs of the business cycle. In this sense, the long-term relationships between the economy and major taxes covered in *Michigan's Fiscal Future* are still applicable today.

The long-term revenue projections made by CRC in 2008 were based on the relationships, both historically and prospectively, between the Michigan economy and the major state taxes including those dedicated to the SAF. It is assumed that the long-term relationships associated with the income-, consumption-, and business-based taxes dedicated to financing education remain intact, again regardless of the recession, and that these relationships will largely determine the future growth potential of state revenues. Over the shorter-term (two to three years) and coming out of the recession, it is likely that income and consumption taxes may experience slightly stronger growth as economic activity "ramps up" in the state; however, these are not expected to materially affect the long-term growth rates. [Note: Because the amount of the earmarked Michigan Business Tax revenues going to the SAF each year is indexed to growth in the inflation rate under current statutory provisions, the long-term relationship between the state's main business tax and the economy does not impact education finances.]

One area where school tax growth rates, at least in the near-term, may deviate from the original CRC projections is the property tax. The *Michigan Fiscal Future* report did not contemplate what has transpired with property values in the state. The original report had identified declining home prices and property values as a potential concern to the projected growth rates; however, it was assumed that it would be some time, if at all, before such declines affected taxable values and property tax receipts.

The assumed long-term growth rate of the State Education Tax (SET) was 4.25 percent, which was greater than the rate of any other SAF tax. This robust rate was based on the historical performance and stability of the property tax in Michigan; however, a number of economic variables have caused property values in the state to deteriorate substantially since the original analysis, thus driving down receipts. Although property values in some com-

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munities began falling sooner than others, the gap that gradually developed over time between state equalized value (50 percent of "market" or "true cash" value) and taxable value (the basis used to calculate property tax liability) shielded tax revenues from declines. Today, in much of the state, the gap between the market value and the taxable value has been eliminated, and declining property values are being reflected in the property tax receipts at all levels, including the statewide SET. As a result, SET revenues are expected to experience year-over-year declines for some time, before reversing course and showing some marginal growth in the out-years.

CRC's 2008 report also included assumptions about the performance of local school operating property tax revenues that have proven to be too optimistic given what has occurred with these taxes in recent years and what is expected to occur over the next few years. The projections were based on this revenue source growing 3 percent per year during the forecast period, FY2009 to FY2017. This rate was slightly lower than the original SET growth rate primarily because of the different bases of each tax. Local school taxes exclude homestead property (mostly residential) from their bases, property that traditionally grew more robustly than non-homestead property. A complete revision to the original property tax revenue growth rates (both state and local) is beyond the scope of this endeavor; however, it is important to recognize that the expected rates for both the SET, which accounts for about 18 percent of total state school taxes, and the local operating taxes, are over-estimated in the short-term. Reducing the rates of growth for both taxes would have the effect of lowering the overall revenue growth rate and increasing the structural gap, especially over the short-term when property tax receipts are expected to decline year-over-year.

Table 13 presents the projected annual growth rates for each major state education tax and the minor taxes as a group. CRC's original projections included annualized rates for the other public education revenues, including federal aid (4.0 percent), lottery proceeds (2.0 percent), and local property tax revenues (3.0 percent).

Based on the assumptions about the historical relationships and performance of Michigan state and local education revenues, it was determined that the school finance system was capable of producing operating revenue growth at an annualized rate of 3 percent from FY2009 to FY2017. This rate is above the experience in the period leading up to the forecast, FY2001 to FY2007, and was justified on the grounds of an improved economic climate relative to the earlier period. While the economic picture in FY2009 to FY2010 did not materialize as previously envisioned in the *Michigan's Fiscal Future* report, the underlying relationships between the taxes supporting public education and the economy are still relevant. As the national economy begins to recover and grow coming out of the Great Recession, it is

Table 13
Projected Growth Rates of Major and Minor SAF Taxes, FY2012 to FY2017

Tax	Growth Rate
Major	
Sales	3.00%
Personal Income	3.25%
Michigan Business	2.50%
Use	3.00%
State Education	4.25%
Minor (tobacco, casino, real estate transfer, etc.)	-0.10%
Total State Taxes	3.10%

Note: Original projections included in CRC Report 349, *Michigan's Fiscal Future*, 2008.

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assumed that projected rates of growth are reasonable approximations of what the school finance system is capable of producing.

Spending Projections

In much the same way that the revenue projections for *Michigan's Fiscal Future* were developed by examining historic relationships and observing actual performance, growth in past spending was analyzed to arrive at projections for spending pressures for FY2009 to FY2017. In the earlier discussion of the general cost structure of public education, it was noted that the largest component of K-12 spending is employee compensation (about 80 percent of total). Salaries and wages account for about 59 percent of the total operating costs of local schools and fringe benefits comprise another 21 percent. The two largest fringe benefit components, health insurance and retirement, have grown at rapid rates since FY2000. A continuation of these cost breakouts and spending trends were projected forward to develop a picture of the spending pressures that would confront public education in the future.

The growth in salary expenses took into account a number of factors, including the effects of salary increases from longevity and schedule adjustments and general cost of living adjustments. The salary projections also accounted for the employee turnover and enrollment declines that will be reflected partially in reduced future workforce levels. Overall, *Michigan's Fiscal Future* report reflected annualized growth of 3.3 percent during the forecast period for school employee salaries. Pension contributions were expected to increase at the same rate as payrolls, because these benefits are prefunded (i.e., long-term stable rate) and the annual amount is expressed as a percentage of payroll.

Future spending pressures faced by schools will be driven by health care costs for both retirees and current employees. CRC's original work estimated that health care costs for retirees would rise by nearly 12 percentage points per year for two primary reasons: 1) the number of individuals eligible for the benefits was expected to increase 3 percent annually (because there has been no pre-funding, this will drive costs higher); and 2) retiree health costs will be affected by the cost of health care in general, which was assumed to rise 9 percent per year throughout the forecast, an assumption used throughout the *Michigan's Fiscal Future* report. Overall, the report assumed that the spending pressures facing schools over the eight-year period, FY2009 to FY2017, would average 4.7 percent per year, compared to 3 percent per year growth on the revenue side.

Future spending pressures faced by schools will be driven by health care costs for both retirees and current employees.

Recent changes to the Michigan Public School Employees Retirement System (MPSERS) likely will influence the long-term spending growth rates originally estimated by CRC. The changes to MPSERS requiring increased employee contributions to the system, along with provisions to require new employees to participate in a "hybrid" retirement system, will reduce employers' annual contributions to the system compared to what they would have been absent the modifications. Estimates of the long-term savings to employers from these reforms are substantial; however, it is unclear how the underlying long-term growth rate of retirement contributions will be specifically affected. Shifting a portion of the required annual contribution to the employee reduces the portion of the overall cost burden on the employer, but it likely has little effect on the future growth path of the cost component in the aggregate. However, the shift to a combined defined benefit/defined contribution plan for all new employees covered by MPSERS will have the effect of lowering the future growth rate of the employers' contributions to the system relative to what would have occurred if the defined benefit plan were retained for new employees.

The immediate effect of the reforms is to reduce the costs that public education employers will carry on their books for retirement contributions. This will help districts meet the near-term revenue challenges brought about by the economic downturn and the

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reduction in the overall level of resources available to schools to provide services. However, long-term challenges still face public education funding.

In the same way that the future growth rates of property taxes have been affected by what has transpired since the publication of the *Michigan's Fiscal Future* report, changes to school retirement funding will affect the future growth of this spending category. Whereas more up-to-date projections of property tax growth will have the ultimate effect of reducing the overall future revenue growth rate, modifications to the estimates surrounding future retirement contributions changes will have the same effect on spending side of the equation. Given the different impacts of these changes, the net result, while unknown at this time, is likely to leave intact some aspect of a structural deficit facing public education.

Long-term Structural Imbalance

Deficit projections are the difference between projected revenues and projected spending pressures. The annual deficits contained in the *Michigan's Fiscal Future* report were derived by calculating the difference between the growth rates in revenues and spending pressures for public education. The long-term deficit calculations for public education revealed that there is a 1.7 percentage point difference between the annual growth rate of operating revenues (3.0 percent) and the annual growth rate of spending pressures facing schools (4.7 percent), amounting to an average annual gap of $400 million during the forecast period (FY2008 to FY2017) (See **Table 14**). CRC concluded that these annual estimates would recur unless structural changes are made in revenue and/or program policies. Because of the compounding effect of the structural imbalance, the annual deficits accumulate each year and reach $3.6 billion in the final year of the forecast. The multi-year nature of the structural problem reveals a growing gap between revenues and spending pressures, which suggests that a long-term solution to achieving on-going, sustainable balance between projected revenues and expenditures is needed.

Table 14
Projected Growth in Total Public Education Revenues and Spending: FY2008 to FY2017
(Dollars in Millions)

	Operating Revenues	Spending Pressures	Cumulative Deficit	Annual Increment
FY2008	$17,729	$17,729	$0	
FY2009	18,095	18,444	(349)	($349)
FY2010	18,584	19,281	(697)	($348)
FY2011	19,153	20,152	(1,000)	($303)
FY2012	19,741	21,092	(1,351)	($351)
FY2013	20,349	22,083	(1,734)	($383)
FY2014	20,977	23,129	(2,152)	($418)
FY2015	21,627	24,234	(2,606)	($454)
FY2016	22,300	25,401	(3,101)	($495)
FY2017	22,995	26,636	(3,641)	($540)
Annualized Growth Rate	3.0%	4.7%		

Note: Original projections included in CRC Report 349, *Michigan's Fiscal Future*, 2008.

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Evaluation of Michigan's Education Revenue System

During its relatively short lifespan thus far (16 years), Michigan's education finance system has experienced both the "best of times" and the "worst of times". Furthermore, as the preceding discussion highlighted, the fiscal outlook for public education is far from rosy as components on both the spending and revenue side of the budget ledger will contribute to ongoing fiscal imbalance between projected available funds and spending pressures.

Immediately following the reforms in 1994 and through the start of the 2000s, state revenues performed relatively well compared to general measures of economic growth and annual changes in prices, exceeding these metrics in most years. On the local revenue side, despite the enactment of additional property tax limitations as part of Proposal A and their smaller role in the post-reform era, property tax yields exhibited strong and consistent growth. Coming out of this initial period and beginning in 2001, state education finances basically stagnated while local property tax revenues continued to show year-over-year growth, providing some relief to the poor performance of the major state taxes. State revenues during this second period were influenced by the 2001 recession and the major restructuring of the Michigan auto sector. Although the recession was mild by historical standards, the combined effects of the slowdown in U.S. economic output and the massive changes in the auto sector resulted in a Michigan economy that continuously lost jobs, people, and real income throughout the period.

The "Great Recession" that began in late 2007 and most likely ended sometime in the summer of 2009, has shed light on the volatility of the revenue system and has engendered considerable public attention to and interest in the various issues involved in education finance. The economic downturn has hammered baseline state revenue performance in three consecutive fiscal years (FY2008 through FY2010) and marginal growth is estimated for the upcoming fiscal year (FY2011). Under the current financing structure, the fiscal health of Michigan's 551 traditional local school districts and 232 public school academies is directly tied to state revenue performance. Michigan's 57 intermediate school districts are less reliant on state revenues; however, they have not been immune to state revenue struggles. The combination of shrinking state revenues and districts' inability to raise additional funds locally has proved challenging for districts to achieve and maintain required budget balance, especially during the recession. In nearly two-thirds of local districts, continuous annual enrollment losses have exacerbated the fiscal challenges accompanying state revenue declines. With limited options available to supplement existing state and local resources, local districts largely have focused on the spending side of the budget to reach solutions to the school funding problems resulting from the current system. Clearly, the experience in recent years suggests that the education financing system has endured the "worst of times", at least from the perspective of Michigan's local school districts.

Prospectively, the picture of how Michigan's school finance system will respond in the future is slightly clearer than it has been in recent years. For the most part, early indications suggest that the economic downturn has bottomed out and that the most severe damage to the state economy and state revenues has already taken place.

Prospectively, the picture of how Michigan's school finance system will respond in the future is slightly clearer than it has been in recent years. For the most part, early indications suggest that the economic downturn has bottomed out and that the most severe damage to the state economy and state revenues has already taken place. However, despite some signs of state revenue growth for two of three major SAF sources on the near horizon, local school districts are still sorting out the damages caused by the downturn and its effects on local budgets. Districts are also preparing for the impacts that will accompany the loss of significant levels of one-time federal resources provided to prop up local budgets

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during the downturn. Furthermore, past experience suggests that a full state recovery (economic and revenue), in the best of circumstances, is still far off.

Unfortunately, as the picture surrounding state revenues stabilizes and begins to show signs of improvement, the future performance of state and local property taxes faces uncertainty, making the overall outlook for education finances less clear. Unlike state revenues which are largely dependent on the economic performance of the state economy, local property tax revenues across school districts will not be impacted uniformly, but to varying degrees depending on the interaction of property tax limitations and economic factors influencing property values at the district level. Despite this variation among districts, the general short-term growth trend (three to five years) of property tax receipts is downward. Under Michigan's guaranteed per-pupil foundation allowance program, if state revenues do not grow sufficiently to account for the lost property tax revenue, schools will continue to face the prospect of future state aid reductions. Coming out of this period of revenue decline, existing state property tax limitations will constrain revenue growth, in effect prolonging a return to current-year levels.

As state policy makers consider the myriad issues surrounding school finance, both for the near-term and the long-term, the varied and contrasting experiences of Michigan's school finance system over the past 16 years provide valuable insights into how the system reacts to various economic, demographic, and legal factors. Such observations serve a dual purpose. First, they help provide information to evaluate the system and its components. Second, these observations provide direction and suggestions for reform, should policy makers seek to implement changes in the near future.

The following discussion summarizes the main policy achievements of Michigan's school finance system and highlights some of the system's shortcomings. Examining any public finance system in isolation rather than in the context of the world it operates in has little practical usefulness and offers little direction for suggested changes. Therefore, the problematic issues raised by the current finance system are presented in the context of changes to Michigan's economy, population, and the overall condition of public finances since the mid-1990s.

Looking at the stated objectives of Michigan's school finance reforms under Proposal A, it can be concluded that the system has been extremely successful at accomplishing certain goals and relatively successful in other areas. Despite these accomplishments, the fiscal challenges confronted by the system in recent years threaten to reverse some of the achievements gained unless direct changes are made.

Successes of Proposal A

There are a number of individual measures that can be employed to evaluate any public finance system. Evaluations can be based on the grounds of efficiency, equity or fairness, transparency, and accountability, in addition to other important factors. Another equally important approach is to examine how a system has fared relative to its stated policy objectives and the degree to which improvement has been realized with respect to individual measures of interest. Looking at the stated objectives of Michigan's school finance reforms under Proposal A, it can be concluded that the system has been extremely successful at accomplishing certain goals and relatively successful in other areas. Despite these accomplishments, the fiscal challenges confronted by the system in recent years threaten to reverse some of the achievements gained unless direct changes are made.

The Proposal A reforms set out to provide broad property tax relief to Michigan residents and were highly successful in this regard. Although school operating property taxes remain part of the overall financing scheme for public education, they play a smaller role. The shift in financing responsibility from the property tax to sales and income taxes ended Michigan's ranking as one of the highest property tax states. The reduction in property taxes to sup-

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port schools had a "re-balancing" effect on the overall state and local tax picture. As a result, Michigan's tax composition (mix of major taxes) in the post-reform years more closely mirrored the average U.S. state.

In order to achieve certain public policy objectives on a statewide basis, it was deemed necessary first to centralize decision-making authority regarding local school finances at the state level. Under the previous localized system, funding decisions were made at the district level by administrators, school boards, and voters. This system resulted in large disparities in per-pupil funding among school districts. Under Proposal A, a shift in decision-making authority accompanied the shift in the financing responsibility. Proposal A and its statutory components reversed the traditional roles played by local- and state-level taxes in order to provide state government with the resources, and therefore the authority, to address public policy goals, such as more equal per-pupil funding.

Unlike property tax relief which occurred almost immediately following the reforms, reducing per-pupil funding differences took some time to achieve; however, significant strides were made in the early years and later through policies that sought to "level up" low-revenue districts.

A corollary to the shift in financing responsibility was an increase in state taxes. Specifically, the Michigan Constitution was amended to increase the sales and use taxes by two percentage points to 6 percent, with the resultant revenue dedicated to education. Other statutory tax changes accompanied the rate increases of the consumption taxes and led to more state taxes being dedicated to education. When the entire state tax landscape is considered, the reforms resulted in a greater level of tax earmarking in general. In FY1993, about 34 percent of Michigan state tax revenue was dedicated to finance specific programs compared to 57 percent in FY1995. Focusing on just those state resources going to education, a higher degree of earmarking was also achieved through a reduction in the role that discretionary General Fund dollars played and an increase in earmarked revenues, both constitutional and statutory.

School finance centralization provided state-level policymakers with the authority and resources to address concerns surrounding per-pupil revenue disparities across the state. First, a new minimum level of funding was established and cemented in the state constitution. This equalization provided immediate relief to a number of chronically low-spending districts. Second, the new system provided a better mechanism to reduce inter-district revenue disparities, which were increasing under the old system. Although the state government employed mechanisms to equalize per-pupil funding among districts under the old system, it was extremely expensive to achieve high degrees of equalization among the 550-plus school districts. Under the previous system, state law makers had limited ability to control revenues generated at the local level, and they were unwilling to raise state resources to eliminate significant differences among local districts. In the post-reform era, the majority of education funding was under the direct control of state policy makers and they were able to embark on a corrective policy course to address per-pupil funding inequities.

The reforms sought relative per-pupil funding equity, not absolute equity, and thus the goal was to narrow, not eliminate, the gap that existed between districts. Unlike property tax relief which occurred almost immediately following the reforms, reducing per-pupil funding differences took some time to achieve; however, significant strides were made in the early years and later through policies that sought to "level up" low-revenue districts. More recently, the elimination of certain supplemental state aid payments to the higher-revenue "hold harmless" school districts (Sec. 20j payments) effectively resulted in further per pupil equity gains. In contrast to the "leveling up" approach, funding equity was achieved by reducing per-pupil funding at the top of the scale when the Sec. 20j payment funding was eliminated by gubernatorial veto.

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Another key objective of Proposal A that was made possible through centralizing school finances concerned the implementation of public school academies (charter schools). Charters provided elements of choice and accountability to the traditional education system. Under the old finance model, it was difficult to fund charters because these entities lacked the taxing authority that generated the majority of school operating revenues, (i.e., local property taxes). With state taxes providing the bulk of the revenues and the state government controlling the purse strings, combined with the adoption of a per-pupil model for distributing school revenues, it was much easier for the state to fund charter schools.

Revenue Performance Issues

Michigan's school finance system has both short- and long-term implications for state and local revenue growth and the future potential thereof. In the near term, state revenue will continue to be most directly impacted by the economic activity in the state and the nation. Similarly, property taxes for all entities will be affected by the fall out from the housing market downturn which has, and will continue to, reduce housing values. Short-term revenue performance is also affected by legal or statutory factors, such as state tax policy changes that have current-year and near-term revenue impacts or tax limitation provisions affecting local property tax receipts. It is estimated that the amount of state and local tax revenues available for public education operations in the current year, FY2010, is over $900 million below the level that was available in FY2008.

The sustainability of public education is based on the long-term growth potential of the system that generates essential resources. Over a longer time horizon, growth of both state and local education revenues is determined by structural aspects of the financing system as it currently exists, which can be both economic and legal in nature.

The financing system must also general adequate revenues, both at the individual district level and across the entire public education system. Funding adequacy, at least in an absolute sense, is a very subjective concept because of the inherent differences that exist across the many districts, local and intermediate. Districts are not homogenous and vary in terms of their student characteristics and needs (e.g., high-cost versus low-cost), costs of doing business (e.g., mainly personnel costs), enrollment levels (e.g., both the aggregate level as well as yearly fluctuations), and the environment in which local schools operate (e.g., parental and community involvement and support for education).

Assessments of system-wide adequacy can logically flow from evaluations that examine whether or not district-level adequacy has been achieved. In this sense, it can be reasoned that if adequacy exists within each school district, then the system, as a whole, is funded adequately. Another, and much more simplistic, way to look at system-wide adequacy, at least in the short-term, is to examine changes in resource levels from one year to the next. This approach does not address the longer-term implications or prospects of funding adequacy and ignores the more complex task of defining "adequacy". Regardless of how adequacy is defined, current resources are not adequate to support the spending level from FY2008. Therefore, anyone who is interested in supporting education at the FY 2008 level, or is interested in supporting education at an even higher level, will find the current level of funding inadequate. Those who believe that state spending in FY 2008 was more than adequate, will be more comfortable with the current lower level of revenues.

The 16-year history of operating under the current K-12 revenue structure highlights a host of issues that were not present under the localized revenue system that existed before Proposal A. Further, major economic, demographic, and legal factors, old and new, have influenced revenues in ways not contemplated by the architects of the system. Currently, Michigan public school revenues are being affected by both short- and long-term factors. Understanding the different influences on revenues at both the state and local level is critical to gain an understanding of the nature of the perceived problem at issue as well as to affect corrective changes to the system prospectively.

Near-Term Revenue Volatility

In the near-term, the primary factor influencing the revenue performance of Michigan's school financing system is the broader economy. This is especially relevant for state taxes, which comprise the major-

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ity of the funding for education. While the economic downturn of the early 2000s provided the first test of the current financing structure during a business cycle contraction, that experience did not compare to the most recent downturn in either duration or depth. The recent experience can be used to shine light on different characteristics and dimensions of Michigan's school finance system that were previously unobserved. For example, the 2008 recession highlights the acute relationships between changes in economic growth and tax revenues for each individual tax source, as well as the entire school finance system. Evidence of the relationships is most apparent in the performance of personal income and consumption taxes in FY2009 and FY2010.

Tax revenue volatility, in broad terms, refers to fluctuations over time in tax receipts. Although fairly simple in concept, volatility is complex and entails various characteristics. Fluctuations can come in all sizes (modest to steep) and durations (infrequent to frequent). Revenue fluctuations that are of the most interest to policy makers generally relate to those closely related to the business cycle. In this sense, volatility attempts to measure how revenues respond to fluctuations in state economic activity.

Revenue volatility is concerned with changes in the short-term and can be thought of as the inverse of revenue stability, which is more concerned with long-term growth rates. To measure revenue stability, economists compare the *growth* of tax revenues to the *growth* in the economy (usually personal income). Volatility, on the other hand, is measured by comparing the *changes* in the growth rates of revenues and personal income. Generally, studies have found that income tax revenues are more responsive to changes in economic growth than revenues from consumption-based taxes (sales and use taxes in Michigan). These studies find that income tax (personal and business) receipts fluctuate more widely with economic changes than do sales taxes, but the differences are marginal.[20] In contrast, property tax revenues (both state and local) are the least responsive to economic fluctuations.[21] Michigan relies on all three of these taxes to finance public schools.

Over the short-term, estimates of tax revenue sensitivity to the business cycle vary. Corporate income taxes are the most variable followed by personal income, sales (excluding food), sales (including food), and adjusted gross income taxes. Major excise taxes, gasoline and liquor, are the least sensitive to cyclical economic changes.[22] These general relationships are observed in the performance of Michigan state and local school operating taxes relative to state economic activity over the recent recession (See **Table 15**).

Table 15
State and Local School Operating Taxes and Personal Income
(Dollars in Millions)

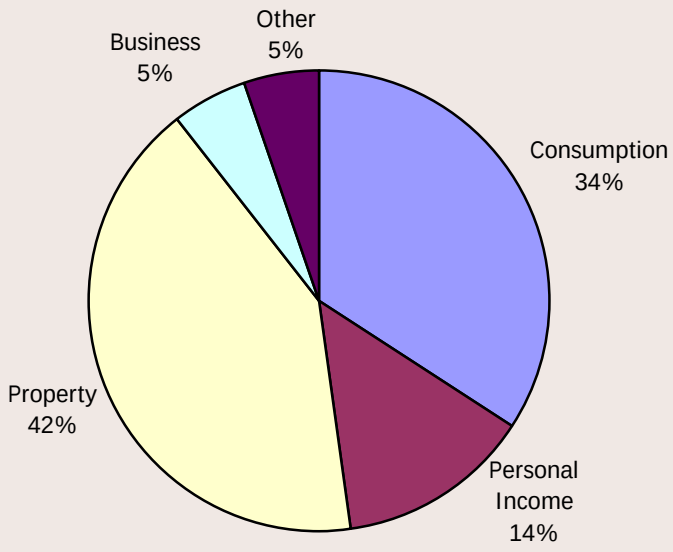
Tax	FY2008	FY2009	Percent Change	FY2010*	Percent Change
Consumption Taxes	$ 5,387	$ 4,793	-11.0%	$ 4,866	1.5%
Personal Income Tax	2,118	1,895	-10.5%	1,815	-4.2%
Property Taxes (state and local)	6,064	5,796	-4.4%	5,699	-1.7%
Business Tax	341	729	113.8%	727	-0.3%
Other Taxes	847	739	-12.7%	726	-1.8%
Total Taxes	$ 14,756	$ 13,953	-5.4%	$ 13,832	-0.9%
MI Personal Income	$349,612	$339,219	-3.0%	$343,289	1.2%

* Based on May 2010 Consensus Revenue Estimates

Source: Michigan Department of Treasury; Michigan Department of Education; U.S. Department of Commerce

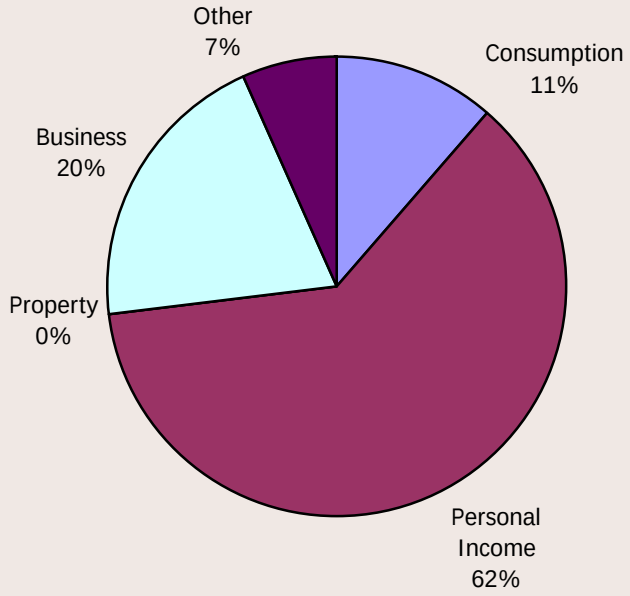
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Chart 21
State and Local Education Operating Taxes by Source: FY2009



Source: Michigan Department of Education; Michigan Department of Treasury

Chart 22
State of Michigan General Fund Taxes by Source: FY2009



Source: Michigan Department of Treasury

Relationships between the business cycle and each tax source help explain the performance of each tax; however, the short-term performance, or volatility, of the overall financing system is determined by the composition of taxes. Stated another way, the degree of revenue volatility facing Michigan schools can be influenced by the mix of major taxes: consumption, property, and income. To provide some context regarding Michigan school finance tax composition, school operating taxes from all sources are compared to the mix of taxes supporting the State of Michigan General Fund (See **Charts 21** and **22**).

The tax revenue volatility observed in Michigan public school finances over the FY2008 to FY2010 period, and reported in **Table 15**, was considerably less than the experience of the General Fund taxes over the same period. In FY2009, baseline state General Fund tax revenues, (adjusted for tax policy changes, such as the income tax rate increase) fell 14 percent compared to a decline of only 5.4 percent in total state and local operating revenues (controlled for tax changes associated with personal property tax exemptions). Michigan's education finance system is less volatile than the General Fund due to the balanced mix of taxes used to support schools and the heavier reliance on property taxes (state and local).

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Economists often use the analogy of a "three-legged stool" to describe a balanced public finance system, where each leg of the stool represents one of the major tax categories. Balance in this scenario is achieved when the legs are of roughly equal length. Balance among these three major taxes ensures that a finance system is diversified and relatively broad-based, which ensures that all types of individuals, firms, income, and economic activity share in the burden of financing public services. While balance may not be appropriate if the objective is to ensure the greatest degree of revenue growth during an economic expansion, it can be efficacious to guard against wide swings in revenues during an economic decline by diversifying exposure to different taxpayers and segments of the economy. Tax composition can reduce volatility and help guard against wide fluctuations in public finances in the short-run, but modifying the make-up of taxes in any substantive way is generally a long-term endeavor.

Both on its own, and in comparison to the state's General Fund, Michigan's school funding system exhibits substantial "balance", as no single source dominates the mix by occupying a majority share.

Both on its own, and in comparison to the state's General Fund, Michigan's school funding system exhibits substantial "balance", as no single source dominates the mix by occupying a majority share. The largest single source (42 percent of the total) supporting education is the property tax (state and local), which has been the most consistent and steady revenue source until recently. The General Fund, in contrast, does not receive property tax revenue. From a revenue volatility vantage point, school funding is more heavily weighted towards the two major revenue sources (property and consumption taxes) that are least affected by economic fluctuations. [Note: Income taxes, individual and corporate, are the most sensitive to economic conditions.] Together, property (state and local) and sales and use taxes account for three-fourths of the overall tax picture supporting school operations. In contrast, the most volatile tax source (income tax) makes up over 60 percent of the General Fund picture, but only 14 percent of school revenues. The differences in tax mixes between the General Fund and education funding explain, in part, the variations in volatility over the recent recession.

Revenue volatility is problematic for public financing systems for a number of reasons. The first and most obvious impact of volatility is the large dollar variations that result. Michigan's school finance system grappled with this problem in FY2009 and FY2010, and flat revenue growth estimated for FY2011 suggests that the sharp revenue declines in these two years will not be alleviated immediately. Also, significant swings in the level of resources can lead to problems in fiscal planning and management. Even if large drops in revenue are accurately predicted, which is difficult to do with absolute certainty, managing them can be extremely difficult as public programs, especially education services, are predicated on stable revenue streams. Making short-term corrections in planned spending to address revenue shortfalls is not necessarily an expedient exercise. School costs are largely fixed in the short-term due to the large role played by personnel costs (salaries and fringe benefits). Timing is also affected by the presence of multi-year collective bargaining agreements that control large shares of annual compensation spending in schools.

Responding to Volatility: Potential Options

Revenue volatility arising from an historic recession has diminished the state and local operating revenues available to schools. FY2010 estimated school operating tax receipts (state and local) are projected to be $925 million below the FY2008 level (See **Table 15**). This shortfall has been addressed, at least temporarily, in FY2009 and FY2010 mainly through the use of federal recovery funding available to Michigan, amounting to a little more than $1 billion for the two years combined. Approximately $600 million was used in FY2009 to stave off per-pupil reductions and respond to a 5.4 percent decline in the level of state and local revenues. Despite the use of another $450 million in federal resources in FY2010, a $165 per-pupil reduction in state aid was enacted as part of the state budget. The federal resources will be nearly exhausted by the end of FY2010, leaving less support for education services entering

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FY2011. State education taxes are currently projected to grow by less than one percent in FY2011, leaving aggregate school operating support for that year still well below the level experienced in FY2008.

Extraordinary Sources of Revenue

In theory, cyclical fluctuations in revenue can be mitigated through the use of reserves or transfers from other sources. Although sizeable state education tax reserves were built up during the economic expansion of the mid- to late-1990s, they were exhausted to maintain spending levels in some years and to moderate spending reductions in other years following the recession of the early 2000s. Entering the current recession (FY2009 school budget year), the state was not positioned to counteract the downturn in on-going state education resource levels through the use of built-up, dedicated education reserves.

The use of fund balances to finance current programs may be a prudent mechanism for managing through short-term fiscal strains brought about by the effects of the business cycle. Experience and access to fund balance reserves vary from school district to school district, which effectively negates using this approach on a statewide basis.

Similarly, the Economic and Budget Stabilization Fund, the state's rainy day fund designed to help smooth declines in state revenue, had amassed $1.3 billion by FY2000, before it was tapped to help support state spending for general operations as well as public education. A $350 million transfer in FY2002 helped address a revenue shortfall in the School Aid Fund. Rainy day fund reserves were effectively exhausted in FY2003, leaving it unable to help with current revenue shortfalls.[23]

While it is technically feasible to divert additional General Fund resources to schools, the policy direction in recent years has been to reduce the general tax subsidy for public education in order to attend to other state budget challenges. In fact, additional actions have taken place to cost-shift items from the General Fund to the School Aid Fund to help achieve budget balance. The annual General Fund subsidy to the School Aid Fund was reduced each year since FY2004, falling from $378 million to its "irreducible minimum" today. Currently, the General Fund pays for those education programs it is required to fund and nothing more. Given the current status of the General Fund budget, increased levels of general tax support for schools appears unlikely.

Local schools may have reserves or fund balances that they have accumulated. The use of fund balances to finance current programs may be a prudent mechanism for managing through short-term fiscal strains brought about by the effects of the business cycle. Experience and access to fund balance reserves vary from school district to school district, which effectively negates using this approach on a statewide basis. Also, there are a number of considerations associated with the use of school district reserves on a widespread basis or over an extended period of time. A statewide professional organization, the Michigan School Business Officials, suggests that key factors in determining the appropriate use of fund balances at the individual district include the unique mix of state and local revenues, tax collection timing in each district, historical use of fund balance and overall trends, near-term future obligations, and trends with respect to student enrollments.[24] This group suggests, based on these considerations and the potential for mid-stream state aid reductions, that an acceptable fund balance for districts to maintain is at least 15 percent of total spending. A recent survey of school districts revealed continued reliance on fund balances to manage through revenue declines, with an aggregate reduction of 32 percent of districts' overall fund balance during FY2010 and a projection that 47 percent of the remaining reserves will be used in FY2011.[25]

Sustained periods of weak or no-growth in the major on-going revenue sources will quickly exhaust temporary, non-recurring resources or draw them down to minimally-acceptable levels. In an environment of long-term funding uncertainty, schools must be more frugal with their use of fund balance to manage over the short term because future prospects are not bright for restoring these resources to

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previous levels. Given the duration of the economic challenges in Michigan, many school districts have been using this mechanism for a number of years already out of necessity. A continuation of the practice is less likely as reserves are exhausted.

Most recently, state revenue volatility has been addressed through use of temporary federal funds provided through the American Recovery and Reinvestment Act (ARRA) of 2009. Prospectively, federal discretionary resources such as ARRA cannot be relied on to help moderate revenue volatility associated with Michigan's school finance system. ARRA resources were provided to the states largely because of the severity of the economic downturn in 2008 and 2009 and its effects on public budgets. Future, year-over-year state revenue declines will have to be managed through cuts or the use of state or local reserves, if such resources exist.

Entering FY2011, increasing taxes is one approach to address the combined state and local revenue reductions that occurred between FY2008 and FY2010. The options available under this approach are limited and largely the province of state policy makers because of the highly centralized nature of the school finance system and the restrictions on local revenue supplementation.

Temporary State Tax Increases

Entering FY2011, increasing taxes is one approach to address the combined state and local revenue reductions that occurred between FY2008 and FY2010. The options available under this approach are limited and largely the province of state policy makers because of the highly centralized nature of the school finance system and the restrictions on local revenue supplementation. An approach based on increasing state tax revenues can follow one of two paths.

The first is an increase in the rate(s) of one or more of the existing taxes dedicated to public education. Such a rate increase might be structured to be temporary in nature and provide for a gradual phase-out as on-going revenue growth accelerates during the expected recovery. The State of Michigan used such temporary tax rate increases to respond to the fiscal challenges resulting from the recession of the 1980s. In 1982 and 1983 the income tax rate was temporarily increased to build up cash reserves and to support on-going spending initially; however, by 1986 the rate was phased down to the original rate in 1981.[26] More recently, cigarette tax increases in 2002 and 2004 were enacted to address revenue shortfalls in the School Aid Fund. While the current governor has proposed a number of revenue responses to address school funding issues, thus far, a legislatively agreeable state response to increase school operating revenues has not been formulated.

The second revenue-centric approach would involve a tax restructuring scenario whereby both rates and bases of current taxes are affected. Generally, states employ tax restructuring to address longer-term policy issues, such as revenue stability and growth issues as opposed to near-term revenue concerns. Restructuring may be employed to "re-balance" the mixture of taxes, which was one objective of Proposal A in 1994. While not the primary goal of tax restructuring, such efforts can be designed to explicitly address near-term revenue concerns as a secondary objective. The near-term revenue impacts can result in increasing, decreasing, or maintaining the current level of resources for schools. The governor's FY2011 budget recommendation contemplated such a scenario, which resulted in a net tax increase in the immediate-term ($554 million), with nearly all the added revenues dedicated to finance schools. Under the proposal, and within three years of its implementation, the governor's recommended new state tax scheme is revenue-neutral.[27]

Local Revenues

Centralization effectively prohibits a local response to state revenue reductions, at least in the near-term. Despite the sizeable and important role that local property tax revenues play in the overall financing scheme for schools, constitutional and statutory provisions effectively fix the rates and bases of these taxes at their current levels, providing little room for local revenue supplementation. Where state law does permit supplementation (i.e., ISD enhance-

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ment millages), the mechanism requires up-front costs (e.g., election and outreach) and the amount that can be raised is limited (up to three mills). Furthermore, such a response is difficult to implement in the near-term and over the period in which revenue volatility is most pronounced. Also, the enhancement millage is generally, but not universally, viewed as a fiscal tool designed to "enhance" existing resources over a longer period of time, as opposed to a tool for responding to short-term revenue swings.

School operating taxes, whether for local school districts (e.g., 18-mill non-homestead) or intermediate school districts (e.g., special education), will be adversely affected in the near-term by the declining value of property tax assessments. As noted previously, property assessments and taxable values have been falling throughout the state. This is a phenomenon affecting all types of local government including general purpose (e.g., cities, counties) as well as special purpose (e.g., local schools) entities. The decline in values is expected to accelerate in the near term and become more pervasive statewide, adding to the level of fiscal distress for many local governments.

For local governments with the authority and room under previously-approved tax rate limitations, tax rate increases are an option to manage through the period of declining property tax bases. However, for public school operations, especially local districts, rates are generally fixed in state law and there is no option to address the tax base decline via an increase in property tax rates. Furthermore, because of how the foundation allowance works and the "guaranteed" nature of this per-pupil grant, there would be little incentive at the local level to raise millage rates even if the option were available. With the exception of restoring previous Headlee "roll backs", there is no financial incentive for local districts to raise additional funding locally under the state-controlled foundation allowance.

Since Proposal A's adoption in 1994, local school operating tax levies have consistently exhibited strong, positive growth in annual tax levies. For many school districts in Michigan, this experience will cease in the coming years.

Unlike local districts that have few options and little incentive to act individually to address declining property tax revenues, intermediate school districts (ISDs) can respond by asking for tax rate increases. Some ISDs will be able to seek millage increases if they have room under existing tax rate caps; however, this will require voter approval, which is not guaranteed. Current and future tax base declines will be directly reflected in school operating levies, both locals and ISDs. Since Proposal A's adoption in 1994, school operating tax levies have consistently exhibited strong, positive growth in annual tax levies; however, for many school districts in Michigan, this experience will cease in the coming years, placing more fiscal pressure on state revenues to maintain current per-pupil revenue guarantees.

Long-Term Revenue Issues: Stability and Adequacy

Over the long-run and in an environment of moderate economic growth, such as that envisioned in CRC's 2008 report, *Michigan's Fiscal Future,* cited earlier, the business cycle's effects on state and local school revenues would not be as noticeable and short-term volatility would not be the primary concern surrounding the school financing system. Stability and predictability of the revenue stream, however, will be chief concerns in the future. The stability concerns of today are much different than those of the early 1990s, before the adoption of the current school financing system. Today, the concerns center on the long-term prospects for growth, whereas 20 years ago public education providers had to contend with the prospect that local voters would reject, at the ballot box, local school millages that provided the majority of operating funds. While Proposal A did provide some stability in the form of a baseline level of resources, it did nothing explicitly to address the future growth of these resources. Entering a period of economic recovery following the Great Recession, a closer examination of the growth potential in school finance is warranted.

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In addition to stability and predictability, many education reformers and policy makers have suggested that public education finance systems should produce a level of resources each year to educate children that can be deemed "adequate". While a universal definition of "adequacy" has not been developed, a number of states have been able, through various methods (e.g., "cost out" studies), to satisfy state-specific legal definitions of the term.[28] In some states, legislatures or executive branch entities, have taken steps to define what is included in an "adequate" education.

"Adequacy" lawsuits in other states generally have been based on language in state constitutions that suggests a certain quality of education, e.g. "thorough", "efficient", or "uniform". The Michigan Constitution does not prescribe a certain quality level for Michigan schools, but instead defers to the legislature to "maintain and support a system of free public elementary and secondary schools as defined by law." (Article VIII, Section 2) Clearly, the Michigan Legislature is tasked with providing a free education to Michigan children; however, the quality of education is not addressed in the state's basic law. To date, Michigan has not been vulnerable to legal challenges to its school finance system based on "adequacy" claims. Absent clear legal language (constitutional or statutory) to help define what is meant by an "adequate" education in Michigan, and because of the highly subjective nature of the term and other related concepts, it is very unlikely that the school finance system will be found to be "inadequate".

This report does not endeavor to fully explore the concept of educational adequacy, but rather to highlight the relationship between the term and other desired characteristics of a school finance model, namely stability. Regardless of how the term "adequacy" is defined in Michigan, a school finance system that results in stable and predictable revenue growth will help promote an adequate level of resources each year. This is not to suggest that a stable and predictable school finance system in Michigan will automatically result in one that is adequate. At the same time, it is difficult to envision how an adequate finance system, once the term is defined, can be premised on something other than a stable revenue base.

Revenue stability is often a desired objective of public finance because of the relatively predictable and consistent nature of the demand for public services over time as well as the predictable nature of spending.

Why Stability?

Revenue stability is often a desired objective of public finance because of the relatively predictable and consistent nature of the demand for public services over time as well as the predictable nature of spending. Unlike the demand for private goods and services which tends to ebb and flow with market forces, the demand for public services is generally the same from one year to the next. Demand for public services is also largely unaffected by economic recessions. Unlike the private sector where consumer demand for goods and services often diminishes with the downturn in the business cycle, citizens continue to demand basic public services from government regardless of the condition of the underlying economic base upon which the services are financed. The demand for government services is largely driven by factors disconnected from changes in the business cycle. In some cases, services provided by government are "countercyclical" in nature. This means that when the business cycle sours, demand for a program, and therefore employment in that program, rises (e.g., unemployment insurance, job training). Demand for higher education, especially at the community college level, tends to rise with a slowdown in economic activity. Individuals return to school to seek new skills and job re-training for future employment opportunities when the economy rebounds.

The difference between public and private entities suggests that a greater level of revenue stability is desired in public finance systems. For example, the demand for basic public elementary and secondary education services (measured by the number of children in the system) is generally consistent and tends to exhibit gradual rather than abrupt changes over time.

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The nature and scope of public spending also help explain the need for stability in on-going revenues. Generally, the services provided by governments are labor intensive, and prices can be considered "sticky", at least in the short-run. Schools, for example, have continuing long-term salary and other compensation liabilities that comprise upwards of 80 percent of total operating expenses. Furthermore, public budgets are developed and adopted months before actual revenues are known and elected officials make spending decisions on expected revenue growth. Thus, greater degrees of revenue stability and predictability help to avoid the task of having to make major fiscal adjustments over short periods of time.

Revenue stability is also an important characteristic for public finance systems at the sub-federal level because, unlike the federal government, states and localities must adhere to strict balanced budget requirements. Operating in an environment where revenues fluctuate wildly and annual levels can be unpredictable, public entities must respond by cutting services or increasing tax rates, options which are generally unpopular. Government budgets are based on assumptions of predictable and steady growth.

Revenue stability can be thought of in terms of a long-term trend line, with specific attention to the direction (e.g., increasing or decreasing) and the annual rate of change of the line (e.g., slow, moderate, etc.). Revenue stability is a relative, not an absolute, term. As such, changes in revenue are often compared to changes in other measures. Two common, but distinct, ways to look at revenue stability include, 1) comparing the growth in the resource level with growth in the overall economy, and 2) comparing revenue growth with the growth in costs associated with providing education services. Both metrics carry with them inherent advantages and disadvantages.

Tying long-term revenue growth to changes in economic growth is appealing because this measure relates directly to taxpayers' (individuals and firms) ability to pay. Increases in economic growth, as measured by personal income, suggest a greater ability to pay over time, while decreases intimate the opposite.

Tying long-term revenue growth to changes in economic growth is appealing because this measure relates directly to taxpayers' (individuals and firms) ability to pay. Increases in economic growth, as measured by personal income, suggest a greater ability to pay over time, while decreases intimate the opposite. Linking the two has the advantage of reducing the frequency that elected officials have to raise tax rates to ensure a desired rate of revenue growth. In theory, and assuming all else constant, if the tax base grows in concert with economic activity in the state, tax rates will not have to be adjusted to ensure stable revenue growth.

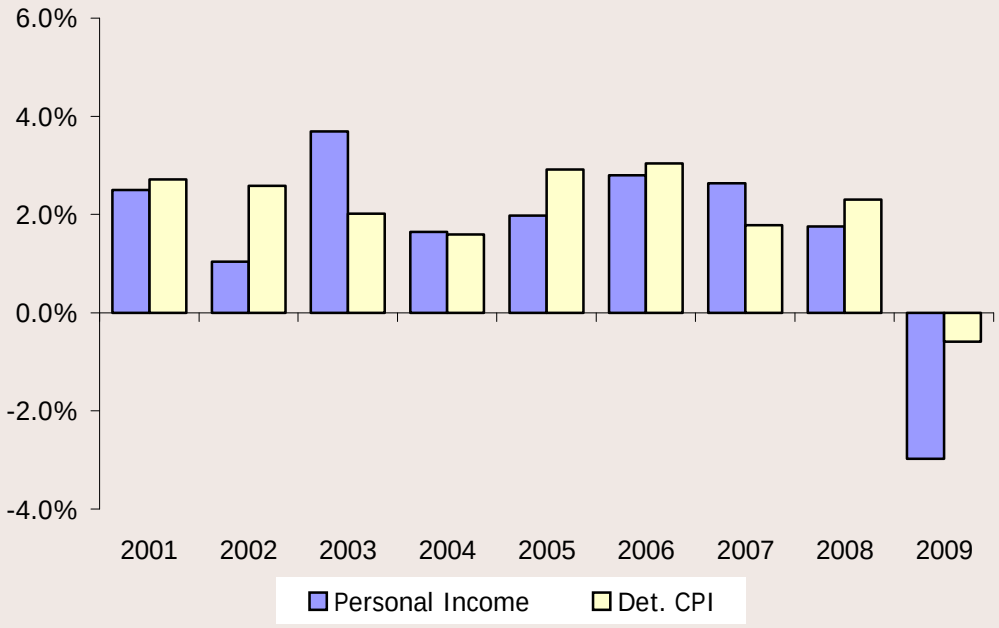
A second perspective on revenue stability acknowledges that the costs of providing public education services do not, necessarily, ebb and flow with the ups and downs of the broader economy. Under such a scenario, it is argued that revenue growth should keep pace with the increases in cost pressures that underlie education spending. Education spending is largely concentrated in personnel costs, the growth of which do not directly track overall changes in state economic activity. Because compensation costs are influenced by a host of factors not directly related to the economy, a better measure for revenue growth might be inflation. A common measure, the Consumer Price Index (CPI), tracks the average price of goods and services purchased by households. Although generally acknowledged as an approximate measure of inflation, it is worth noting that the service mix included in the CPI is not the same as the mix of public education services. Although there are several other price indices, including ones that may be more appropriate to the factors that drive education spending, this report defers to the most common metric of price inflation and the one that is most readily available.

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Chart 23
Annual Changes in Michigan Personal Income and Detroit Consumer Price Index: 2001 to 2009



Source: U.S. Department of Commerce; U.S. Department of Labor

Annual changes in Michigan economic activity, as measured by personal income, and inflation, as measured by the Detroit CPI, for the last eight years are reflected in **Chart 23.** In both cases this period was marked by low annual growth rates. Prior to the declines in both measures that occurred in 2009, from 2000 through 2008, the annualized growth rates for personal income and inflation were 2.2 percent and 2.3 percent, respectively. These growth rates are below those historically observed in Michigan. Also, the recent period is unique in that inflation has very slightly out-paced economic growth, something that, if continued over the long-run, portends serious problems for the state as it indicates the state will continually become poorer. Over a much longer timeframe in Michigan (1970 to 2008), annual personal income growth (5.8 percent per year) outpaced changes in the Detroit CPI (4.3 percent per year). A return to the longer-term relationship (i.e., economic growth exceed inflation) can be expected prospectively.'

A stable education finance system is one that provides long-term revenue growth that approximates economic growth. Over the short term, as evidenced in **Chart 23**, personal income is more volatile than inflation which some might view as a disadvantage; however, over the long-run, economic growth provides a greater level of growth potential and therefore stability. Also, as a benchmark for revenue growth, economic growth ties directly to a state's ability to finance public education services, something a price index, such as the CPI, does not.

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Prospects for Long-Term Revenue Stability

The connection between Michigan's economy and the state government's tax structure has weakened since the late 1990s, a trend which is expected to continue if corrective tax modification actions are not taken. The long-term challenges affecting state and local education revenues are rooted in these weakening connections as well as in state tax limitations (i.e., primarily dealing with property taxation) that accompanied Proposal A's passage and those that pre-date Proposal A. Solutions to the long-term revenue stability challenges that plague education finance will require attention to the structural components of Michigan's school finance system. While an improved economic climate will increase state revenue levels above where they have been recently, the underlying relationship between tax receipts and the economy will be unaffected by the economic recovery. Future growth will be determined by these relationships. It is not the goal of this analysis to assess whether public education spending is too high or too low in the current and near-term environment. Such a question is ultimately political in nature and under the purview of elected policy makers. Instead, the objective here is to highlight whether or not the system of education financing, as it currently exists, is capable of generating a level of on-going revenue that grows with the economy over the long run.

Structural factors have caused state tax revenues to lag behind general measures of economic activity, a problem not unique to state education taxes. These factors also affect the state's General Fund budget, which further exacerbates the stability concerns surrounding education funding problems. Earlier in this report, state-dedicated education revenues were examined in depth and it was clearly illustrated that from FY2001 through FY2008, measures of economic activity in Michigan outpaced the growth in personal income tax revenues, sales and use tax revenues, and other minor tax revenues, all of which play key roles in Michigan's school finance model (summarized again in **Table 16**).

The prospects for long-term revenue stability in Michigan education finances will depend on the relationships between the financing system and the underlying economy (i.e., the system's various tax bases). Regardless of the type of tax or the level of government responsible for levying it (e.g., property taxes are levied at both the state and local levels), these

Table 16
Changes in Broad Economic Measures and SAF Tax Revenues: FY2001 to FY2008
(Dollars in Millions)

	FY2001	FY2008	Percent Change	Annual Rate
Tax Revenues				
Sales and Use Taxes	$5,076	$5,387	6.1%	0.9%
Personal Income Tax	1,955	2,118	8.3%	1.1%
State Education Tax*	1,490	2,153	44.5%	5.4%
Other Minor Taxes*	886	896	1.1%	0.2%
Personal Income	$299,903	$349,612	16.7%	2.2%
Real Personal Income**	$171,963	$170,752	(0.7%)	(0.1%)

* Adjustments were made to the FY2008 figures to account for the Michigan Business Tax and personal property tax changes that affected receipts in FY2008 to allow for comparison across years.

** Income deflated by Detroit CPI (1982-84 dollars)

Sources: Bureau of Economic Analysis; Michigan Department of Education; CRC calculations.

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relationships will play the most important role in determining the annual resources available to schools each year. The intricacies of the relationships vary depending on the individual tax instrument. Although this report concentrates on these relationships during a period of very low economic growth in the state (2001 to 2008) and during a very severe recession (2009 and 2010), it is expected that, prospectively and over the longer-term, the relationships between the major taxes supporting schools and the Michigan economy will continue to weaken despite improvements in the economy in the near-term and a return to the historical relationship between economic growth and inflation.

Emerging from this most recent period, Michigan economic activity is not expected to approach the long-term trend line, but it is likely that growth will exceed the recent dismal experience. From 1970 to 2008 Michigan's real personal income grew at an annualized rate of 1.6 percent, compared to a decline of 0.1 percent in the recent period (2001 to 2008). Prospectively over the near-term, real state economic growth is not likely to approach the experience between 1970 and 2008; however, it is also cannot remain in the negative territory for too long because of the serious financial implications to the state's residents and public service providers. In real terms, a return to positive economic growth is expected.

The further weakening of the relationships observed between state economic activity and state tax receipts can be understood by examining experiences to date. Broadly defined and categorized, the mismatch between economic growth and tax revenue growth observed since the adoption Proposal A is explained by three primary factors. The most observable explanatory factor includes policy changes that targeted the rates and/or bases of the major SAF taxes. Examples include adopted reductions to the sales and use tax bases. The second primary factor, which is not nearly as noticeable as direct tax policy modifications, relates to gradual shifts in consumer behavior over time. In general, the shifts in behavior pertain to general questions such as "What is being consumed today compared to the past?" and "How are consumers making purchases today compared to the past?" Finally, a third contributing factor to the slow-growth in state-level education tax receipts, at least relative to the economy, is explained by changes in Michigan's demographic make-up. Specifically, the aging of Michigan residents and the tax treatment of these individuals has acted to constrain the growth of dedicated education revenues, which is expected to continue.

Policy actions that either directly or indirectly affect the rates or bases of state education taxes are responsible for the observed mismatch between changes in economic activity and earmarked tax revenues of the School Aid Fund.

Tax Policy

Policy actions that either directly or indirectly affect the rates or bases of state education taxes are responsible for the observed mismatch between changes in economic activity and earmarked tax revenues of the School Aid Fund. Tax policy changes are not limited to the most recent time period, but can be viewed over the longer 16-year period since Proposal A. Policy changes have the dual effect of reducing the annual tax revenue growth rate, as well as reducing the level of receipts following policy implementation. In some cases, as with the individual income tax rate reductions that began in 1999, policy makers included provisions to shield school funding from the immediate revenue losses associated with the policy change. This change did not affect the long-term relationship between the income tax and future growth potential of SAF-earmarked income tax receipts. More recently, state efforts to reform business taxation in Michigan resulted in the elimination of certain personal property from the base of taxation, both for state and local property taxes dedicated to schools. Safeguards were included in this effort to protect education funding from the revenue loss that would occur at both the local and state level by earmarking a portion of the new Michigan Business Tax (MBT) to the SAF. In this instance, the immediate fiscal impact for schools was neutral; however, future growth of the new MBT earmark was tied to growth in the inflation rate which has

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the potential to grow at a faster rate than the value of personal property (i.e., the previous tax base). Clearly, any overt legislative action that results in lowering the rate or shrinking the base of one or more of the SAF taxes will have a deleterious effect on overall tax receipts. Furthermore, such actions also have the potential to affect the future growth potential of the Fund.

One approach to examine the effects of tax policy changes on state revenue collections at the macro level is to look at changes in the bases of major taxes over time. Shrinking the tax base of a major tax will depress the growth potential of the tax if base exemptions, as a percentage of overall economic activity, grow at a rate that exceeds the base subject to taxation. In such cases, tax revenues will trail economic growth, unless tax rates are adjusted regularly to account for the "lost" revenue. The Michigan Department of Treasury provides the information to examine such tax base changes. Annually, as part of the executive budget submittal, Treasury issues a report documenting the tax revenue foregone as a result of preferential provisions such as credits, deductions, exemptions, deferrals, exclusions, or preferential tax rates.[29] These tax provisions are collectively referred to as tax expenditures. These tax provisions can be viewed as spending because they target specific public programs; however, unlike direct state spending, it is a form of indirect state spending that occurs through the state's tax code. Unlike direct spending which is authorized via the appropriations process, tax expenditures do not, as a general rule, undergo annual scrutiny in the budget process. Tax expenditures, in some cases, are subject to legislative review as a result of sunset provisions or required reporting. Tax rate reductions do not qualify as tax expenditures and the reported data do not attempt to discern the impact on different state funds, e.g., General Fund, School Aid Fund, etc.

While tax expenditures, such as the treatment of services, represent substantial levels of economic activity that are not captured in the state's tax system, their use and justification must be considered in a broader context.

The most recent report, published in 2010, estimates the lost state and local tax revenue for FY2010 at $36.4 billion. Over 90 percent of the tax expenditures for the year result from policies affecting the three major tax categories: consumption, individual income, and property taxes. Each major tax is affected differently by the mix of credits, exemptions, and deductions. Sales and use taxes account for nearly all of the tax expenditures within the consumption tax category (i.e., general and selective taxes) and the single largest item is the statutory exemption of services from the tax base. For the individual income tax, adjustments to income account for the largest tax expenditure and within this item, retirement and pension income make up the majority. Property tax expenditures are largely attributable to the homestead property tax exemption, a key component of Proposal A property tax relief.

The growth in the aggregate level of tax expenditures reported by Treasury over time has been substantial. Examining the period FY2000 to FY2010 reveals that the total cost of these items grew 78 percent, from $20.4 billion to $36.4 billion. One item that receives considerable attention with respect to school finance matters relates to the treatment of services consumption in the sales and use tax bases. This item accounted for a major piece of the overall growth in the tax expenditure picture during the 10-year timeframe. Tax expenditures in this area more than doubled from $4.3 billion in FY2000 to $10.1 billion in FY2010. Over the same period, sales and use tax revenues, in the aggregate, are expected to *decline* by nearly $475 million. Because of the earmarking provisions associated with sales and use taxes, the growth of the consumption tax base is important to discussions about the future potential growth in education funding. While tax expenditures, such as the treatment of services, represent substantial levels of economic activity that are not captured in the state's tax system, their use and justification must be considered in a broader context. Including some items, such as health services, in the tax base will result in a growth rate that approximate changes in

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economic activity; however, there are a number of issues that accompany any such change.

In 2002, a detailed report commissioned by a group of statewide associations representing school administrators and school boards quantified the impact of specific state tax policy changes on Michigan education finances, state and local, since the adoption of Proposal A.[30] The report concluded that newly initiated, post-Proposal A tax changes (primarily involving reductions to tax bases) had major impacts on both local and state-dedicated education funding. It estimated the combined effect on education revenues resulting from all tax changes dealing with the individual income tax, consumption taxes (sales and use), state and local property taxes, economic incentives, and other taxes. In nominal terms, for FY2002 alone, the projected revenue loss to state and local K-12 finances was $550 million. And, since Proposal A, these changes had accumulated to $2 billion. Nothing has been done in a comprehensive manner to update or replicate the findings of the report; however, it is reasonable to assume that the annual impact on education funding estimated for FY2002 has not declined.

While this report did quantify the revenue impacts from such changes, noting that some policies included provisions to shield education finances from adverse fiscal effects (e.g., income tax rate reductions and renaissance zone exemptions), it did not attempt to quantify the effects that these policies had on the growth rates of the state or local taxes. Commenting on the prospective effects of the various policies identified, the 2002 report concluded that many of the changes, by themselves, do little to affect the overall potential for growth. However, the accumulation of numerous minor modifications to the state's tax code "can dramatically reduce the growth potential of the earmarked taxes over time by eliminating items entirely from the base of a tax or by limiting the base included for taxation."

The 2002 study also pointed out that the fiscal effects of tax changes on education funding, whether direct or indirect, must be understood in the broader context of what constitutes "good" tax policy. For example, many argue that Michigan's provisions that index the personal exemption available under the income tax to inflation, although negatively affecting General Fund and School Aid Fund receipts, represent a "good" tax policy on the grounds that they preserve the value of the exemptions and safeguard them against erosion over time. Taken individually, many of the changes (explicit or implicit) implemented since Proposal A meet the general standards of fairness and equity and therefore constitute "good" tax policy on those grounds. However, in an age of declining public resources for K-12 education and given their cumulative impact on the resources available, additional attention should be given to the tenets of "good" tax policy related to adequacy and sufficiency. Prospectively, the report concludes, that contemplated changes to the state's tax code should be evaluated using the full spectrum of criteria associated with "good" tax policy: equity, stability, and adequacy.

Changing Consumer Behavior

In addition to changes in Michigan's tax code, growth in annual state revenues is affected by changes in consumption patterns. These changes concern two distinct questions, "What is being consumed?" and "How is consumption occurring?" With respect to the first question, today, consumers are purchasing relatively more services and fewer goods. Stated another way, the services sector is the area of fastest growth in the economy. Michigan is not uniquely affected by this change nor is this a recent phenomenon. The shift to a "service preference" represents a longer-term trend occurring throughout the United States. In Michigan, however, the shift in consumer behavior effectively creates a mismatch between what is going on in the economy and the tax receipts generated from the economic activity. Michigan does not apply direct consumption taxes to many services, opting instead to rely most heavily on tangible goods purchases to determine overall sales and use tax revenues.[31] The shift in consumer preferences coupled with Michigan's current tax structure will further exacerbate the mismatch between the growth in tax receipts (consumption taxes) and economic activity (personal income).

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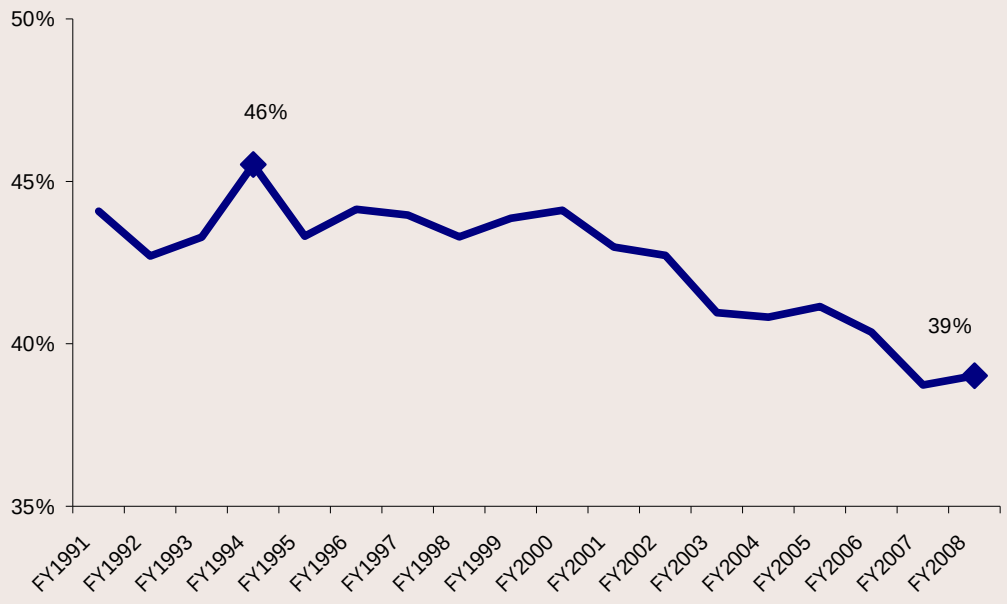
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The combination of this longer-term trend with Michigan's current tax structure creates a unique fiscal challenge for school finances because of the significant earmarking of consumption taxes to the School Aid Fund (73 percent of sales tax receipts and 33 percent of use tax receipts). The gradual shift in consumer preferences is evident in the decline in the share of total economic activity subject to consumption taxes in Michigan. To highlight the possible fiscal effect of this shift in consumer behavior on state tax collections, consider the data presented in **Chart 24**. Assuming that the mix of taxable/exempt sales in FY1994 were applied to current personal income data for 2008, the SAF revenue from state consumption taxes would have been $900 million greater in FY2008.

The gradual shift in consumer preferences is evident in the decline in the share of total economic activity subject to consumption taxes in Michigan.

The migration towards greater consumption of services vis-à-vis durable goods is observed in the changes in wages over time, by major industry. Total wages constitute about 70 percent of Michigan's personal income and provide a glimpse of where economic activity in the state is taking place.

Chart 24
Taxable Sales as Percent of Personal Income: FY1991 to FY2008



Source: State of Michigan, Comprehensive Annual Financial Reports; U.S. Department of Commerce

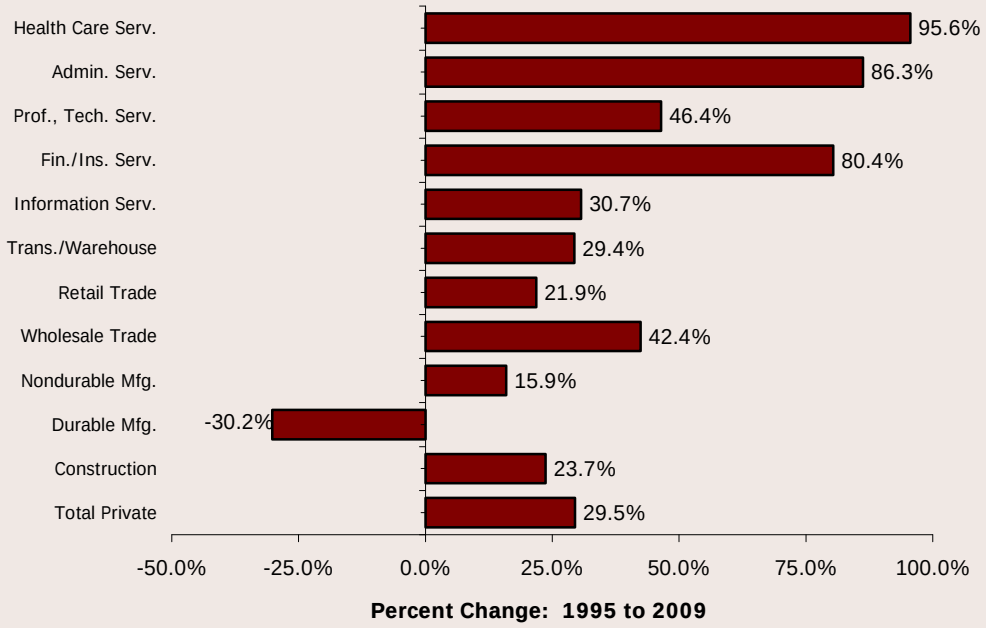
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Between 1995 and 2009, the state's service sector (e.g., health care, administrative, professional and technical, financial and insurance) grew well in excess of its manufacturing sector (durable and nondurable goods) (**Chart 25**). Wage earnings in the health care services sector grew over three times (96 percent) as much as total private sector wages (30 percent) during the period. As a result of the disparate wage growth across industries, the service sector occupies a larger share of the overall economy and the goods-producing sector a relatively smaller portion. Although not reflected in the chart here, data for the period shows that manufacturing comprised 32 percent of total private wage earnings in 1995 and declined to 19 percent in 2009, while the health care services sector grew from 10 percent to 16 percent of total wages over the same period. During the 1995 to 2009 period, Michigan's tax structure remained unchanged relative to the compositional adjustments in the economy.

Shifting consumer preferences relative to "how" consumption occurs also constrains revenue growth for schools. The growth in consumption tax revenue is largely dependent on tangible goods purchases from businesses located in Michigan because the state lacks an effective way to collect use tax on tangible goods purchased from sellers outside of the state. Remote and Internet sales are expanding more rapidly than traditional "brick and mortar" store sales. As a result, the sales and use tax bases in Michigan are being slowly eroded by the increase in remote sales, which is contributing to the slide observed in **Chart 24**. Because the State of Michigan lacks authority to require firms that do not have nexus in the state to collect sales taxes on purchases made by consumers in this state, a significant and increasing amount of economic activity each year escapes taxation.[32] The issue relates to the commerce clause of the U.S. Constitution and Michigan lawmakers lack the power to craft a state-specific response to this issue.

Chart 25
Wage Earnings Growth by Private Sector Industry: 1995 to 2009



Source: U.S. Department of Commerce

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The inability to effectively tax remote sales activity inhibits the growth potential of SAF revenues. A recent report by the Michigan Department of Treasury estimates that the sales and use tax revenue loss associated with consumer remote sales in Michigan was $308 million in FY2008 and was expected to grow to $355 million by FY2011.[33] These figures represent the aggregate revenue impact; however, because the SAF receives the largest distribution of combined sales and use taxes, it would experience the majority of the revenue gain if this activity were subject to direct taxation.

Aging of Michigan's Population

Michigan's demographic makeup also explains some of the disconnect between tax receipt growth and economic growth observed over the last 10 years. Quite simply, the state is getting older, proportionately, and the state's tax structure tends to treat its older residents more favorably than its younger residents. This is the case with respect to the individual income tax when exemptions, adjustments, and credits are viewed through an age-specific lens. Also, because the purchasing preferences of older residents are somewhat different than their younger counterparts and given the structure of the sales and use taxes, consumption taxes tend to fall more heavily on younger residents. Assuming no changes in state tax policy with respect to "senior preferences" or modifications to the consumption tax base, a continuation of the aging trend observed over the past decade will further constrain revenue growth for schools.

Although Michigan's total population figure has barely moved from the start of the last decade (an expected increase of less than one-half of one percent), the composition has changed markedly. While the overall population is the same, Michigan's senior population (65 years old and over) grew over seven percent since 2000, thus comprising a larger share of the total population in 2009 (13 percent compared to 12 percent). Across the U.S., the senior population also increased since the beginning of the decade (13 percent); however, the total figure also increased such that this cohort represents roughly the same percentage of the total today as it did nearly ten years ago (about 12 percent). Demographic projections call for the 65 and over cohort in Michigan to continue to grow in nominal terms and as a percent of the total population for the foreseeable future.[34] As a result, the over-65 age group is expected to constitute 17 percent of the state's population in 2017, up from 13 percent today.

From a public finance perspective, the aging of Michigan's population poses serious threats to the potential to provide stable funding for education services in the future. Michigan's income tax currently provides special treatment for residents 65 years old and over, including full exemption of social security income and all public pension income, along with an additional special exemption for seniors ($2,300-single in 2009) on top of the standard personal exemption ($3,600-single in 2009). For private pensioners, a very generous exemption is provided ($45,120-single and $90,240-married in 2009). Seniors also benefit from a number of special credits (e.g., homestead property tax, home heating, and renters' tax). As more and more residents qualify for income tax exemptions, the base of the income tax is further depleted, which negatively affects the growth rate. The School Aid Fund is directly impacted by reductions in the gross collections resulting from the tax base narrowing; however, current law holds the Fund harmless from the fiscal effects of the various senior-specific income tax credits. Credits reduce the level of revenue available to the General Fund and, therefore, its ability to supplement dedicated education revenues.

According to a 2006 report by the Center on Budget and Policy Priorities citing previous research conducted on the topic, Michigan led all states with the most-generous income tax preferences when the effective income tax rates for elderly and non-elderly residents were compared for each state. Within the Great Lakes region, Michigan preferences were nearly double those of the other states.[35] It was estimated that the difference between the effective tax rates of elderly and non-elderly individuals earning less than $200,000 was 2.17 percentage points in Michigan compared to 0.64 percentage points for the nation as a whole. Regionally, the closest state to Michigan was Wisconsin, which had a difference of 1.1 percentage points between the effective income tax rates for the two groups.

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Conclusions and Options

Realigning Education Finances with the Michigan Economy: Enhancing Long-Term Stability

While Michigan's school finance system underwent a major transformation in the mid-1990s, the state tax structure upon which the system is based largely resembles what existed 40 years ago. The state's economy has evolved considerably over the last 40-year period and has experienced monumental changes associated with the state's manufacturing base during the last decade. The state's economy will continue to evolve with the attraction and development of new industries and changes in consumer preferences. As a result of current tax policy, major sources of state taxes increasingly do not respond to growth in the overall economy. Re-connecting the weakened relationship between the state's financing structure and the overall economy will require restructuring Michigan's consumption and income taxes. Without state revenue restructuring, the delivery of public education services will have to be re-calibrated to match a revenue system that grows more slowly in the future, because the option to influence overall revenue growth via the local property tax is extremely constrained.

The stability of state revenues would be enhanced if major components of the service-based economy, particularly consumer services, were folded into the base of Michigan's consumption taxes.

In addition to repairing and restoring a stronger relationship between education revenues and the broader economy, policy makers might consider the various, and complex, relationships between the property tax and property tax limitations contained in Michigan's Constitution and state laws. These interactions will prevent education revenues from fully benefiting from future investment and growth in real property. Attention to major tax sources (consumption, income, and property) is prudent, but consideration also should be directed at those minor sources that provide schools with, proportionately fewer, but still very essential, resources.

Sales and Use Taxes

Michigan's consumption-based taxes (sales and use) represent the single largest state source of financing for public schools. The base of these taxes is almost entirely the sale and use of tangible property, with a limited number of services subject to taxation. With the continued shift away from the consumption of goods toward more and more services, the growth in tax yields are expected to continue to lag growth in the economy. While the sales tax rate was increased with the adoption of Proposal A, there has been virtually nothing done to expand the tax base. Further rate increases would provide additional revenue, but Michigan already has the seventh highest sales tax rate of the 45 states levying the tax according to the Federation of Tax Administrators.[36] Raising the rate might place Michigan businesses at a competitive disadvantage. The stability of state revenues would be enhanced if major components of the service-based economy, particularly consumer services, were folded into the base of Michigan's consumption taxes.

In the national perspective, Michigan is somewhat of an outlier in terms of service taxation. According to the Federation of Tax Administrators, Michigan taxes 26 of a possible 168 services identified, placing it in the bottom 25th percentile of states.[37] Within a regional perspective, only Illinois (24 services) and Indiana (17 services) tax fewer services than Michigan.

The effect on the tax base of including all services would be substantial because the dollar value of services not taxed exceeds the value of goods and services currently taxed. A reconstituted tax base with a significant services component would grow

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faster than the current sales and use tax bases, however, the final selection of services to include in the tax base will ultimately determine the growth potential. Certain service sectors, such as medical services, are expected to experience faster growth rates than other sectors. Exclusion of higher-growth sectors from the tax base would affect the potential for growth in the future. Adding services to the current tax base can provide an opportunity to reduce the current tax rate by some amount and provide a revenue-neutral starting point. The failed 2007 attempt to include certain services in the consumption tax base highlighted the sensitive nature of expanding the sales tax to services and determining which services to tax.

Economic research on the topic of expanding the sales tax base confirms that adding services to the mix will result in tax revenue growth that more closely tracks economic growth.

A tax restructuring plan that includes consumer services in the sales tax base can be fashioned in a way that increases revenues, decreases revenues, or results in no net change upon implementation.

A broad-based consumption tax is likely to enhance revenue stability and preserve the long-term sales tax yield. It would also provide some protection during recessionary periods against wide fluctuations in revenue that occur as a result of a goods-dominated tax. Michigan's experience over the 2008 recession (e.g., sales tax falling 10 percent in FY2009) is evidence of the volatility of the current tax base. Currently, Michigan's sales tax base is heavily reliant on the purchase of "big ticket" items (e.g., autos, appliances, and furniture), the consumption of which declines sharply during an economic downturn. The consumption of services does not fall as precipitously during a recession. On the flip side, during periods of economic growth and expansion, the stability of service consumption will act to temper the revenue spikes that occur when "big ticket" purchases are made.

Economic research on the topic of expanding the sales tax base confirms that adding services to the mix will result in tax revenue growth that more closely tracks economic growth. A 2006 study that examined state tax activity from 1970 to 1999 found that states with broader sales tax bases (i.e., included services) had higher sales tax elasticities, meaning that growth in sales tax revenues more closely approximated growth in the state economies.[38]

In 2008, CRC estimated the future revenue growth potential of a hypothetical sales tax base that included all services with the exception of business-to-business transactions.[39] This exercise resulted in a much broader sales tax base than that included in Michigan's short-lived 2007 experiment with a services tax. Also, the enhanced tax base assumed in CRC's 2008 report was much broader than the tax base contemplated in Governor Granholm's 2010 service tax proposal, which also called for a 0.5 percentage point rate reduction. The hypothetical tax base developed by CRC included health care services, a large and growing sector of the services field, whereas both the 2007 tax base expansion and the Governor's recent proposal excluded this segment. As noted earlier in the discussion of tax expenditures, the health care sector has grown substantially since the adoption of Proposal A. As previously indicated, wage earnings for the sector in Michigan nearly doubled (96 percent) from 1995 to 2009, compared to 30 percent growth for the entire private sector.

The scenario developed by CRC produced a service tax base equal in size to about two-thirds of the current-law tax base, largely because of the inclusion of health care. As a result of the substantial widening of the base, a sizeable rate reduction (from 6 percent to 3.6 percent) was necessary to produce a "revenue neutral" starting point. The new, re-constituted tax base increased the projected annual sales tax growth rate by 0.8 percentage points, prospectively. A re-structuring plan that couples a broader sales tax base with a reduced rate complies with an oft-cited principle in tax policy that favors taxes that have the widest bases and lowest rates possible.

While in concept there may be considerable support and justification to adopt a broad-based sales tax in

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Michigan that includes most, if not all, consumer services, re-configuring the tax base entails a host of complex issues that demand attention before tax restructuring is implemented. In general, administrative cost considerations (both for taxpayers and state government), equity (horizontal and vertical), definitional issues (e.g., what constitutes a service?), economic principles (e.g., how are markets affected?), and administrative matters would have to be addressed. Nationally, the move to greater services taxation is occurring gradually and major state attempts to fold services into the sales tax base have not garnered much success.[40]

Over the long run, growth in consumption taxes will also be affected by the broad shift how Michigan residents make purchases. The explosion in the amount of Internet and other remote sales that escape state consumption taxation is not a recent phenomenon uniquely affecting Michigan. Rather, this represents a shift in consumer behavior that has been going on for some time and impacts all levels of government with authority to collect consumption taxes on the sale of goods. In Michigan, as in other states, efforts have been progressing for a number of years to capture consumption taxes (use tax) from remote sellers to Michigan residents. Thus far, the state's only viable response has been the development of and participation in a voluntary system involving businesses outside of Michigan transacting with Michigan residents. Although purchasers are liable for use tax on Internet and "remote sales", full compliance in this voluntary system has not been realized. It is unlikely that the Internet and "remote sales" economic activity will be folded into the activity that is subject to consumption taxation in Michigan to the fullest extent possible without further action by the U.S. Congress.

The total level of General Fund resources available each year is one factor used by the legislature in determining the ability to supplement dedicated state resources to support public elementary and secondary education services. Therefore, the structural factors affecting the growth in personal income tax receipts affect the stability of education finances over the long-run.

Income Tax

The annual growth of personal income tax receipts plays a major role in the financing of public education, directly and indirectly. Through state tax earmarking provisions, these resources currently represent the third largest component of the School Aid Fund, behind the sales tax and the 6-mill state property tax, and are expected to grow to be the second largest source as state property tax revenues decline over the next couple years. In addition, income tax revenues are the single largest component of the General Fund. As previously noted, the total level of General Fund resources available each year is one factor used by the legislature in determining the ability to supplement dedicated state resources to support public elementary and secondary education services. Therefore, the structural factors affecting the growth in personal income tax receipts affect the stability of education finances over the long-run.

Growth in Michigan personal income tax receipts dedicated to the School Aid Fund has trailed personal income growth since the early 2000s. Similarly, growth in General Fund income tax receipts has fallen behind income growth, but to a greater degree due in part to the weak connections between the tax and the economy, and also as a result of rate reductions and growth in credits. The General Fund was disproportionately affected by the income tax rate reductions phased-in over a period of years in the late 1990s and early 2000s. The School Aid Fund was insulated from these rate reductions through provisions in state law. Ignoring the tax rate changes currently scheduled for the individual income tax, the underlying growth potential of baseline income tax receipts is contingent on the interaction of deductions, exemptions, and credits. Changing the projected growth pattern of income tax receipts in a material way will entail a modification to one or more of these income tax components.

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Michigan's personal income tax has proven less responsive to economic changes than the income taxes levied by other states. Enhancing the responsiveness is a complex endeavor and can take a number of approaches. A major structural difference between Michigan's income tax and those of other states is the current constitutional prohibition (Article IX, Section 7) on graduated rates. Michigan is one of seven states that use a flat rate structure, while thirty-four other states levy a broad-based personal income tax using a graduated-rate structure. [Note: Seven states do not levy an income tax and two states levy the tax only on dividends and interest income.] The federal government also employs a multi-rate income tax. Michigan's current flat rate for 2010 is 4.35 percent, and is scheduled to decline by 0.1 percentage point each year beginning on October 1, 2011, and until October 1, 2015, when it will be 3.9 percent.

If Michigan were to substitute a graduated income tax for its current flat rate tax, considerable additional growth in revenues (School Aid Fund and General Fund) could be realized. A restructuring of this nature could be fashioned to provide a net tax increase or decrease upon implementation, or it could be designed to be revenue-neutral initially.

The concept of graduating the income tax rate is relatively straightforward – as taxable income rises, the tax rate applied to successively higher increments of income also rises. Generally speaking, income taxes that have various rates are considered "progressive", meaning that a person's tax liability, as a fraction of their income, rises with income. A progressive tax structure is contrasted with a "proportional" structure, where everyone pays the same percentage of income in tax, regardless of income. In a broad sense, one tax structure is deemed to be more progressive than another if the average tax rate (tax liability as percentage of income) increases faster with increased income.

Looking at states that use a progressive income tax, the number of brackets employed and the rates charged vary considerably and therefore it can be concluded that there is no "typical" tax structure nationally. According to the Federation of Tax Administrators, two states have ten or more brackets (Hawaii and Missouri), but most states have three to six brackets.[41] In the Great Lakes region, Illinois and Indiana use a flat rate structure, and Minnesota, Ohio, and Wisconsin have progressive tax structures.

Income growth over much of the last half-century, nationally and in Michigan, has been concentrated in high income earners. Generally, income tax receipts under a graduated rate structure, assuming the same level of income growth, grow at a faster rate in a progressive rate structure than under a flat rate structure. If Michigan were to substitute a graduated income tax for its current flat rate tax, considerable additional growth in revenues (School Aid Fund and General Fund) could be realized. A restructuring of this nature, while it would require a change in the Michigan Constitution, could be fashioned to provide a net tax increase or decrease upon implementation, or it could be designed to be revenue-neutral initially.

Another method to achieve greater growth potential would involve expanding the base to include income that is currently untaxed. The pensions of former public employees are entirely exempt and pensions of former private sector employees are mostly exempt from Michigan's individual income tax. The value of these pensions, although not reflected in personal income statistics, is expected to grow at rates at least one and one-half times as fast as other sources of taxable income due in large measure to the state's aging population. The addition of this growing base would increase the growth potential of the income tax as a source of financing for K-12 schools and the General Fund. Folding private pension income into the income tax base could be accomplished statutorily; however, public pensions currently enjoy constitutional protection against taxation. Equity concerns would suggest that private and public pension income be treated equally from a tax policy perspective.

Currently-programmed income tax rate reductions will affect General Fund revenue stability, beginning

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in FY2012. While education finances are isolated from the direct effects of the five-year, phased-in 0.45 percentage point rate cut, the fiscal impact to the General Fund will result in fewer discretionary dollars being available to supplement education services each year. A pause or elimination of the income tax rate reduction will enhance the stability of state revenues in the future.

State Education Tax

Revenues from the 6-mill State Education Tax (SET) did not perform as poorly as other major and minor state revenues when compared to economic measures from FY2001 to FY2008. This is not surprising given the fact that property taxes are less dependent on changes in broad measures of income to determine tax receipts. Property values exhibited strong growth throughout much of the seven-year period, which in turn produced similar annual levy increases for the SET. This is not expected to continue in the near-term due to a host of factors related to the bursting of the housing market "bubble", mortgage defaults, tax foreclosures, out-migration of Michigan residents, over-supply of residential property, and adjustments to commercial and industrial property values. As a result, levies from the SET and all other property taxes in Michigan are expected to decline in the coming years. [Note: CRC's May 2008 long-term assumptions regarding SET revenue performance over the 2007 to 2017 period (average annual growth rate of 4.25 percent) were clearly too optimistic given the myriad factors affecting property values in the intervening years.]

To modify the projected growth path of SET receipts coming out of the period of declining property assessments would require a statutory change in the tax rate or changes to the Michigan Constitution, to alter the modified acquisition value system of property valuation, which controls the growth of the base.

In the current and near-term environment, property assessments will continue to fall and drive down taxable values throughout the state. Although some areas of the state are harder hit than others, it is important to remember that the SET is a state-level tax and the effective base is all property in Michigan. The decline in this "statewide" tax base is expected to last three to five years; however, this short-term erosion of the tax base has long-term fiscal consequences because of the tax limitations contained in Proposal's A constitutional provisions. Proposal A's taxable value cap will dampen the recovery in the tax base and prolong the amount of time before previous tax levies are seen again. Proposal A restricts the growth on individual parcels to the lesser of inflation or five percent. All else being equal, this cap will limit the growth in the SET tax base from existing property to the rate of inflation, regardless of the strength of the recovery in the real estate market and resultant increase in property values statewide.

To modify the projected growth path of SET receipts coming out of the period of declining property assessments would require a statutory change in the tax rate or changes to the Michigan Constitution, to alter the modified acquisition value system of property valuation, which controls the growth of the base. Changing the assessment cap may be viewed as unpalatable given the fact that it was a major tenet of Proposal A's property tax relief provisions. Further, the assessment cap applies to all local property and a SET-only solution would be highly problematic. Each mill of the SET could be expected to yield roughly $300 million in the current year. Unless future rate increases were calibrated to account for the projected declines in the tax base in the coming years, the yield will fall in each year that the tax base declines. Thus, increasing the rate would provide temporary stability to the state revenue stream, but does very little to change the long-term growth potential of the SET.

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Local Operating Property Taxes

In the post-Proposal A period, local property taxes continue to play a key role in financing school operations, both for local and intermediate school districts. Intermediate school districts rely heavily on property taxes to support operations; structural challenges facing this revenue source in the near- and long-term take on greater importance for these entities compared to local districts. All local operating taxes are subject to Proposal A's assessment cap, which will constrain tax revenue growth coming out of the period of declining assessments. Assuming everything else being equal, the cap on assessments holds the growth in tax base for most schools to the lesser of the rate of inflation or five percent, in exactly the same way that the base of the SET is affected by the per-parcel cap.

In addition to the per-parcel growth cap, local operating taxes are also subject to tax limitations that predate Proposal A. The 1978 Headlee amendment to the Michigan Constitution requires that, if the existing property tax base of a local government (e.g., school district) increases faster than the rate of inflation, the maximum authorized tax rate must be reduced or "rolled back" by a commensurate amount so as to produce the same property tax levy as would have been obtained from the old base. In a period of declining bases of local operating taxes (18-mill non-homestead tax or any other local operating tax), this tax limitation is moot. However, coming out of the period of declining assessments and taxable values, this limitation, in combination with Proposal A's per-parcel cap, will inhibit future revenue growth.

The rollback provision of the Headlee amendment can be triggered by the transfer of certain properties. A recovery in real estate markets is likely to be reflected in an increased number of properties being transferred. When ownership of enough properties, or of a few high-priced properties, is transferred, taxable values for those individual properties "pop up" to 50 percent of the true cash value. When these "pop ups" are added to the tax rolls, the tax base of some school districts will grow at rates faster than inflation. In such a case, a rate rollback is initiated and reduced rates applied to all properties. The net result will be that growth in the property tax levy is held below the growth in inflation.

Coming out of the current period of declining property values, the interaction of the Headlee amendment and Proposal A's assessment cap will forestall recovery in the tax bases of school districts, effectively prolonging the effect of the current housing market downturn. A statutory response is available, despite the fact that both tax limitations are contained in the Michigan Constitution. The interaction of the cap on assessments and the Headlee rate rollback is determined in the statutory definition of property tax base "growth", which includes both the per-parcel inflationary factor as well as the "pop up" effect. Redefining tax base "growth" to exclude "pop ups" would allow the tax base of existing property to grow at a rate that approximates, or slightly exceeds, inflation. This would add stability to future local property tax revenues.

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Another avenue to address future growth in local operating taxes for local districts would involve further centralization of the finance system by shifting property taxes currently levied at the local level to the state level. The 18-mill local operating tax is effectively a state-level tax given the statutory limits placed on the maximum rate allowed (e.g., lesser of 18 mills or 1993 tax rate) and the tight limitations on tax base growth (Headlee and Proposal A provisions discussed earlier). Making the 18-mill tax a state-levied tax, similar to the SET, would exclude the tax from Headlee rollback provisions because state taxes are not subject to automatic rate reductions triggered by base adjustments. Such a shift toward greater centralization would eliminate some election costs at the local level associated with both "Headlee override" votes as well as constitutionally-required millage "renewal" votes. Override votes can occur more frequently than renewal requests. These votes occur at the request of the local school

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district in order to restore all, or a portion, of the previous millage rate reduction.

Consideration might also be given to the possibility of exempting local and intermediate school district property taxes from the Headlee rollback provisions. This would require constitutional changes; however, it would comport with some peoples' general understanding of how the 18-mill foundation allowance property tax was intended to work.

Revenue generated from the 18-mill non-homestead property tax (or whatever the level was for those districts levying less than 18 mills in 1993) is collected and retained locally and is dedicated to the foundation allowance within each district. For purposes of calculating the state portion of a district's foundation allowance payment each year, state law requires that this payment be based on the assumption that a millage rate reduction has not occurred. In other words, the state assumes that the full 18 mills (or 1993 rate, whichever is less) is being levied locally when it determines its share of a district's foundation allowance payment each year, regardless of the actual rate levied.[42] Given the workings of the foundation allowance program (i.e., local dollars first), the practical effect of this provision is that a district that does not have authorization to levy the full 18-mill tax will not receive the full amount of local revenue to support its per-pupil foundation allowance and therefore does not receive the full amount of its per-pupil foundation to support operations. For districts affected by the rollback provisions of Article IX, Section 31 of the Constitution, this shortfall in the local revenue component of the foundation allowance is not offset by higher state aid payments. These "lost" dollars cannot be recaptured in future years and can accumulate to amount to significant funds for schools.

Under a tax restructuring scenario, each local district could be guaranteed the tax levy at the full 18-mill rate (or corresponding 1993 level if less) each year, which in turn would add some degree of revenue stability to the system. Some argue this was the intent of Proposal A and such a shift would honor the integrity of the original foundation allowance concept. The base of this tax would remain the same and receipts would continue to be directed to the local foundation allowance. For intermediate school districts, the full amount of previously-authorized millage rates would be guaranteed.

Another option, short of full exemption from the Headlee rollback provisions, involves the restoration of the Headlee tax rate "rollup" provision. This would not require a constitutional change, but would necessitate a statutory modification. Prior to Proposal A, the General Property Tax Act (Public Act 206 of 1893) allowed tax rates (for all units of government) to rollup to previously-authorized, voter-approved maximum levels in years in which property assessment growth lagged the inflation rate. Basically, if previous years' Headlee rollbacks had reduced tax rates below the originally-authorized maximum level, a formula in state law permitted tax rates to automatically increase without a vote of the local electorate, up to the maximum level. The tax rate increases in such cases were not allowed to result in tax yields that exceeded inflation.

Another option, short of full exemption from the Headlee rollback provisions, involves the restoration of the Headlee tax rate "rollup" provision.

State law changes that accompanied Proposal A (Public Act 145 of 1993) effectively eliminated the option of Headlee rollups during the current period of declining property values and tax bases. Under current state law, local and intermediate school districts must obtain voter approval to return operating tax rates to the levels previously authorized if tax rate rollbacks had occured. While some districts are at the statutory maximum for the various operating property taxes (e.g., 18-mill foundation, ISD general operations, ISD special education, and ISD vocational education), a great many are currently levying rates well below the maximum allowed. These districts will have to obtain voter approval to raise tax rates in response to declining tax bases in the coming years. Revenue stability, during times of falling property values, would be enhanced if state law provided for the automatic rate increases, not to exceed previously-approved maximum rates, and capped by the constitutional inflationary limit on the tax yield.

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Tobacco Taxes

The overall growth, and therefore stability, of education revenues also is affected by the structure of minor taxes dedicated to financing schools. The performance of these taxes, as previously noted, is contingent on factors largely independent from economic activity in the state. The performance of these taxes, if stagnant or negative, will constrain the positive growth of other major taxes. These minor tax sources constitute a small portion of the overall funding going to schools therefore their potential to affect the overall growth rate is somewhat limited. However, despite their limited role, a case can be made for structural changes to select minor tax sources.

To modify the growth rate of cigarette taxes as a future revenue source for schools will require a transition from a *unit* or *excise* tax to an *ad valorem* tax or one based on the value (price) of the product sold.

In Michigan, nearly $1 billion in tobacco tax receipts (cigarette and other tobacco products such as cigars, loose tobacco, and smokeless tobacco) were received in FY2009. Schools, through the School Aid Fund earmark, receive 42 percent each year of the cigarette tax proceeds ($410 million in FY2009). These funds account for four percent of total taxes going to the School Aid Fund in FY2009; however, tax receipts declined 16 percent since FY2003 (when they represented five percent of total) in response to declines in tobacco use and consumption. This trend is expected to continue into the future. Because of the current structure of cigarette taxation and without tax rate increases, continued consumption declines will limit tax yields and hamper the overall stability of education funding, as this source of funding declines. While rate increases can generate additional resources in the short term, consumption patterns will determine the long term growth rate of this revenue source.

To modify the growth rate of cigarette taxes as a future revenue source for schools will require a transition from a *unit* or *excise* tax to an *ad valorem* tax or one based on the value (price) of the product sold. [Note: Non-cigarette tobacco taxes are ad valorem in nature. Currently, the tax on other tobacco products is levied at 32 percent of the wholesale price and the proceeds dedicated to the General Fund and the Medicaid Benefits Trust Fund.] Initially, the ad valorem rate could be set to provide the same revenue that the current unit tax raises. Alternatively, the rate might be structured to generate additional resources initially to make up for the erosion in the tax base that that has occurred in recent years with consumption declines. Any policy discussion about transitioning to an ad valorem tax would likely consider the public health, tax regressivity, and tax evasion issues that accompany tobacco taxation in general.

Another option to enhance overall revenue stability that involves the current cigarette tax would be to eliminate this source from the School Aid Fund and redirect the proceeds to another state fund. The revenues could be replaced, dollar-for-dollar, with the proceeds from another tax source that responds to economic growth (i.e., portion of sales or income taxes). Eliminating this negative growth tax source from school funding, while at the same time replacing the revenues with a positive growth source, would better align overall revenue growth with the economy.

Local Revenue Supplementation

In general, local governments in Michigan (general- and special-purpose) are constrained both in the *types* of taxes that they can use and in the tax *rates* that they are permitted to levy to finance public services. Furthermore, as previously noted, state constitutional and statutory provisions control the upper bound of annual growth in property tax bases, both at the individual and unit-wide level. The property tax is the most important revenue source available to local governments and it is constrained by both rate and base limitations contained in state law. The current system of strict state fiscal regulation of local government finances limits taxation options available to all types of local governments, including local and intermediate school districts. Although unique in a number of respects from other types of local government, public education finances have to be understood in the broader context of Michigan state-local government fiscal relationships.

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Michigan's current education finance system considerably restricts the ability of local and intermediate school districts to pursue additional, locally-generated operating revenues. In a period of rising state funding and rising property values, which was the case following Proposal A's adoption, such restrictions could be merited given concerns that such local authority, if acted upon, might result in inter-district per-pupil revenue disparities and counteract the state policy objective to curtail such inequities. In the current and near-term environment, annual state revenues have been falling and revenue growth going forward is likely to be minimal. At the same time, local operating property tax revenue growth is slowing in nearly all communities across the state and declining in many. Providing authority for local and intermediate school districts to address the current revenue declines by supplementing current revenues, if districts so choose, might provide a mechanism to manage through the current period and provide future stability. While there are numerous ways to authorize greater options for local revenue supplementation, the most likely option to pursue involves the current "enhancement" property tax.

Modifying or eliminating the current ISD-wide enhancement millage to provide additional flexibility for districts are options that could be pursued. First, replacing the regional tax with a district-specific enhancement option (up to 2 or 3 mills), similar to that available immediately following Proposal A's adoption, would provide a mechanism to deal with falling state and local resources. Concerns over widening the "equity gap" among districts could be addressed if the local millage yield is based on the average regional or statewide property value. The current ISD-wide millage results in tax base sharing to equalize revenues at the per-pupil level. A similar level of equalization could occur if the additional dollars generated by districts with above-average property values were directed to a regional- or state-level pot to be used to supplement millages levied by districts with below-average property values.

A second option might involve the retention of the current ISD-wide millage concept, but with modification to eliminate the current approval threshold. Currently, state law requires that the question be placed on the ballot only if one or more constituent districts, representing a majority of students of the ISD, request it. Millage passage requires approval from a majority of the electors in the ISD, including electors in districts that did not request the millage originally.

An alternative approach might retain the provision regarding the necessary steps to gain access to the ballot (i.e., request by district(s) representing majority of students in ISD); however, what would change is that approval to levy the millage would be granted only to those constituent districts that passed the millage. The potential concern is that this could reverse some of the equity gains if only the high-revenue districts are successful in securing additional local revenues; however, it will promote further per-pupil equity if the low-spending districts avail themselves of the option. Caution would also have to be paid to the level and duration of such millages to guard against a long-term, sustained erosion of Proposal A's per-pupil funding equity gains.

The proceeds of new, local operating revenues might be earmarked for certain services. Consideration might be given to options that provide local and intermediate school districts with limited authority to seek millages for "optional" programs, such as transportation and athletics. While outside of the classroom, these services play an important role in the overall education and development of Michigan school children.

Current state law establishes the maximum tax rates that ISDs can levy for general operations, special education and vocational education. These limits were established in a different environment, and most likely, based on assumptions that have recently proven to be false (i.e., sustained and consistent property value escalation). Although the caps on these rates did allow rate increases over time, the question arises whether these caps should be reviewed periodically, especially in light of the fact that the financing system is nearing 20-years-old. A number of districts have managed to secure voter approval to increase rates and many more are expected to do so in the coming years in response to falling property values. A review and potential adjustment to the maximum ISD tax rates might provide future stability to district funding levels, especially for those that have exhausted their ability to raise rates

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Appendix A

School Operating Property Taxes: Brief Overview

From an operating revenue perspective, traditional local school districts (excluding intermediate school districts and public school academies) have available to them local property tax revenue from three primary sources. Intermediate school districts have access to three separate local millages to support their operations, but public school academies can not, by law, levy property taxes. Of the three sources available to traditional K-12 districts, two are available to all districts and one tax is available only to a small subset of districts with traditionally higher per-pupil spending. Voter authorization is required to levy any of the three taxes. The first source is the 18-mill property tax or what most people refer to as the basic operating tax. The second operating property tax is available only to 51 districts that had per-pupil revenue in excess of $6,500 in FY1994, commonly called a "hold harmless" millage. Both the "hold harmless" and 18-mill property taxes must be dedicated to the foundation allowance program. Finally, all districts are eligible to share equally in the revenue from a three-mill enhancement millage, assuming voters approve such a regional tax. These very rare taxes (only three districts currently levy) must be levied across an entire intermediate school district and the resultant proceeds shared on a per-pupil basis, regardless of the origins of the tax revenues. These three sources represent the entire universe of local operating property taxes under the current school finance system.

Foundation Allowance 18-Mill Tax

A major change accompanying the school finance reforms of the mid-1990s was the adoption of a foundation allowance program as the primary mechanism for distributing general assistance to local school districts. This system replaced the previous power equalization method of determining state aid allocations. Under the foundation program, effective for the first time in FY1995, the state guarantees each district a basic level of per-pupil funding. As is the case with foundation grant programs in other states, the Michigan model requires a certain degree of local tax effort. In Michigan's case, state law sets the maximum tax rate and the tax base for this local property tax, leaving little room for local taxing discretion.

Some have maintained that although technically a local property tax, this tax more accurately resembles a state property tax similar in many respects to the State Education Tax (SET). The argument supporting this position is based on the fact that both the base and rate of the tax are set in state law and the only "local" aspect of the tax relates to the fact that the proceeds are retained locally for the per-pupil foundation allowance program. Recall, under Michigan's previous school finance system, school operating tax rates were determined at the local school district level through elections, subject only to state tax rate limitations. While the two taxes do share some similarities, enactment of the SET did not require voter approval and it is not subject to tax rate rollbacks pursuant to 1963 Michigan Constitution.

The Revised School Code allows each local school district to levy an operating tax at the rate of 18 mills or the number of mills levied in 1993, whichever is less. The proceeds are strictly dedicated to support a district's per-pupil foundation allowance. The Code further provides an exemption from this tax for certain property, generally referred to as the homestead exemption.[43] Initially, the original 18-mill exemption applied to certain residential and agricultural property, but over time this exemption was extended to other types of property.[44] The remaining property subject to the tax is generically referred to as non-homestead property. Generally, this is property that is classified as business (commercial, industrial, and utility) and residential property that is not owner-occupied (i.e., second residences, rentals).[45]

The 18-mill non-homestead property tax is subject to the millage rate reduction provisions of Article IX, Section 31 of the Michigan Constitution. Section 31 requires a reduction in the maximum authorized rate of a tax (including school operating) if the base of the tax is broadened by redefinition or if the assessed valuation of property as finally

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equalized increases by more than the rate of inflation. In essence, this tax limitation requires property tax rate reductions to counteract the growth in the property tax base, excluding new construction, that exceeds the growth in inflation. The effect of the limitation is to hold the growth in the property tax revenue yield on existing property equal to the growth in inflation.

Following enactment of the school finance reforms and the establishment of 18-mill tax, 536 of the 556 school districts levied the full 18-mill tax. Of the 20 districts levying less than 18 mills in 1994, 13 did so because their 1993 school operating millage rate was less than the mandated 18-mill level. The remaining seven districts levied fewer mills either because they chose to or as a result of an automatic rate reduction.

"Hold Harmless" Tax

The Michigan school finance reforms of the 1990s were designed, in part, to address the per-pupil revenue inequities across districts. One explicit policy approach to address these disparities was to provide larger increases to districts with lower per-pupil revenues compared to the increases provided to higher-revenue districts. Also, it was decided that equity would not be achieved by reducing the amounts received by higher revenue districts. A corollary to the "raising the bottom" approach adopted in the reforms involved allowing certain districts to raise additional revenue through a local property tax to support higher revenue. For those eligible districts, this "hold harmless" tax is in addition to the 18-mill non-homestead local school operating property tax.

The per-pupil revenue threshold to qualify as a "hold harmless" district in FY1995 was $6,500. Districts with combined state and local revenue above this amount were eligible to levy, with voter approval, an additional property tax sufficient to ensure that the higher per-pupil revenue amount was achieved. State law requires that the "hold harmless" tax first be applied to the homestead property tax roll, up to a total of 18 mills. If the revenue yield from such a levy is insufficient for meeting a district's per-pupil revenue level, then the tax must be levied equally on both homestead and non-homestead property.

In much the same way that the 18-mill operating tax is strictly controlled by state law, the Revised School Code contains three limitations on the rate of "hold harmless" tax or its yield. Specifically, qualifying districts are able to levy the tax at a rate sufficient to produce a total state and local revenue figure equal to the amount available to the district in FY1995. This provision ensures that a "hold harmless" district receives at least as much in total resources under the new financing system as it did before Proposal A. Second, the rate must be reduced in any year if the per-pupil revenue yield from the tax exceeds the lesser of the dollar increase in the basic foundation allowance or the increase in inflation, which might occur in an environment of rapidly rising tax bases. This provision prevents the growth in the tax from exceeding the growth in inflation in order to avoid further widening the per-pupil funding gap between "hold harmless" districts and those receiving the basic level of per-pupil funding. Finally, a hard cap was instituted that prevents the tax rate from exceeding the level determined by the state for 1994, the first year of the tax.

Upon enactment of the school finance reforms in 1994, 51 districts had per-pupil revenue levels above the $6,500 level in FY1995 and were authorized to levy the "hold harmless" local property tax. However, before the tax was levied in 1994 for the FY1995 budget, the State School Aid Act was amended to effectively reduce the number of districts that would be required to levy this tax in order to maintain their higher revenue level. The amendments provided state supplemental payments in lieu of and equal to the local property revenue that would have been received from the "hold harmless" millage for two groups of high-revenue districts: 1) districts that would have to levy less than one-half of one mill (0.5 mills), and 2) low-population districts (defined as those with 350 or fewer students). For these eligible districts, the state provides a supplemental payment from the School Aid Fund equal to the amount that each district would have received from the "hold harmless" levy at the local level. As a result of the changes to the state law enacted sub-

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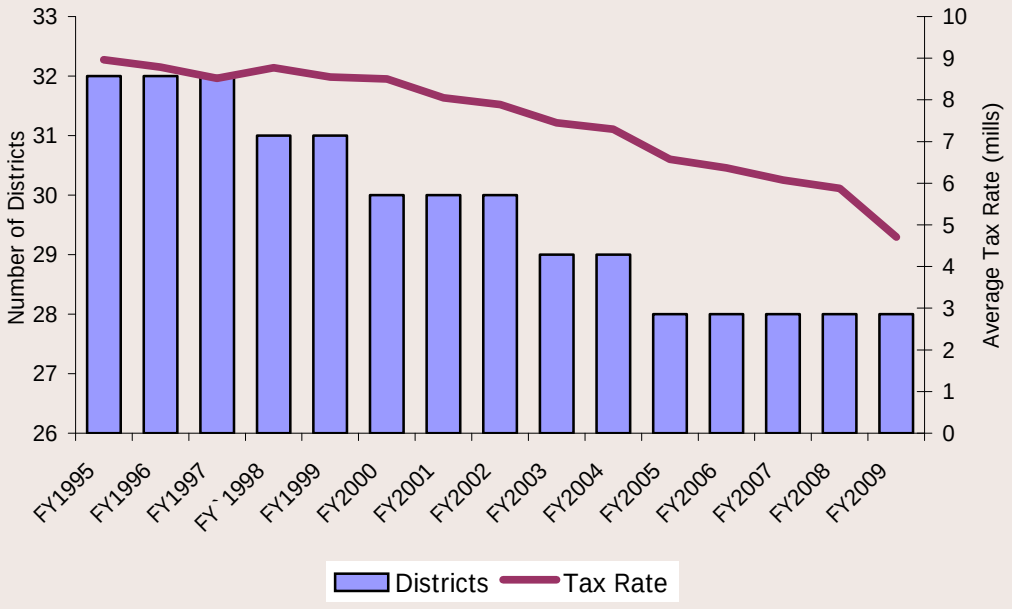
sequent to original Proposal A reforms, only 32 districts collected the tax in the first year (1994) of its existence (See **Chart 26**). In 1994, the rates levied ranged from 21.88 mills in Southfield (Oakland County) to 0.7 mills in East Lansing (Ingham County), with an average figure of 8.97 mills among all eligible districts.

The number of districts levying the tax has declined from a total of 32 in FY1995 to 28 in FY2009.[46] Over the same period, the average rate among these districts has decreased to 4.71 mills, from 8.97 mills originally, as a result of growth in the property tax base upon which the tax is applied and a recent tax policy change. The average rate dropped from 5.88 mills to 4.71 mills in FY2009 (20 percent) as a result of a law change that effectively moved commercial and industrial personal property into the homestead category of property for purposes of school operating taxes.[47] This shift provided property tax relief from the 18-mill non-homestead school operating tax, but simultaneously subjected the property to the "hold harmless" tax, which is levied on homestead property first. The shift only affected property in school districts levying the "hold harmless" tax.

Enhancement Millage

The third type of school operating property tax available to K-12 districts is commonly referred to as an enhancement millage. The state authorization for this tax levy changed soon after the passage of the school finance reforms. Initially, the tax was a district-wide levy, which allowed individual districts to seek a maximum rate of three mills for a maximum of three years. As with the 18-mill and "hold harmless" operating property taxes, this tax is subject to voter approval. Authorization to levy a district-wide enhancement millage existed for a transitional period only, FY1995 through FY1997 (tax years 1994 through 1996). Beginning in FY1998, the tax had to be levied on a regional basis.

Chart 26
Districts with Hold Harmless Millages and Average Tax Rate: FY1995 through FY2009



Source: Michigan Department of Education

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Current state law requires local-option enhancement millages to be levied at the intermediate school district level. The maximum rate is three mills for up to a period of 20 years. The tax is assessed against all property within the district. Before asking local voters within the intermediate district to approve such a tax increase, a resolution requesting the tax must be approved by constituent districts accounting for a majority of the students within the intermediate district (excluding public school academies).

The proceeds from an enhancement millage must be distributed to the constituent districts within the intermediate district on a per-pupil basis and may be used for local school operations. Public school academies are not eligible to receive the proceeds from the tax. Three districts currently levy such a tax: Kalamazoo Regional Educational Services Agency (1.5 mills first authorized in 2005), Monroe Intermediate School District (0.9866 mills first authorized in 1997), and Midland County Educational Service Agency.

Intermediate School District Millages

The centralization of school finances at the state government level did not affect intermediate school districts (ISDs) as severely as it did local school districts. Although amounts vary across districts, as a group ISDs continue to receive the majority of their funding from local sources, in much the same way as they did before Proposal A.[48] Considerable variation in service provision (both type and extent) exists among ISDs, which explains some of the funding discrepancies between entities. The variation in ISD services is fully explained in a separate chapter on the subject in the first report in this series, *Public Education Governance in Michigan*.[49] As an example of the still-prominent role played by the local resources, in FY2008, these comprised 60 percent of all ISD funding statewide, followed by 18 percent from state sources, and 22 percent from federal sources. Federal sources constitute a larger share of overall ISD finances compared to local districts because of the leading role ISDs play in the provision of special education services. Again, considerable variation exists among ISDs as to the component shares of each district's total budget. As is the case with local districts, the major own-source revenue available to ISDs is the property tax. Because of the majority role played by local resources at the ISD level, the property tax remains the primary funding source for district operations, unlike local K-12 districts.

ISDs have authority to levy property taxes for: 1) general operations, 2) special education operations, and 3) vocational education operations. General operating property taxes continued after adoption of Proposal A of 1994 subject to the processes in place for tax allocation boards (in 13 counties) and for separate tax limitations (in 70 counties). Authorization to levy dedicated taxes for special education or for vocational education, and as part of the school finance reform for increased general operating millages, requires voter approval. The maximum rate for each purpose is capped and all ISD tax rates are subject to Headlee tax rate rollback provisions of the Michigan Constitution.

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Sinking Funds

The Revised School Code authorizes local school districts, with voter approval, to levy up to five mills for up to 20 years to create a "sinking fund". Public school academies are prohibited from levying a sinking fund millage. Despite some popular misunderstandings to the contrary, sinking funds are not available to be used for operating purposes. Thus, sinking fund tax levies cannot be considered operating taxes in the context of Michigan education finances.

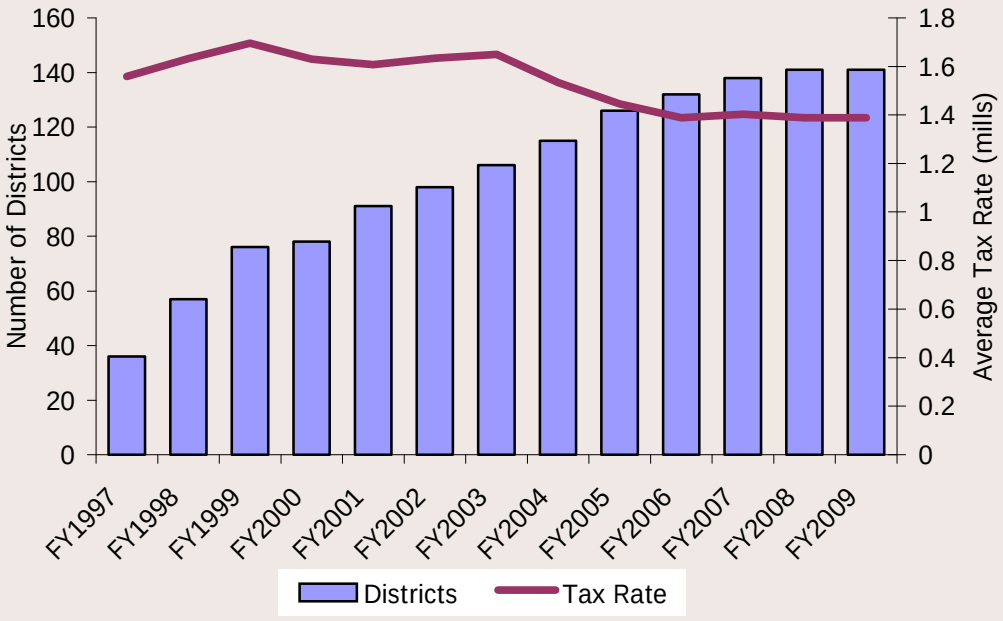
State law narrowly defines the allowable uses of the proceeds from sinking fund levies. The Revised School Code limits the use of sinking funds to the "purchase of real estate for sites for, and the construction or repair of, school buildings." Generally, sinking funds are considered a method of financing capital improvements without having to issue long-term debt, which is the traditional mechanism for funding such projects. However, some projects that may be financed through the issuance of debt may not be financed through the use of sinking fund proceeds.[i] The authorization provided to local districts to levy a sinking fund millage pre-dates the Proposal A reforms of the mid 1990s.

The use of sinking funds among districts has increased since the adoption of school finance reforms in the mid-1990s. A single definitive reason for this observed growth is not clear; however, it is likely that school districts use this method as a cost-conscious alternative to traditional debt issuance to finance capital expenditures. It is also likely that the reduction in school operating property taxes that accompanied Proposal A provided communities with room under constitutional tax limits (e.g., 50 mills) to levy sinking fund millages, among other uses.

The number of districts statewide levying sinking fund millages grew steadily from FY1997 (36 districts) to FY2007 (138 districts), before reaching a plateau and remaining constant in recent years (See **Chart 27**). In

[1] The Michigan Department of Treasury maintains a listing of eligible projects that may be financed with the proceeds from sinking fund millages. A couple notable omissions from the listing include technology equipment and software, although wiring and installation are permissible uses of sinking fund dollars, and transportation services (e.g., bus equipment purchases). Local school districts with sinking fund millages are required under The Revised School Code to have an independent audit conducted each year to ensure that fund proceeds are used according to state law.

Chart 27
Districts with Sinking Fund Millages and Average Tax Rate: FY1997 through FY2009fr



Source: Michigan Department of Education

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FY2009, 141 districts (out of the 551 districts with taxing authority) levied a sinking fund millage. The average millage rate among these districts was 1.39 mills, down from the average figure in FY1997 (1.56 mills) (See **Chart 26**). The range of millage rates in FY2009 varied from the statutory-maximum five mills (Inkster) to a low of 0.24 mills (Suttons Bay).

In FY2010, according to data reported by the Michigan Department of Treasury, a total of $124.7 million was raised for sinking funds statewide.[ii] This represents more than double the amount that was raised from sinking fund millages in FY2002 ($56.8 million).[iii] This growth is a product of the number of districts levying a tax and the increase in the tax base of these districts over time.

Districts that levy a sinking fund millage appear to use this mechanism of capital financing as a partial alternative to bonded debt. Districts with sinking fund levies have an average of 3.17 mills for debt retirement, compared to 4.46 mills for all other districts. The combined average sinking fund and debt retirement millage in districts using sinking funds is just slightly higher (4.56 mills) than in districts that do not have a sinking fund millage (4.46 mills). Further evidence that sinking funds may be used in lieu of traditional debt-financing is seen in the number of districts that do not levy any debt retirement millage. In FY2010, 24 of the 142 districts with sinking fund millages do not levy debt millage, or about 17 percent of the districts in this grouping. For those districts not using sinking funds in FY2010 (410 districts), 12.4 percent (51 districts) do not levy debt millage.

A sinking fund millage can be a cost-effective method to finance capital improvements because it does not entail the costs associated with bonded debt (e.g., interest expense, debt issuance costs, etc.). As opposed to using debt-financing to pay for a capital improvement, sinking funds provide districts with a "pay-as-you-go" alternative. Although sinking funds provide flexibility with respect to capital projects, they cannot be used to support on-going operational costs such as routine maintenance.

[ii] Michigan Department of Treasury, analysis of sinking fund millages and tax bases for FY2010, unpublished date provided by Howard Heideman, Office of Revenue and Tax Analysis, February 2010. This represents revenue received by school districts and does not include tax revenue "captured" by tax increment finance districts and renaissance zones.

[iii] Michigan School Business Officials (MSBO) study conducted by Robert Kleine, 2002. Accessed on MSBO website February 2010.

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Endnotes

[1] The State of Michigan's fiscal year runs from October 1 to September 30 of the following year. Many units of local government in the state, including local and intermediate school districts, have fiscal years that begin on July 1 and run through June 30 of the next year.

[2] Senate Fiscal Agency, *State Revenue Limit (Article IX, Section 26)*, www.senate.michigan.gov/sfa/Revenue/StateRevenueLimit.PDF

[3] Additionally, Proposal A made changes to two other sections of the Michigan Constitution, unrelated to school finance reform. First, the ballot proposal amended Article IX, Section 5, to require that utility property be taxed at a rate equal to the statewide average rate of other "commercial, industrial, and utility" or business property. Previously, this property was taxed at the statewide average rate instead of the actual rate or the jurisdiction in which the property is located. Second, Proposal A provided a new earmark (6 percent) of tobacco product taxes to health care improvements (Article IX, Section 9).

[4] Data include all public K-12 education services, including those provided by K-12 school districts (traditional public and public school academies) and intermediate school districts. Data obtained through the National Public Education Financial Survey is collected by the Michigan Department of Education and reported to the National Center for Educational Statistics (NCES).

[5] The Kalkaska School District closed 10 weeks early in the early spring of 1993 after voters rejected three separate attempts to raise additional school operating funds to help fund a reported $1.5 million deficit for that school year.

[6] The Headlee Amendment refers to a multi-part amendment to the 1963 Constitution, which added Sections 25 to 34 to Article IX. "Headlee" refers to the primary proponent of the amendment, Richard Headlee. The rate rollback provision (Section 31) requires that when the growth in assessed value of property jurisdiction-wide, excluding new construction and improvements, exceeds the growth in inflation then the millage rate must be "rolled back" so that the growth in tax receipts does not exceed changes in the inflation rate.

[7] Citizens Research Council of Michigan, *Proposal A: Questions Regarding School Property Taxes*, Council Comments 1028, June 1994.

[8] This report relies on the National Public Education Financial Survey data, to show operating revenues for K-12 and intermediate school districts. This is the only known source that provides operating revenues broken down by source.

[9] Throughout this paper, annual rates of growth are used to describe the performance of revenue, income, wages, prices, and other variables between two points in time. When the terms "annual growth rate", "annualized rate", and others are employed in the text of the paper, the mathematical computation behind these terms is the compound annual growth rate (CAGR). This metric is different than the arithmetic mean, which simply takes the average of annual rates observed over a period of time.

[10] Originally, the 6-mill State Education Tax was collected about equally on the summer and winter tax bills by local governments responsible for collecting the tax on behalf of the State of Michigan. State law changes were enacted in response to weak SAF revenue growth during FY2002 that changed the collection date for this tax. The changes advanced the collection of the tax entirely to the summer tax bill (July) begging in 2002, effectively pulling forward into FY2002 revenue that would have been received in FY2003. As part of the change, the state law reduced the tax for the July 2002 bill to 5 mills. Overall, the change resulted in a one-time cash-infusion for the SAF of $475 million.

[11] Senate Fiscal Agency, *Doesn't the State Lottery Fund the Schools?,* State Notes, December 2009.

[12] With respect to K-12 education-related costs that are the obligation of the General Fund in the FY10 budget, four items account for almost three-quarters of the total annual General Fund transfer ($30.2 million). The largest single item ($9.2 million) is provided per state law to reimburse the School Aid Fund for lost property tax revenue associated with the establishment of renaissance zones. The next largest item ($7.6 million) is intended for competitive school readiness programs. Finally, the General Fund supports a portion ($5.2 million) of the total costs of the operations of the Center for Educational Performance and Innovation and Michigan Virtual High School. Senate Fiscal Agency. *Summary of PA 121 of 2009 School Aid Budget for FY2010*. October 2009.

[13] The National Bureau of Economic Research, the most-cited organization for dating the business cycle, announced in November 2008 that the U.S. economy slipped into recession in December 2007. Although the NBER has not officially announced an end to the most recent recession, many economists believe that the recession ended sometime in the late summer of 2009.

[14] Estimates are based on the May 2009, Consensus Revenue Estimating Conference. Detailed data provided by the Michigan Department of Treasury.

[15] Article IX, Section 6 of the Michigan Constitution sets a maximum period of 20 years that electors can authorize ad valorem taxes on real and tangible personal property. Generally, local school districts authorize the 18-mill tax for periods much shorter than the constitutional maximum.

[16] Article IX, Section 25 of the Michigan Constitution requires voter approval to increase property tax rates above those specified in Constitution, including those affected by the rollback provisions of Section 31.

[17] Citizens Research Council of Michigan. *Public Education Governance in Michigan*. Report 359. January 2010.

[18] Ibid.

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[19] Citizens Research Council of Michigan. *State Budget "Balance" for FY2007 Achieved with $1 Billion in Additional Non-Recurring Resources.* June 2007.

[20] Dye, Richard F. (2004). "State Revenue Cyclicality." *National Tax Journal,* vol. 57, no. 1.

[21] White, Fred C. (1983). "Trade-Off in Growth and Stability in State Taxes." *National Tax Journal,* vol. 36, no. 1.

[22] Sobel, Russell S., and Randall G. Holcombe (1996). "Measuring the Growth and Variability of Tax Bases Over the Business Cycle." *National Tax Journal,* vol. 49, no. 4.

[23] Senate Fiscal Agency, *Economic and Budget Stabilization Fund Transfers, Earnings and Fund Balance FY 1977-78 to FY2007-08*, March 2009.

[24] Michigan School Business Officials, *Fund Balance and Related Issues*, webpage document (www.msbo.org), March 2010.

[25] Michigan School Business Officials, Testimony of David Martell, Executive Director, Michigan House Education Committee re: HB 5963 (www.house.michigan.gov/SessionDocs/2009-2010/Testimony/Committee5-3-25-2010-4.pdf), March 18, 2010.

[26] Citizens Research Council of Michigan. *The State Fiscal Plan.* Council Comments No. 941. June 1983.

[27] House Fiscal Agency, *Review and Analysis of FY2010-11 Executive Recommendation*, March 2010.

[28] The trend toward adequacy litigation began with the 1989 landmark decision in *Rose v. Council for Better Education*, in which the Kentucky Supreme Court declared the state's entire school system unconstitutional and inadequate to fulfill the education "rights" of Kentucky schoolchildren.

[29] Michigan Department of Treasury, *Executive Budget Appendix on Tax Credits, Deductions, and Exemptions FY2010*, February 2010.

[30] Doug Drake. *A Review and Analysis of Michigan Tax Policies Impacting K-12 Finances.* Michigan Association of School Administrators, Michigan Association of School Boards, and Michigan Association of School Business Officials. June 2002.

[31] According to a 2007 survey of states conducted by the Federation of Tax Administrators, Michigan taxes very few services. Of the total 168 unique services identified in the survey, Michigan directly taxes 26 of total, or about 15 percent. The average number of services taxed by states as of July 1, 2007, was 56.

[32] "Nexus" is defined as a minimum physical presence in a state that would allow a business to be subject to a state's tax system and required to collect and remit taxes.

[33] Michigan Department of Treasury, Office of Revenue and Tax Analysis, Tax Analysis Division. *Michigan Sales and Use Taxes 2008.* December 2009.

[34] Citizens Research Council of Michigan, *Michigan's Fiscal Future*, Report 349, May 2008.

[35] Elizabeth McNichol, Center on Budget and Policy Priorities, *Revisiting State Tax Preferences for Seniors*, May 2006.

[36] Federation of Tax Administrators, *State Sales Tax Rates and Food & Drug Exemptions*, February 2010.

[37] Federation of Tax Administrators, *Survey of Services Taxation – Update*. July 2008.

[38] Donald Bruce, William F. Fox, and M.H. Tuttle, "Tax Base Elasticities: A Multi-State Analaysis of Long-Run and Short-Run Dynamics", *Southern Economic Journal,* October 2006.

[39] Citizens Research Council of Michigan, *Michigan's Fiscal Future*, Report 349, May 2008.

[40] Center on Budget and Policy Priorities, "Expanding Sales Taxation of Services: Options and Issues," July 2009.

[41] Federation of Tax Administrators, *State Individual Income Taxes*, February 2010.

[42] The State School Aid Act.

[43] As currently written, The Revised School Code exempts property classified as a "principal residence" from the tax. Historically, this exemption was considered the "homestead" exemption; however, its name was changed to "principal residence" to avoid confusion with a popular income tax credit called "homestead". The designation of "principal residence" applies only to the residential classification of real property and generally refers owner-occupied property.

[44] Initially, the 18-mill exemption applied to property that qualified as a "homestead" or "principal residence". Over time, the 18-mill tax exemption has been expanded, in total or in part, to include other types of property, including qualified agricultural property, qualified forest property, supportive housing property, commercial personal property, and industrial personal property.

[45] Changes to state law in 2007 generally intended to restructure the overall business tax climate in Michigan resulted in exemptions from 18-mill tax for industrial personal property (full exemption) and commercial personal property (exempt 12 mills).

[46] The following districts, which initially levied the tax in 1994, did not levy the tax in 2008: Covert, Jefferson, Melvindale, and Watersmeet Twp. These districts abandoned the tax at different times over the years.

[47] Public Act 37 of 2007 exempted industrial personal property from the full 18-mill non-homestead property tax and provided a partial exemption (up to 12 mills) to commercial personal property. Treating the property in this manner effectively subjected these property classifications to the "hold harmless" millages in those districts eligible to levy such a tax, which is levied first on homestead property.

[48] Citizens Research Council of Michigan. *Public Education Governance in Michigan.* Report 359. January 2010.

[49] Ibid.

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EXHIBIT 8

State of Michigan, Public School Academy Districts With Education Service Providers and Chartering Agencies

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
56903	Academic and Career Education Academy	Midland County Educational Service Agency	Education & Training Connections	Mrs. Michelle Zielinski	(989) 631-5202	michellez@aceaofmidland.org
82921	Academy for Business and Technology	Eastern Michigan University	Leona Group	Dr. Paul Merritt	(313) 581-2223	paul.merritt@leonagroup.com
82738	Academy of International Studies	Central Michigan University	Hanley Harper Group	Ms. Dawn Lynk-Jones	(313) 873-9900	djones@academyofinternationalstudies.com
50911	Academy of Warren	Bay Mills Community College	CS Partners	Mr. Eric Graves	(586) 552-8010	egraves@academyofwarren.net
63916	Academy of Waterford	Bay Mills Community College	Education Management & Networks (EMAN)	Mr. Robert Hooper	(248) 674-1649	robert.hooper@emanschools.net
82998	ACE Academy (SDA)	Central Michigan University	edtec central, LLC	Ms. Monica Martin	(313) 433-5641	monica-martin@edtec.net
82717	Achieve Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Jen Conley	(734) 397-0960	78.jconley@heritageacademies.com
63914	Advanced Technology Academy	Lake Superior State University	Technical Academy Group	Mr. Barry Hawthorne	(313) 625-4700	bhawthorne@atafordpas.org
63901	AGBU Alex-Marie Manoogian School	Central Michigan University	Self-managed	Ms. Dyana Kezelian	(248) 569-2988	dkezelian@manoogian.org
82955	Allen Academy	Ferris State University	PIE Academic Management	Mr. DeAngelo Alexander	(313) 898-6444	deangelo.alexander@allenacademydetroit.com
35902	Alternative Educational Academy of Iosco County	Iosco RESA	Self-managed	Mrs. Tina Williams	(989) 362-2575	twilliams@ioscoresa.net
65900	Alternative Educational Academy of Ogemaw County	C.O.O.R. ISD	Iosco RESA	Mr. Dana McGrew	(989) 362-3006	dmcgrew@ioscoresa.net
82730	American International Academy	Lake Superior State University	Self-managed	Mr. Thomas White	(734) 895-7974	t.white@americanintlacademy.com
82981	American Montessori Academy	Bay Mills Community College	CS Partners	Dr. Ticheal Jones	(734) 525-7100	tjones@charterschoolpartners.com
81904	Ann Arbor Learning Community	Eastern Michigan University	Charter HR Educational Services	Ms. Abby Kuhn	(734) 477-0340	abby@annarborlearningcommunity.org
13901	Arbor Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	agumper@fbrcs.org
81909	Arbor Preparatory High School	Bay Mills Community College	PrepNet	Ms. Ana Salazar	(734) 961-9700	asalazar@arborprep.com
50905	Arts Academy in the Woods	Macomb ISD	Self-managed	Mr. Michael Mitchell	(586) 294-0391	mmitchell@artsacad.net

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
63915	Arts and Technology Academy of Pontiac	Bay Mills Community College	CS Partners	Mrs. Septembra Williams	(248) 452-9309	swilliams@atappontiac.com
39909	Augusta Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	agumper@fbrcs.org
13904	Battle Creek Area Learning Center	Kellogg Community College	Self-managed	Mr. Timothy Allard	(269) 565-4783	tallard@lakeviewspartans.org
13900	Battle Creek Montessori Academy	Ferris State University	MI Choice	Ms. Jessica Eldridge	(248) 904-6517	jessicaeldridge@michoicebcma.com
09903	Bay City Academy	Lake Superior State University	Mitten Educational Management	Mr. Kurt Grangood	(231) 584-2080	grangoodk@northcentralacademy.net
09901	Bay-Arenac Community High School	Bay-Arenac ISD	Self-managed	Mrs. Erin Sullivan	(989) 893-8811	sullivane@bachs.us
11903	Benton Harbor Charter School Academy	Ferris State University	Choice Schools Associates	Mr. Tim Harris	(269) 925-3807	timharris@choiceschools.com
70904	Black River Public School	Grand Valley State University	Charter HR Educational Services	Mr. Shannon Brunink	(616) 355-0055	bruninks@brpsk12.org
82971	Blanche Kelso Bruce Academy	Wayne RESA	Evans Solutions	Mr. Blair Evans	(313) 656-2600	bevans@bkbacademy.org
33915	Blended Learning Academies Credit Recovery High School	Ferris State University	ITS Education Management Group	Dr. Tim Brannan	(517) 214-1880	tim.brannan@comcast.net
74914	Blue Water Middle College	St. Clair County RESA	Self-managed	Mr. Peter Spencer	(810) 989-5805	spencer.pete@sccresa.org
63917	Bradford Academy	Bay Mills Community College	Choice Schools Associates	Ms. Cheryl Paull	(248) 251-0000	cherylpaull@choiceschools.com
82705	Branch Line School	Saginaw Valley State University	Advance Educational Services	Mrs. Jennifer Wilkins	(734) 335-0663	jenw@branchlineschool.org
82983	Bridge Academy	Ferris State University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
25909	Burton Glen Charter Academy	Northern Michigan University	National Heritage Academies	Ms. Denesha Rawls-Smith	(810) 744-2300	21.dsmith@heritageacademies.com
41908	Byron Center Charter School	Grand Valley State University	Charter HR Educational Services	Mr. Thomas Berriman	(616) 878-4852	tberriman@byroncentercharter.org
82745	Caniff Liberty Academy	Oakland University	Education Management & Networks (EMAN)	Dr. Mark Gable	(313) 872-2000	mark.gable@emanschools.net
82968	Canton Charter Academy	Central Michigan University	National Heritage Academies	Mrs. Kelie Fuller	(734) 453-9517	39.kfuller@nhaschools.com
82711	Canton Preparatory High School	Grand Valley State University	PrepNet	Mr. Matthew Chesney	(734) 404-6776	mchesney@cantonprep.com
82752	Capstone Academy Charter School (SDA)	Detroit City School District	edtec central, LLC	Ms. Monica Martin	(248) 582-8100	monica-martin@edtec.net

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
51903	Casman Alternative Academy	Manistee ISD	Self-managed	Ms. Michelle VanVoorst	(231) 723-4981	svanvoorst@manistee.org
81902	Central Academy	Central Michigan University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
82918	Cesar Chavez Academy	Saginaw Valley State University	Leona Group	Mr. Javier Garibay	(313) 361-8689	javier.garibay@leonagroup.com
82923	Chandler Park Academy	Saginaw Valley State University	Scholastic Solutions	Mrs. Diane Fisher	(313) 715-3057	diane_fisher@sbcglobal.net
41920	Chandler Woods Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Joe Hammond	(616) 866-6000	22.jhammond@nhaschools.com
15902	Charlevoix Montessori Academy for the Arts	Saginaw Valley State University	Charlevoix Educational Management, LLC.	Mrs. Phoebe Gohs	(231) 547-9000	pgohs@nwa.edu
72901	Charlton Heston Academy	Lake Superior State University	Midwest Management Group, Inc.	Mr. David Patterson	(989) 632-3390	dpatterson@charltonhestonacademy.com
47902	Charyl Stockwell Academy	Central Michigan University	CS Partners	Ms. Deborah Skolnik	(810) 632-2200	dskolnik@csaschool.org
44901	Chatfield School	Saginaw Valley State University	Chatfield Management Corporation	Mr. Matthew Young	(810) 667-8970	myoung@chatfieldschool.org
82996	Clara B. Ford Academy (SDA)	Ferris State University	CS Partners	Dr. Beverly Baroni	(313) 436-0020	Beverly-Baroni@cbfacademy.com
33901	Cole Academy	Central Michigan University	MEP Services	Mr. Brian Shaughnessy	(517) 708-3512	shaughnessyb@coleacademy.org
82919	Commonwealth Community Development Academy	Eastern Michigan University	Self-managed	Mr. Cullian Hill	(313) 366-9470	chill@cwdacademy.com
15901	Concord Academy - Boyne	Lake Superior State University	Lakeshore Educational Management, Inc.	Mrs. Rebekah Leist	(231) 582-0194	rleist@concordboyne.org
24901	Concord Academy - Petoskey	Lake Superior State University	Lakeshore Educational Management, Inc.	Mr. Robert Ollar	(231) 439-6800	bollar@concordpetoskey.com
50902	Conner Creek Academy East	Ferris State University	MEP Services	Mr. Charles Meredith	(586) 779-8055	meredithc@connercreekeast.org
82741	Cornerstone Health and Technology School	Grand Valley State University	Cornerstone Charter Schools	Mrs. Kalyani Bhatt	(734) 812-8583	kalyani.bhatt@cornerstonecharters.org
11901	Countryside Academy	Central Michigan University	Self-managed	Ms. Lyn Sperry	(269) 944-3319	lsperry@countrysideacademy.org
82991	Covenant House Academy Detroit	Grand Valley State University	Youth Vision Solutions	Mrs. Antoinette Cunningham	(517) 410-0621	acunningham@chayvs.org
41900	Covenant House Academy Grand Rapids	Grand Valley State University	Youth Vision Solutions	Ms. Antoinette Cunningham	(313) 558-9022	acunningham@chayvs.org
82969	Creative Montessori Academy	Wayne RESA	Choice Schools Associates	Ms. Nicole Robinson	(734) 284-5600	nicolerobinson@choiceschools.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

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District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
41918	Creative Technologies Academy	Ferris State University	Self-managed	Mr. Daniel George	(616) 696-4905	dgeorge@ctachargers.org
63921	Crescent Academy	Bay Mills Community College	CS Partners	Mrs. Cherise Cupidore	(248) 423-4581	ccupidore@charterschoolpartners.com
41916	Cross Creek Charter Academy	Central Michigan University	National Heritage Academies	Mr. Joseph Nieuwkoop	(616) 656-4000	11.jnieuwkoop@heritageacademies.com
54901	Crossroads Charter Academy	Grand Valley State University	HR Charter Consulting LLC	Ms. PAM DUFFY	(231) 796-9041	duffyp@ccabr.org
38901	Da Vinci Institute	Central Michigan University	Self-managed	Ms. Sandy Maxson	(517) 796-0031	sandy.maxson@davincik12.org
82947	David Ellis Academy	Detroit City School District	Bardwell Group	Ms. theresa ellis	(313) 450-0642	tesrd@aol.com
82994	David Ellis Academy West	Bay Mills Community College	Bardwell Group	Mrs. Sylvia Brown	(248) 809-6138	Sylbrown@bardwellgroup.com
17903	DeTour Arts and Technology Academy	Lake Superior State University	Self-managed	Mrs. Brooke Maciag	(906) 297-2011	bmaciag@eupschools.org
82929	Detroit Academy of Arts and Sciences	Oakland University	Self-managed	Mr. Maurice Morton	(313) 259-1744	mmorton@daask12.com
82700	Detroit Achievement Academy	Grand Valley State University	Self-managed	Ms. Sharon Yaecker-Roesser	(313) 409-8589	Sharon@detroitachievement.org
82925	Detroit Community Schools	Bay Mills Community College	Self-managed	Ms. Sharon McPhail	(313) 537-3570	smcphail@detcomschools.org
82714	Detroit Delta Preparatory Academy for Social Justice	Ferris State University	Equity Education	Ms. Pauline Nagle	(313) 977-9178	pnagle@eqeducation.org
82945	Detroit Edison Public School Academy	Oakland University	New Paradigm For Education	Mr. Ralph Bland	(313) 833-1100	rbland@detroitedisonpsa.org
82979	Detroit Enterprise Academy	Grand Valley State University	National Heritage Academies	Ms. Chanavia Patterson	(313) 823-5799	61.cpatterson@heritageacademies.com
82739	Detroit Innovation Academy	Central Michigan University	Y-ES	Ms. Pauline Nagle	(313) 977-9178	pnagle@eqeducation.org
82722	Detroit Leadership Academy	Central Michigan University	Equity Education	Ms. Pauline Nagle	(313) 977-9178	pnagle@eqeducation.org
82974	Detroit Merit Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Sandra Terry-Martin	(313) 331-3328	45.smartin@heritageacademies.com
82985	Detroit Premier Academy	Grand Valley State University	National Heritage Academies	Mr. James Kinsey	(313) 945-1472	68.jkinsey@nhaschools.com
82704	Detroit Public Safety Academy	Eastern Michigan University	Leona Group	Mr. Isaiah Pettway	(313) 587-0956	isaiah.pettway@leonagroup.com
82953	Detroit Service Learning Academy	Lake Superior State University	Self-managed	Mr. Shannon Smith	(313) 541-7619	smith.shannon@detroitsla.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82930	Dove Academy of Detroit	Oakland University	Choice Schools Associates	Mr. Chris Matheson	(313) 366-9110	chrismatheson@choiceschools.com
63910	Dr. Joseph F. Pollack Academic Center of Excellence	Eastern Michigan University	Human Resource Experts	Mrs. Jamila Whitaker	(248) 569-1060	jwhitaker@pacek-8.org
11905	Dream Academy	Bay Mills Community College	Leona Group	Mr. Lacey James	(269) 926-1587	lacey.james@leonagroup.com
70906	Eagle Crest Charter Academy	Central Michigan University	National Heritage Academies	Mr. Jack DeLeeuw	(616) 786-2400	8.jdeleeuw@nhaschools.com
25916	Eagle's Nest Academy	Grand Valley State University	North Flint Reinvestment Corporation	Dr. Reginald Flynn	(810) 965-1514	northflint@yahoo.com
63936	Early Career Academy	Grand Valley State University	ITT Educational Services	Dr. Phyllis Noda	(248) 524-1800	pnoda@earlycareeracademy.com
81910	East Arbor Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Tanesha Newby	(734) 484-5506	93.tnewby@heritageacademies.com
74900	East Shore Leadership Academy	Northern Michigan University	Bold Education Connections	Ms. Deanna Keller	(810) 294-8040	DKeller@eastshoreleaders.com
82915	Eaton Academy	Central Michigan University	HP School Services	Mrs. Kenis Wallevand	(248) 390-0917	kwallevand@hpschoolservices.com
33902	El-Hajj Malik El-Shabazz Academy	Central Michigan University	Self-managed	Ms. Angela Rodriguez	(517) 267-8474	ar879702@gmail.com
13902	Endeavor Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Angela Wyckoff	(269) 962-9300	14.awyckoff@nhaschools.com
82744	Escuela Avancemos	Detroit City School District	Sanga Consulting, Inc.	Ms. Carmen Munoz	(313) 596-0079	cmunoz@theeaacademyk5.org
39908	Evergreen Academy	Grand Valley State University	Foundation for Behavioral Resources	Ms. Allison Gumper	(269) 731-5775	agumper@fbrcs.org
41905	Excel Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Dan Bartels	(616) 281-9339	2.dbartels@heritageacademies.com
82707	Experiencia Preparatory Academy	Northern Michigan University	CS Partners	Dr. Risha Ring	(313) 262-6861	Rring@XPAprep.org
63926	Faxon Language Immersion Academy	Grand Valley State University	PIE Management (HR Only)	Mrs. Rosie Cohen	(248) 702-6272	r.cohen@faxonacademy.com
82997	Flagship Charter Academy	Central Michigan University	National Heritage Academies	Ms. Faren D'Abell	(313) 933-7933	74.fdabell@nhaschools.com
47903	FlexTech High School	Central Michigan University	CS Partners	Mr. Ryan Gillis	(810) 844-3366	rgillis@flextech-hs.org
39907	Forest Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	allison@forest-academy.org
81906	Fortis Academy	Bay Mills Community College	National Heritage Academies	Mr. Ira Kleiman	(734) 572-3623	55.Ikleiman@heritageacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
63923	Four Corners Montessori Academy	Oakland University	Choice Schools Associates	Ms. Chris Schoenherr	(248) 542-7001	chrisschoenherr@choiceschools.com
73909	Francis Reh PSA	Northern Michigan University	Leona Group	Ms. Kate Scheid-Weber	(989) 753-2349	kate.scheid@leonagroup.com
63935	Frederick Douglass International Academy	Ferris State University	Hanley Harper Group	Mr. Rashid Faisal	(248) 953-2003	rfaisal@fdi-academy.org
82987	Frontier International Academy	Bay Mills Community College	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
82731	GEE Edmonson Academy	Detroit City School District	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
82732	GEE White Academy	Detroit City School District	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
25900	Genesee STEM Academy	Saginaw Valley State University	Light Street Education	Ms. Rita Cheek	(810) 407-8782	rita.cheek@gstema.org
82937	George Crockett Academy	Northern Michigan University	Leona Group	Mrs. Monique Woodland-Phillips	(313) 896-6078	monique.woodland-phillips@leonagroup.com
82963	George Washington Carver Academy	Highland Park City Schools	Midwest Management Group, Inc.	Ms. Sharon Taylor	(313) 865-6024	staylor@gwcarveracademy.org
82725	Global Heights Academy	Grand Valley State University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
50904	Global Preparatory Academy	Central Michigan University	Choice Schools Associates	Ms. Nicole Woods	(586) 575-9500	nicolewoods@choiceschools.com
81900	Global Tech Academy	Eastern Michigan University	Global Educational Excellence	Mr. Mohamad Issa	(734) 369-9500	mohamad@gee-edu.com
25903	Grand Blanc Academy	Eastern Michigan University	CS Partners	Mrs. Patty Wood	(810) 953-3140	pwood@grandblancacademy.org
41921	Grand Rapids Child Discovery Center	Grand Rapids Public Schools	Self-managed	Mr. John Robinson	(616) 459-0330	robinsonj@childdiscoverycenter.org
41927	Grand Rapids Ellington Academy of Arts & Technology	Lake Superior State University	GREAAT Schools, Inc.	Mrs. Cynthia Springer	(616) 551-3049	springerc@greaat.com
82757	Grand River Academy	Grand Valley State University	National Heritage Academies	Mr. Alan Harper	(313) 595-6936	73.aharper@nhaschools.com
41930	Grand River Preparatory High School	Grand Valley State University	PrepNet	Ms. Koree Woodward	(616) 261-1800	kwoodward@prepnetschools.com
28902	Grand Traverse Academy	Lake Superior State University	Full Spectrum	Mrs. Susan Dameron	(231) 995-0665	damerons@mygta.us
41911	Grattan Academy	Saginaw Valley State University	MJ Management Services	Mrs. Elizabeth Kreiner	(616) 691-8999	lkreiner@grattanacademy.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
63907	Great Lakes Academy	Eastern Michigan University	Employees Only	Mr. Aaron Williams	(248) 334-6434	williamsa@greatlakesacademy.org
33914	Great Lakes Cyber Academy	Central Michigan University	Connections Education	Mrs. Heather Ballien	(517) 381-5062	hballien@connectionseducation.com
63922	Great Oaks Academy	Bay Mills Community College	National Heritage Academies	Mr. Damon Williams	(586) 427-4540	66.dwilliams@nhaschools.com
25914	Greater Heights Academy	Central Michigan University	Midwest Management Group, Inc.	Ms. Lisa Leimeister	(810) 768-3860	leimeisterl@greaterheightsacademy.org
82733	Hamilton Academy	Detroit City School District	Educational Partnerships, Inc.	Dr. Jefferson Hamlin	(248) 712-4923	jhamlin@edpartners.net
82977	Hamtramck Academy	Bay Mills Community College	National Heritage Academies	Mr. Michael Griffie	(313) 368-7312	52.mgriffie@nhaschools.com
82986	Hanley International Academy	Grand Valley State University	Romine Group	Ms. Shameka McPherson	(313) 875-8888	SMcPherson@hanleyacademy.org
82926	Henry Ford Academy	Wayne RESA	Self-managed	Ms. Cora Christmas	(313) 982-6193	cchristmas@hfa-dearborn.org
82703	Henry Ford Academy: School for Creative Studies (PSAD)	Grand Valley State University	Creative Urban Education, Inc.	Mrs. Nanette Gill	(313) 695-1723	ngill@hfli.org
82749	Highland Park Public School Academy System	Highland Park City Schools	Leona Group	Ms. Carmen Willingham	(313) 957-3005	carmen.willingham@leonagroup.com
30901	Hillsdale Preparatory School	Hillsdale ISD	Henway Consulting, LLC	Mr. Robert Henthorne	(517) 437-4625	Robert.Henthorne@hillsdaleprep.org
63911	Holly Academy	Central Michigan University	Self-managed	Ms. Julie Kildee	(248) 634-5554	KildeeJ@hollyacademy.org
81901	Honey Creek Community School	Washtenaw ISD	Self-managed	Mr. Al Waters	(734) 994-2636	awaters@hc.wash.k12.mi.us
82942	Hope Academy	Eastern Michigan University	BDFI Educational Services	Dr. Ronald Williams	(313) 934-0054	rwilliams@hopeacademydistrict.org
41926	Hope Academy of West Michigan	Ferris State University	Integrity Education Services	Ms. Heidi Cate	(616) 977-4917	hcate@lighthouseacademyschool.org
82957	Hope of Detroit Academy	Ferris State University	Leona Group	Mr. Ali Abdel	(313) 897-8720	ali.abdel@leonagroup.com
50903	Huron Academy	Ferris State University	CS Partners	Mr. Mark Talbot	(586) 446-9170	talbotm@huronacademy.org
70909	ICademy Global	Lake Superior State University	Innovative Educational Services	Ms. Brook Drooger	(616) 610-0031	brook.drooger@innocademy.com
70908	Innocademy	Lake Superior State University	Innovative Educational Services	Mrs. Brook Drooger	(616) 610-0031	brook.drooger@innocademy.com
03900	Innocademy Allegan Campus	Lake Superior State University	Innovative Educational Services	Mrs. Brook Drooger	(616) 610-0031	brook.drooger@innocademy.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
23903	Insight School of Michigan	Central Michigan University	K12	Mr. Marcus Moore	(240) 461-9924	marcmoore@k12.com
25905	International Academy of Flint	Central Michigan University	SABIS	Mrs. Kendra Giles	(810) 600-5223	Kgiles@sabis.net
73912	International Academy of Saginaw	Bay Mills Community College	SABIS	Mr. Daniel Chisholm	(989) 921-1000	dchisholm@sabis.net
82747	International Preparatory Academy - MacDowell Campus	Detroit City School District	SABIS	Mr. Christopher Lindsay	(313) 494-8141	clindsay@sabis.net
23901	Island City Academy	Central Michigan University	Advance Educational Services	Mr. William Warren	(517) 663-0111	wawarren@islandcity.org
38900	Jackson Preparatory & Early College	Jackson College	Self-managed	Mr. Shane Malmquist	(517) 768-7093	shane.malmquist@jacksonpec.org
82728	Jalen Rose Leadership Academy	Central Michigan University	American Promise Schools	Mr. Russell Harris	(313) 397-3333	harrisr@jrladetroit.com
63933	Jefferson International Academy	Central Michigan University	Hanley Harper Group	Dr. Elizabeth Ruff	(248) 682-5000	dr.e.a.ruff@jeffersoninternationalacademy.com
17901	Joseph K. Lumsden Bahweting Anishnabe Academy	Northern Michigan University	Self-managed	Dr. Theresa Kallstrom	(906) 635-5055	tkallstrom@jklschool.org
82958	Joy Preparatory Academy	Ferris State University	Leona Group	Mrs. Fran Gardulescu	(313) 340-0023	fran.gardulescu@leonagroup.com
47901	Kensington Woods Schools	Central Michigan University	Employees Only	Mr. Markus Muennix	(517) 545-0828	mmuennix@kwoods.org
63938	Keys Grace Academy	Madison District Public Schools	Kalasho Empowerment of Young Scholars	Ms. Rhonda Foumia	(248) 939-0663	Rhondaf919@aol.com
82976	Keystone Academy	Bay Mills Community College	National Heritage Academies	Mrs. Keturah Godfrey	(734) 697-9470	46.kgodfrey@heritageacademies.com
63934	Kingsbury Country Day School	Saginaw Valley State University	CS Partners	Mr. Tom Mecsey	(248) 628-2571	tmecsey@kingsburyschool.org
41914	Knapp Charter Academy	Grand Valley State University	National Heritage Academies	Mr. David Turcotte	(616) 364-1100	7.dturcotte@heritageacademies.com
39900	Lakeside Charter School	Kalamazoo RESA	Sequel Youth Services of Michigan	Mr. John Thompson	(269) 381-4760	john.thompson@sequelyouthservices.com
74903	Landmark Academy	Saginaw Valley State University	Summit Management Consulting	Mrs. Debby Wilton	(810) 982-7210	wiltond@landmarkacademy.net
33910	Lansing Charter Academy	Bay Mills Community College	National Heritage Academies	Mr. Alvin Ward	(517) 882-9585	81.award@heritageacademies.com
63918	Laurus Academy	Bay Mills Community College	National Heritage Academies	Mr. Raul Calderon	(248) 799-8401	54.rcalderon@heritageacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
45901	Leelanau Montessori Public School Academy	Suttons Bay Public Schools	Self-managed	Mrs. Rebecca Creighton	(231) 271-8609	creightonr@leelanaumontessori.org
82723	Legacy Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Letoskey Carey	(313) 368-2215	88.lcarey@heritageacademies.com
63920	Life Skills Center of Pontiac	Bay Mills Community College	edtec central, LLC	Ms. Monica Martin	(248) 582-8100	monica-martin@edtec.net
23900	LifeTech Academy	Eaton Rapids Public Schools	Engaged Education	Mr. Thomas Ackerson	(517) 325-5469	tackerson@lifetechacademy.org
47900	Light of the World Academy	Grand Valley State University	GPS	Ms. Margaret Ameel	(586) 212-1412	m.ameel@globalpsychology.net
41922	Lighthouse Academy	Ferris State University	Integrity Education Services	Ms. Heidi Cate	(616) 949-2287	hcate@lighthouseacademyschool.org
25907	Linden Charter Academy	Central Michigan University	National Heritage Academies	Ms. Deonna Washington	(810) 720-0515	23.dwashington@heritageacademies.com
53900	Mackinac Preparatory Academy	Baldwin Community Schools	Foundation Learning	Mr. Justin Schmitt	(970) 258-0518	justin.schmitt@foundationlearning.org
50901	Macomb Academy	Central Michigan University	Self-managed	Mr. Andrew Wise	(586) 228-2201	awise@macombacademy.net
50914	Macomb Montessori Academy	Lake Superior State University	MI Choice	Ms. Ashley Ogonowski	(586) 359-2138	ashleyogonowski@michoicemma.com
25911	Madison Academy	Bay Mills Community College	Romine Group	Mrs. Joddi Mills	(810) 655-2949	JMills@madison-academy.org
82742	Madison-Carver Academy	Grand Valley State University	Cornerstone Charter Schools	Mrs. Kalyani Bhatt	(734) 812-8583	kalyani.bhatt@cornerstonecharters.org
13903	Marshall Academy	Ferris State University	Midwest School Services	Mr. Brent Swan	(269) 781-6330	swanb@marshallacademy.org
82910	Martin Luther King, Jr. Education Center Academy	Detroit City School District	Self-managed	Dr. Constance Price	(313) 341-4944	cprice6360@aol.com
82924	Marvin L. Winans Academy of Performing Arts	Saginaw Valley State University	Solid Rock Management Company	Dr. Randy Hayward	(313) 873-7625	rhayward@winans.spfs.k12.mi.us
50906	Merritt Academy	Saginaw Valley State University	Romine Group	Mr. Nathan Seiferlein	(586) 749-6000	nseiferlein@merritt-academy.org
82967	Metro Charter Academy	Grand Valley State University	National Heritage Academies	Mrs. Shelli Wildfong	(734) 641-3200	36.swildfong@heritageacademies.com
33911	Michigan Connections Academy	Ferris State University	Connections Education	Mr. Bryan Klochack	(517) 597-5390	bklochack@connectionseducation.com
82751	Michigan Educational Choice Center	Education Achievement Authority of Michigan	Performance Academies	Ms. Stephanie Widner	(313) 820-0809	swidner@performanceacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
51905	Michigan Great Lakes Virtual Academy	Manistee Area Public Schools	K12	Mr. Kendall Schroeder	(231) 794-5999	kschroeder@k12.com
63924	Michigan Mathematics and Science Academy	Grand Valley State University	Concept Schools	Mr. Oguzhan Yildiz	(586) 920-2163	yildiz@mmsaonline.org
63927	Michigan School for the Arts	Oakland University	Creative School Services	Dr. Carl Byerly	(248) 338-2787	cbyerly@michiganschoolarts.org
82907	Michigan Technical Academy	Central Michigan University	Matchbook Learning Solutions, Inc.	Dr. Amy Galloway Swann	(313) 537-9311	amy@matchbooklearning.com
41925	Michigan Virtual Charter Academy	Grand Valley State University	K12	Mr. Andrei Nichols	(616) 309-1600	annichols@k12.com
33904	Mid-Michigan Leadership Academy	Central Michigan University	SABIS	Dr. Sephira Shuttlesworth	(517) 485-5379	sshuttlesworth@sabis.net
56902	Midland Academy of Advanced and Creative Studies	Central Michigan University	Midland Charter Initiative	Dr. Kathryn Shick	(989) 496-2404	kathrynshick@gmail.com
11904	Mildred C. Wells Preparatory Academy	Bay Mills Community College	Leona Group	Mr. Charlie Lovelady	(269) 926-2885	charlie.lovelady@leonagroup.com
63928	Momentum Academy	Lake Superior State University	Romine Group	Mr. Kevelin Jones	(248) 336-5600	KJones@ihavemomentum.org
37902	Morey Montessori Public School Academy	Central Michigan University	Choice Schools Associates	Mr. Eric Johnson	(989) 866-6741	ericjohnson@choiceschools.com
50908	Mt. Clemens Montessori Academy	Bay Mills Community College	CS Partners	Mr. Casey Rakowski	(586) 465-5545	mtcma@comcast.net
81908	Multicultural Academy	Bay Mills Community College	Universal Management LLC	Ms. Elizabeth Parks	(734) 677-0732	eparks@macademyk8.com
61906	Muskegon Covenant Academy	Grand Valley State University	Self-managed	Mr. Jim VanBergen	(231) 720-3100	jvanbergen@mcovenantacademy.org
61905	Muskegon Heights Public School Academy System	Muskegon Heights School District	Self-managed	Mrs. Alena Zachery	(231) 660-2883	azachery@mhtigers.org
61900	Muskegon Montessori Academy for Environmental Change	Ferris State University	MI Choice	Ms. Alisha DuBois	(231) 766-7500	alidubois@michoicemmaec.com
55901	Nah Tah Wahsh Public School Academy	Northern Michigan University	Self-managed	Mr. Tom Miller	(906) 466-2952	tom.miller@hannahvilleschool.net
82905	Nataki Talibah Schoolhouse of Detroit	Central Michigan University	Nataki Educational Services	Mrs. Samara Etheridge	(313) 531-3720	setheridge@natakitalibah.org
58901	New Bedford Academy	Ferris State University	MJ Management Services	Mr. Greg Sauter	(734) 854-5437	gsauter@newbedfordacademy.com
82962	New Beginnings Academy	Central Michigan University	MEP Services	Ms. Kenya Crockett	(734) 481-9001	kcrockett@newbeginningsacademy.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

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District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
41901	New Branches Charter Academy	Central Michigan University	Self-managed	Ms. Teresa Larkin	(616) 243-6221	teresalarkin@choiceschools.com
82713	New Paradigm College Prep	Grand Valley State University	New Paradigm For Education	Mr. Ralph Bland	(313) 215-4617	ralph@npfenow.org
82734	New Paradigm Glazer Academy	Detroit City School District	New Paradigm For Education	Mr. Ralph Bland	(313) 833-1100	RBland@detroitedisonpsa.org
82735	New Paradigm Loving Academy	Detroit City School District	New Paradigm For Education	Mr. Ralph Bland	(313) 833-1100	RBland@detroitedisonpsa.org
82758	New School High	Central Michigan University	Self-managed	Ms. Cynthia Burnstein	(734) 386-6601	cburnstein@newschoolhigh.org
41929	Nexus Academy of Grand Rapids	Central Michigan University	Connections Education	Principal Daniel McMinn	(616) 458-4992	dmcminn@connectionseducation.com
33913	Nexus Academy of Lansing	Central Michigan University	Connections Education	Mr. Charles Carver	(734) 358-9775	ccarver@connectionseducation.com
63930	Nexus Academy of Royal Oak	Central Michigan University	Connections Education	Mr. Michael Foley	(248) 593-8440	mfoley@connectionseducation.com
50913	Noor International Academy	Central Michigan University	Hamadeh Educational Services, Inc.	Ms. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
73910	North Saginaw Charter Academy	Central Michigan University	National Heritage Academies	Ms. Sarah Simpson	(989) 249-5400	24.ssimpson@nhaschools.com
52901	North Star Academy	Northern Michigan University	Self-managed	Mr. Joseph Kukulski	(906) 226-0156	jkukulski@nsacd.com
25904	Northridge Academy	Ferris State University	Leona Group	Mrs. Latricia Brown -Coates	(810) 785-8811	latricia.brown-coates@leonagroup.com
39903	Oakland Academy	Grand Valley State University	Foundation for Behavioral Resources	Mrs. Allison Gumper	(269) 731-5775	allison@oakland-academy.org
63931	Oakland FlexTech Academy	Central Michigan University	CS Partners	Ms. Sarah Pazur	(248) 471-6799	spazur@oaklandflextech.org
63912	Oakland International Academy	Saginaw Valley State University	Education Management & Networks (EMAN)	Mr. Larry Cowger	(313) 285-8990	larry.cowger@emanschools.net
63909	Oakside Scholars Charter Academy	Bay Mills Community College	National Heritage Academies	Ms. Kathleen Grinwis	(616) 304-6601	16.kgrinwis@heritageacademies.com
17902	Ojibwe Charter School	Bay Mills Community College	MEP Services	Ms. Stephanie Vittitow	(906) 248-2530	svittitow@bmocs.org
82956	Old Redford Academy	Central Michigan University	Innovative Teaching Solutions	Mr. Robert Brooks	(313) 766-7615	rbrooks@oldredford.com
03902	Outlook Academy	Allegan Area Educational Service Agency	Self-managed	Mr. Rick Cain	(269) 673-2161	rcain@alleganaesa.org
12901	Pansophia Academy	Central Michigan University	CS Partners	Ms. Jamie Mueller	(517) 279-4686	jmueller@pansophia.us

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Public School Academy Districts with Education Service Providers and Chartering Agencies

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District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
38902	Paragon Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Ben Kriesch	(517) 750-9500	15.bkriesch@nhaschools.com
39905	Paramount Charter Academy	Bay Mills Community College	National Heritage Academies	Mrs. Jodi Donkin	(269) 553-6400	16.jdonkin@nhaschools.com
82737	Pathways Academy	Detroit City School District	Innovative Educational Services	Ms. Michelle Parham	(313) 209-3804	mparham@pathwaysdetroit.com
82904	Plymouth Educational Center Charter School	Central Michigan University	Human Resource Experts	Mrs. Kenise Wallevand	(313) 831-3280	hpss@plymouthed.org
82743	Plymouth Scholars Charter Academy	Bay Mills Community College	National Heritage Academies	Mr. Walter Reese	(734) 459-6149	94.wreese@nhaschools.com
63906	Pontiac Academy for Excellence	Saginaw Valley State University	Charter School Services of Michigan	Mr. William Jackson	(248) 745-9420	jacksonw@pontiacacademy.org
71902	Presque Isle Academy II	Cheb-Otsego-Presque Isle ESD	Self-managed	Mr. Earl Bassett	(989) 733-6708	pia@presqueisleacademy.com
50909	Prevail Academy	Bay Mills Community College	National Heritage Academies	Ms. Colleen Furman	(586) 783-0173	53.cfurman@nhaschools.com
82718	Quest Charter Academy	Central Michigan University	National Heritage Academies	Mr. Ralph Garza	(313) 299-0534	83.rgarza@heritageacademies.com
50912	Reach Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Lorianne Dedomenico	(586) 498-9171	77.ldedomenico@nhaschools.com
82727	Regent Park Scholars Charter Academy	Lake Superior State University	National Heritage Academies	Ms. Crystal Byse	(313) 371-1300	90.cbyse@heritageacademies.com
82759	Regents Academy	Redford Union Schools, District No. 1	Global Alliance Collaborative Group	Dr. Paula Watkins	(248) 703-5919	pwwatkins@gacgroup.org
23902	Relevant Academy of Eaton County	Eaton RESA	Self-managed	Ms. Jennifer Varney	(517) 541-8949	jvarney@relevantacademy.org
37901	Renaissance Public School Academy	Central Michigan University	CS Partners	Mrs. Lisa Bergman	(989) 773-9889	lbergman@renaissancepsa.com
25910	Richfield Public School Academy	Bay Mills Community College	Advance HR	Mrs. Pamela Haldy	(810) 736-1281	phaldy@richfieldpsa.org
41919	Ridge Park Charter Academy	Lake Superior State University	National Heritage Academies	Mr. Emory Wyckoff	(616) 222-0093	18.ewyckoff@heritageacademies.com
50915	Rising Stars Academy	Center Line Public Schools	Self-managed	Mrs. Debbie Prentiss	(586) 405-9473	risingstar.prentiss@gmail.com
41928	River City Scholars Charter Academy	Bay Mills Community College	National Heritage Academies	Ms. Brennecke Hinojosa	(616) 248-3390	95.bhinojosa@nhaschools.com
82975	Riverside Academy	Central Michigan University	Global Educational Excellence	Mr. Mohamad Issa	(734) 662-7050	mohamad@gee-edu.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

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District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82948	Ross-Hill Academy	Detroit City School District	777 Management Company	Dr. Nellie Williams	(313) 922-8088	nhwms777@yahoo.com
82748	Rutherford Winans Academy	Detroit City School District	Solid Rock Management Company	Mr. Reginald Scott	(313) 873-7627	rscott@solidrock-management.com
73911	Saginaw Learn to Earn Academy	Saginaw ISD	SVRC Industries	Dr. Heather Thompson	(989) 399-8775	hthompson@svrcindustries.com
73908	Saginaw Preparatory Academy	Saginaw Valley State University	Leona Group	Ms. Molly Rundell	(989) 752-9600	molly.rundell@leonagroup.com
63900	Sarah J. Webber Media Arts Academy	Lake Superior State University	Educational Management Solutions	Mr. James Graves	(248) 972-9100	jamesgraves65@yahoo.com
81905	South Arbor Charter Academy	Central Michigan University	National Heritage Academies	Mrs. Kim Bondy	(734) 528-2821	19.kbondy@heritageacademies.com
82729	South Canton Scholars Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Sabrina Terenzi	(734) 398-5658	92.sterenzi@nhaschools.com
81912	South Pointe Scholars Charter Academy	Northern Michigan University	National Heritage Academies	Ms. Nancy Kouba	(734) 484-0118	96.nkouba@heritageacademies.com
82755	Southwest Detroit Community School	Grand Valley State University	Lighthouse Academies, Inc.	Ms. Sherrie Buchzeiger	(313) 782-4422	sbuchzeiger@lhacs.org
74911	St. Clair County Intervention Academy	Port Huron Area School District	Romine Group	Mr. Troy Peyerk	(810) 966-1649	tpeyerk@intervention-academy.org
82941	Star International Academy	Oakland University	Hamadeh Educational Services, Inc.	Mrs. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
82736	Starr Detroit Academy	Central Michigan University	Starr Commonwealth Educational Services	Mr. Ralph Burrell	(313) 649-2200	melissa.ross@starracademy.org
09902	State Street Academy	Bay Mills Community College	Access Point Educational H.R.	Mrs. Joy Wagner	(989) 684-6484	jwagner@statestreetacademy.org
50916	Success Mile Academy	Grand Valley State University	Charter Schools USA	Mr. Thomas Gladieux	(586) 353-2108	tgladieux@successmileacademy.org
82916	Summit Academy	Central Michigan University	MEP Services	Ms. LEANN HEDKE	(734) 379-9786	LHEDKE@SUMMIT-ACADEMY.COM
82938	Summit Academy North	Central Michigan University	MEP Services	Ms. LEANN HEDKE	(734) 379-9766	LHEDKE@SUMMIT-ACADEMY.COM
82995	Taylor Exemplar Academy	Bay Mills Community College	National Heritage Academies	Ms. Julie Zirille	(734) 941-7742	72.jzirille@heritageacademies.com
63925	Taylor International Academy	Central Michigan University	Renaissance School Services	Mrs. Sara Joyce	(248) 354-1500	sjoyce@taylorinternationalacademy.com
82756	Taylor Preparatory High School	Grand Valley State University	PrepNet	Ms. Aquan Miles	(313) 668-2100	amiles@taylorprephs.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82928	The Dearborn Academy	Central Michigan University	American Institutional Management Services, Inc. (AIMS, Inc.)	Mrs. Afrin Alavi	(313) 982-1300	aalavi@thedearbornacademy.org
28904	The Greenspire School	Traverse City Area Public Schools	Self-managed	Mr. Kevin Kelly	(231) 421-5905	kevin.kelly@greenspireschool.org
82706	The James and Grace Lee Boggs School	Eastern Michigan University	Nataki Educational Services	Ms. Amanda Rosman	(313) 408-7235	amanda.boggsschool@gmail.com
25912	The New Standard Academy	Saginaw Valley State University	Romine Group	Ms. Jenna Darnell	(810) 787-3330	jdarnell@newstandardflint.org
49901	Three Lakes Academy	Bay Mills Community College	Self-managed	Mrs. Susan Pann	(906) 586-6631	spann@eup.k12.mi.us
61904	Three Oaks Public School Academy	Bay Mills Community College	Choice Schools Associates	Ms. Monecia Vasbinder	(231) 767-3365	monecialvasbinder@choiceschools.com
61902	Timberland Academy	Grand Valley State University	National Heritage Academies	Mrs. Angelia Coleman	(231) 767-9700	9.acoleman@heritageacademies.com
82933	Timbuktu Academy of Science and Technology	Detroit City School District	Magnum Educational Services	Ms. Cha-Rhonda Edgerson	(313) 823-6000	edgersonc@gmail.com
82754	Tipton Academy	Lake Superior State University	Romine Group	Ms. Suzanne March	(734) 261-0500	smarch@tipton-academy.org
82973	Trillium Academy	Central Michigan University	Romine Group	Ms. Angela Romanowski	(586) 731-5300	angela@therominegroup.com
58902	Triumph Academy	Bay Mills Community College	National Heritage Academies	Ms. Amy Tansel	(734) 240-2610	56.atansel@nhaschools.com
82950	Universal Academy	Oakland University	Hamadeh Educational Services, Inc.	Mrs. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
82982	Universal Learning Academy	Bay Mills Community College	Hamadeh Educational Services, Inc.	Mrs. Nawal Hamadeh	(313) 565-0507	nhamadeh@hesedu.com
82702	University Preparatory Academy (PSAD)	Grand Valley State University	Detroit 90/90	Ms. Danielle Jackson	(313) 269-5616	danielle.jackson@uprepschools.com
82701	University Preparatory Science and Math (PSAD)	Grand Valley State University	Detroit 90/90	Ms. Danielle Jackson	(313) 887-1613	danielle.jackson@uprepschools.com
82724	University Yes Academy	Bay Mills Community College	Inspired Education	Ms. Lesley Redwine	(313) 949-7276	lesleyredwine@newurbanlearning.org
70905	Vanderbilt Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Holly Hillary	(616) 820-5050	5.hhillary@heritageacademies.com
41910	Vanguard Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Mark Dejong	(616) 538-3630	3.mdejong@heritageacademies.com

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
74912	Virtual Learning Academy of St. Clair County	St. Clair County RESA	Self-managed	Mrs. Denice Lapish	(810) 455-4025	lapish.denice@sccresa.org
41909	Vista Charter Academy	Bay Mills Community College	National Heritage Academies	Ms. Heather Guerra	(616) 246-6920	4.hguerra@nhaschools.com
82716	Vista Meadows Academy	Bay Mills Community College	CS Partners	Ms. Darrlyn Harrison	(313) 240-4347	Darrlyn-Harrison@vistameadowspsa.com
82940	Voyageur Academy	Ferris State University	American Promise Schools	Mr. Joseph Tenbusch	(313) 964-2539	tenbuschj@jrladetroit.com
82746	W-A-Y Academy	Lake Superior State University	W-A-Y (Widening Advancements for Youth)	Dr. Alexander Cintron	(313) 444-9292	alex.cintron@wayprogram.net
70901	Walden Green Montessori	Central Michigan University	Advance Educational Services	Mr. Mark Neidlinger	(616) 842-4523	markneidlinger@waldengreenschool.org
41915	Walker Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Steve Bagley	(616) 785-2700	6.sbagley@heritageacademies.com
63913	Walton Charter Academy	Northern Michigan University	National Heritage Academies	Ms. Mona Boersma	(248) 371-9300	26.mboersma@nhaschools.com
82970	Warrendale Charter Academy	Grand Valley State University	National Heritage Academies	Mr. Vondra Glass	(313) 240-4200	41.vglass@nhaschools.com
82719	Washington-Parks Academy	Grand Valley State University	Cornerstone Charter Schools	Mrs. Kalyani Bhatt	(734) 812-8583	kalyani.bhatt@cornerstonecharters.org
81903	Washtenaw Technical Middle College	Washtenaw Community College	Self-managed	Dr. Karl Covert	(734) 973-3410	kacovert@wccnet.edu
63929	Waterford Montessori Academy	Saginaw Valley State University	American Montessori Center	Mr. Jeremy Gilliam	(248) 674-2400	jgilliam@waterfordmontessori.org
25915	WAY Academy - Flint	Lake Superior State University	W-A-Y (Widening Advancements for Youth)	Dr. Alexander Cintron	(313) 444-9292	alex.cintron@wayprogram.net
82710	WAY Michigan	Central Michigan University	W-A-Y (Widening Advancements for Youth)	Dr. Alexander Cintron	(313) 444-9292	alex.cintron@wayprogram.net
41923	Wellspring Preparatory High School	Bay Mills Community College	PrepNet	Mrs. Jessica Knoth	(616) 235-9500	jknoth@wellspringprep.com
70902	West MI Academy of Arts and Academics	Grand Valley State University	Advance Educational Services	Mrs. Cathy Cantu	(616) 844-9961	ccantu@westmichiganacademy.org
41904	West MI Academy of Environmental Science	Central Michigan University	Choice Schools Associates	Mr. Scott Morgan	(616) 791-7454	scottmorgan@choiceschools.com
41924	West Michigan Aviation Academy	Bay Mills Community College	CS Partners	Mr. Patrick Cwayna	(616) 446-8886	pcwayna@westmichiganaviation.org

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Public School Academy Districts with Education Service Providers and Chartering Agencies

				Lead Administrator Details		
District Code	PSA Official Name	Chartering Agency	Education Service Provider Name	Name	Phone	E-Mail
82959	West Village Academy	Central Michigan University	Midwest Management Group, Inc.	Mrs. Coletta Counts	(313) 274-9200	ccounts@westvillageacademy.org
82943	Weston Preparatory Academy	Oakland University	CS Partners	Mr. Philip Yaccick	(313) 387-6038	pyaccick@westondetroit.com
33906	White Pine Academy	Saginaw Valley State University	AXIOS Inc.	Mr. Keven Numinen	(517) 589-8961	knuminen@whitepineacademy.com
30902	Will Carleton Charter School Academy	Hillsdale ISD	Helicon Associates	Mrs. Colleen Gadwood	(517) 437-2000	wcagadwood@yahoo.com
41917	William C. Abney Academy	Grand Valley State University	Self-managed	Mr. Damon Pitt	(616) 552-7001	dpitt@thewcaa.org
33909	Windemere Park Charter Academy	Grand Valley State University	National Heritage Academies	Ms. Yvonne Thomas	(517) 327-0700	27.ythomas@heritageacademies.com
56901	Windover High School	Midland County Educational Service Agency	Education & Training Connections	Mrs. Gina Wilson	(989) 832-0852	gwilson@windover.org
25902	Woodland Park Academy	Central Michigan University	Advance Educational Services	Mr. Jeremy Brown	(810) 695-4710	jbrown@wp-academy.org
28901	Woodland School	Saginaw Valley State University	Advance Educational Services	Mr. Nathan Tarsa	(231) 947-7474	ntarsa@woodlandschool.ws
82913	Woodward Academy	Central Michigan University	Self-managed	Ms. Hollie Stange	(313) 961-2108	hstange@woodwardpsa.com
81911	WSC Academy	Lake Superior State University	Work Skills Corporation	Mrs. Portia Davis Mann	(734) 794-0218	Mannp@wsc-academy.org
39906	Youth Advancement Academy	Kalamazoo RESA	Ombudsman	Mrs. Amber Long	(586) 552-3881	amberlong@ombudsman.com

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EXHIBIT 9

Charts showing burden on local governments

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Burden on Local Government
State Aid
Prop A
Charter Schools

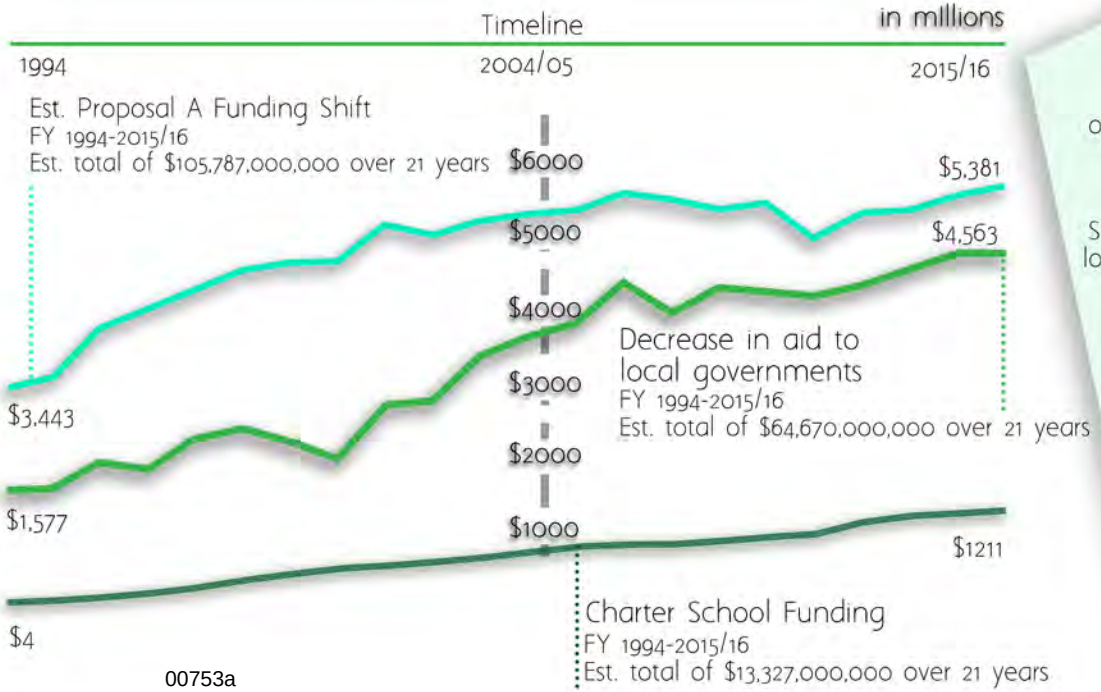

Pre 1994 aid


Post 1994 aid actually going to local government

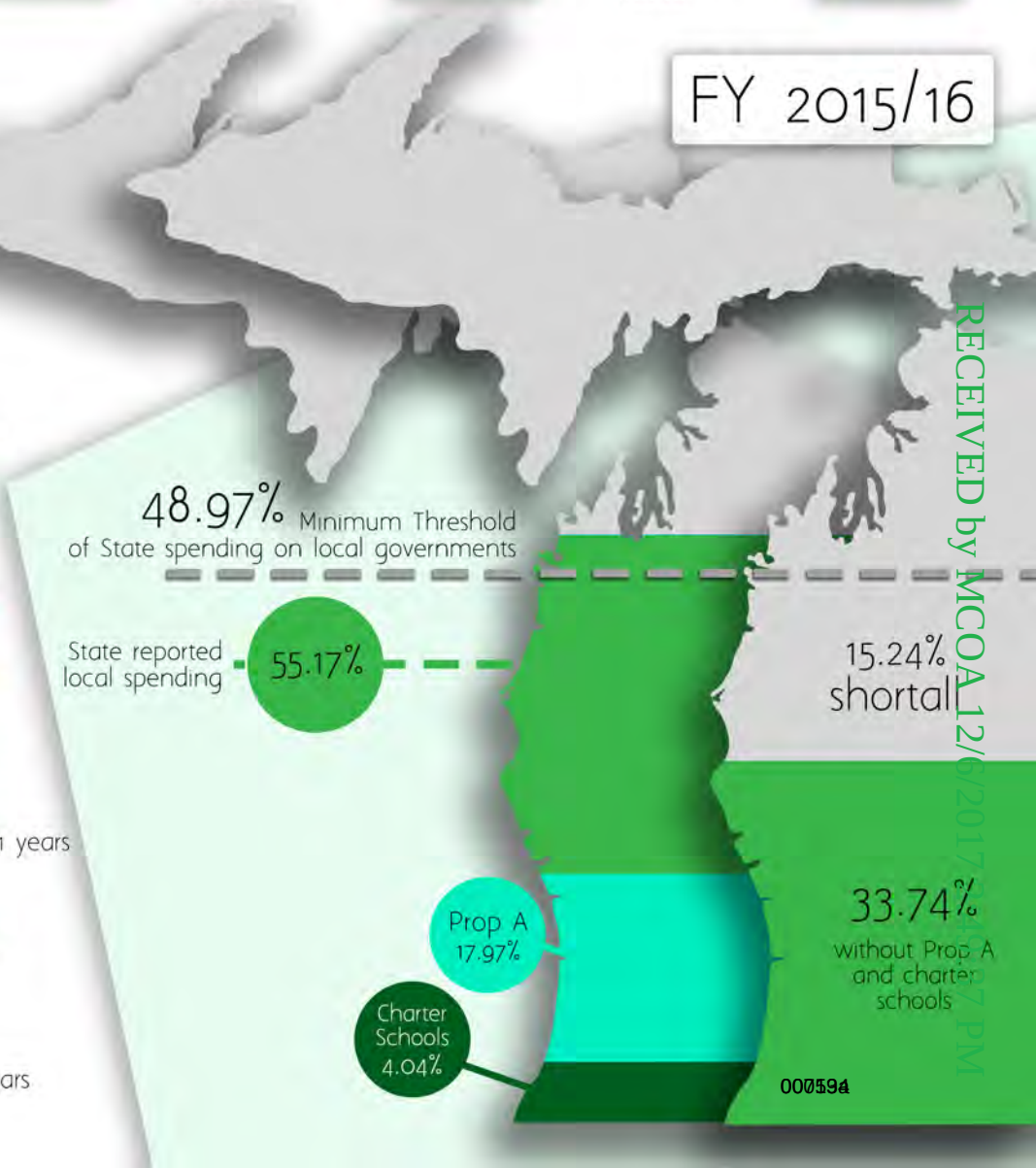

How the State portrays aid to local government


Aid & Payments, as it should be.

Results of the state improperly counting spending on Proposal A and Charter Schools as aid required by the State of Michigan Consitution



00753a

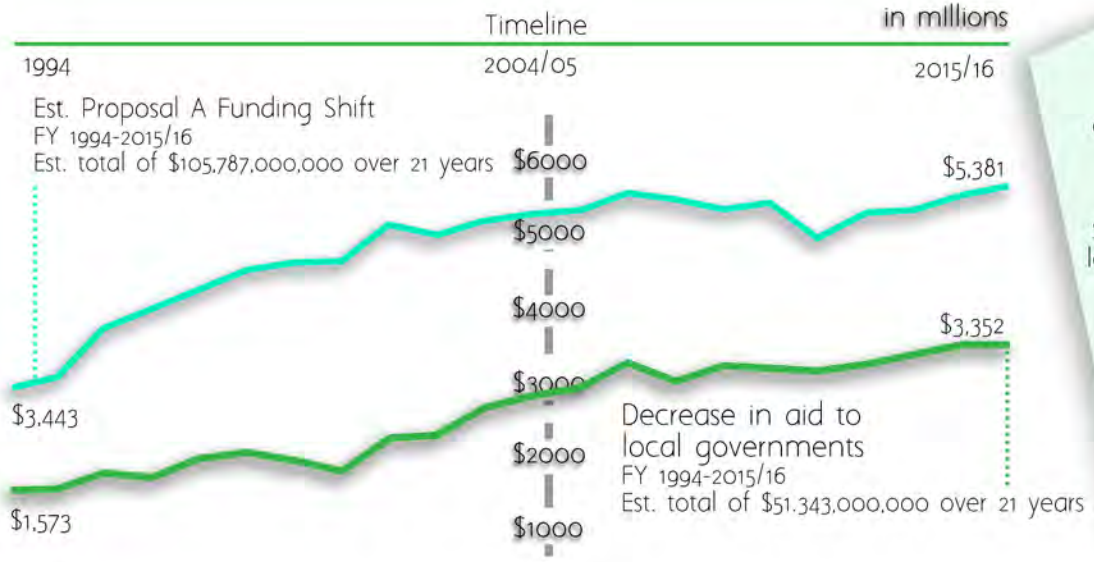


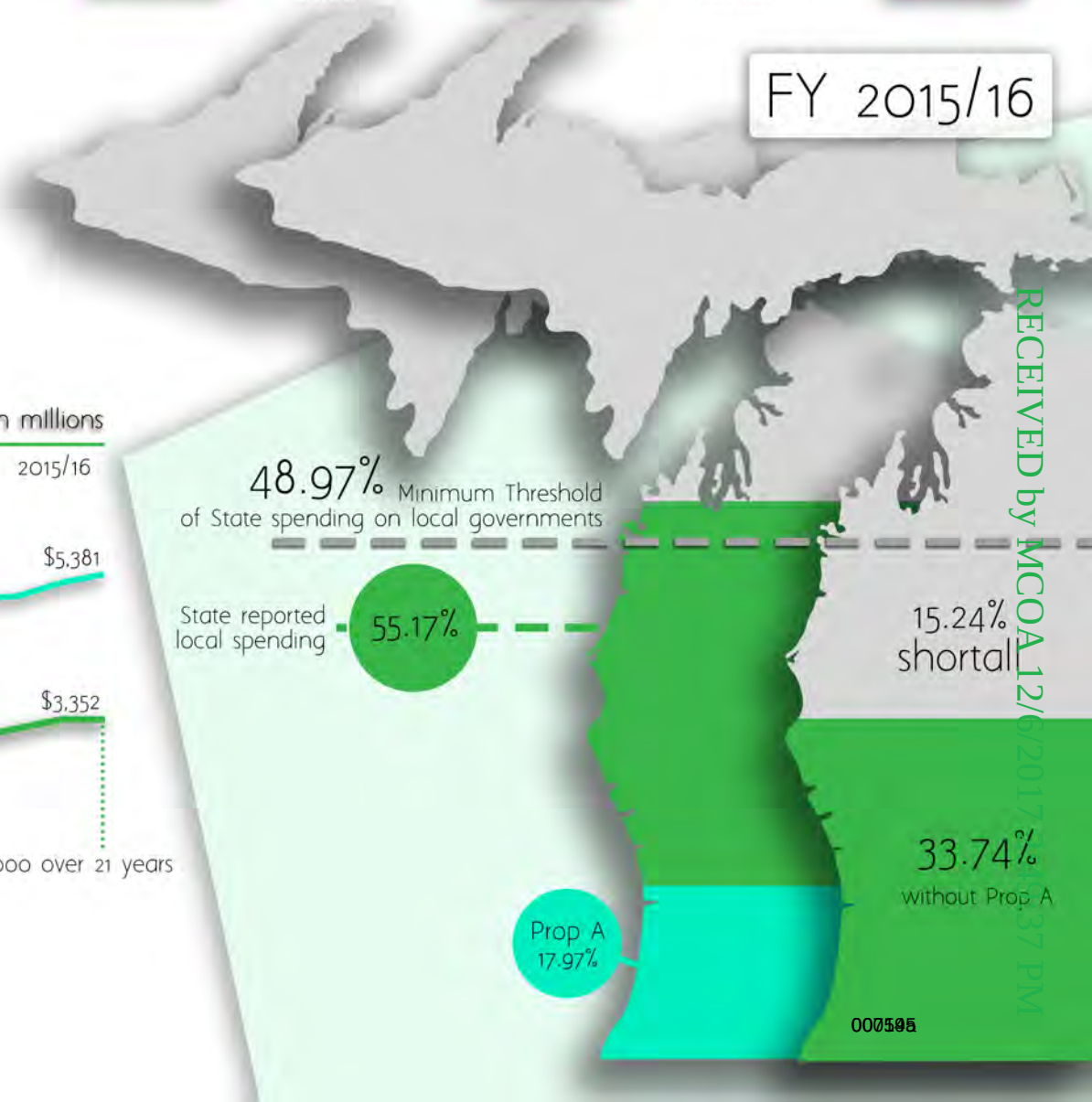
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Results of the state improperly counting spending on Proposal A as aid required by the State of Michigan Consitution





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Burden on Local Government

State Aid

Charter Schools

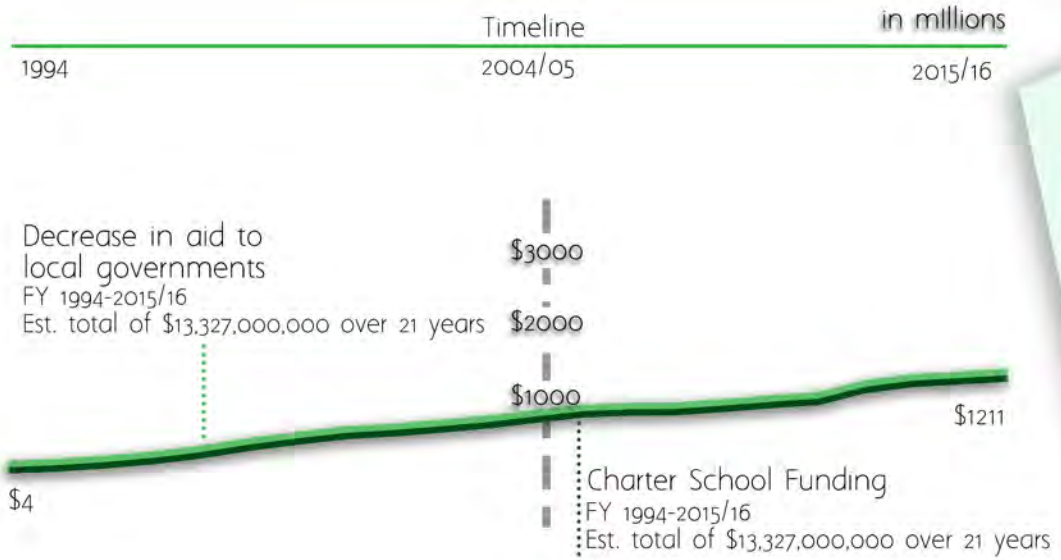


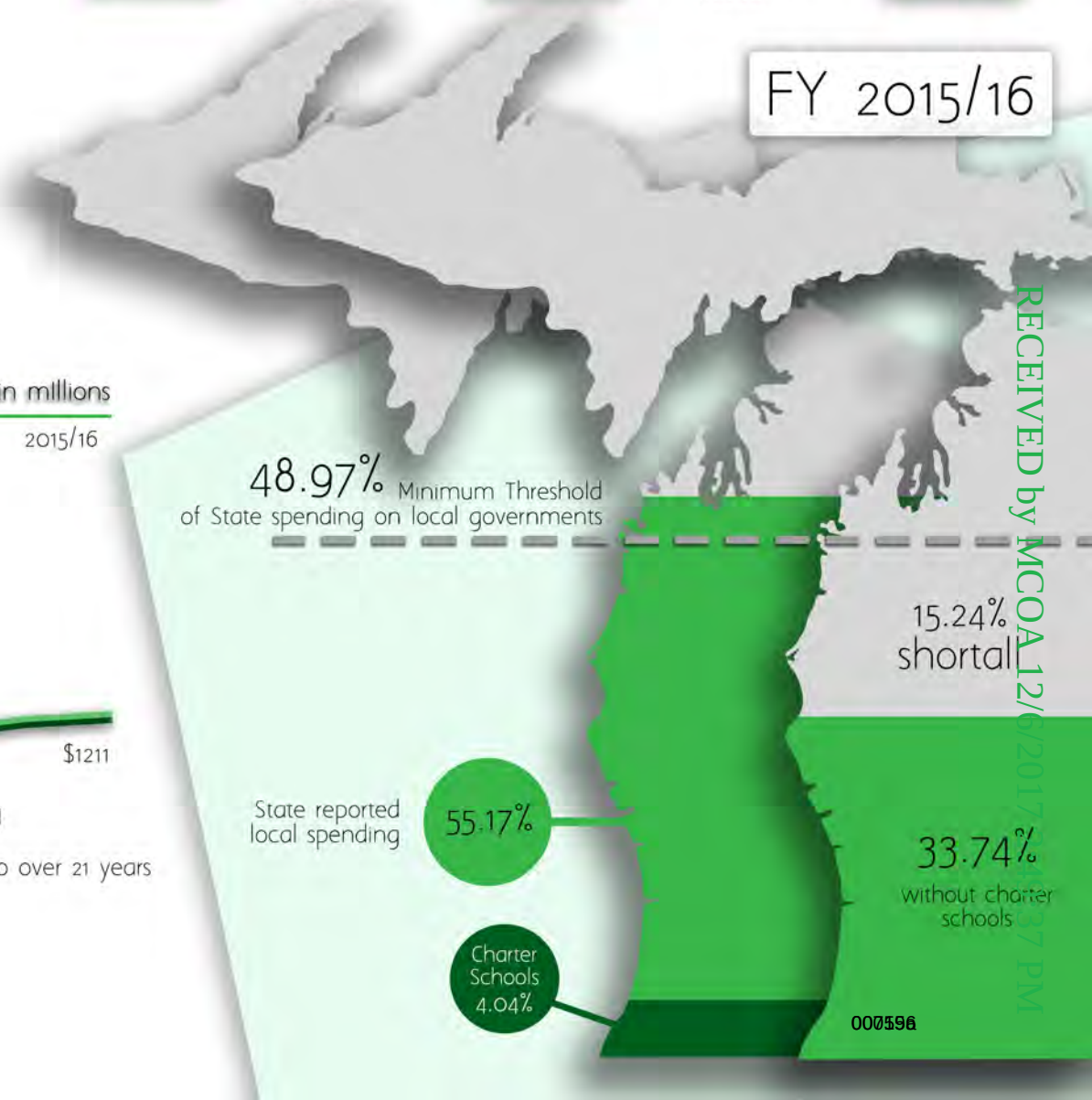






Results of the state improperly counting spending on Charter Schools as aid required by the State of Michigan Consitution





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EXHIBIT 10

Affidavit of TMCG Treasurer, Steve Duchane

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.

---/

AFFIDAVIT OF STEVEN DUCHANE

I, **STEVEN DUCHANE**, being duly sworn affirm, and based on knowledge, information and belief do hereby state as follows:

1. I am one of the founding members and am the Treasurer of Taxpayers for Michigan Constitutional Government.

2. Taxpayers for Michigan Constitutional Government (TMCG) is Michigan nonprofit corporation incorporated on July 22, 2015.

3. Taxpayers for Michigan Constitutional Government applied for and was granted I.R.S. 501(c)(3) status in February 2016.

4. Throughout the time that TMCG has been in existence its officers, including myself, have incurred expenses related to the business of the organization. Such expenses

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include gas for travel by car to meetings with various public officials and organizational members, meal expenses for business meetings, and incidental expenses for basic office supplies used to advance the purposes and business of the organization. All Michigan sales and use taxes for such items were paid when the expenses were incurred.

5. The membership of TMCG is composed of individual members and municipal members.

6. Each of TMCG's individual members are residents of and taxpayers in the State of Michigan.

7. Each of TMCG's municipal members are cities, villages or townships located in the State of Michigan.

8. Individual members of Taxpayers for Michigan Constitutional Government include:

Keith Baer of Grosse Pointe Park
Susan Bomier of Ann Arbor
Jason Dritsan of Grosse Pointe Park
Steven Duchane of Clinton Township
Jocelyn Fitzpatrick of Detroit
Claire Forster of Harbor Springs
William Furtaw of Grosse Pointe Park
Debbie Houser of Macomb Township
Sara Kandel of Roseville
Karen Lawerence of Grosse Pointe Farms
John E. Mogk of Grosse Pointe Park
Matthew Mogk of Grosse Pointe
Donald Sanders of Saint Clair Shores
George Sassin of Clinton Township
Sam Smith of Detroit
Hugh Sparkman of Harper Woods
Daniel Stricof of Lake Leelanau
Debra Stricof of Lake Leelanau
Maggie Veneri of Grosse Pointe Farms
Denise Wyatt of Harrison Township

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9. Municipal members of Taxpayers for Michigan Constitutional Government include:

City of Eastpointe
Village of Grosse Pointe Shores
City of Center Line
City Harper Woods
City of Mount Clemens
City of Richmond
City f Utica
City of Warren
City of Grosse Pointe Woods
City of Hazel Park
City of Roseville
City of New Baltimore
City of Wayne
City of Auburn
City of Southgate
City of Ypsilanti
Clinton Township
City of Highland Park
City of Sterling Heights
City of Lawrence

I swear or affirm that the above and foregoing representations are true and correct to the best of my information and knowledge. Further Affiant Sayeth Naught.

By: _____
STEVEN DUCHANE

Subscribed and sworn before me,
a Notary Public, on December 1, 2017

Notary Public, ~~Eaton~~ Wayne County, MI.
My Commission expires 2-1-2021

Linda D. Lince

LINDA S. LINCE
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Feb 1, 2021
ACTING IN COUNTY OF Macomb

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EXHIBIT 11

State of Michigan, Detail Expenditures to Units of Local Government, Fiscal Year Ended September 30, 1994

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Agriculture				
110-79-2250	Pesticide Certification And Enforcement	$49,500.00	$0.00	$49,500.00
110-79-3908	Grants to Local Soil Conservation Districts	1,000,000.00	0.00	1,000,000.00
110-79-3936	Act 327 Municipal Grants	0.00	1,745,600.00	1,745,600.00
	Total for Agriculture	$1,049,500.00	$1,745,600.00	$2,795,100.00
Commerce				
110-63-1054	Fire Protection Grants	$0.00	$6,375,000.00	$6,375,000.00
110-63-1057	Michigan Equity Program	24,264,118.00	0.00	24,264,118.00
110-63-1205	Grand Rapids Symphony	237,500.00	0.00	237,500.00
110-63-6107	Local Mobile Home Inspections	0.00	198,902.00	198,902.00
110-63-9412	Liquor Law Enforcement	0.00	5,009,790.00	5,009,790.00
	Total for Commerce	$24,501,618.00	$11,583,692.00	$36,085,310.00
Community Colleges				
110-33-1946 through 7742000	Community Colleges	$238,608,926.00	$0.00	$238,608,926.00
110-33-9015	Job Training and Retraining Investment Fun	3,120,000.00	0.00	3,120,000.00
110-33-9020	At Risk Student Success Program	3,282,400.00	0.00	3,282,400.00
	Total Junior Community Colleges	$245,011,326.00	$0.00	$245,011,326.00
Corrections				
110-47-1801	ADP-Assumption of County Probation Staff	$373,500.00	$0.00	$373,500.00
110-47-2201	Assumption of County Probation Staff	20,580,800.00	0.00	20,580,800.00
110-47-2249	Community Corrections Grants	8,100,000.00	0.00	8,100,000.00
Various accounts	Public Service Work Projects	10,808,300.00	0.00	10,808,300.00
	Total for Corrections	$39,862,600.00	$0.00	$39,862,600.00
Education				
110-31-2251	National School Lunch Gen Funds	$2,196,174.67	$0.00	$2,196,174.67
110-31-2252	Driver Education Grants	0.00	6,078,293.41	6,078,293.41
110-31-2254	School Lunch OP Lunches Free/Reduced	2,032,100.00	0.00	2,032,100.00
110-31-2255	School Breakfast Above Fed Reim	320,229.95	0.00	320,229.95
110-31-2256	Motorcycle Safety Fees Grants	0.00	409,399.03	409,399.03
110-31-3154	Cable Television Grants	125,000.00	0.00	125,000.00
110-31-4506	Essential and Employability Assessment	246,356.12	0.00	246,356.12
110-31-4560	Early Childhood Programs Grant	1,345,000.00	0.00	1,345,000.00
110-31-4566	School Age Child Care	40,721.42	0.00	40,721.42
110-31-7250	American Indian Tuition	801,258.00	0.00	801,258.00
110-31-7251	MI Education Opportunity Grant	$808,281.00	$0.00	$808,281.00
110-31-7257	Michigan College Work Study	1,672,187.00	0.00	1,672,187.00
110-31-7259	Independent Student Program P/T	1,227,304.00	0.00	1,227,304.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-31-7261	Competitive Scholarship	$1,664,038.00	$0.00	$1,664,038.00
	Total for Education	$12,478,650.16	$6,487,692.44	$18,966,342.60
Judiciary				
110-05-2000	Grants to Counties for Probate Judges' Salari	$4,578,077.25	$0.00	$4,578,077.25
110-05-2002	Recorder's Court Judges' Salaries	1,763,654.42	0.00	1,763,654.42
110-05-3000	Circuit Courts	11,066,080.36	0.00	11,066,080.36
110-05-3010	Retirement	1,275,400.00	0.00	1,275,400.00
110-05-3100	Judicial Salary Standardization	21,150,725.39	0.00	21,150,725.39
110-05-3200	Third Circuit Court Judges' Salaries	12,041,446.55	0.00	12,041,446.55
110-05-3250	Wayne County Clerk Reimbursement	4,136,856.45	0.00	4,136,856.45
110-05-3400	Recorder's Court -Felony Division	9,754,781.97	0.00	9,754,781.97
110-05-5000	36th District Court	816,225.62	14,082,019.04	14,898,244.66
110-05-5001	District Court Judges Salaries	14,403,657.99	0.00	14,403,657.99
110-05-6000	Court of Claims - State Litigation	565,800.00	0.00	565,800.00
110-05-8900	Community Dispute Resolution	0.00	1,625,817.06	1,625,817.06
110-05-9200	Circuit Judges Travel	86,864.49	0.00	86,864.49
110-05-9400	Probate Judges Travel	32,144.76	0.00	32,144.76
110-05-9600	District Judges Travel	92,202.89	0.00	92,202.89
	Total for Judiciary	$81,763,918.14	$15,707,836.10	$97,471,754.24
Labor				
110-80-8219	Community Action Agencies	$1,174,197.00	$0.00	$1,174,197.00
110-80-8241	Displaced Homemaker	$75,442.00	0.00	75,442.00
110-67-2830	Safety Education and Training	157,500.00	0.00	157,500.00
	Total for Labor	$1,407,139.00	$0.00	$1,407,139.00
Library of Michigan				
110-03-6001	State Aid to Libraries	$10,671,800.00	$0.00	$10,671,800.00
110-03-6002	Detroit Public Library	5,700,600.00	0.00	5,700,600.00
110-03-6003	Subregional State Aid	242,000.00	0.00	242,000.00
110-03-6004	Wayne County Library for the Blind and Physically Handicapped	47,300.00	0.00	47,300.00
	Total for Library of Michigan	$16,661,700.00	$0.00	$16,661,700.00
Management and Budget				
110-07-1732	Firefighter Overtime	$730,600.00	$0.00	$730,600.00
110-07-5537	Prosecutor Reimbursement Victims Rights	1,239,861.00	1,500,100.00	2,739,961.00
110-07-6057	Office of Facilities	$194,389.02	$0.00	$194,389.02
110-07-6502	Office of Services to Aging Administration	36,900.00	0.00	36,900.00
110-07-6511	Community Services	7,309,500.00	0.00	7,309,500.00
110-07-6512	Nutrition Services	7,700,700.00	0.00	7,700,700.00
110-07-6513	Senior Volunteer Services	583,987.00	223,096.00	807,083.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-07-6514	Senior Citizen Centers Staffing	$1,140,700.00	$0.00	$1,140,700.00
110-07-6518	Michigan Pharmaceutical Program	0.00	167,440.00	167,440.00
110-07-6520	Respite Care Program	0.00	325,767.00	325,767.00
	Total for Management and Budget	$18,936,637.02	$2,216,403.00	$21,153,040.02
Mental Health				
110-39-1131	Foster Grandparents	$1,872,400.00	$0.00	$1,872,400.00
110-39-1153	Consumer Involvement Program	103,583.00	0.00	103,583.00
110-39-1155	Mentally Ill Special Needs	2,964,639.00	0.00	2,964,639.00
110-39-1449	Homelessness Grant	642,951.75	0.00	642,951.75
110-39-1633	Private Nursing Homes and Alternative Services Program	1,023,145.68	0.00	1,023,145.68
110-39-1718	Pilot Prevention Projects	1,221,728.79	0.00	1,221,728.79
110-39-2910	CMH Prior Year Settlement	0.00	4,235,367.04	4,235,367.04
110-39-2930	Community Residential Services-Mentally Ill Children	51,731.00	0.00	51,731.00
110-39-2931	Community Residential Services-Mentally Ill Adults	442,756.00	0.00	442,756.00
110-39-2933	Community Residential Services-Developmentally Disabled Services - Mentally Ill Children	9,344,192.00	0.00	9,344,192.00
110-39-2951	CMH Critical Needs Services	2,897,990.00	0.00	2,897,990.00
110-39-2952	Community Demand Beds	4,204,050.76	0.00	4,204,050.76
110-39-2955	Family Support Subsidy	11,345,260.13	0.00	11,345,260.13
110-39-2965	Community Mental Health Programs	348,585,396.44	571,482.00	349,156,878.44
110-39-2972	CMH Programs - Clinical Services	171,278,575.91	0.00	171,278,575.91
110-39-2995	CMH Grant Fund	0.00	6,586,717.17	6,586,717.17
110-39-3134	OBRA	9,483,751.32	0.00	9,483,751.32
	Total for Mental Health	$565,462,151.78	$11,393,566.21	$576,855,717.99
Military Affairs				
110-51-2011	Contractual Services, Supplies & Materials	$46,122.00	$0.00	$46,122.00
	Total for Military Affairs	$46,122.00	$0.00	$46,122.00
Natural Resources				
110-75-2207	Natural Resources Heritage	$0.00	$3,797.00	$3,797.00
110-75-2431	Public Access Sites	0.00	4,124.00	4,124.00
110-75-2511	Park Operations	4,500.00	0.00	4,500.00
110-75-2625	Tourism Development	$356,660.00	$0.00	$356,660.00
110-75-2732	Underground Storage Tank Program	0.00	11,708.00	11,708.00
110-75-2801	Administration	390.00	0.00	390.00
110-75-2812	Farmland, Resource Inven & Office Mgmt	0.00	21,385.00	21,385.00
110-75-2999-001	Urban Waterfront Recreation Program	1,266,000.00	0.00	1,266,000.00
110-75-4565	Superfund Cleanup	52,279.00	0.00	52,279.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-75-4811	Surveillance	$2,198.00	$0.00	$2,198.00
110-75-6001	Swamp/Tax Reverted Lands	8,832,134.00	0.00	8,832,134.00
110-75-6002	Purchased Lands	7,058,000.00	1,361,376.00	8,419,376.00
110-75-6003	Commercial Forest Reserve	2,107,228.00	0.00	2,107,228.00
110-75-6007	Purch Lands-Senior Citizen Reimbursement	2,240,000.00	0.00	2,240,000.00
110-75-6010	Air Pollution Grants	1,187,742.00	350,000.00	1,537,742.00
110-75-6011	Snowmobile Local Grants	0.00	146,115.00	146,115.00
110-75-6012	Off Road Vehicle Grants	0.00	102,015.00	102,015.00
110-75-6022	Local Recreation Grants	84,810.00	0.00	84,810.00
110-75-6038	Saginaw Bay Water Quality Initiative	67,500.00	0.00	67,500.00
110-75-6043	Inland Fisheries Resources	0.00	96,200.00	96,200.00
110-75-6049	Septage Waste Compliance	0.00	110,175.00	110,175.00
110-75-6050	Scrap Tire Program	0.00	58,820.00	58,820.00
117-75-2131	Alcona Co., Harrisville Breakwater Extensio	0.00	6,662.00	6,662.00
117-75-2132	Berrien Co.-New Buffalo Transient Mooring	0.00	448,575.00	448,575.00
117-75-2133	Leelanau Co., Northport Upgrade	0.00	30,213.00	30,213.00
117-75-2135	Sanilac County Port Sanilac Mooring Facilit	0.00	31,474.00	31,474.00
117-75-2136	Antrim City Elk Rapids Restroom/Shower	0.00	7,500.00	7,500.00
117-75-2137	Charlevoix Co.,E Jordan Diversion Wall/Dre	0.00	200,000.00	200,000.00
117-75-2138	Charlevoix Co.,St.James Twp Facility Upgra	0.00	131,792.00	131,792.00
117-75-2139	Ludington Revetment Repairs	0.00	133,002.00	133,002.00
117-75-2141	Marquette Co., Marquette Lower Harbor Mo	0.00	908,597.00	908,597.00
117-75-2144	Presque Isle Co.,Rogers City Marina Expans	0.00	53,095.00	53,095.00
117-75-2316	Allegan Co.,Village of Douglas	0.00	10,405.00	10,405.00
117-75-2333	Radio Island - City of St. Joseph	0.00	8,150.00	8,150.00
117-75-2334	Ottawa County Riverside Park,Robinson Tw	0.00	52,500.00	52,500.00
117-75-2337	Grants-in-Aid-Various Counties	0.00	33,500.00	33,500.00
117-75-2699-618	Bay County Pinconning Boat Launch	0.00	23,604.00	23,604.00
117-75-2789-000	Emergency Repairs-Various Counties	0.00	1,084.00	1,084.00
117-75-3092-000	Emerg Repairs-Various Co.-Harbors&Docks	0.00	15,900.00	15,900.00
117-75-4092-000	Engineering Studies - Various Counties - Harbors and Docks	0.00	10,725.00	10,725.00
117-75-5099-002	Preliminary Engineering Lump Sum Harbor Development	0.00	9,968.00	9,968.00
123-75-6007	Grants to Counties	0.00	2,854,311.00	2,854,311.00
129-75-1090-XXX	Various Land Acquisition Projects	0.00	5,026,295.00	5,026,295.00
129-75-6007-6012	Various Public Rec Fac Develop	0.00	2,864,331.00	2,864,331.00
	Total for Natural Resources	$23,259,441.00	$15,127,398.00	$38,386,839.00
Public Health				
110-35-1352	Cancer Prevention & Control	$0.00	$18,706.00	$18,706.00
110-35-1354	Employee Wellness Program	0.00	1,561,733.00	1,561,733.00
110-35-1361	Health Ed, Promotion & Research	18,473.00	0.00	18,473.00
110-35-1380	Chronic Disease Prevention	0.00	577,911.00	577,911.00
110-35-1381	Tobacco Free Michigan	$0.00	$451,682.00	$451,682.00
110-35-1385	School Health Curricula	2,000,000.00	0.00	2,000,000.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-35-2253	Local Public Health Infrastructure	$825,300.00	$0.00	$825,300.00
110-35-2256	Indian Health Care	21,637.00	0.00	21,637.00
110-35-2263	State/Local Cost Sharing	17,079,200.00	0.00	17,079,200.00
110-35-2279	Refugee Health Program	29,600.00	0.00	29,600.00
110-35-3461	Community Substance Abuse	18,334,800.00	1,853,583.00	20,188,383.00
110-35-3462	Program Enhancement, Evaluation	187,966.00	0.00	187,966.00
110-35-3463	Substance Abuse Prevention Education	183,200.00	0.00	183,200.00
110-35-3466	Medicaid Reimbursement	318,363.00	0.00	318,363.00
110-35-3467	State Disab Assistance Program	470,413.00	0.00	470,413.00
110-35-4251	Pregnancy Prevention Program	1,312,606.00	1,312,606.00	2,625,212.00
110-35-4271	MIC Local Agreements	246,144.00	0.00	246,144.00
110-35-4281	Family Planning Local Agreements	1,349,130.00	0.00	1,349,130.00
110-35-4283	Adolescent Health Care	1,196,975.00	0.00	1,196,975.00
110-35-4284	EPSDT	1,568,685.00	0.00	1,568,685.00
110-35-4289	Prenatal Care Outreach	2,600,246.00	0.00	2,600,246.00
110-35-4356	Case Management Services	1,235,628.00	0.00	1,235,628.00
110-35-6762	AIDS Counseling & Testing	0.00	679,000.00	679,000.00
110-35-6771	Local AIDS Referral & Care	0.00	292,501.00	292,501.00
110-35-6773	Sexually Trans Dis.-Local Agreements	400,000.00	0.00	400,000.00
110-35-6778	Immunization Local Agreements	0.00	482,190.00	482,190.00
110-35-6779	AIDS Education & Outreach	0.00	53,298.00	53,298.00
	Total for Public Health	$49,378,366.00	$7,283,210.00	$56,661,576.00
School Aid Fund				
122-31-1999	School Aid Fund Total Expenditures	$4,219,150,652.59	$6,487,692.44	$4,225,638,345.03
122-31-2267	Federal Special Education	(62,606,855.05)	0.00	(62,606,855.05)
122-31-2164	Partnership for New Education	(5,000,000.00)	0.00	(5,000,000.00)
122-31-2242	University Schools	(175,000.00)	0.00	(175,000.00)
122-31-2243	Math/Science Centers	(181,949.00)	$0.00	(181,949.00)
122-31-2259	Adult Education Alternative Training	(3,320,788.00)	0.00	(3,320,788.00)
122-31-2292	Retirement Contribution Pass-through	(22,305,600.00)	0.00	(22,305,600.00)
122-31-9990	Write Off Accounts Receivable	(454,390.46)	$0.00	(454,390.46)
	Total for School Aid Fund	$4,125,106,070.08	$6,487,692.44	4,131,593,762.52
Social Services				
110-43-3254	Supplemental Security Income	$20,763,540.00	$0.00	$20,763,540.00
110-43-3252	State Disability Assistance Payments	1,595,923.00	0.00	1,595,923.00
110-43-3255	State Family Assistance	$895,617.00	$0.00	$895,617.00
110-43-3375	Indigent Medical Care Program	1,180,200.00	0.00	1,180,200.00
110-43-3350 through 3358	Medicaid to CMH Clients	65,141,900.00	0.00	65,141,900.00
110-43-7225	County Juvenile Officers	1,637,138.00	0.00	1,637,138.00
110-43-7251	Child Care Fund	32,735,500.00	0.00	32,735,500.00
110-43-7275	Adoption Subsidies	35,425,224.00	0.00	35,425,224.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
110-43-8160	State Incentive Payments	$565,164.00	$3,202,848.00	$3,768,012.00
	Total for Social Services	$159,940,206.00	$3,202,848.00	$163,143,054.00
State				
110-23-3710	Election Admin. and Services	$42,900.00	$0.00	$42,900.00
110-23-3711	Fees to Local Units	27,800.00	0.00	27,800.00
110-23-3712	Voter ID Card Reimbursement to Locals	284,500.00	0.00	284,500.00
	Total for State	$355,200.00	$0.00	$355,200.00
State Police				
110-55-1125	Truck Safety Program Grants	$0.00	$1,283,445.00	$1,283,445.00
110-55-1127	Secondary Road Patrol	983,742.00	3,340,400.00	4,324,142.00
110-55-2253	Law Enforcement Officers Training Council	0.00	452,666.00	452,666.00
110-55-2712	Fire Fighters Training Council	215,658.00	0.00	215,658.00
110-55-2744	Fire Investigation Training for Locals	49,695.00	0.00	49,695.00
	Total for State Police	$1,249,095.00	$5,076,511.00	$6,325,606.00
Transportation				
114-59-5001	Air Services	$0.00	$402,410.00	$402,410.00
114-59-5586-through 5826	Airport Programs - Aeronautics Fund	0.00	733,614.00	733,614.00
116-59-4029	Bureau of Transportation Planning Grants to Regional Planning Councils	0.00	217,487.00	217,487.00
116-59-8710	Forest Roads	0.00	5,000,000.00	5,000,000.00
116-59-8730	Rural County Urban System Construction - Economic Development Fund	0.00	2,008,204.00	2,008,204.00
116-59-8740	Urban County Congestion Construction - Economic Development Fund	0.00	12,176,831.00	12,176,831.00
116-59-8750	Rural County Primary Construction - Economic Development Fund	0.00	8,055,571.00	8,055,571.00
116-59-8783	Grants to Local Programs	0.00	78,000,000.00	78,000,000.00
116-59-8790-000	Critical Bridge Program - Critical Bridge Fund	0.00	946,032.00	946,032.00
119-59-6533	Transfer to Cities and Villages	0.00	220,368,905.00	220,368,905.00
119-59-6535	Transfer to Cities and Villages	0.00	1,418,999.00	1,418,999.00
119-59-6532	Transfer to County Road Commissions	0.00	386,542,807.00	386,542,807.00
119-59-6534	Transfer to County Road Commissions	0.00	3,733,833.00	3,733,833.00
120-59-9999	Bus Transit - Other Grants	0.00	22,838,015.00	22,838,015.00
120-59-7517	Urban/Nonurban Statutory Operating	0.00	94,931,950.00	94,931,950.00
120-59-7903	Detroit/Wayne County Port Authority	0.00	225,000.00	225,000.00
120-59-7905	Marine Passenger Services	0.00	727,120.00	727,120.00
	Total for Transportation	$0.00	$838,326,778.00	$838,326,778.00

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1994

Account Number	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Treasury				
110-27-9316	Senior Citizen Cooperative Housing Tax Exemption Program	$9,905,223.67	$0.00	$9,905,223.67
110-27-9325	Convention Facility Development Fund Distribution	0.00	30,949,548.52	30,949,548.52
110-27-9330	Airport Parking Fund	0.00	8,859,811.39	8,859,811.39
110-27-9430	Lands Transferred to Federal Government	18,082.49	0.00	18,082.49
110-27-9460	Health and Safety Fund Grants	0.00	25,567,569.67	25,567,569.67
110-27-9456	Sales Tax Distribution	0.00	476,506,958.10	476,506,958.10
110-27-9457	Personal Income Tax - Counties	0.00	130,892,171.77	130,892,171.77
110-27-9462	Single Business Tax Distribution	0.00	162,331,913.96	162,331,913.96
110-27-9458	Personal Income Tax - Cities, Townships, Vi	0.00	231,314,754.52	231,314,754.52
110-27-9459	Single Business Tax Inventory	0.00	109,513,394.82	109,513,394.82
	Total for Treasury	$9,923,306.16	$1,175,936,122.75	$1,185,859,428.91
	GRAND TOTAL	$5,376,393,046.34	$2,100,575,349.94	$7,476,968,396.28

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EXHIBIT 12

State of Michigan, Detail Expenditures to Units of Local Government, Fiscal Year Ended September 30, 1995

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Schedule C-1

DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account Numbers		Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Agriculture - 791					
02270	2600	Ground Water and Freshwater Protection	$0	$208,356	$208,356
03908	1000	Grants to Local Soil Conservation Districts	999,990	0	999,990
03905	1000	Michigan Festivals	4,700	0	4,700
03936	2800	Act 327 Municipal Grants	0	1,745,600	1,745,600
		Total for Agriculture	$1,004,690	$1,953,956	$2,958,646
Commerce - 631					
18001		Fire Protection Grants	$0	$6,375,000	$6,375,000
18002		Michigan Equity Program	24,759,259	0	24,759,259
10006		Local Mobile Home Inspections	0	193,021	193,021
13003		Liquor Law Enforcement	0	4,997,283	4,997,283
		Total for Commerce	$24,759,259	$11,565,304	$36,324,563
Community Colleges					
		Community Colleges	$241,205,500	$0	$241,205,500
		Job Training and Retraining Investment Fund	3,213,600	0	3,213,600
		At Risk Student Success Program	3,380,900	0	3,380,900
		Community Colleges - Capital Outlay	$26,553,622.67	$0.00	26,553,623
		Total Junior Community Colleges	$274,353,623	$0	$274,353,623
Corrections					
22260	0001	Assumption of County Probation Staff	$31,304,365	$0	$31,304,365
19333	0001	Comm Corrections Probation Res Services	$8,463,970	$0	$8,463,970
19334/19335	0001	Community Corrections Grants & Assistance	9,243,831	0	9,243,831
Various accounts		Public Service Work Projects	10,160,114	$0.00	10,160,114
		Total for Corrections	$59,172,280	$0	$59,172,280
Education - 313					
02251	0110	National School Lunch Gen Funds	$2,201,554	$0	$2,201,554
02252	0520	Driver Education Grants	0	6,763,921	6,763,921
02254	0110	School Lunch OP Lunches Free/Reduced	1,968,625	0	1,968,625
02255	0110	School Breakfast Above Fed Reim	307,654	0	307,654
02256	1448	Motorcycle Safety Fees Grants	0	71,873	71,873
03154	0110	Cable Television Grants	125,000	0	125,000
04506	0110	Essential and Employability Assessment	28,000	0	28,000
04560	0110	School Age Child Care	854,599	0	854,599
		Total for Education	$5,485,431	$6,835,793	$12,321,225
Judiciary					
02000	1001	Circuit Ct. Judges Salaries	$58,178,166	$0	$58,178,166
03100	1001/1010	Wayne Co Clerk	3,909,568	386,432	4,296,000
03200	1001/1009/1010	Third Circuit Court Judges' Salaries	5,657,683	5,702,175	11,359,858
03300	1001/1009	Wayne County Clerk Reimbursement	1,705,789	373,848	2,079,637
03400	1001/1009/1010	Recorder's Court -Felony Division	7,626,672	1,523,348	9,150,020
05000	1001/1005/1009	36th District Court	(500,933)	14,849,253	14,348,320
08000	1001	Community Dispute Resolution	356,121	0	356,121
08700	1020	Drunk Driving Caseflow Assistance	0	1,509,182	1,509,182
09300	1010	Outstate Trial Court Reimbursement	0	10,424,064	10,424,064
		Total for Judiciary	$76,933,067	$34,768,302	$111,701,369
Library of Michigan - 930					
06001	0001	State Aid to Libraries	$12,934,400	$0	$12,934,400
06002	0001	Detroit Public Library	5,871,600	0	5,871,600
06003	0001	Subregional State Aid	249,300	0	249,300
06004	0001	Wayne County Library for the Blind	48,700	0	48,700

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
		and Physically Handicapped			
		Total for Library of Michigan	$19,104,000	$0	$19,104,000
Management and Budget - 071/078					
05537	0110/4586	Prosecutors Reimbursement-Victims Services	$1,052,662	$2,000,100	$3,052,762
01732	0110	Overtime to Firefighter	730,600	0	730,600
74028	0110	Township of Madison	$149,629.50	$0.00	149,630
01096	0110	Iron Co. Road Commission	$150,000.00	$0.00	150,000
		Total for Management & Budget	$2,082,891	$2,000,100	$4,082,991
Office of Aging - 073					
06502	0812	Office of Services to Aging Administration	48,506	0	48,506
06511	0812/1029	Community Services	10,035,854	21,512,474	31,548,328
06512	0812/1025	Nutrition Services	8,254,531	500,000	8,754,531
06513	0812	Senior Volunteer Services	538,861	223,096	761,957
06514	0812	Senior Citizen Centers Staffing	1,139,897	0	1,139,897
06518	1428	Michigan Pharmaceutical Program	0	222,116	222,116
06520	0812	Respite Care Program	164,043	0	164,043
		Total for Aging	$20,181,692	$22,457,686	$42,639,378
Mental Health					
01131		Foster Grandparents	$1,872,400	$0	$1,872,400
01153		Consumer Involvement Program	114,366	0	114,366
01155		Mentally Ill Special Needs	2,522,379	0	2,522,379
01449		Homelessness Grant	600,616	0	600,616
01718		Pilot Prevention Projects	1,524,680	0	1,524,680
02730		Comm Res Srvs - MI Child	29,968	0	29,968
02731		Community Residential Services-MI Adults	1,091,974	0	1,091,974
02733		Community Residential Services-DD	23,123,400	0	23,123,400
02951		CMH Critical Needs Services	1,998,183	0	1,998,183
02952		Community Demand Beds	4,194,308	0	4,194,308
02953		Respite Care	0	2,499,977	2,499,977
02953		Communities First - Pilot	41,069	0	41,069
02955		Family Support Subsidy	11,647,471	0	11,647,471
02965		Community Mental Health Programs	493,934,361	0	493,934,361
02995		CMH Grant Fund	0	7,800,301	7,800,301
03134		OBRA	6,547,567	0	6,547,567
		Total for Mental Health	$549,242,741	$10,300,278	$559,543,019
Michigan Jobs Commission - 801					
01007	7001	Wurtsmith Base Conversion Authority	$65,000	$0	$65,000
01009	7001	K. I Sawyer Base Conversion Authority	103	0	103
01804	0812	Economic Expansion Operations	214,366	0	214,366
06006	7001	Regional Network Services	26,200	0	26,200
06007	4056	State Research Fund	14,242	0	14,242
08001	7001	Development Finance Program	66,500	0	66,500
08241	0812	Displaced Homemakers	22,600	0	22,600
08243	0812	Supplemental Asst Subgrantees	343,389	0	343,389
09550	0812	Vocational Rehab Independent Living	79,506	0	79,506
09552	0812	Personal Care Attendants	101,000	0	101,000
09562	0812	Vocational Rehab Client Services	161,575	0	161,575
		Total for Michigan Jobs Commission	$1,094,481	$0	$1,094,481
Military Affairs - 511					
02011	1000	Payment in Lue of Local Land Taxes at Camp Grayl	$46,329	$0	$46,329
		Total for Military Affairs	$46,329	$0	$46,329

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
Natural Resources - 751					
01101	0001	Administrative Services	$37,596	$0	$37,596
01121	0001	Field Administration	1,513	0	1,513
01606	0528	Records and services	0	18	18
02107	0513	Timber Harvest	0	44	44
02128	0513	Forest management Initiative	0	620	620
02211	0515		0	650	650
02301	0515		0	270	270
02316	0515		0	12,360	12,360
02321	0515		0	69	69
02326	0515		0	14	14
02336	0515		0	23,665	23,665
02401	0001/0543/0544		105	180	285
02625	0001		17,703	0	17,703
02808	0001		22	0	22
02818	0001		190	0	190
02828	0001		7,597	0	7,597
03116	0515		$0	$250	$250
03311	0001		495	0	495
04510	0559		0	400	400
04541	0508		0	9	9
04561	0508		0	37,866	37,866
04706	0001		0	1,200	1,200
04721	0001/0548		50	30	80
04811	0001		4,483	0	4,483
05501	0001		7,218,404	0	7,218,404
05502	0001/0536		6,621,086	369,626	6,990,712
05503	0001		2,795,497		2,795,497
06007	0581		0	2,679,584	2,679,584
06010	0001/0504		1,177,204	965,445	2,142,649
06011	0552		0	312,907	312,907
06012	0541		0	102,783	102,783
06017	0549		0	291,425	291,425
06022	0001		93,620	0	93,620
06031	$60,522.00		0	49,790	49,790
06038	0001		32,668	0	32,668
06049	0550		0	39,525	39,525
06050	0548		0	434,764	434,764
22131	0579		0	74,606	74,606
22141	0579		0	42,233	42,233
22142	0579		0	126,371	126,371
22144	0579		0	91,687	91,687
22146	0579		0	137,750	137,750
22337	0579		0	29,224	29,224
23094	0579		0	150,000	150,000
24092	0579		0	5,920	5,920
24093	0579		0	29,003	29,003
27334	0579		0	50,054	50,054
29001	0001		12,400	0	12,400
35002	0580		0	164,452	164,452
35003	0580		0	1,495,498	1,495,498
46xxx	0585		7,403,111	0	7,403,111
		Total for Natural Resources	$25,423,744	$7,720,291	$33,144,035
Public Health - 351					
1352	8000	Cancer Prevention & Control	14,700	0	14,700
1354	8110	Employee Wellness Program	0	1,165,557	1,165,557
1356	8110	AIDS and Risk Reduction	0	17,500	17,500
1363	8000	Diabetes Local Agreements	41,600	0	41,600
1380	8001	Chronic Disease Prevention	0	2,494,393	2,494,393
1381	8001	Tobacco Free Michigan	0	1,458,524	1,458,524

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
1386	8001	Violence Prevention	0	7,916	7,916
2253	8000	Local Public Health Infrastructure	825,300	0	825,300
2256	8000	Indian Health Care	17,432	0	17,432
2257	8001	Local Public Health Surveillance	0	1,638,196	1,638,196
2259	8000	Primary Care Services	13,270		13,270
2263	8000	State/Local Cost Sharing	32,187,300	0	32,187,300
2279	8000	Refugee Health Program	29,600	0	29,600
2371	8000/8001	Local Health Service	400	10,000	10,400
3461	8000/8115	Community Substance Abuse Prevention	17,619,044	1,355,086	18,974,130
3462	8000	Program Enhancement, Evaluation	63,885	0	63,885
3464	8000	Chemically Dependent Pregnant Women	146,700	0	146,700
3467	8000	State Disab Assistance Program	6,558,671	0	6,558,671
4251	8000/8001	Pregnancy Prevention Program	736,241	2,228,107	2,964,348
4271	8000	MIC Local Agreements	$246,100	$0	$246,100
4274	8001	Dental Programs	$0	$134,376	$134,376
4281	8000	Family Planning Local Agreements	1,656,381	0	1,656,381
4283	8000/8001	Adolescent Health Care	1,386,357	231,073	1,617,430
4284	8001	EPSDT Outreach	0	142,896	142,896
4284	8121	EPSDT Outreach (non-Federal share of IDG)	0	2,390,699	2,390,699
4289	8000/8001	Prenatal Care Outreach	2,681,647	171,203	2,852,850
4356	8000	Case Management Services	1,243,200	0	1,243,200
6762	8110	AIDS Counseling & Testing	0	687,800	687,800
6771	8110	Local AIDS Referral & Care	0	232,990	232,990
6773	8000	Sexually Trans Dis.-Local Agreements	468,600	0	468,600
6778	8000	Immunization Local Agreements	45,685	0	45,685
6779	8110	AIDS Education & Outreach	0	261,232	261,232
		Total for Public Health	$65,982,113	$14,627,547	$80,609,660
School Aid Fund					
Per DAFR6470 cobj 6315		School Aid Fund cobj 6315 Expenditures	$7,110,269,277	$868,397,775	$7,978,667,052
		Partnership for new education	(5,000,000)	0	(5,000,000)
		University Schools	(175,000)	0	(175,000)
		Adult Education Alternative Training	(3,320,788)	0	(3,320,788)
22000	0128	A/R & A/P Write off	(235,464)	0	(235,464)
22156	0122	ISD Spec Ed Retirement to PSERS	(10,553,761)	0	(10,553,761)
22243	0124	Mathematics and Science Centers	(86,667)	0	(86,667)
22267	0441	Federal Special Education	(60,165,189)	0	(60,165,189)
		Total for School Aid Fund	$7,030,732,409	$868,397,775	$7,899,130,183
Family Independence Agency - 431					
32540	0901	Supplemental Security Income	$15,619,716	$0	$15,619,716
32520	0901	State Disability Assistance Payments	1,606,355	0	1,606,355
32550	0901	State Family Assistance	735,001	0	735,001
33750	0901	Indigent Medical Care Program	1,250,400	0	1,250,400
335xx	0901	Medicaid to CMH Clients	58,034,272	0	58,034,272
72250	0901	County Juvenile Officers	2,312,011	0	2,312,011
72510	0901	Child Care Fund	32,735,500	0	32,735,500
72750	0901	Adoption Subsidies	$38,684,115	$0	$38,684,115
		Total for Social Services	$150,977,370	$0	$150,977,370
State - 231					
37100	1011	Election Admin. and Services	$1,400	$0	$1,400
37100	1011	Fees to Local Units	55,000	0	55,000
		Total for State	$56,400	$0	$56,400
State Police - 551					
11270	1194	Secondary Road Patrol & Training Fund - Enhanced	$0	$4,538,845	$4,538,845
11290	0001	Secondary Road Patrol & Training Fund - Basic	$2,469,200	$0	$2,469,200
28180	0001	Grant for Disaster Assistance	$118,033	$0	$118,033

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DETAIL EXPENDITURES TO UNITS OF LOCAL GOVERNMENT
FISCAL YEAR ENDED SEPTEMBER 30, 1995

Account	Numbers	Account Name	General Purpose Financing	State Restricted Financing	Total Amount
22530	1194	Law Enforcement Officers Training Council	0	317,393	317,393
27120	0001	Fire Fighters Training Council	202,766	0	202,766
27440	0001	Fire Investigation Training for Locals	47,564	0	47,564
		Total for State Police	$2,837,563	$4,856,238	$7,693,802
Transportation					
65320	2119	Payments to County Road Commissions	$0	$411,367,007	411,367,007
65330	2119	Payments to Cities & Villages	0	233,245,784	233,245,784
40290	2116/4071	Grants to Regional Planning Councils	0	484,637	484,637
87900	8772	Critical Bridge Program	0	1,382,849	1,382,849
87830	2116/8795	Grants to Local Programs	0	78,000,000	78,000,000
87100	8777	Forest Roads	0	5,000,000	5,000,000
87300	8731	Rural County Urban System	0	2,113,313	2,113,313
87400	8741/8743	Urban County Congestin	0	3,061,107	3,061,107
55940	2114	Federal /State/Local Airport Construction	0	3,626,802	3,626,802
57320	2114	State/Local Airport Construciton	0	350,898	350,898
58060	2114	Statewide Programs	0	863,233	863,233
50010	2114	Air Marketing Incentive Program	0	383,480	383,480
75170	2120	Local Bus Operating	0	91,609,807	91,609,807
75200	2120	Bus Capital	0	2,735,810	2,735,810
75260	2120	Specialized Services	0	2,670,629	2,670,629
75270	2120	Local Share Bonus	0	972,903	972,903
75280	2120	Effective Service Bonus	0	990,133	990,133
75290	2120	Municipal Credit Program	0	1,000,000	1,000,000
76180	2120	Planning Grants	0	44,890	44,890
76190	2120	Service Development & New Technology	0	713,085	713,085
76770	2120	Ridesharing	0	209,398	209,398
77090	2120	Terminal Development	0	$286,661.50	286,662
77110	2120	Intercity Passenger Discretionary	0	$655,600.50	655,601
77120	2120	Public Transportation Dev. Discretionary	0	$2,226,247.27	2,226,247
77400	2120	Intercity Bus Service Development	0	$2,181.00	2,181
78120	2120	Freight Property management	0	$827,514.30	827,514
78420	2120	Freight Preservation & Development	0	$693,085.70	693,086
79030	2120	Detroit/Wayne Port Authority	0	$300,000.00	300,000
79050	2120	Marine Passenger Services	$0	$1,177,929	$1,177,929
		Total for Transportation	$0	$846,994,982	$846,994,982
Treasury - 271					
08325	0001	Interest Cost from Interfund Borrowing	$35,150,313	$0	$35,150,313
08324	0001	Current Year's Interest on G.O. notes	$6,649,651	$0	$6,649,651
09316	0001	Senior Citizen Cooperative Housing Tax Exemption Program	11,043,570	0	11,043,570
09325	0044	Convention Facility Development Fund Distribution	0	33,155,221	33,155,221
09330	0047	Airport Parking Fund	0	10,817,005	10,817,005
09430	0001	Lands Transferred to Federal Government	13,861	0	13,861
09460	0053	Health and Safety Fund Grants	0	23,132,925	23,132,925
09516	0001	City of Benton Harbor - Enterprise Zone	426,166	0	426,166
09456	0048	Sales Tax Distribution	0	477,032,229	477,032,229
09457	0049	Personal Income Tax - Counties	0	143,629,938	143,629,938
09462	0051	Single Business Tax Distribution	0	191,884,414	191,884,414
09458	0050	Personal Income Tax - Cities, Townships, Villages	0	249,141,702	249,141,702
09459	0052	Single Business Tax Inventory	$0	$107,431,224	$107,431,224
		Total for Treasury	$53,283,560	$1,236,224,658	$1,289,508,218
		GRAND TOTAL	$8,362,753,644	$3,068,702,910	$11,431,456,554

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
METER, J. (CONCURRING IN PART AND DISSENTING IN PART) AND SHAPIRO, JJ.)

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs-Appellants/Appellees,

v.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

Supreme Court Case No. 160658

Court of Appeals Case No. 334663

APPENDIX – VOLUME 6
PLAINTIFFS-APPELLANTS APPENDIX TO TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, AND SARA KANDEL BRIEF ON APPEAL

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STATE OF MICHIGAN

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE COURT OF APPEALS
(BORRELLO, P.J. (CONCURRING IN PART AND DISSENTING IN PART) AND
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THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN, and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants-Appellees/Appellants.

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Answer to Complaint, Filed Nov 1, 2016 (Doc No 24)	00296a-00316a
Brief in Support of Answer to Complaint w/ Exhibits A-C, Filed Nov 1, 2016 (Doc No 25)	00317a-00516a
VOLUME 4	
Reply Brief in Support of Complaint, Filed Dec 21, 2016 (Doc No 33)	00517a-00531a
Sur-Reply in Support of Answer to Complaint, Filed Jan 4, 2017 (Doc No 41)	00532a-00545a
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Motion for Summary Disposition w/ Exhibits 2-4 & 8-12,-Plaintiffs, Filed Dec 6, 2017 (Doc 71)	00546a-00773a
VOLUME 6	
Exhibit 1, Headlee Amendment Drafters Notes, Filed Dec 6, 2017 (Doc 71)	00774a-00800a
Exhibit 5, Table D: *Shortfalls in Adjusted State Payments Increase Since Proposal A,* Filed Dec 6, 2017 (Doc 71)	00801a-00802a
Exhibit 6, Affidavit of Robert Kleine, Filed Dec 6, 2017 (Doc 71)	00803a-00814a
Exhibit 7, Affidavit of Mitchell Bean, Filed Dec 6, 2017 (Doc 71)	00815a-00824a
Exhibit 13, *Headlee Criticizes Proposal A As Tax Shift And Tax Increase*, The Detroit News, May 14, 1993, at 2B Filed Dec 6, 2017 (Doc 71)	00825a-00827a
Motion for Summary Disposition w/ Appendix A-B-Defendants, Filed Dec 6, 2017 (Doc 72)	00828a-00956a

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Answer to Def Motion for Summary Disposition w/ Exhibits 1-8, 10, & 12-13-Plaintiffs, Filed Jan 25, 2018 (Doc 86)	00957a-01163a
Exhibit 9, Prop. A State Ballot Proposal & Notice, Filed Jan 25, 2018 (Doc 86)	01164a-01165a
Exhibit 11, Affidavit of Kristin Theut, Filed Jan 25, 2018 (Doc 86)	01166a-01170a
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Exhibit 4, Affidavit of William Shaker, Filed Feb 8, 2018 (Doc 89)	01285a-01316a
Brief of Amicus Curiae w/Exhibits-MML, SBM-Govt Law Section, MAC, MTA, Filed Mar 13, 2018 (Doc 99)	01317a-01396a
Supplemental Authority w/ Exhibit A-Plaintiffs, Filed Jul 23, 2019 (Doc 112)	01397a-01414a
Opinion and Order (On Reconsideration) of the Court of Appeals, Entered Oct 29, 2019 (Doc No 129)	01415a-01428a
Opinion-Partial Concurrence/Dissent (On Reconsideration) of BORRELLO, P.J., Entered Oct 29, 2019 (Doc No 130)	01429a-01432a
Opinion-Partial Concurrence/Dissent (On Reconsideration) of METER, J., Entered Oct 29, 2019 (Doc No 131)	01433a-01440a

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Application for Leave to SCt w/ Exhibits 1-6 & 9-Plaintiffs, Filed Dec 10, 2019 (Doc No 147)	01441a-01554a
Exhibit 7, Affidavit of Susan Fino, Filed Dec 10, 2019 (Doc No 147)	01555a-01559a
Exhibit 7 [8], Headlee Amendment Drafters Notes, Filed Dec 10, 2019 (Doc No 147)	01560a-01587a
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EXHIBIT 1

Taxpayers United Research Institute, Drafters' Notes

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[Drafter's notes, Tax Limitation Amendment]

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TAXPAYERS UNITED RESEARCH INSTITUTE

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February 15, 1979

DRAFTERS' NOTES - TAX LIMITATION AMENDMENT

(Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The following notes provide an explanation of the drafters' intent in the formulation of this amendment:

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Drafters' Notes - Tax Limitation Amendment (Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The spirit of the times from which this proposal grew was the "tax revolt" and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted.

The drafters' intent was to make the minimal changes from Proposal C (a similar tax limitation constitutional amendment which was drafted in 1974 and appeared on the 1976 Michigan general election ballot; but not approved by the electors at that time), consistent with adding more definitional specificity and strengthening provisions dealing with local taxation. The lanaguage of Proposal E is attached to these notes as Appendix 1 and, for historical comparison, Proposal C is attached as Appendix 2.

The section numbers refer to the section numbers of Article 9, labeled Proposal E in Appendix 1.

Section 25

The Preamble to the Amendment, Section 25, serves as a summary of Sections 26 through 34, inclusive and Section 6, as amended; and spells out that the objectives, purposes, and

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intent of the drafters, petitioners and the voters are clearly to place specifically defined limitations on the revenues of both state and local governmental units and to place these limits under the direct and absolute control of the voters. It is also clear from the remaining sections that "limitations specified herein" mean tax and revenue levels existing at the effective dates of the amendment: October 1, 1980 for Sections 26, 27, 28 and December 22, 1978, for Sections 29 through 34, inclusive and Section 6, as amended. It was clearly not the intent to require voter approval of annual state budgets. The intent of "limitations specified herein" is explained with specificity in these notes, as they deal with each specific section.

Section 25 specifically prohibits the state from circumventing the intent of the amendment by shifting tax burdens from the state to local governmental levels. Any action by the state which would result, directly or indirectly, in increased local taxation through a shift in funding responsibility is clearly prohibited by this Section.

This Section and Sections 26 through 34, inclusive, together with Section 6, as amended, were intended to strengthen the process of direct voter approval over total taxation and spending levels; and it was intended that the legislative, judiciary, and administrative branches of government be so guided.

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In essence, the drafters' intent was to place the total dollar size of Michigan's public sector under direct popular democracy while retaining the best features of representative democracy, vis-a-vis the allocation of resources within the voter approved overall spending limitations.

Section 26

This section defines the state revenue limit. The revenue limit is expressed in terms of the ratio of total state revenues, excluding federal aid and taxes levied for specified debt service in FY 1978-1979 over the personal income in calendar 1977 times the relevant income base. This avoids use of a specific percentage (such as 8.3%, as in Proposal C) and the charge that there would be a reduction if the limit were effective at that time.

There was strong sentiment that this percentage should be rolled back over a period of time; but the concensus was that a roll back was conceptually different and should be handled later with an independent amendment.

Section 33 defines "total state revenues" to include all general and special revenues, excluding federal aid, as defined in the budget message of the governor for FY 1978-1979. It was the drafters' intent for the definition of

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"total state revenues" to be all inclusive, including revenues from licenses and permits and any and all other sources, except those revenue sources explicitly excluded by language in the amendment itself. It was the drafters' intent that any and all future revenues be treated like any revenues that exist upon approval of the amendment and be subject to the limit. Taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this article and loans to school districts authorized under Section 16 of this article, are excluded from the revenue limitation established in Section 26. Such taxes and federal aid are excluded both from the calculation of the 1978-79 revenue limit ratio and from the revenue limit computation in subsequent years.

In drafting this Section, there was concern regarding the danger of voting in November, 1978, on a proposal which uses revenues in 1978-1979 as a percentage of 1977 personal income as the limitation, since if the amendment were approved, the legislature would have the opportunity to increase taxes following the November election in order to build up the ratio. It was the drafters' intent that this not happen and the general consensus was that such a tax increase would be politically unlikely, and that if the legislature were so arrogant as to increase taxes following approval of the tax limitation amendment, that there would be an immediate

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petition drive that would result in technical amendments which would reduce the percentage limitation.

Directly or indirectly federally mandated spending increases are not exempted from the provisions of this section. It is the concensus that any problems arising from such federal requirements would be cured later on by a federal tax limitation amendment.

This section requires pro rata refunds to taxpayers in the event that revenues exceed the dollar amount of the revenue limit by 1% or more of the limit. If the excess were less than 1% of the revenue limit, the excess can be either refunded pro rata, or placed in the budget stabilization fund, as determined by the legislature. If the excess of revenues were greater than 1% of the revenue limit, a transfer to the budget stabilization fund out of excess revenues is prohibited and all of the dollars in excess of the limit must be refunded on a pro rata basis. The drafters' intent in designing the 1% cushion was to minimize the administrative expense relating to tax refunds.

The pro rata provision was designed to prevent the legislature from indirectly creating a graduated income tax through over taxation followed by various refunding schemes, other than pro rata.

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Section 27

This section defines conditions by which the revenue and spending limitations may be exceeded. Declaration of an emergency requires executive action and this section requires that an emergency must be declared by the Governor and approved by a two-thirds vote of members of each house. The procedures for an emergency declaration and approval are very specific in order to prevent the abuse of this section.

Section 28

This section provides for a balanced budget and reinforces the present constitutional requirement for a balanced budget. Past practices designed to avoid the constitutional balanced budget requirements, such as extending the fiscal year, are precluded by this section. Surplus is intended to include budget stabilization monies, permitting financing a budget stabilization fund within the revenue limit established in Section 26. It was not the drafters' intent to any way prohibit the creation of the budget stabilization fund within the limit, or to include budget stabilization funds from prior years within the revenue limitation formula.

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Section 29

It was the drafters' intent to include all necessary state mandated cost increases in this provision, including but not limited to: changes in general law which increase local governmental costs, e.g., increases in the state minimum wage law; changes in the civil and criminal statutes, e.g., mandatory sentencing; federally encouraged changes in state law, e.g., unemployment compensation coverage; collective bargaining or compulsory arbitration mandates, land use regulations, etc. It was the drafters' intent that the words "activity or service" be broadly defined to require that the state pay for all costs mandated by state law or state directive after December 22, 1978. This section requires reimbursements to local units for necessary new costs from all state mandates requiring action after December 22, 1978. Such interpretation is also required by Section 25 which prohibits the state from requiring any new or expanded activities by local governments without full state financing...or from shifting the tax burden to local government. The phrase "required by existing law," is used to clarify the authority of the State to require local governments to increase their activities up to standards established by existing law without additional reimbursements. However, "new" administrative interpretation of existing law would require reimbursement.

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"Necessary costs" means that the legislature may establish some criteria to determine effectiveness, such as average costs, state-wide. It was intended that the legislature implement this section through appropriate legislation, including appropriations to cover the necessary costs for mandated activity or service. No mandated activity or service should be legally binding on any local unit until the appropriations for such mandated activity or service is made and disbursed to the applicable local units.

The state is prohibited from reducing the state financed proportion of specific existing activities or services below that proportion funded by the state in the base year, i.e., fiscal year 1978-1979. It was the drafters' intent that the phrase "any existing activity or service required of Local Government by state law" be broadly construed to mean all activities or services performed by Local Government as a result of the State Constitution, state statute or state regulation, e.g., public elementary and secondary schools as defined by law. This provision does not guarantee, for example, that the proportion of state expenditures paid to a specific school district cannot be reduced. It does mean, however, that the proportion of state funding going to school districts, state-wide, for public elementary and secondary education shall not be reduced.

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The State is prohibited from reducing the state financed proportion of existing specific programs required of local governments by state law or state directive. Future mandated programs shall be fully funded. It seeks to obviate any temptation the state might have to fund a new mandated program (e.g., rapid transit) by shifting funds from a previously mandated program (e.g., K-12 education).

This section does not necessarily prevent the state from shifting funds from general and unrestricted revenue sharing to the funding of a state mandated activity but it does prohibit shifting funds from state mandated programs unless the mandate for such programs is eliminated.

Section 30

The primary intent of this section was to prevent a shift in tax burden, either directly or indirectly from state to local responsibility. The phrase "taken as a group" permits the legislature to reallocate funds to local units of government, i.e., geographically or from one unit to another. It was the drafters' intent to rely on the political process to effect such allocations and not to limit the legislature's ability to create more effective and efficient governmental entities or to eliminate those local units which no longer serve any utilitarian purpose.

00784a can't eliminate school districts

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Additional or expanded activities mandated by the state, as described in Section 29 would tend to increase the proportion of total state spending paid to local government above that level in effect when this section becomes effective.

Section 31

Section 31 begins: "Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without approval of a majority of the qualified electors of that Local Government voting thereon." This sentence was intended to prohibit local units from levying any new tax that might be authorized after the effective date of the amendment without voter approval. It also was intended to prohibit any local unit from increasing the rate of an existing tax beyond the limit established by law or charter after the effective date of the amendment.

However, the intent of the wording was to permit Local units to retain those taxing powers they had by state law or local charter prior to the effective date of the amendment. Thus, a Local unit that was not levying or imposing the full amount of its taxing authority at the time of the effective date of the

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amendment would continue to be able to exercise such power after the effective date of the amendment. For example, a city with a 20 mill limit in its charter that only levied 15 mills in 1978 could increase its millage rate up to its 20 mill charter limit without again going to the voters for approval. Likewise, a school district that had voter approval to levy extra voted millage at the time of adoption could increase its millage rate up to the amount authorized without again seeking voter approval, even though the maximum millage authorized might not have been levied in 1978.

Industrial facility taxes levied under authority of Public Act 198 of 1974 are taxes that "were authorized by law" when Section 31 would go into effect, and therefore, would be exempt from the local vote requirement.

The first paragraph of Section 31 provides that as assessed value is increased, the millage authorized for the taxing unit must be decreased in equal proportion to the increased assessment, with the only increase in revenue allowed from existing property being determined by the Consumers Price Index for the United States as reported by the United States Department of Labor.

The rollback provision of this section reads:

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"...if assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the general price level from the previous year, the maximum authorized rate applied thereto in each unit of local government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the general price level, as could have been collected at the existing authorized rate on the prior assessed value...". (emphasis added) "Existing authorized rate" was intended to refer to "maximum rate authorized by law or charter" when this Section is ratified.

This section recognizes that in many communities, property tax revenues have increased rapidly, without any increase in tax rates, due to the rapid increase in assessments. It was the drafters' intent to assure that tax revenues on existing property not increase faster than the general U.S. inflation rate, regardless of increases in assessments, without local voter approval. The growth of property taxes on existing property in a taxing unit is limited to the rate of inflation.

For particular years in which assessed valuation of property as finally equalized (excluding new construction) exceeds inflation the maximum tax rate authorized by law or charter

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shall be rolled back to yield the same gross revenue from existing property (adjusted for inflation) as could have been collected at the existing authorized rate on the prior assessed value. The intent of the underlined phrase was to roll back the "maximum rate authorized by law or charter," even though the unit may have been levying a lesser rate. A key operative word in the phrase is "could." The effect of this provision shall be a continual ratcheting downward of maximum authorized tax rates whenever assessed values exceed inflation.

This section only operates to reduce maximum authorized tax rates in years in which assessed values, as finally equalized, increase faster than inflation. It does not allow "rolled back" rates to be increased under any conditions without voter approval. This is illustrated for a taxing unit in the following hypothetical example. (Exhibit 1) Presmises: the "maximum authorized rate" is 10 mills; spread rate (the millage levied in 1978) was 9 mills; assume the taxing authority continues to levy the same millage that it was levying in 1978 (9 mills) until the "maximum authorized rate" reaches a lesser level.

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Year	Assessed Value (S.E.V.)	~~1~~ Change in Assessed Value (S.E.V.)	Inflation	Maximum Authorized Tax Rate	Spread Rate	Annual Property Tax Savings*
1978	$20,000,000			10.00 mills	9.00	--
1979	$23,400,000	17%	9%	9.32 mills	9.00	--
1980	$24,102,000	3%	7%	9.32 mills	9.00	--
1981	$25,789,140	7%	12%	9.32 mills	9.00	--
1982	$29,657,511	15%	8%	8.75 mills	8.75	$ 7,415
1983	$35,589,013	20%	10%	8.02 mills	8.02	$34,877
1984	$38,080,244	7%	7%	8.02 mills	8.02	$37,318
1985	$41,888,269	10%	7%	7.80 mills	7.80	$50,216

*Annual savings is calculated based on the difference between 1978 spread rate and the "maximum authorized tax rate." Annual savings in this example would be larger if it were assumed that the local governing body, in the absence of Tax Limitation, had spread taxes at the "maximum authorized rate" in 1979, 1980 and 1981, instead of continuing to spread at the 1978 level.

Exhibit 1

The impact of this provision is further illustrated in the attached table (Exhibit 2) which shows the impact on a taxing jurisdiction with a market value of $20 million in 1968, with S.E.V. increases, inflation rate and millage levy as shown in the table. It is assumed that the taxing jurisdiction is levying the maximum authorized rate for the purposes of this example.

It was clearly the drafters' intent that whenever a "maximum tax rate authorized by law or charter" is rolled back, the "rolled back" rate becomes the "new" maximum authorized rate,

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(In Millions of Dollars)

Year	Assessed (S.E.V.)	% Change in Assessed (S.E.V.)	Inflation	Section 31 Millage under (E)	Property Taxes Section 31 (without "E")	Property Taxes Section 31 (E)	Annual Property Tax Savings Section 31 (E)	Cumulative Annual Property Tax Savings Section 31 (E)
1968	10,000			40 mills	400.00	--	--	--
1969	11,450	14.5%	5.4%	36.82	458.00	421.59	36.41	36.41
1970	12,893	12.6%	5.9%	34.63	515.72	446.48	69.24	105.65
1971	14,556	12.9%	4.3%	31.99	582.24	465.65	116.59	222.24
1972	16,206	10.1%	3.3%	30.02	641.04	481.10	159.94	382.18
1973	16,956	5.8%	6.2%	30.02	678.24	509.02	169.22	551.40
1974	19,329	14.0%	11.0%	29.23	773.16	564.99	208.17	759.57
1975	20,102	4.0%	9.1%	29.23	804.08	587.58	216.50	976.07
1976	21,108	5.0%	5.8%	29.23	844.32	616.99	227.33	1,203.40
1977	21,530	2.0%	6.5%	29.23	861.20	631.47	229.73	1,433.13
1978	24,501	13.8%	7.5%	27.61	980.04	676.47	303.57	1,736.70

The cumulative savings, over the past ten years, had "E" been in effect, would have been $1,736,700 -- under the assumptions in this hypothetical example.

Exhibit 2

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which will then serve as the base from which the next rol would be calculated. Once a tax rate is rolled back under this section, it shall never be increased without voter approval.

A key phrase in this section is "rate authorized by law or charter." Local government officials would retain the authority to increase tax rates to the maximum rates authorized "by law or charter," even if such maximum rates are not presently levied. This does not change their present authority, with the exception that "maximum rates authorized" would be rolled back, over time, whenever assessed valuation of property as finally equalized (presently defined as S.E.V.) increases more than inflation. This section assures local voter control of the maximum authorized rates and the revenues generated at these rates.

"Rate authorized by law or charter" was selected rather than "rate existing at time of ratification" (the spread rate) because the drafters' intent was not to penalize the taxing authorities that were efficient enough to operate at less than their maximum authorized levels or who may have reduced millage due to some unusual circumstances below the authorized level. Furthermore, it was recognized that those maximum rates had been previously approved by voters and therefore, such an approach is consistent with the intent of the amendment.

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To reiterate, it was the clear and absolute intention of the drafters to require that all property and local taxation be under direct voter control. In no way does this section allow for millage rolled back under this section to be restored without approval by a majority of the electors of the unit affected and voting thereon.

This section permits, but does not require the legislature to mandate, through enabling legislation, that a lower tax rate than "authorized by law or charter" be established, such as that tax rate in each unit effective on December 22, 1978. Although specification of this approach is not mandated, it clearly would be within the spirit of the tax revolt, from which this amendment sprang, to do so. In retrospect, it is noted that Proposal E ballot language stated "...the proposed amendment would...prohibit local government from adding new or increasing existing taxes without voter approval." Emphasis added. The legislature and the courts should be guided by the perception of the electorate in passing the amendment.

"The value of new construction and improvements" clearly means only new physical construction. Any increase in value because of zoning changes or for any other reason are not within the meaning of "new construction and improvements." New construction is intended to mean the amount of newly constructed property less losses. Failure to adjust for losses would

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allow taxes on existing property to increase faster than inflation which is clearly contrary to the intent of this section.

The second paragraph of Section 31 was included by the drafters to protect the rights of the holders of bonds which had been properly issued and authorized prior to the effective date of the amendment. It was also intended to assure those bondholders that the constitutional amendment would not be applied retroactively to bonds issued and authorized prior to the effective date of the amendment. It was the intention of the drafters that this paragraph would apply only to completed transactions, i.e. to bonds issued and authorized, prior to the effective date of the amendment.

The drafters were very careful to spell out that the limitations provided in Section 31 in paragraph 1 did not apply to taxes that had been previously imposed for bonds that were issued and properly authorized prior to the effective date of the amendment. The drafters also recognized that if bonds had been improperly authorized and issued, prior to the effective date of the amendment, the bonds might be set aside or voided through litigation. It was not the intention of the drafters to protect the defective bonds from litigation or to prohibit such litigation.

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Paragraph 2 of Section 31 was not in any manner or fashion intended to limit Article 9, Section 6 of the Tax Limitation amendment. Paragraph 2 of Section 31 was written totally independent of and separate from Article 9 Section 6 and had as its only intention the guaranteeing of contractual rights of individuals who had purchased bonds that were properly issued and authorized, i.e. completed, prior to the effective date of the amendment so that they would be protected from a reduction in millage under the provisions of paragraph 1 of Section 31. It was the clear intention of the drafters to prohibit the issuing or authorization of any unlimited tax obligation bonds in the State of Michigan after the effective date of this amendment without a vote of the electors.

Section 32

Any taxpayer of the state shall have standing to bring suit with original jurisdiction in the Michigan Court of Appeals to enforce the provisions of this amendment.

By costs, the drafters meant all expenses incurred in maintaining such suit, including, but not limited to filing fees, service fees, witness fees, discovery expenses, attorney fees and reasonable reimbursement for plaintiffs' time and travel.

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Section 34

The legislature must implement the provisions of Sections 25 through 33, inclusive. It is the intent that state law be the authority for implementing the additions to this article and extension of legislative authority to any department, agency, etc., shall not occur.

Section 6

The drafting of Article 9, Section 6 changed only the wording in paragraph 2 of Section 6. The former wording of paragraph 2 Section 6 excluded certain taxes from the limitations provided in paragraph 1 Section 6 of the 1963 Constitution. All the limitations contained in the 1963 Constitution in paragraph 1 Section 6 were retained. The intent, and the only intent of paragraph 2 Section 6 was to require a vote by the people before any taxes could be imposed over and above the limitations contained in paragraph 1 Section 6. The changes in paragraph 2 Section 6 were intended specifically to prohibit the imposition of any taxes for the payment of principal and interest on bonds or other evidence of indebtedness, or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which require the imposition of taxes over and above the limits set forth in paragraph 1 Section 6 unless the qualified electors

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of the political subdivision wherein such taxes are to be imposed have approved through an election in that district the issuance of obligations that would require the levy of property taxes that would be in excess of said limits contained in paragraph 1 Section 6.

In paragraph 2 of Section 6 the drafters also imposed the limitations under Sections 25 through 34 of Article 9 on any taxes imposed for any other purpose, thus requiring that any increase in taxation of property in the State of Michigan shall not be allowed without the approval of the qualified electors of whatever entity attempts to increase such property taxes.

The drafters felt that the 1963 Constitution allowed governmental units to increase property taxes for the purposes listed in paragraph 2 of Section 6 over and above the limitations contained in paragraph 1 Section 6 without any direct control of such taxes that would exceed the limits in paragraph 1 Section 6, by the electors of any political subdivision, etc. The drafters' intent was to stop this situation and return to the people full control of all property taxation amounts that would exceed the limitations set forth in Section 6, paragraph 1.

It was understood by the drafters that any taxes levied under Section 6, paragraph 1 and within the limitations contained

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therein could be used for any purpose consistent with the Constitution and the laws of the State of Michigan, including the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligation in anticipation of which bonds were issued. To reiterate, it was the sole intention of the drafters of Article 9 Section 6 to require that all taxation of property be subject to approval by the qualified electors of whatever entity seeking to impose such property tax.

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APPENDIX 1

PROPOSAL E (1978)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT
ADDING SECTIONS 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34 TO ARTICLE IX AND AMENDING SECTION 6 OF ARTICLE IX

Article IX of the Michigan Constitution is hereby amended by adding Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34, and by amending Section 6, to additions and amendments to read as follows:

Sec. 25. Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct v approval. The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the propor of state spending in the form of aid to local governments, or from shifting the tax burden to local government. A provision for emergency condition established and the repayment of voter approved bonded indebtedness is guaranteed. Implementation of this section is specified in Sections 26 through inclusive, of this Article.

Sec. 26. There is hereby established a limit on the total amount of taxes which may be imposed by the legislature in any fiscal year on the taxpayers of t state. This limit shall not be changed without approval of the majority of the qualified electors voting thereon, as provided for in Article 12 of the Constitutio Effective with fiscal year 1979-1980, and for each fiscal year thereafter, the legislature shall not impose taxes of any kind which, together with all other revenu of the state, federal aid excluded, exceed the revenue limit established in this section. The revenue limit shall be equal to the product of the ratio of Total St Revenues in fiscal year 1978-1979 divided by the Personal Income of Michigan in calendar year 1977 multiplied by the Personal Income of Michigan in eith the prior calendar year or the average of Personal Income of Michigan in the previous three calendar years, whichever is greater.

For any fiscal year in the event that Total State Revenues exceed the revenue limit established in this section by 1% or more, the excess revenues shall refunded pro rata based on the liability reported on the Michigan income tax and single business tax (or its successor tax or taxes) annual returns filed follow the close of such fiscal year. If the excess is less than 1%, this excess may be transferred to the State Budget Stabilization Fund.

The revenue limitation established in this section shall not apply to taxes imposed for the payment of principal and interest on bonds, approved by voters and authorized under Section 15 of this Article, and loans to school districts authorized under Section 16 of this Article.

If responsibility for funding a program or programs is transferred from one level of government to another, as a consequence of constitutio amendment, the state revenue and spending limits may be adjusted to accommodate such change, provided that the total revenue authorized for collection both state and local governments does not exceed that amount which would have been authorized without such change.

Sec. 27. The revenue limit of Section 26 of this Article may be exceeded only if all of the following conditions are met: (1) The governor requests the legislatu to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which t emergency will be funded; and (3) the legislature thereafter declares an emergency in accordance with the specifics of the governor's request by a two-thirds vo of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expen which constitute the emergency request. The revenue limit may be exceeded only during the fiscal year for which the emergency is declared. In no event sh any part of the amount representing a refund under Section 26 of this Article be the subject of an emergency request.

Sec. 28. No expenses of state government shall be incurred in any fiscal year which exceed the sum of the revenue limit established in Sections 26 and 27 of t Article plus federal aid and any surplus from a previous fiscal year.

Sec. 29. The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Lo Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 30. The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect fiscal year 1978-79.

Sec. 31. Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasi the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electo of that unit of Local Government voting thereon. If the definition of the base of an existing tax is broadened, the maximum authorized rate of taxation on t new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of proper as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Le from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue fro existing property, adjusted for change in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value.

The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of amendment.

Sec. 32. Any taxpayer of the state shall have standing to bring suit in the Michigan State Court of Appeals to enforce the provisions of Sections 25 through inclusive, of this Article and, if the suit is sustained, shall receive from the applicable unit of government his costs incurred in maintaining such suit.

Sec. 33. Definitions. The definitions of this section shall apply to Section 25 through 32 of Article IX, inclusive.

"Total State Revenues" includes all general and special revenues, excluding federal aid, as defined in the budget message of the governor for fiscal ye 1978-1979. Total State Revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, b shall include the amount of any credits not related to actual tax liabilities. "Personal Income of Michigan" is the total income received by persons in Michig from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency. "Local Government" means a political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counti authorities created by the state, and authorities created by other units of local government. "General Price Level" means the Consumer Price Index for t United States as defined and officially reported by the United States Department of Labor or its successor agency.

Sec. 34. The Legislature shall implement the provisions of Sections 25 through 33, inclusive, of this Article.

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APPENDIX 2

PROPSAL C (1976)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT ADDING SECTIONS 25, 26, 27, 28, 29, 30, AND 31 TO ARTICLE IX

Sec. 25. There is hereby established a limit on the total amount of taxes which may be levied by the Legislature in any fiscal year on the taxpayers of this State. Effective with the first fiscal year beginning after the ratification of this Section, and for each fiscal year thereafter, the Legislature shall not impose taxes of any kind which, together with all other revenues of the State, federal aid excluded, will total more than 8.3% of the personal income of Michigan for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater. "Personal income of Michigan" means the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency.

For any fiscal year, in the event that State revenues, excluding federal aid, do exceed 8.3% of the personal income of Michigan reported for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater, the excess shall be refunded pro rata on the income taxes annual returns filed following the close of such fiscal year.

The limitations of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness authorized under Sections 15 and 16 of this Article.

Sec. 26. The tax limitation of Section 25 of this Article may be exceeded only if all of the following conditions are met: (1) The Governor requests the Legislature to declare an emergency; (2) the request shall be specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; (3) upon receiving this request, the Legislature declares an emergency, in accordance with the specifics of the Governor's request, by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this Section prior to incurring any of the expenses which constitute the specific emergency request. The tax limitation may be exceeded only for the fiscal year in which the emergency is declared; in the next and subsequent fiscal years the tax limitation of Section 25 of this Article shall again take effect. In no event shall any part of the amount representing a refund under Section 25 of this Article be the subject of any emergency request.

Sec. 27. No expenses of state government shall be incurred for any fiscal year which exceed in amount the revenue limitations imposed by Sections 25 and 26 of this Article.

Sec. 28. A new program or an increase in the level of service under an existing program shall not be required by the Legislature of units of local government, of authorities created by the state, or of political subdivisions of the state, unless a state appropriation is made and disbursed sufficient to pay the local unit of government, authority or political subdivision for the costs of the program. The provisions of this Section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 29. The proportion of state revenue paid to all units of local government, authorities created by the state, and political subdivisions of the state, taken as a group, shall not be reduced below that proportion in effect when this Section is adopted.

Sec. 30. Units of local government, authorities created by the state, and political subdivisions of the state are hereby prohibited from levying any tax not in existence when this Section is ratified or from increasing the rate or base of existing taxes beyond levels authorized when this Section is ratified, without the approval of a majority of the qualified electors of that local unit, authority or political subdivision voting thereon. The limitations of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued.

Sec. 31. The Legislature shall implement the provisions of Sections 25 through 30, inclusive, of this Article.

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Section 6. (New language capitalized) Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds APPROVED BY THE ELECTORS or other evidences of indebtedness APPROVED BY THE ELECTORS or for the payment of assessments or contract obligations in anticipation of which bonds are issued APPROVED BY THE ELECTORS, which taxes may be imposed without limitation as to rate or amount; OR, SUBJECT TO THE PROVISIONS OF SECTIONS 25 THROUGH 34 OF THIS ARTICLE, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

PROVISIONS OF EXISTING CONSTITUTION ALTERED OR ABROGATED BY THIS AMENDMENT IF ADOPTED
- ARTICLE IX, SECTION 6 -

Section 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by the city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

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EXHIBIT 5

Table D: Shortfalls in Adjusted State Payments Increase Since Proposal A

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TABLE D: SHORTFALLS IN ADUSTED STATE PAYMENTS INCREASE SINCE PROPOSAL A

	State Source Spending (millions)	Local Payments (millions)	Required Payments 48.97% (millions)	Percent Total	Est. Proposal A Funding Shift (millions)	Charter Schools (millions)	Adjusted Local Spending (millions)	Percent Adjusted State Spending	Shortfall in Local Payments (millions)
FY 2015-16	$29,943	$16,692	$14,663	55.75%	$5,381	$1,211	$10,100	33.7%	($4,563)
FY 2014-15	$29,524	$16,313	$14,458	55.25%	$5,375	$1,181	$9,757	33.0%	($4,701)
FY 2013-14	$28,301	$15,701	$13,859	55.48%	$5,368	$1,144	$9,189	32.5%	($4,670)
FY 2012-13	$27,313	$15,369	$13,375	56.27%	$5,334	$1,053	$8,981	32.9%	($4,394)
FY 2011-12	$27,153	$14,955	$13,297	55.08%	$5,311	$909	$8,735	32.2%	($4,562)
FY 2010-11	$26,184	$14,924	$12,822	57.00%	$5,296	$863	$8,765	33.5%	($4,057)
FY 2009-10	$25,797	$14,530	$12,633	56.32%	$5,275	$817	$8,438	32.7%	($4,195)
FY 2008-09	$25,835	$15,112	$12,651	58.49%	$5,257	$772	$9,083	35.2%	($3,569)
FY 2007-08	$28,144	$15,805	$13,782	56.16%	$5,159	$773	$9,873	35.1%	($3,910)
FY 2006-07	$26,763	$15,575	$13,106	58.20%	$5,089	$743	$9,743	36.4%	($3,363)
FY 2005-06	$26,653	$15,602	$13,052	58.54%	$4,995	$667	$9,940	37.3%	($3,112)
FY 2004-05	$25,688	$15,258	$12,579	59.40%	$4,967	$594	$9,698	37.8%	($2,882)
FY 2003-04	$24,854	$15,430	$12,171	62.08%	$4,960	$531	$9,939	40.0%	($2,232)
FY 2002-03	$25,205	$15,804	$12,343	62.70%	$4,946	$488	$10,371	41.1%	($1,972)
FY 2001-02	$24,702	$15,883	$12,097	64.30%	$4,762	$454	$10,666	43.2%	($1,430)
FY 2000-01	$24,686	$15,495	$12,089	62.77%	$4,628	$384	$10,483	42.5%	($1,606)
FY 1999-00	$23,452	$14,461	$11,484	61.66%	$4,500	$302	$9,660	41.2%	($1,825)
FY 1998-99	$22,791	$13,888	$11,161	60.94%	$4,252	$202	$9,434	41.4%	($1,707)
FY 1997-98	$21,570	$13,466	$10,563	62.43%	$4,038	$130	$9,298	43.1%	($1,265)
FY 1996-97	$20,400	$12,397	$9,990	60.77%	$3,796	$74	$8,528	41.8%	($1,462)
FY 1995-96	$20,012	$11,885	$9,800	59.39%	$3,655	$31	$8,199	41.0%	($1,601)
FY 1994-95	$19,525	$11,431	$9,561	58.55%	$3,443	$4	$7,985	40.9%	($1,577)
Total Shortfall									($64,670)

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

Note: Adjusted shortfall increases from $1,517 million in FY 1994-95 to $4.5 billion in FY 2015-16. Adjusted state spending from state sources declines from 40.9% in FY 1994-95 to 33.7% in FY 2015-16.

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EXHIBIT 6

Affidavit of Robert Kleine

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.

---/

AFFIDAVIT OF ROBERT J. KLEINE

I, **ROBERT J. KLEINE**, being duly sworn affirm, and based on knowledge, information and belief do hereby state as follows:

1. I have over forty years of experience as a professional economist and presently work as an independent economics consultant on public policy issues with a fiscal or economic impact.

2. I hold a Master of Business Administration Degree in Finance from Michigan State University. I also hold a Bachelor of Arts Degree in Economics and History from Western Maryland College (now McDaniel College).

3. From 1966 to 1975, I was employed as Economic Analyst with the State of Michigan's Budget Office where my work included preparing revenue estimates and economic forecasts and developing and analyzing tax proposals.

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4. From 1976 to 1977 and 1984 to 1985, I was worked as Senior Analyst in Public Finance with Advisory Commission on Intergovernmental Relations. During the course of this work I prepared a primer on state and local income taxes and delivered papers and reports on property tax relief, state tax incentives, and other tax issues.

5. From 1975 to 1984, I served as Director of the Michigan Department of Management and Budget's Office of Revenue Report and Tax Analysis. Responsibilities include preparation of state revenue estimates and economic forecasts; developing and analyzing tax proposals; and analyzing all legislation affecting state revenues or the Michigan economy.

6. From 1985 to 2001, I was employed as a Vice President, Senior Economist and Editor of Public Sector Reports. My responsibilities included revenue and economic forecasts, preparing issue papers and studies on tax and economic matters, and providing technical assistance to staff and clients.

1. From 2001 to 2006, I worked with Kleine Consulting serving as economic advisor to the Delta Dental Plan of Michigan and correspondent for State Tax Notes.

2. From 2006 to 2010, I served as the Treasurer of the State of Michigan. In addition to overseeing the Michigan Department of Treasury, the State Treasurer serves as the chief economic and tax policy advisor to the Governor.

3. From 2016 to the present, I have served as Interim Director of Michigan State University's Center for Local Government Finance and Policy. My responsibilities have included research and dissemination of information on local government finance and organization issues along with providing leadership training to local government officials.

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4. My resume, attached as Exhibit A, further details my professional history, education, and additional information regarding my experience as Economist with expertise on State budget matters.

5. The table, attached as Exhibit B and titled "*Table D: Shortfalls In Adjusted State Payments Increase Since Proposal A*", contains calculations of the total payments to local governments as a share of State spending since the adoption of proposal A. The various columns show:

a. Total State spending from State sources;

b. Spending in the form of aid to local governments as reported by the State to meet art. 9, § 30 obligations;

c. The minimum amount State spending in the form of aid to local government that is required to be made pursuant to art. 9, § 30 the State constitution;

d. The percentage of State spending from State sources that is composed of payments to local government as reported by the State;

e. The estimated amount of payments to local government from Proposal A revenue that the State includes within its calculation of spending in the form of aid to local governments to meet art. 9, § 30 obligations;

f. The estimated amount of payments to Charter Schools that the State includes within its calculation of spending in the form of aid to local governments to meet art. 9, § 30 obligations;

g. The amount of State spending in the form of aid that is paid to local governments without including spending from Proposal A revenue and without including payments to Charter Schools;

h. The percentage of State spending in the form of aid that is paid to local governments without including spending from Proposal A revenue and without including payments to Charter Schools; and

i. The total shortfall in State spending in the form of aid to local government when spending from Proposal A revenue and payments to Charter Schools excluded from the State's calculations.

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6. The information within the table found in Exhibit B was calculated by my business partner, Economist Mitchell Bean, and myself.

7. The information within the table found in Exhibit B was calculated from financial data and information contained within the State Of Michigan Comprehensive Financial Report for the fiscal years 1994-95 through 2015-16 along with data found within reports from the Senate Fiscal Agency and House Fiscal Agency for the same fiscal years.

I swear or affirm that the above and foregoing representations are true and correct to the best of my information and knowledge. Further Affiant Sayeth Naught.

By: Robert J. Kleine
ROBERT J. KLEINE
Great Lakes Economic Consulting LLC
11889 Plains Road
Eaton Rapids, MI 48827

Subscribed and sworn before me,
a Notary Public, on 12/4/17

Notary Public, ~~Eaton~~ INGHAM County, MI.
My Commission expires 9/28/2020

ELIZABETH MARTIN
Notary Public, State of Michigan
County of Ingham
My Commission Expires 09-28-2020
Acting in the County of Ingham

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EXHIBIT A

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ROBERT J. KLEINE

1135 Farwood.
East Lansing, Michigan 48823
517/332-7825(home) 517/881-8481(cell)

EDUCATION

Western Maryland College (now McDaniel College), B.A., Economics and History, 1963; American University, Business Administration, 1965-1966; Michigan State University, M.B.A., Finance, 1970

PREVIOUS PROFESSIONAL EXPERIENCE

***September 2016- April 2018- Interim Director, Michigan State University Center for Local Government Finance and Policy*,** Conduct research and disseminate information on local government finance and organization issues. Provide leadership training to local government officials. Provide support to local government organizations.

2011-Present – Partner, Great Lakes Economic Consulting, Provide consulting services to a wide range of public and private organization. Prepared reports on municipal finance, indigent defense, juvenile justice, casino gambling, and the Michigan economy.

2006-2010 - Treasurer, State of Michigan, Responsible for managing a Department of 1,700 employees. The Michigan Department of Treasury is responsible for collecting all state revenue, managing state pension funds, overseeing local government finances and the property tax system, issuing and managing state debt, overseeing student financial aid programs including MET and MESP, preparing economic and revenue estimates, and developing and analyzing state tax policy. The State Treasurer serves as the chief economic and tax policy advisor to the Governor.

2001- 2006 - *Kleine Consulting*, Serve as economic advisor to Delta Dental Plan of Michigan and Michigan correspondent for *State Tax Notes.* Have prepared studies for a number of organizations including Michigan Judges Association, Public Sector Consultants, Public Policy Associates, Japanese Consulate, and Ann Arbor School District.

***1985-2001- Vice President, Senior Economist, and Editor* of Public Sector Reports.**
Responsible for revenue and economic forecasts, preparing issue papers and studies on tax and economic matters, and providing technical assistance to staff and clients. Conducts research and writes reports on policy issues for the firm and its clients. Manages research projects, which includes scheduling, client contact, supervision of project team, budget monitoring, and fulfillment of contract terms. Authored major reports on property tax exemptions, a proposed income tax for South Dakota, and state and local tax systems.

1998-2000 Taught graduate course in public finance at Michigan State University.

1988 Taught graduate class on school finance at Michigan State University.

1984-85 Senior Analyst in Public Finance, Advisory Commission on Intergovernmental Relations. Authored reports on cigarette tax evasion and the value-added tax. Prepared report on revenue and program turnbacks. Wrote article on federal tax reform for ACIR magazine.

1975-84 Director, Office of Revenue and Tax Analysis, Michigan Department of Management and Budget. Responsible for preparing state revenue estimates and economic forecasts, developing and analyzing tax proposals, and analyzing all legislation affecting state revenues or the Michigan economy. Played a major role in developing the Single Business Tax and "circuit breaker" property tax relief program. Directed the Governor's Task Force on Property Tax Revision. Selected outstanding employee in Budget Office in 1979. Supervised staff of eleven employees.

1976-77 Senior Analyst in Public Finance, Advisory Commission on Intergovernmental Relations. Authored reports on cigarette bootlegging, the Michigan value-added tax, and regional economic growth and state tax competition. Prepared a primer on state and local income taxes, drafted legislation to implement cigarette bootlegging recommendations, and delivered papers on property tax relief and state tax incentives.

1966-1975 Economic Analyst, Michigan Budget Office. Prepared revenue estimates and economic forecasts. Assisted in preparing governor's economic report and monthly reports on revenues and economic developments. Assisted in developing and analyzing tax proposals. Analyzed economic and tax legislation. Assisted in implementing Planning, Programming, and Budgeting System, including preparation of cost-effectiveness analyses. Served as chief of Revenue Research Section from 1972 to 1975. Supervised three employees.

1965-1966 *Assistant Trust Officer,* Riggs National Bank, Washington, D.C. Assisted in managing individual trust portfolios. Managed common trust fund. Evaluated investment worth of selected securities. Monitored economic and investment developments.

1963-1965 Lieutenant, U.S. Army Served as missile control officer in air defense artillery unit.

SELECTED CONSULTING REPORTS AND PUBLICATIONS

(A complete list of Public Sector Consultants and Great Lakes Economic Consulting publications is available upon request. Several of these publications were reprinted by other organizations.)

"*Someone to Watch Over me: State Monitoring of Local Fiscal Conditions*", with Carol Weissert and Phil Kloha, Vol. 35, No. 3, 2005.

"Monitoring Local Government Fiscal Health: Michigan's New 10-Point Scale of Fiscal Distress, Government Finance review, June, 2003.

"Developing and Testing a Composite Model to Predict Local Fiscal Distress", with Carol Weissert and Phil Kloha, *Public Administration Review,* May/June 2005.

"*A Detailed Examination of the Michigan Economy"*, for the Japanese Consulate, April, 2002.

"Michigan Charter School Initiative: from Theory to Practice, with Nick Khouri and Laurie Cummings, Public Sector Consultants, Inc., February, 1999.

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"Economic Benefits of Michigan's Nonprofit Sector", Public Sector Consultants, Inc., 1999.

"Michigan School Finance Reform: a series of papers (with others), Public sector Consultants, Inc., 1994

"Public Welfare Benefits: A Comparison" (with Frances Spring), prepared for the Michigan Department of Social Services, August 1991.

"A Proposal to Reduce the Federal Deficit and the National Debt," Public Policy Advisor, Public Sector Consultants, August 17, 1990.

"High Technology Employment Trends in Michigan," Public Policy Advisor, Public Sector Consultants, October 22, 1990.

"Profiling Michigan's School Districts" (with Frances Spring), Public Sector Consultants, November 1989.

"U.S. State-Local Tax Systems: How Do They Rate?", Public Sector Consultants, 1988.

"The Personal and Corporate Income Tax: An Evaluation for South Dakota," Public Sector Consultants, December 1988.

"Characteristics of a Balanced State-Local Tax System," in *Reforming State Taxes.* Denver: National Conference of State Legislatures, 1987.

"A Study of the New Jersey Property Tax System and Options for Change," Public Sector Consultants, June 1987.

"Tax Increment Financing: Effect on Local Government Revenue," Public Policy Advisory, Public Sector Consultants, May 1987.

"Michigan Property Tax Exemptions and Their Effect," Public Sector Consultants, July 1986.

"Characteristics of a Balanced State-Local System," in Proceedings of the Seventy-Eighth Annual Conference. *Denver: National Tax Association, 1985. pp. 134-43.*

"Cigarette Tax Evasion: A Second Look," Advisory Commission on Intergovernmental Relations (ACIR), A-100. Washington, D.C.: March 1985.

"Regional Growth: Interstate Tax Competition" (with others), ACIR, A-76. Washington, D.C.: March 1985.

"Strengthening the Federal Revenue System: Implications for State and Local Taxation and Borrowing" (with others), ACIR, A-97. Washington, D.C.: October 1984.

"National Consumption Taxes: The View from the States," National Tax Journal *(September 1984): 313-21.*

"A Different Approach to State Business Taxation: The Michigan Single Business Tax," ACIR, M-114. Washington, D.C.: April 1978.

"State-Local Tax Incentives and Industrial Location," in Revenue Administration 1977. *Washington, D.C.: Federation of Tax Administrators, 1977.*

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"Cigarette Bootlegging: A State and *Federal Responsibility." Washington, D.C.: ACIR, May 1977.*

PROFESSIONAL ASSOCIATIONS (former)

National Association of State Treasurers
National Association of Tax Administrators
National Tax Association (Member of Property Tax Committee)
Michigan Economic Society.

VOLUNTEER EXPERIENCES

Present - Treasurer, Michigan League for Public Policy
Present - President – Treasurer, Eastminister Presbyterian Church
Present - Chair of the Budget & Finance Committee, Lake Michigan Presbytery
Present - Member, East Lansing Financial Team

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EXHIBIT B

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TABLE D: SHORTFALLS IN ADUSTED STATE PAYMENTS INCREASE SINCE PROPOSAL A

	State Source Spending (millions)	Local Payments (millions)	Required Payments 48.97% (millions)	Percent Total	Est. Proposal A Funding Shift (millions)	Charter Schools (millions)	Adjusted Local Spending (millions)	Percent Adjusted State Spending	Shortfall in Local Payments (millions)
FY 2015-16	$29,943	$16,692	$14,663	55.75%	$5,381	$1,211	$10,100	33.7%	($4,563)
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FY 2010-11	$26,184	$14,924	$12,822	57.00%	$5,296	$863	$8,765	33.5%	($4,057)
FY 2009-10	$25,797	$14,530	$12,633	56.32%	$5,275	$817	$8,438	32.7%	($4,195)
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FY 2001-02	$24,702	$15,883	$12,097	64.30%	$4,762	$454	$10,666	43.2%	($1,430)
FY 2000-01	$24,686	$15,495	$12,089	62.77%	$4,628	$384	$10,483	42.5%	($1,606)
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FY 1995-96	$20,012	$11,885	$9,800	59.39%	$3,655	$31	$8,199	41.0%	($1,601)
FY 1994-95	$19,525	$11,431	$9,561	58.55%	$3,443	$4	$7,985	40.9%	($1,577)
Total Shortfall									($64,670)

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

Note: Adjusted shortfall increases from $1,517 million in FY 1994-95 to $4.5 billion in FY 2015-16. Adjusted state spending from state sources declines from 40.9% in FY 1994-95 to 33.7% in FY 2015-16.

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EXHIBIT 7

Affidavit of Mitchell Bean

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STATE OF MICHIGAN

IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Plaintiffs,

Case No. 334663

vs.

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL.

Defendants.

---/

AFFIDAVIT OF MITCHELL E. BEAN

I, **MITCHELL E. BEAN**, being duly sworn affirm, and based on knowledge, information and belief do hereby state as follows:

1. I have over twenty-five years of experience as a professional economist and presently work as an independent economics consultant on public policy issues with a fiscal or economic impact.

2. I hold a Master of Arts Degree in Economics from Michigan State University and a Bachelor of Arts Degree in Economics from Washington State University.

3. From 1992 to 1993, I was employed as Economist in the Michigan Department of Treasury's Office of Revenue and Tax Analysis. Part of my work at that time involved working with a team to develop property tax and school finance reform proposals.

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4. From 1993 to 1999, I was employed as a Senior Economist with the Michigan House of Representatives, House Fiscal Agency. My work included analyzing State budgets and providing analysis of the fiscal impact of proposed legislation on the State economy and revenue.

5. From 1999 to 2011, I was employed as a Director of the Michigan House of Representatives, House Fiscal Agency. My work included providing nonpartisan information and analysis to State legislators regarding State revenue and expenditures and on State budget matters.

6. My resume, attached as Exhibit A, further details my professional history, education, and additional information regarding my experience as Economist with expertise on State budget matters.

7. The table, attached as Exhibit B and titled "*Table D: Shortfalls In Adjusted State Payments Increase Since Proposal A*", contains calculations of the total payments to local governments as a share of State spending since the adoption of proposal A. The various columns show:

a. Total State spending from State sources;

b. Spending in the form of aid to local governments as reported by the State to meet art. 9, § 30 obligations;

c. The minimum amount State spending in the form of aid to local government that is required to be made pursuant to art. 9, § 30 the State constitution;

d. The percentage of State spending from State sources that is composed of payments to local government as reported by the State;

e. The estimated amount of payments to local government from Proposal A revenue that the State includes within its calculation of spending in the form of aid to local governments to meet art. 9, § 30 obligations;

f. The estimated amount of payments to Charter Schools that the State includes within its calculation of spending in the form of aid to local governments to meet art. 9, § 30 obligations;

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g. The amount of State spending in the form of aid that is paid to local governments without including spending from Proposal A revenue and without including payments to Charter Schools;

h. The percentage of State spending in the form of aid that is paid to local governments without including spending from Proposal A revenue and without including payments to Charter Schools; and

i. The total shortfall in State spending in the form of aid to local government when spending from Proposal A revenue and payments to Charter Schools excluded from the State's calculations.

8. The information within the table found in Exhibit B was calculated by my business partner, Economist Robert Kleine, and myself.

9. The information within the table found in Exhibit B was calculated from financial data and information contained within the State Of Michigan Comprehensive Financial Report for the fiscal years 1994-95 through 2015-16 along with data found within reports from the Senate Fiscal Agency and House Fiscal Agency for the same fiscal years.

I swear or affirm that the above and foregoing representations are true and correct to the best of my information and knowledge. Further Affiant Sayeth Naught.

By: Mitchell E Bean
MITCHELL E. BEAN
Great Lakes Economic Consulting LLC
11889 Plains Road
Eaton Rapids, MI 48827

Subscribed and sworn before me,
a Notary Public, on December 2nd, 2017

TREVOR HUNT
NOTARY PUBLIC, STATE OF MI
COUNTY OF INGHAM
MY COMMISSION EXPIRES Mar 19, 2024
ACTING IN COUNTY OF Ingham

Notary Public, Eaton County, MI.
My Commission expires March 19, 2024

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EXHIBIT A

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Mitchell E. Bean

11889 Plains Road, Eaton Rapids, MI 48827
Email: beanmitch@gmail.com

PROFESSIONAL EXPERIENCE

Director, House Fiscal Agency, Michigan House of Representatives: 1999 to 2011
Directed nonpartisan, professional, confidential staff of 30 providing the House Appropriations Committee, and other House members, with information and analysis of revenue, expenditure, and budget matters; led and/or participated in biyearly Consensus Revenue Estimating Conference process; worked closely with leadership of Republican and Democratic parties, and with Senate and Executive branches; anticipated policy and legislative needs/requirements.

Key Contributions/Achievements: Expanded and standardized Fiscal Agency publications program; created appropriation process training sessions for new House members and staff; initiated program of economic and budget presentations (14 in 2008; over 40 in 2010) for House members, policy staff, and professional and citizen groups; addressed the full House during session to update members on economic and revenue problems; served seven different Speakers (Michigan House of Representatives) and nine House Appropriation Committee Chairs.

Senior Economist, House Fiscal Agency, Michigan House of Representatives: 1993 to 1999
Analyzed/forecasted national/State economy and State revenue, determined fiscal impact of proposed legislation with potential to affect State revenue, served as economic and technical resource for Agency staff and members of the House of Representatives.

Economist, Office of Revenue and Tax Analysis, Michigan Department of Treasury: 1992 to 1993
Analyzed Single Business Tax and tax expenditure issues; worked with team developing school finance and property tax reform proposals.

Instructor, Department of Economics, Michigan State University: 1992
Intermediate Microeconomics.

ASSOCIATIONS

National Conference of State Legislatures (NCSL)
Deficit Reduction Task Force, 2010 to 2011: Reviewed NCSL policy, interacted with congressional committees, reported recommendations to NCSL Executive Committee.

Staff Vice-Chair for Standing Committees, 2010 to 2011: Reviewed pending policy resolutions, identified emerging state/federal issues, coordinated outreach to legislators and staff.

Budgets and Revenue Committee, 2008 to 2011: Intermediate Past Staff Chair, Staff Vice Chair, Moderator (Build America Bonds), Panelist (Lessons on Crafting Tax Policy), Panelist (State Unemployment Funds: Going for Broke?), Speaker (Impact of Tax Expenditures on Budget Shortfalls).

The Pew Charitable Trusts — Featured speaker at November 2009 briefing following release of The Pew Center report (Beyond California, States in Fiscal Peril).

MacNeil/Lehrer Productions — Participant in November 2009 documentary, (By the People—Hard Times, Hard Choices), Panelist (Spending Cuts and Taxes).

Federal Reserve Bank of Chicago — Regular participant in Midwest Economic Roundtable.

National Tax Association — Member, 1990 to 2011

EDUCATION

Master of Arts in Economics (ABD), Michigan State University, East Lansing, Michigan

Bachelor of Arts in Economics (Cum Laude, Phi Beta Kappa), Washington State University, Pullman, Washington

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PUBLICATIONS

“Budget Areas Synopses FY 2010-11,” with Kyle I. Jen, November 2010.

“State Unemployment Funds: Implications for Michigan's Budget,” National Conference of State Legislatures, July 28, 2010.

“Standard Principles and Practice in Public Finance,” National Conference of State Legislatures, July 25, 2010.

“Civil Service Salary and Benefit Comparisons,” with Viola Bay Wild and Jim Stansell, November 2008.

Medicaid's Impact on the State Budget,” with Bill Fairgrieve, Fiscal Forum, January 2004.

Revenue Review, with Rebecca Ross, quarterly, 2000 through 2011.

"The Income Tax," with Kyle I. Jen, April 1999.

"Michigan Economic and Industrial Trends," with Steve Marasco, Fiscal Focus, November 1998.

"Michigan and Internet Taxation," with Marjorie Bilyeu, Fiscal Focus, February 1998.

"Toward Deregulation of Michigan’s Electric Utility Industry: What Should We Expect?, with Marjorie Bilyeu, Fiscal Focus, February 1998.

"Internet Taxation in Michigan," with Marjorie Bilyeu, *State and Local Taxes Weekly*, February 1, 1998.

"Recent Legislative Changes to Michigan's Limited Liability Company Act," with Marjorie Bilyeu; Kemp, Klein, Umphrey, & Endleman, P.C. Quarterly Commentator, Winter 1997/1998; Fiscal Forum, October 1997; *Michigan Tax Lawyer*, Volume XXIII, Issue 3, Third Quarter 1997.

"Michigan’s Short Statute of Limitations Applying to Tax Laws: A Constitutional Controversy," with Marjorie Bilyeu, Fiscal Forum, October 1997; *State and Local Taxes Weekly*, October 6, 1997.

"Mail Order Sales: Is Michigan Getting Its Fair Share of Sales and Use Taxes?," with Marjorie Bilyeu, Fiscal Forum, September 1997.

"State Cash Flow and Borrowing Costs," Fiscal Focus, June 1997.

"Dynamic Revenue Estimating, Will It Work For Michigan?;" with Jay Wortley, Senate Fiscal Agency, and Mark P. Haas, Michigan Department of Treasury; March 1997.

"Revenue Performance and Economic Conditions in Michigan," National Tax Association Proceedings. 90th Annual Conference, Chicago, Illinois, 1997.

“Michigan Economic Outlook and Revenue Estimates,” with Steve Marasco; Fiscal Years 1997-98 and 1998-99, 1998-99 and 1999-2000, 1999-2000 and 2000-01.

"Pupil and Taxpayer Equity in Michigan: Initial Analysis of School Finance Reform," with Hank Prince, National Conference of State Legislatures National Seminar on Property Tax Reform, Atlanta, Georgia, October 19, 1995.

"Trade Sanctions and Economic Welfare," with Michael Ahmad, Fiscal Forum, June 1995.

Key Economic Indicators Update, Bi-monthly, 1995 through 1999.

"Overview of the Headlee Limit on State Revenues," Fiscal Forum, June 1994.

"Fiscal Effects of Tax Increment Financing," 1994.

"Analysis of the Michigan Single Business Tax," Office of Revenue and Tax Analysis, Michigan Department of Treasury, 1993.

"Tax Expenditure Appendix to the Executive Budget," Office of Revenue and Tax Analysis, Michigan Department of Treasury, 1993.

"The Economic Impact of Michigan State University to the State of Michigan," with Ronald Fisher, John Goddeeris, and Margie Tieslau, A Report to the Vice President for Research and Graduate Studies, Michigan State University, 1992.

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ECONOMIC AND BUDGET PRESENTATIONS

November 2010: Michigan Library Association; New Members of the Michigan House of Representatives.

October 2010: Oakland University; Rotary Club of Portage, Michigan; UAW Region 1-C, Annual Cap Conference; MSU Institute for Public Policy and Social Research, State Tax and Budget Round Table; Michigan Future, Inc.; Grand Valley Metro Council.

September 2010: Governmental Consultants Services, Inc. and Ottawa County.

August 2010: Michigan Judges' Association.

May 2010: Michigan Municipal League; Michigan Association of School Nurses; Town Hall Meeting With State Representative Corriveau; Town Hall Meeting With State Representative Segal; Business Leaders for Michigan; National Association for Business Economics.

April 2010: Town Hall Meeting With State Representative Stamas; Macomb Intermediate School District; Allegan County Local Officials; Town Hall Meeting With State Representative Nathan; Town Hall Meeting With State Representative Roberts.

March 2010: Michigan Association of Counties; Michigan County Medical Care Facilities Council; Architects and Engineers; Town Hall Meeting With State Representative Kurtz; State Bar of Michigan; State Farm Insurance.

February 2010: MSU Institute for Public Policy and Social Research, Michigan Political Leadership Program; Central Michigan University; Michigan Society of Association Executives; MSU Institute for Public Policy and Social Research, Michigan Policy Forum Series; Town Hall Meeting With State Representative Jones.

January 2010: Michigan Office of Services to the Aging; Michigan Association of Health Plans; Lansing State Journal; Town Hall Meeting With State Representative Barnett; Town Hall Meeting With State Representative Bauer; The Economist (Interview); U.S. Representative Hoekstra; University of Michigan, Flint Campus.

December 2009: Detroit Free Press; Fight Crime: Invest in Kids; Michigan League for Human Services; Michigan Utilities Directors Association; University of Michigan, Ann Arbor Campus.

November 2009: MacNeil/Leher Productions "By the People;" Town Hall Meeting With State Representative Byrnes; Town Hall Meeting With State Representative Opsommer; Public Affairs Associates; The Pew Center; Tri-County Office on Aging Advisory Council.

October 2009: Association of Businesses Advocating Tariff Equity; Presidents Council, State Universities of Michigan; UAW Region 1-C, Annual CAP Conference.

September 2009: Black Caucus Foundation Institute; Michigan Farm Bureau.

August 2009: Town Hall Meeting With State Representative Bauer.

July 2009: City, County, and Village Officials in City of Kalamazoo and Van Buren County; Michigan Municipal League.

May 2009: Allegan County Local Officials; Medical Care Advisory Council; Michigan Community College Association; Michigan Long Term Care Support and Service Advisory Commission; Michigan Professional Fire Fighters Union; The Capitol Club; Western Michigan University.

March 2009: Michigan Bankers Association; Architects and Engineers.

February 2009: Michigan Association of Counties; Michigan Association of Public Employees Retirement System; MSU Institute for Public Policy and Social Research, Michigan Political Leadership Program; Cable Television Show With State Representative Anger.

January 2009: Early Childhood Investment Corporation, Great Start Parent Liaison Institute; Michigan School Business Officials.

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EXHIBIT B

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TABLE D: SHORTFALLS IN ADUSTED STATE PAYMENTS INCREASE SINCE PROPOSAL A

	State Source Spending (millions)	Local Payments (millions)	Required Payments 48.97% (millions)	Percent Total	Est. Proposal A Funding Shift (millions)	Charter Schools (millions)	Adjusted Local Spending (millions)	Percent Adjusted State Spending	Shortfall in Local Payments (millions)
FY 2015-16	$29,943	$16,692	$14,663	55.75%	$5,381	$1,211	$10,100	33.7%	($4,563)
FY 2014-15	$29,524	$16,313	$14,458	55.25%	$5,375	$1,181	$9,757	33.0%	($4,701)
FY 2013-14	$28,301	$15,701	$13,859	55.48%	$5,368	$1,144	$9,189	32.5%	($4,670)
FY 2012-13	$27,313	$15,369	$13,375	56.27%	$5,334	$1,053	$8,981	32.9%	($4,394)
FY 2011-12	$27,153	$14,955	$13,297	55.08%	$5,311	$909	$8,735	32.2%	($4,562)
FY 2010-11	$26,184	$14,924	$12,822	57.00%	$5,296	$863	$8,765	33.5%	($4,057)
FY 2009-10	$25,797	$14,530	$12,633	56.32%	$5,275	$817	$8,438	32.7%	($4,195)
FY 2008-09	$25,835	$15,112	$12,651	58.49%	$5,257	$772	$9,083	35.2%	($3,569)
FY 2007-08	$28,144	$15,805	$13,782	56.16%	$5,159	$773	$9,873	35.1%	($3,910)
FY 2006-07	$26,763	$15,575	$13,106	58.20%	$5,089	$743	$9,743	36.4%	($3,363)
FY 2005-06	$26,653	$15,602	$13,052	58.54%	$4,995	$667	$9,940	37.3%	($3,112)
FY 2004-05	$25,688	$15,258	$12,579	59.40%	$4,967	$594	$9,698	37.8%	($2,882)
FY 2003-04	$24,854	$15,430	$12,171	62.08%	$4,960	$531	$9,939	40.0%	($2,232)
FY 2002-03	$25,205	$15,804	$12,343	62.70%	$4,946	$488	$10,371	41.1%	($1,972)
FY 2001-02	$24,702	$15,883	$12,097	64.30%	$4,762	$454	$10,666	43.2%	($1,430)
FY 2000-01	$24,686	$15,495	$12,089	62.77%	$4,628	$384	$10,483	42.5%	($1,606)
FY 1999-00	$23,452	$14,461	$11,484	61.66%	$4,500	$302	$9,660	41.2%	($1,825)
FY 1998-99	$22,791	$13,888	$11,161	60.94%	$4,252	$202	$9,434	41.4%	($1,707)
FY 1997-98	$21,570	$13,466	$10,563	62.43%	$4,038	$130	$9,298	43.1%	($1,265)
FY 1996-97	$20,400	$12,397	$9,990	60.77%	$3,796	$74	$8,528	41.8%	($1,462)
FY 1995-96	$20,012	$11,885	$9,800	59.39%	$3,655	$31	$8,199	41.0%	($1,601)
FY 1994-95	$19,525	$11,431	$9,561	58.55%	$3,443	$4	$7,985	40.9%	($1,577)
Total Shortfall									($64,670)

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

Note: Adjusted shortfall increases from $1,517 million in FY 1994-95 to $4.5 billion in FY 2015-16. Adjusted state spending from state sources declines from 40.9% in FY 1994-95 to 33.7% in FY 2015-16.

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EXHIBIT 13

***Headlee Criticizes Proposal A As Tax Shift And Tax Increase*, The Detroit News, May 14, 1993, at 2B**

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School: Teen charges he was beaten and choked

From page 1B

has some of the lowest standardized test scores in the city.

"I've walked into the school and heard a teacher tell a student, 'Sit your ass down,' " said parent May Wilder, 42. "If the adults talk to the students like that, what do they expect?"

Lynne Robinson, Sean's mother, said her son was beaten after meeting with his counselor about repeated tardiness, for which he had been suspended twice.

"Sean was told he would be suspended again and he was upset when he left the meeting," said Robinson, 36, a respiratory therapist at Detroit Receiving Hospital. "He knocked over a chair accidentally and bumped into Mr. Bartley as he rushed out of the office.

"I guess Mr. Bartley took it the wrong way. He pushed Sean up against the wall and that was when he started hitting him. When I saw Sean, there were tears in his eyes and his face was swollen everywhere. It was like someone had beaten him up on the street."

Robinson, who wants Bartley fired and brought up on criminal charges, said her son was treated and released from Detroit's Grace Hospital.

Sean, whom his mother describes as an average student and not a gang member, said there were at least four witnesses to what happened, including a man who allegedly was in Bartley's office when Sean was struck while handcuffed.

"He said he was a policemen," Sean said. "He pulled out his badge and stuff. He just watched and he was quiet."

Sean said a school security officer and two parents also witnessed at least part of the incident.

"This has happened before," he said. "I'm not the only one Mr. Bartley has done this to. It's just that other parents didn't do anything about it."

Ella Randolph-Cooke, an area school superintendent, said the new allegations against Bartley are "just speculation" until a district investigation is completed. Bartley, suspended with pay pending the outcome, is expected to formally respond at a meeting next week with Cerveny Principal David Meadows, she said.

"I don't want to taint the investigation," Randolph-Cooke said. "I have to wait to hear Mr. Bartley's side of the story."

Supt. Deborah McGriff could not be reached for comment.

Other students said the bullhorn-carrying Bartley has been physically abusive in the past. They said he has earned the nickname "Joe Clark" after the strict New Jersey principal portrayed in the movie *Lean on Me*.

"It's scary," said Santresa White, 13, a seventh-grader who said she once saw Bartley handcuff and strike a student. "When I walk into the principal's office, I don't expect to get beaten up. He's there to help us, not hit us."

■ Detroit News Staff Writer Elizabeth Atkins contributed to this report.

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Headlee criticizes Proposal A as 'tax shift and tax increase'

By Charlie Cain
NEWS LANSING BUREAU CHIEF

LANSING — Richard Headlee, a leading anti-tax crusader and longtime political pal of Gov. John Engler's, criticized Thursday the governor's school finance ballot proposal, calling it "bad public policy" that would result in an overall tax increase for Michigan residents.

A spokesman for Engler said Headlee's statement was "just flat wrong" and suggested Headlee may be jealous that he didn't author the plan.

"If we had called this the Headlee proposal, Dick Headlee would probably be supporting it today," said John Truscott, the governor's press secretary.

The sniping comes 19 days before voters are to decide Proposal A, a plan to cut school property taxes an average 35 percent, cap future assessment increases to 5 percent or the rate of inflation if lower and guarantee $4,800 per K-12 student.

The plan, which has broad support from business and educators, also calls for an increase in the state sales tax to 6 percent from 4 percent.

Headlee, chairman and president of the Alexander Hamilton Life Insurance Co. and author of the 1978 tax limitation proposal that bears his name, was unavailable for additional comment Thursday.

"What began as a property tax relief proposal has turned into a major tax shift and tax increase" of $144 million, Headlee's statement said.

However, the proposal's net tax impact is still speculative. The state Treasury Department said it would amount to a savings of nearly $1 billion in the first year.

Patrick Anderson, an economist at Headlee's company, earlier estimated for the Mackinac Center think tank that the first year savings in state and local taxes would be about $1.1 billion and between $230 million and $320 million in each of the next four years.

Headlee further called Proposal A's 27-mill cap "a fraud," adding: "The bonding and debt loophole is wide open."

But Truscott said the 27-mill cap would be guaranteed in the Michigan Constitution. Legislation before the state Senate would allow exceptions to the cap for districts already levying millage to erase operating deficits or for future site acquisitions.

What Headlee says

Here, in edited form, are Richard H. Headlee's comments about Proposal A:

What began as a property tax relief proposal has turned into a major tax shift and tax increase. The estimated tax increase for fiscal year '93-'94, according to a recent Senate Fiscal Agency analysis, is $144.6 million. Proposal A,(is) seriously flawed and constitutionally imperfect (because):

- While promising a permanent millage cap of 27 on property taxes for schools, legislation has already been introduced (SB 597) which would allow additional millage for operating deficits and site acquisition. In truth, there is no 27-mill cap.
- The $406-million rollback of property taxes under the Headlee Amendment is being scuttled.
- Senior citizens and others would trade off much of their Homestead exemption under 'A,' yet they will pay 50-percent higher sales taxes.
- To gain support of the Michigan Education Association, the governor restored to the state budget $200 million in waste in adult education.
- The 1994 'freeze' giving taxpayers one year to appeal assessments, has been eliminated in a political deal between Proposal A proponents and Wayne County tax spenders.
- The constitution guarantees local governments 41.6 percent of all state revenues for local programs. Without recalculation of the Section 30 requirements, the state would count the $1.8 billion of sales tax revenue as spending for local governments, thereby gutting Section 30 and protection of local government revenue sharing.
- Caps by parcel have short-term political appeal but are bad constitutional law. They look into the constitution improper assessments with no means to correct same. In the future, young people buying homes and newcomers will pay higher taxes for the same public services than those of us who already own homes of equal value. This . . . strikes at the equal protection clause of the constitution.
- The Legislature's track record is atrocious. We increased the sales tax before to give property tax relief and to assist education. We implemented an income tax in 1967 and increased it in 1971 and 1975. Each time, the purpose was to relieve property taxes and increase state spending for education. In 1972, we implemented a lottery whose intent was increased support of education and property tax relief. In every case, state government expanded, salaries and benefits grew, we had no reform of education — and we still have outlandish property taxes.

Taxpayers should look at the record before accepting a permanent sales tax increase for questionable property tax reductions.

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Headlee criticizes Proposal A as 'tax shift and tax increase'

By Charlie Cain
NEWS LANSING BUREAU CHIEF

LANSING — Richard Headlee, a leading anti-tax crusader and longtime political pal of Gov. John Engler's, criticized Thursday the governor's school finance ballot proposal, calling it "bad public policy" that would result in an overall tax increase for Michigan residents.

A spokesman for Engler said Headlee's statement was "just flat wrong" and suggested Headlee may be jealous that he didn't author the plan.

"If we had called this the Headlee proposal, Dick Headlee would probably be supporting it today," said John Truscott, the governor's press secretary.

The sniping comes 19 days before voters are to decide Proposal A, a plan to cut school property taxes an average 35 percent, cap future assessment increases to 5 percent or the rate of inflation if lower and guarantee $4,800 per K-12 student.

The plan, which has broad support from business and educators, also calls for an increase in the state sales tax to 6 percent from 4 percent.

Headlee, chairman and president of the Alexander Hamilton Life Insurance Co. and author of the 1978 tax limitation proposal that bears his name, was unavailable for additional comment Thursday.

"What began as a property tax relief proposal has turned into a major tax shift and tax increase" of $144 million, Headlee's statement said.

However, the proposal's net tax impact is still speculative. The state Treasury Department said it would amount to a savings of nearly $1 billion in the first year.

Patrick Anderson, an economist at Headlee's company, earlier estimated for the Mackinac Center think tank that the first year savings in state and local taxes would be about $1.1 billion and between $230 million and $320 million in each of the next four years.

Headlee further called Proposal A's 27-mill cap "a fraud," adding: "The bonding and debt loophole is wide open."

But Truscott said the 27-mill cap would be guaranteed in the Michigan Constitution. Legislation before the state Senate would allow exceptions to the cap for districts already levying millage to erase operating deficits or for future site acquisitions.

What Headlee says

Here, in edited form, are Richard H. Headlee's comments about Proposal A:

What began as a property tax relief proposal has turned into a major tax shift and tax increase. The estimated tax increase for fiscal year '93-'94, according to a recent Senate Fiscal Agency analysis, is $144.6 million. Proposal A (is) seriously flawed and constitutionally imperfect (because):

- While promising a permanent millage cap of 27 on property taxes for schools, legislation has already been introduced (SB 597) which would allow additional millage for operating deficits and site acquisition. In truth, there is no 27-mil cap.
- The $406-million rollback of property taxes under the Headlee Amendment is being scuttled.
- Senior citizens and others would trade off much of their Homestead exemption under 'A,' yet they will pay 50-percent higher sales taxes.
- To gain support of the Michigan Education Association, the governor restored to the state budget $200 million in waste in adult education.
- The 1994 'freeze' giving taxpayers one year to appeal assessments, has been eliminated in a political deal between Proposal A proponents and Wayne County tax spenders.
- The constitution guarantees local governments 41.6 percent of all state revenues for local programs. Without recalculation of the Section 30 requirements, the state would count the $1.8 billion of sales tax revenue as spending for local governments, thereby gutting Section 30 and protection of local government revenue sharing.
- Caps by parcel have short-term political appeal but are bad constitutional law. They lock into the constitution improper assessments with no means to correct same. In the future, young people buying homes and newcomers will pay higher taxes for the same public services than those of us who already own homes of equal value. This . . . strikes at the equal protection clause of the constitution.
- The Legislature's track record is atrocious. We increased the sales tax before to give property tax relief and to assist education. We implemented an income tax in 1967 and increased it in 1971 and 1975. Each time, the purpose was to relieve property taxes and increase state spending for education. In 1972, we implemented a lottery whose intent was increased support of education and property tax relief. In every case, state government expanded, salaries and benefits grew, we had no reform of education — and we still have outlandish property taxes.

Taxpayers should look at the record before accepting a permanent sales tax increase for questionable property tax reductions.

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STATE OF MICHIGAN
IN THE COURT OF APPEALS

TAXPAYERS FOR MICHIGAN CONSTITUTIONAL GOVERNMENT, STEVE DUCHANE, RANDALL BLUM, and SARA KANDEL,

Court of Appeals No. 334663

Plaintiffs,

v

THE STATE OF MICHIGAN, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET OF THE STATE OF MICHIGAN; and the MICHIGAN OFFICE OF THE AUDITOR GENERAL,

Defendants.

DEFENDANTS' COMBINED MOTION FOR SUMMARY DISPOSITION AND BRIEF IN SUPPORT

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STATEMENT OF JURISDICTION

Defendants agree that allegations regarding violations of the Headlee Amendment, Const 1963, article 9, §§ 25-34 are properly brought in this Court and that this Court has original jurisdiction pursuant to Const 1963, article 9, § 32 and MCL 600.308a(1). This includes Plaintiffs' instant claims under Const 1963, article 9, § 30.

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COUNTER-STATEMENT OF QUESTION INVOLVED

1. Following approval of Proposal A of 1994, public education funding comes primarily from state revenue sources. Must state funding for public schools under to Proposal A be included in the calculation of total state spending paid to all units of local government required by Article 9, § 30?

Plaintiffs' answer: No.

Defendants' answer: Yes.

2. Charter schools are statutorily designated public schools, school districts, and government agencies. MCL 380.501. Must state funding to public school academies – public school districts created by political subdivisions of the state to provide local education – be included in the calculation of total state spending paid to all units of local government required by Article 9, § 30?

Plaintiffs' answer: No.

Defendants' answer: Yes.

3. State aid to local governments to fund local mandates is not constitutionally or statutorily excluded from the Article 9, § 30 calculation. Is State spending to local governments from state sources of revenue to fund new or increased activities (i.e., new state mandates) properly counted in the numerator for purposes of Headlee § 30?

Plaintiffs' answer: No.

Defendants' answer: Yes.

4. The State paid $1.8 billion in excess of the 48.97% of revenue it is required to share with local governments under Article 9, § 30. Does state revenue sharing exceed the minimum proportion set forth in Article 9, § 30?

Plaintiffs' answer: No.

Defendants' answer: Yes.

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5. The Office of the Auditor General is responsible for reviewing the *State Budget Office's Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government*, and ensuring proper accounting for all such expenditures in accordance with certain accounting standards. Is the Office of the Auditor General a proper party to this Headlee appeal which seeks mandamus as to a non-ministerial act?

Plaintiffs' answer: Yes.

Defendants' answer: No.

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INTRODUCTION

Plaintiffs challenge the State's calculation of the proportion of total state spending it paid to local units of government under Article 9, § 30 of the Michigan Constitution of 1963. That provision requires the State to devote 48.97% of its total spending toward aid to units of local government. But Plaintiffs allege that entire categories of such aid to local governments – state aid to public schools, including charter schools, state aid for local transportation projects,[1] and aid to reimburse local governments for complying with state mandates – should not count toward that requirement. In effect, Plaintiffs want *not* 48.87% of the State's expenditures, as the Constitution requires, but some larger amount.

They are wrong legally and factually. Properly accounting for state spending, as Defendants have, state aid to local governments has far exceeded the constitutional minimum. That was true in 2015 and in 2016.

The basic mechanics of the § 30 calculation are not difficult. Considered as a fraction, the denominator is total state spending from state revenue sources. The numerator (at issue in this case) includes *all* state payments from state revenue sources paid to aid units of local government, exclusive of payments to local governments when they discharge what would otherwise be a state responsibility (e.g., maintenance of state trunk line roadways).

[1] After of the close of discovery but prior to filing the instant cross-motions, Plaintiffs asked to dismiss their transportation claims, i.e., Count III of the complaint. This Court granted the stipulated motion to dismiss. 12/4/2017 Order.

Any payments from state tax revenue that aid local governments in fulfilling local purposes – including payments that compensate local governments for complying with state mandates – belong in the § 30 numerator. That is because § 30's text does not distinguish between state spending to fund state mandates and state spending to local governments for purely discretionary use. The pattern in Plaintiffs' allegations is clear: they want state funding without any strings. That is a policy preference, not a legal right under existing law.

This action serves to undermine the will of the voters, who demanded less government and lower taxes. Plaintiffs' arguments encourage growth in government – in size, in taxation, and in spending – contrary to the intent of the voters that ratified the Headlee Amendment in 1978 and Proposal A in 1994. This Court should reject Plaintiffs' flawed legal arguments and grant summary disposition in favor of the State.

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COUNTER-STATEMENT OF FACTS AND PROCEEDINGS

The Headlee Amendment was born from Michigan's taxpayer revolt

In 1978, Michigan voters ratified a series of constitutional provisions collectively and commonly known as the Headlee Amendment. That vote was "part of a nationwide 'taxpayer revolt' in which taxpayers were attempting to limit the legislative expansion of requirements placed on locals government" by "put[ting] a freeze on what [voters] perceived was excessive government spending" and at the same time "lower[ing] their taxes both at the local and state level." *Durant v State Bd of Educ*, 424 Mich 364, 378 (1985) ("*1985 Durant*").

Taxpayers were frustrated with excessive government spending at both state and local levels and the resulting tax increases. *Id*. The Headlee Amendment created a series of tax-limiting provisions, codified in Const 1963, article 9, §§ 25-34, that required voter approval for tax increases. The goal was to keep the size of government, and its ability to raise taxes, under direct taxpayer control. *1985 Durant,* 424 Mich at 383.

To that end, § 26 keeps the size of state government in check by limiting the State's total revenue raised from State-level taxes. If state tax collections exceed the annual limit, the State must issue pro rata refunds. *Id*. Correlatively, local governments are constrained by § 31, which requires voter approval before a new tax may be levied or an existing tax may be increased.

Headlee anticipated the possibility of the State shifting funding responsibility for state obligations to local governments. *1985 Durant*, 424 Mich at

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379. Section 29 prevents this by requiring the State to fund newly created mandates. Any increases in the scope of existing services or newly created programs, activities, or services mandated by the State must be completely funded by an appropriation from state funds. Const 1963, article 9, § 29.

Section 30 sets the minimum amount of state spending from state taxes that must be shared with units of local government. Since 1993, that minimum has been 48.97%. Nothing in the plain text of § 30 limits the categories of state spending that are included in "total state spending paid to all units of local government." Section 30 only requires that 48.97% of the State's total annual spending from state sources, excluding federal aid, take the form of aid to local units of government.

High Property Taxes and Inequitable School Funding Lead to Proposal A

Prior to 1994, local property taxes were the primary source of funding for public school operations and capital financing. *School Financing Reform in Michigan Proposal A: Retrospective*, Office of Revenue and Tax Analysis, December 2002 (Ex A.) Despite Headlee's enactment, Michigan's property tax burden remained above the national average. *Id.* at 1. Between 1980 and 1993, the total property tax rate for school operations increased 135.5%, outpacing inflation at a 63.7% increase. *Id.* at 4. Despite increased taxes, public school enrollment declined 11% during that time. *Id.*

Yet, while Michigan's taxpayers were burdened with some of the highest property taxes in the country, not all public schools were benefiting; funding inequities among school districts continued to grow. That was true despite the fact

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that the State was providing additional aid to school districts with lower property tax revenues. *Id*. at 1. In response to citizen demand, the legislature passed 1993 PA 145, which eliminated the authority of school districts to levy local millages on property for school district operating expenses. *Durant v State,* 238 Mich App 185, 196 (1999) ("*1999 Durant*"). This gave property tax relief, but it decreased public school revenues by nearly $7 billion. *Id.*

In 1994, the Proposal A ballot measure asked voters to approve new state revenue sources to fund public schools. *(School Financing Reform in Michigan,* at 4.) With Proposal A's passage, schools would now be primarily funded by the State with revenue generated from various state taxes including a 2% sales tax increase, 6 mill State Education Tax, 50 cent cigarette tax increase and a new real estate transfer tax. *Id.* Proposal A more than doubled the State's portion of education funding; in the 1989-1990 school year (pre-Proposal A), locally generated revenues funded 63% of school operation costs with state-generated revenues funding the remaining 37%. *Id.* By 2007, 75% of the funding received from local school districts came from the State, the remaining 25% from local revenues. *Adair v People*, 279 Mich App 507, 519-20 (2008).

Proposal A also limited property tax increases by reducing millage rates and changing how property is assessed. *(School Financing Reform in Michigan*, Ex A at 8.) Taxes were calculated based on taxable value instead of equalized value. *Id.* at 10. Proposal A succeeded in lowering property taxes – statewide millage rates decreased by an average of 30.6%. *Id*. at 8. Rather than above-average property

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taxes and below-average sales taxes, Michigan voters approved a state-level tax system more in line with other States. *Id.* at 20.

In short: Proposal A generated a significant increase (i.e., more than 200%) in state spending to local units of government for the local purpose of providing education services, as well as significant savings for local governments. This was done by a direct vote of the people.

Charter Schools

Charter schools, also known as public school academies, have been available to Michigan students for more than two decades. Charter schools are public schools and school districts. MCL 380.501(1). They cannot charge students tuition. MCL 380.504(2). They operate under the same per-pupil funding formula used to fund all public schools in Michigan. MCL 388.1606(4); MCL 388.1620(6).

Charter schools perform "essential public purposes and governmental functions of this state" and are statutorily "a governmental agency" created by state and local units of government. MCL 380.501(1). Charter schools must be authorized by local school districts, intermediate school districts, community colleges, or one of the state's public universities. MCL 380.501(2). Accordingly, charter schools fall under the definition of local government found in Article 9, § 33, which includes "school districts", "authorities created by the state, and authorities created by other units of local government."

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State Funded Mandates for Provision of Local Services

Defendants do not dispute Plaintiffs' allegation that the State in fact counts money it spends to fund local mandates in its Headlee § 30 calculation as spending to aid local governments. Defendants do not differentiate between payments to cover local expenses for fulfilling State-imposed mandates and funding that is for discretionary local use. The State counts both in the § 30 numerator.

While Defendants agree that state spending to locals to discharge the State's *own* obligations, as well as other statutory carve-outs[2], cannot be included as § 30 spending, Defendants deny that such spending is so included, and Plaintiffs do not allege any instances of such funding. Instead, it appears that Plaintiffs allege entitlement to no-strings, discretionary revenue-sharing, as a matter of policy preference, and for that reason seek to exclude from the § 30 calculation money the State spends to fund local obligations.

[2] By law, federal funding is not included in either the numerator or denominator; § 30 calculates only state revenue sources, exclusive of certain "transfers between funds, federal aid, and restricted local and private sources" and considers how those resources are allocated between state and local purposes. MCL 18.1305.

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SUMMARY OF ARGUMENT

Plaintiffs' allegations under § 30 of Article 9 of the Michigan Constitution are not supported in fact or law. Plaintiffs have admitted that this case is not about unfunded mandates under § 29. Rather, without any textual basis, Plaintiffs argue that entire categories of state spending on local governments should not be counted as state spending on local governments for purposes of § 30. They are wrong.

Section 30 states simply that "[t]he proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below" 48.97%. The text makes no distinction based on the *reason* why the State gives various categories of money to local governments. Instead, it requires the State to tally all such money and dictates that that sum must be equal to or greater than 48.97% of the State's total spending. It is a simple instruction.

No other constitutional or statutory text requires or even suggests a different result. With respect to Proposal A, Michigan voters *mandated* that additional state sources of revenue be created and spent on public education. Passed by the voters after 15 years of experience under Headlee, Proposal A created § 30 numerator spending; nothing in Proposal A specifies otherwise. Michigan voters again expressed their desire for lower property taxes while funding public schools more equitably. *"Here is how we agree to be taxed and this is how you will spend it."* Plaintiffs ask this Court to ignore that directive, but they identify no § 30 exception for these state expenditures from state sources for local obligations.

The same is true with regard to charter schools, which have long been understood to be, and are, public schools. They are funded with the same per-pupil

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funding as other public schools; are statutorily designated school districts under Michigan law; are authorized by political subdivisions of the State; are operated by public officers; are subject to transparency laws; and are defined as governmental agencies that perform governmental functions, including providing local services (i.e., education). They, like traditional public schools, are local units of government under § 30.

Finally, Plaintiffs identify no reason why state mandate spending for local services should be carved out from § 30, aside from their apparent policy preference in favor of a larger pot of no-strings revenue. But state spending from state sources to aid units of local government, whether it is spending to cover a mandate or purely discretionary aid, must be counted for § 30 purposes.

The law is clear, and summary disposition is warranted.

STANDARD OF REVIEW

In an original action to enforce the Headlee Amendment, after an answer is filed, this Court may deny relief or grant peremptory relief without oral argument. MCR 7.206(E)(3)(b). The complaint sets forth a threshold legal issue: whether certain categories of state spending are state spending to local government for purposes of Article 9, § 30. The complaint also set forth one count relative to State Trunkline Road funds, which has since been dismissed. MCR 2.706(E) governs actions to enforce the Headlee Amendment. Subsection (E)(1)(a) requires that a Headlee complaint "conform[ ] with the special pleading requirements of MCR 2.112(M)."

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Defendants seek dismissal of these claims under MCR 2.116(C)(10) because there are no genuine issues of material fact and Defendants are entitled to judgment in their favor as a matter of law. In considering a motion under (C)(10), this Court considers "affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties . . . in the light most favorable to the party opposing the motion." *Maiden v Rozwood*, 461 Mich 109, 120 (1999). But the opposing party cannot offer a "mere pledge to establish an issue of fact at trial" to "survive summary disposition." *Id*. at 121.

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ARGUMENT

I. State spending for public schools must be included in the numerator of the § 30 calculation.

The Michigan Legislature has a constitutional duty to support and maintain (i.e., help fund) a system of education in Michigan. But the responsibility to deliver education services has always belonged – and according to Michigan's 1963 Constitution continues to belong – to local schools and school districts. Therefore, providing public education is a local obligation and state education funding is properly counted as local aid under Headlee § 30.

The overarching goal of Headlee was to give taxpayers greater control over both the State's and local governments' ability to raise taxes. Because any new or increased taxes, whether at the state or local level, needed voter approval, §§ 29 and 30 operate as a check to make sure the State does not "shift" its responsibilities to local governments. Sections 29 and 30 operate in tandem and ensure that the State maintains the same overall percentage of spending from state sources of revenue to local governments, while also paying for any new or increased programs or services the State requires from local governments. Neither section requires the State to categorize spending by its original source, or purpose, and then make the decision whether to include or exclude it from the § 30 calculation. If it is money paid to a local unit of government from a state source of revenue, it must be factored into the fraction. This includes the additional state revenue generated through increased state taxes when the voters passed Proposal A.

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The plain language of § 30 requires the State to include the revenue created by Proposal A in calculating the proportion of total state spending from state sources paid as aid to local governments. Plaintiffs cite no authority that including such revenue violates Headlee, but instead argue that this is a tax shift in violation of § 25. Proposal A was not a tax shift because in changing public school funding from primarily local taxes to state taxes, it shifted the majority of the burden of funding public schools away from local governments to the State (leaving local governments with significant savings). Headlee implements the "tax shift" prohibition through § 29, which prevents the State from requiring new or increased services or programs of local governments unless the State pays for them. If the State did not pay for new mandates, it would force local tax increases to cover the new activities and, thus, effectuate a "tax shift." Regardless, Plaintiffs have not plead a § 29 violation, and, therefore, they fail to meet their burden to establish a "tax shift" in violation of Headlee.

A. The Legislature has a constitutional duty to support and maintain (i.e., help fund) a system of public education in Michigan. But delivery of public education services has always been a local obligation.

The relationship between local and state government as it relates to public education is clearly delineated in Const 1963, article 8, § 2, which provides:

> The legislature shall maintain and support a system of free elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color, or national origin.

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Accordingly, the Constitution requires the Legislature to maintain and support a system of free public elementary and secondary schools, but the local school district is responsible to provide the education of its pupils.

Michigan courts have affirmed both the State's role in public education under Michigan's Constitution and legislative scheme, *and* that delivery of education services is a local obligation. For example, in *SS v State*, 307 Mich App 685, 690 (2014), the Court rejected plaintiff's argument that under the constitution, the State was responsible for public education and providing literacy education to students in Highland Park School District. The Court reasoned that "the cited provisions of the Michigan Constitution require only that the legislature provide for and finance a system of free public schools." *Id.* at 697. Further, "[t]he Michigan Constitution leaves the actual intricacies of the delivery of specific education educational services to the local school districts." *Id.* And this conception of education has historical pedigree: "[n]o single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to quality of the educational process." *Widdoes v Detroit Pub Sch*, 218 Mich App 282, 287-288 (1996), citing *Durant v State Bd of Ed*, 424 Mich 364, 385, n 14 (1985), quoting *Milliken v Bradley*, 418 US 717, 741-742 (1974).

In short: while the Legislature provides financial support, local school districts are responsible for the operations, structure, and delivery of education to their constituents. This is consistent with the language of Proposal A itself, which

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expressly states that the extra state revenue will be used "for *aid to school districts* . . . ." Const 1963, article 9, § 11 (emphasis added). The text does not suggest that the money is reimbursement to local governments for fulfilling the State's educational obligations. Accordingly, education is (and has always been) a local obligation, and the funding therefore is properly counted as § 30 spending.

B. Exclusion of Proposal A payments from the § 30 calculation is contrary to the plain language of § 30.

Section 30's plain language not only permits, it requires the inclusion of the additional revenue that Proposal A generated as "total state spending to local governments." Proposal A's guaranteed minimum funding in Article 9, § 11 is a component of "total state spending," and is also paid to "aid" local units of government. Const 1963, article 9, § 11. To claim otherwise is contrary to the plain language of §§ 11 and 30, as well as to the intent of the voters who passed both the Headlee Amendment and Proposal A. Excluding certain categories of spending paid to local governments from § 30, simply because the revenue was generated by a voter-ratified constitutional amendment that increased state funding to one particular category of local government, creates a non-existent exception to § 30's broad language that was absent from the text of Proposal A.

1. Proposal A changed the formula for funding schools, but State spending to local school districts is required to be factored into the § 30 calculation.

There is no dispute that local school districts that receive guaranteed payments required by Proposal A are units of local government; they fall explicitly

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within the definition provided in Article 9, § 33, which defines "local government" to include "political subdivision of the state," as well as "school districts" and other "authorities created by other units of local government." Because the voter-approved Proposal A increased the applicable state taxes to fund public schools and guaranteed that each local school district receive minimum funding based on 1994-95 operating revenues, overall state revenues and payments to local governments naturally increased. As Article 9, § 11 provides:

> There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education, and school employees' retirement systems, as provided by law. Sixty percent of all taxes imposed at a rate of 4% on retailers on taxable sales at retail of tangible personal property, 100% of the proceeds of the sales and use taxes imposed at the additional rate of 2% provided for in section 8 of this article, and other tax revenues provided by law, shall be dedicated to this fund.
>
> Beginning in the 1995-96 state fiscal year and each state fiscal year after 1995-96, the state shall guarantee that the total state and local per pupil revenue for school operating purposes for each local school district shall not be less than the 1994-95 total state and local per pupil revenue for school operating purposes . . . .

In other words, Proposal A was simply a public school funding formula change. This voter-approved change caused an increase in the total amount of money the State pays to local schools, but it did not change the formula for calculating § 30's proportion. Nor did it change who was responsible for providing educational services; local schools remained responsible for delivery of public education, as evidenced by the People's choice to describe Proposal A money as "aid to school districts." The additional revenue paid to public schools is included in the State's calculation of its § 30 obligation and has been since Proposal A went into effect.

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And that is exactly what Headlee voters intended under Article 9, §30. In order to properly interpret § 30, the Court must ascertain the intent of the voters who passed the Headlee Amendment. *1985 Durant*, 424 Mich at 378. That intent is confirmed by first looking at the language of the Constitution. *Id.* The Court may also look at how the Legislature implemented the amendatory language. *1999 Durant*, 238 Mich App at 212. Construction of a constitutional provision enacted as a result of voter initiative requires a special emphasis on the duty of judicial restraint. *Schmidt v Dep't of Educ*, 441 Mich 236, 241-42 (1992).

The phrase "state spending paid to local units of government" is broad and does not categorize or differentiate between different sources of revenue paid to local governments, nor distinguish between mandated and non-mandated payments. The same broad, non-categorical definition appears in the Management and Budget Act. MCL 18.1304(3) provides:

> "State spending paid to local units of government" means the sum of total state spending from state sources paid to a local unit of government. State spending paid to a local government does not include a payment made pursuant to a contract or agreement entered into for the provision of a service for the state or to state property, and loans by the state to a local unit of government.

Prior to Proposal A, the State included aid paid to school districts in its § 30 calculation. After Proposal A, the State continued to pay school aid to districts, but paid more through increased foundation allowances required by Proposal A. Despite increasing the amount of aid the State pays to school districts, Proposal A did not amend § 30 to exclude these or any other payments. The voters could have amended § 30 to exclude Proposal A revenue, adjusted the § 30 percentage, or

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specified that education is now a state service, but the voters did not do so. Accordingly, there was no basis for the State to exclude Proposal A school "aid" funding in calculating the § 30 percentage of money paid to local governments – the voters intended, by the text they ratified, that all school aid funds paid to local school districts continue to be included as § 30 spending.

The State's counting of Proposal A or other constitutionally mandated payments to local governments as a component of "total state spending paid to all units of local government" has not been challenged for 32 years. Plaintiffs now request that this Court significantly narrow the broad definition of "total state spending" and "spending paid to all units of Local Government" by reading different expenditure classifications into § 30 in order to pick and choose which expenditures are used to calculate the percentage. Plaintiffs accuse the State of playing a "shell game" by following § 30's clear language; but it is Plaintiffs who attempt to import non-existing language into a constitutional amendment.

The courts have rejected such attempts. For example, in *1985 Durant*, the plaintiffs attempted to read additional language into § 29, arguing that the term "state law" included constitutional requirements. 424 Mich at 377. In holding that "state law" only includes state statutes and administrative rules and not constitutional requirements for purposes of Headlee "mandates," the Court looked at § 29 and compared the sentences "state law" and "required by the Legislature or state agency". *Id* at 380. The Court declined to read the word "constitutional" into

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the plain language absent a definite pronouncement that constitutional requirements were to be included in § 29. *Id.*

In this case, there is no definite pronouncement in any portion §§ 25-34 that the additional school aid payments required by Proposal A or payments required under § 29 should be excluded from "spending paid to all units of Local Government" when determining compliance with § 30. Likewise, there is no pronouncement in Proposal A that any required payments to schools be excluded from § 30's percentage. Thus, it is proper (indeed required) for the State to include all school aid funding paid to local schools in its § 30 calculations. The fact that the additional state spending for local schools caused overall allocations of total state spending to increase has no bearing on the calculation of the proportion paid to all units of local government as a group. In other words, Article 9, §§ 25-34 do not guarantee any units of local government a certain dollar amount of unrestricted aid from the State, which retained discretion to allocate dollars among all local governments. *1985 Durant*, 424 Mich at 393. The State cannot ignore the will of the voters who chose to primarily fund public schools with State taxes as opposed to local property taxes, simply because the § 30 proportion increased.

2. Payments made by the State to local school districts are properly counted under § 30 because public education is a local obligation. In funding education, the State is not discharging a State obligation to provide local educational activities or services.

Plaintiffs argue that the State's inclusion of Proposal A revenue violates Headlee. Plaintiffs cite *Oakland County v Dept of Mental Health,* 178 Mich App 48

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(1989), which created a § 30 exception for state spending paid to local governments to discharge a state obligation. . In *Oakland County*, the taxpayers argued the State's classification of payments for the care of the mentally ill and developmentally disabled as "state spending to local units of government" was unconstitutional. *Id.* at 49. The Court agreed and found that under Article 8, § 8, and the Mental Health Code, MCL 330.1001 et. seq., the care of the mentally ill and developmental disabled is a state obligation; accordingly, payments made to local governments for such care remain state spending. *Id.* at 60. In other words, for purposes of calculating the § 30 proportion, those payments remain in the denominator, but cannot be included in the numerator as a payment to a local unit of government. This makes sense. The State cannot include money paid to local governments under a contract to perform a State obligation as spending paid to local units of government. MCL 18.1304(3).

Oakland County's holding is inapplicable to this case because providing education is a local obligation, not the State's. Therefore, state payments made to fund public schools, irrespective of whether they are comprised of pre-Proposal A revenue or post-Proposal A revenue, are properly included in the § 30 numerator.

Unlike the statutory mental health code service mandates at issue in Oakland County, Proposal A simply changed the formula for funding schools; in no way did it change the structure or obligation for delivering public education services. As discussed above, Proposal A itself reflects that education is a local obligation, given that it describes Proposal A funds as "aid to school districts[.]"

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Accordingly, school aid funding is properly included in the § 30 numerator as it is not being paid pursuant to a contract to discharge a state obligation. Rather, school aid payments are made to "aid" local districts in meeting their constitutional obligation to provide free elementary and secondary education. Excluding the additional school aid funding created by Proposal A from § 30 ignores the intent of the voters who passed both the Headlee Amendment and Proposal A.

C. The inclusion of Proposal A revenue in the Article 9, § 30 percentage is not a § 25 "tax shift" to local governments because it is not an unfunded mandate.

Plaintiffs treat § 25 as an independent cause of action, but the Court has interpreted § 25 to be an introductory paragraph with §§ 29 and 30 providing the substantive implementation. *Waterford School Dist v Bd of Educ*, 130 Mich App 614, 620 (1983). This is also supported by the final sentence of § 25, which provides, "implementation of this section is specified in Sections 26 through 34, inclusive, of this article." Plaintiffs' allegations that the State violated Article 9, §§ 25 and 30 through a "tax shift" is really a § 29 unfunded mandate claim, which Plaintiffs have abandoned. But without a § 29 violation there can be no standalone § 25 "tax shift" violation.

The phrase "tax shift" has been interpreted and applied to mean a shift in responsibility (e.g., a state obligation forced upon local governments) without funding, thus "shifting" the burden to raise taxes to fund the new activities. As the *1985 Durant* Court interpreted § 29:

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> Both sentences clearly reflect an effort on the part of the voters to forestall any attempt by the Legislature to shift responsibility for services to the local government, once its revenues were limited by the Headlee Amendment, in order to save the money it would have had to use to provide the services itself. 424 Mich at 668.

In order to have a "tax shift," there must first be an unfunded mandate. The phrase is not read literally to mean a shift in revenue sources.

Plaintiffs latch on to the "tax shift" language in an attempt to establish a violation of Headlee. However, Proposal A was not a "tax shift." First, Proposal A was neither state legislative nor administrative action – it was a constitutional amendment ratified by the voters in the same manner that Proposal E of 1979 (which ratified the Headlee Amendment) was passed. The decision was made by the People, not by their representatives in the Legislature or state civil servants by administrative action.

Second, Proposal A was simply a public school funding formula change. Instead of funding public schools primarily through local property taxes, the voters decided to primarily fund schools through state collected taxes, both to lower their property tax burden and to restore equity between school districts. While it is true that local millages were reduced, local governments' burden to fund their school districts was also reduced due to the increased state foundational grants created by Proposal A. The State did not "shift" a tax burden onto local governments; quite the opposite: the *People* approved Proposal A, which removed from local governments much of the burden of public school funding.

The inclusion of Proposal A revenue in § 30 does not, in turn, create an unfunded mandate on local governments. Both Plaintiffs' complaint and initial

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brief are devoid of any factual allegations as to what tax burden was "shifted" (i.e., creation of a new unfunded mandate for which the local must find revenue) to local governments after Proposal A was enacted. Plaintiffs do not specifically allege any unfunded mandates, but rather theoretically argue that the State's treatment of Proposal A revenue forces local governments to raise taxes to provide local services.

Nothing in § 30 requires the State to allocate a certain dollar amount, or a certain category of aid, to a particular local unit of government. Headlee's check on the State from shifting any tax burden to local government is § 29, which does not guarantee local governments money for specific operations or local services, it merely protects local governments from the State mandating that they provide programs, activities, or services without paying for them. Headlee does not require the State to act as a guarantor of local governments' ability to fund voluntary operations or provide discretionary services.

If a local government wishes to raise revenue for increased operation costs or providing additional services, it can do so by asking its constituents for a tax increase. This system provides the taxpayers greater control over their government's ability to raise taxes, a main goal of the Headlee Amendment. *1985 Durant*, 424 Mich at 669. But rather than take their tax increase requests to local voters for approval, Plaintiffs look to shift the expense of local elective services to the State. There is no legal support for their claims.

In short: Proposal A revenue and other mandated payments to local government have properly been included in the State's calculation of its § 30

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percentage of total state spending paid as aid to local units of government. Plaintiffs fail to state a claim under § 25, and have not pled a § 29 unfunded-mandate claim. Plaintiffs' complaint should be dismissed with prejudice.

II. Public charter schools are local units of government and as a result state spending to fund charter schools is properly considered aid to local governments for purposes of Headlee § 30.

The Headlee Amendment, § 30, provides that "[t]he proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." Further, § 33 defines "Local Government" as "any political subdivision of the state, including, but not restricted to, school districts, . . . authorities created by the state, and authorities created by other units of local government." Similarly, the State Disbursements to Local Units of Government Act, MCL 21.233(5), commonly called the Headlee implementing act, provides as follows:

> "Local unit of government" means a political subdivision of this state, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for residents in a geographically limited area of this state and has the power to act primarily on behalf of that area.

The Revised School Code (RSC) defines charter schools as both public schools *and* school districts. Finally, the RSC provides that charter schools are governmental agencies created by state or local units of government, carry out public/local purposes (i.e., provide education services), and must operate in full compliance with Michigan law.

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Accordingly, charter schools are political subdivisions of the State – and, therefore, local units of government for purposes of § 33 – for which reason charter school funding is properly counted as aid to local governments under § 30.

A. The RSC defines charter schools as public schools, school districts, and governmental agencies that perform public purposes.

Michigan's Revised School Code (RSC) governs Michigan schools and school district formation/organization, including for charter schools (also called "public school academies"). Specifically, MCL 380.501 provides, in pertinent part:

> (1) A public school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A public school academy is a body corporate and is a governmental agency. The powers granted to a public school academy under this part constitute the performance of essential public purposes and governmental functions of this state.

(Emphasis added). Accordingly, the RSC makes clear that charter schools are:

- Public schools charged with providing free public education, in accordance with the Michigan Constitution, Article 8, § 2;
- School districts supported by the School Aid Fund, in accordance with the Michigan Constitution, Article 9, § 11;
- Governmental agencies that perform public purposes and governmental functions of the state. Specifically, charter schools perform the public/local service of providing education.

The Michigan Supreme Court has construed the RSC according to its plain language, finding that charter schools are public schools. In *Council of*

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Organizations, 455 Mich 557 (1997), the plaintiffs challenged the creation of public school academies by 1993 PA 362 (then known as the "Charter Schools Act"), by attempting to enjoin the distribution of public funds on the basis that the act was unconstitutional. *Id.* at 560. The plaintiffs argued that charter schools are not public schools because they are not under the immediate or exclusive control of the State, and the board of directors were not publicly elected or appointed by a public body. *Id.* at 571.

The Court initially observed that "[s]ubsection 501(1) states that '[a] public school academy is a public school under section 2 of Article VII of the state constitution of 1963, and is considered to be a school district for the purposes of section 11 of Article IX of the state constitution of 1963." *Id.* The Court ultimately held that the constitution did not require exclusive state control, but instead only requires the Legislature to maintain and support a system of public schools. *Id.* at 572-573. The Court determined that charter schools met the control requirement because "they are under the ultimate and immediate control of the state and its agents." *Id.* at 573. The Court reasoned that a charter can be revoked any time by the authorizing body for the school's failure to comply with the contract or applicable law. *Id.* Additionally, all charter school authorizing bodies are public institutions over which the State exercises control. *Id.* And the State controls the school's funding, for which the school must meet certain qualifications. *Id.* at 573-574.

Further, the Court observed that:

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- A charter school is administered under the direction of a board of directors and the nonprofit corporation bylaws contained in the school's contract. *Id.* at 565.

- A person or entity that wishes to organize a charter school must submit an application containing the statutorily required information to an authorizing body. *Id.*

- The application is an agreement that the charter school will comply with state and federal law applicable to public bodies or school districts. *Id.* at 566.

- A charter school can be authorized by a school district, and the charter school agrees to be covered by the collective bargaining agreements that would apply to other employees of that school district. *Id.*

Finally, the Court rejected the Plaintiffs' argument that the board of directors of a charter school is private, reasoning that the authorizing bodies are public bodies, through which the public maintains control of the school. *Id.* at 576-577.

In short: because charter schools are public schools and school districts, they are political subdivisions of the state and local units of government under § 33. Further, the charter school authorizing bodies are themselves state or local units of government.

B. Charter schools are created by state and local units of government.

The RSC provides that a charter school shall be organized by the governing board of a public body, or an "authorizing body." The RSC identifies four types of authorizing bodies: (1) the board of a school district, (2) intermediate school board, (3) the board of a community college, and (4) the governing board of a state public university. MCL 380.501(2).

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All authorizing bodies are public institutions under the control of the State. *Council of Organizations*, 455 Mich at 573. And each of the four types of authorizing bodies are either state or local units of government that are themselves authorities created by the State or by other local units of government. A school district is organized as a body corporate with general (and implicit) powers necessary to providing education – including contracting with other public and private entities – and elects a governing board in accordance with the RSC. MCL 380.11; MCL 360.11a(3), (4), and (7). Similarly, an intermediate school district (ISD) is a creature of the State formed under MCL 380.601a, and is granted all implicit/necessary powers to provide education, including operating as a fiscal agent for various school and job training programs. Further, community colleges are formed by counties, school districts, ISDs, or by petition, under the Community College Act, and are governed by a popularly elected board in accordance with 1966 PA 331. Finally, public state universities are also creatures of statute, created by the legislature with governing boards of regents, trustees, etc. (See generally Michigan Compiled Laws, Chapter 390.)

As to formation, the authorizing body is not required to issue any charter school contracts, but if it chooses to do so, the contracts must be issued on a competitive basis when looking to the resources of the proposed charter school, the population to be served, and the educational goals of the charter school. *Council of Organizations*, 455 Mich at 566-67, citing MCL 380.503(1). If approved, the authorizing body acts as the fiscal agent for the charter school. *Id.* at 567. The

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authorizing body is responsible for ensuring the charter school's compliance with the contract and Michigan law, and it may revoke the contract at any time the charter school fails to meet its obligations. *Id.*, citing MCL 380.507.

In sum, because charter schools are created by state or local units of government, charter schools are also local units of government for purposes of § 33 of the Headlee Amendment.

C. The RSC prescribes the terms that must be addressed in each charter contract. These contracts implement the same statutory public educational requirements applicable to all Michigan public schools.

1. Charter schools must comply with Michigan law.

With respect to a charter school contract, the RSC prescribes that all charter contracts must contain certain provisions, including in pertinent part:

- (a) The educational goals the public school academy is to achieve and the methods by which it will be held accountable. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils.

- (b) A description of the method to be used to monitor the public school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

* * *

- (e) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in [MCL 380.507].

* * *

- (i) A certification, signed by an authorized member of the board of directors of the public school academy, that the public school academy will comply with the contract and all applicable law.

- (j) A requirement that the board of directors of the public school academy shall ensure compliance with the requirements of 1968 PA

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317, MCL 15.321 to 15.330 [contracts of public servants with public entities].

* * *

- (l) A requirement that the board of directors of the public school academy shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

MCL 380.503(6). Similarly, charter schools must also comply with all applicable law, including the Open Meetings Act (MCL 15.261 et seq), the Freedom of Information Act (MCL 15.231 et seq), and the Public Employment Relations Act (MCL 423.201 et seq). MCL 380.503(7).

2. Charter schools operate in the same manner as other public schools.

The RSC prohibits any charter school from charging tuition, and if there are more applicants than space, then the charter school must use a random selection process for the enrollment of students. MCL 380.504(2); *Council of Organizations & Others for Educ About Parochiaid v Governor*, 455 Mich 557, 568 (1997). And charter schools are accountable to the public based on their funding, i.e., per-pupil funding. In other words, if students are not satisfied with their education, they can simply choose to go elsewhere and the funding follows the student. Article 9, § 11.

Additionally, charter teachers must be certified in accordance with the State Board of Education rules, or otherwise be tenured at a state public university or have at least 5 years of experience at a community college. MCL 380.505(1)-(2). And charter schools must adopt a core curriculum following Michigan's core content standards. MCL 380.1278. Further, charter schools are funded through the State

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School Aid Act, and receive per-pupil base foundation funding. MCL 388.1606(4); MCL 388.1620(6). And charter schools may obtain state and federal grants in the same way as local school districts. MCL 380.504a(f).

Finally, a member of the board of directors of a public school academy is a public officer and, before entering upon the duties of the office, must take the constitutional oath of office for public officers under the Michigan constitution. MCL 380.503(11); Const 1963, article 11, § 1. Similarly, a charter school and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in MCL 691.1407 and MCL 380.503(8). An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a charter school if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority. *Council of Organizations*, 455 Mich at 567.

In short: Michigan charter schools operate just like traditional public schools, and are formed under (and must comply with) Michigan law both by statute and by contract.

D. Charter schools perform a function previously carried out by units of local government.

The Management and Budget Act, MCL 18.1350, requires that funding for charter schools be included in the § 30 calculation because education is a local function. Const 1963, article 8, § 2. Specifically, MCL 18.1350(1) provides that:

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> If state government assumes the financing and administration of a function, after December 22, 1978, which was previously performed by a unit of local government, the state payments for the function shall be counted as state spending paid to units of local government.

Here, charter schools must be counted toward the required 48.97% proportion because education services such as those provided by charter schools are a function previously performed by a unit of local government (i.e., traditional public schools), and are now performed by charter schools (which for the forgoing reasons, also constitute units of local government for purposes of § 33) with state funding. Accordingly, such funding is properly included in the state's § 30 numerator.

E. Voters at the time of the Headlee Amendment's ratification would have understood charter schools to be local units of government.

Additionally, voters in 1978 would have understood charter schools – which perform a local service (i.e., education) and receive state per-pupil funding – to be local units of government. This comports with the Michigan Supreme Court's determination that voters would have understood charter schools to be public schools. *Council of Organizations*, 455 Mich at 576.

While Plaintiffs argue that charter schools do not fit within § 33's broad definition of "local government" as the public would have understood it in 1978, the *Council of Organizations* Court went back to 1970 in determining the voters' intent that charter schools are public schools:

> [I]f we examine the common understanding of what a 'public school' is, as adopted by the 1961 Constitutional Convention, for the first paragraph of § 2, and if we inquire into the common

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> understanding of 'private, denominational or other nonpublic' school, as adopted by the voters in 1970 for the second paragraph of § 2, *we find that public school academies are 'public schools.*'

Id. at 576 (emphasis added). And while a charter school may have a private board of directors, the "board members are public officials and are subject to all applicable law pertaining to public officials." *Id.* at 585.

Plaintiffs also quote *Traverse City Sch Dist v Att'y Gen*, 384 Mich 390, 405 (1971) for the proposition that "it is not to be supposed that they [the people] have looked for any dark or abstruse meaning of the words employed, but rather that they have accepted them in the sense most obvious to the common understanding…". But Plaintiffs ignore the RSC's pronouncement that charter schools are school districts created by other units of local government. Further, § 33's definition of "local government" must be plainly interpreted insofar as the § 30 proportion requires the inclusion of all state spending "paid to all units of Local Government." An overly narrow interpretation of what constitutes a local unit of government would mean that entities that perform local functions for the benefit of residents (such as education) would not be included in the § 30 calculation. Such result is neither the intent of the voters nor an obvious or common understanding of the Headlee Amendment.

Plaintiffs further argue that charter schools are different than schools that were typical when voters ratified the Headlee Amendment because charter schools purportedly have less accountability than traditional schools. However, the Michigan Supreme Court rejected this argument in *Council of Organizations*,

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explaining that "because authorizing bodies are public institutions, the state exercises control over public school academies through the application-approval process." 455 Mich at 573.

Finally, Plaintiffs argue that private entities may handle portions of charter school operations. That is true; charter schools, like other public school districts, have the authority to contract for the provision of certain support services. See MCL 360.11a(3), (4), and (7). There is no requirement, for example, that lawn service or snow removal must be performed by school employees or that a school district cannot contract these services to private entities. Charter schools, like any other public schools, must comply with the Revised School Code. Further, charter school board members are public officials subject to all applicable laws pertaining to public officials. *Council of Organizations,* 455 Mich at 585. Therefore, the mere fact that a charter school can contract with a third party for certain services does not distinguish charter schools from other public schools in Michigan.

In short: a plain, obvious, and common understanding of the Headlee Amendment, as well as the role of charter schools in local education services, makes clear that charter schools (which are public schools) would have been considered local units of government in 1978. Plaintiff's claims about certain characteristics of charter schools do not change or displace this understanding.

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F. Funding for charter schools must be included in the § 30 calculation

Charter schools constitute school districts and governmental units as a matter of law. And all public schools, including charter schools, are political subdivisions of the State authorized by the State or other local units of government. Further, charter schools perform the same local public service of delivering public education. Therefore, charter schools fall within the plain language of § 33's definition of "school districts," "authorities created by the state" and "authorities created by other units of local government," for which reason charter school funding is properly included in the state's calculation of aid to local units of government for purposes of § 30.

III. State mandate funding is properly considered aid to local governments.

The Headlee Amendment provides that the State must pay a unit of local government for necessary increased costs associated with a new activity or service that the State requires. Const 1963, article 9, § 29. The Headlee implementing legislation defines "necessary cost" as "the net cost of an activity or service provided by a local unit of government." MCL 21.233(6). Because mandate funding pays for services provided by a local unit of government, and the Headlee Amendment requires the proportion of aid to local governments to include all state spending from state sources, funding for state mandates is properly counted as aid to local governments under § 30 of the Headlee Amendment.

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A. The Headlee Amendment requires the state to fund new and expanded local services mandated by the State.

The Headlee Amendment, § 29, provides certain limitations on state and local taxation. In pertinent part, the second sentence of Article 9, § 29 states:

> A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs.

Section 30 provides that "The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." Nothing in either section states or implies that state mandate funding is not to be included in § 30's numerator as spending "paid to all units of Local Government."

Shortly after voters passed the Headlee Amendment, the Michigan Legislature enacted implementing legislation, MCL 21.231 *et seq*. The State Disbursements to Local Units of Government Act requires the Legislature to "annually appropriate an amount sufficient to make disbursements to each local unit of government for the necessary cost of each state requirement pursuant to this act. . . ." MCL 21.235(1). The Act provides definitions for "necessary cost" and "service" as follows:

- "Necessary cost" means "the net cost of an activity or service provided by a local unit of government." MCL 21.233(6).
- "Service" means "a specific and identifiable program of a local unit of government which is available to the general public or is provided for the citizens of the local unit of government." MCL 21.234(1).

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In other words, mandate funding is paid to a unit of Local Government for services the local government provides. The definitions make clear that the disbursements are issued to local units of government, and the services at issue are specific/identifiable services that are required to be – and are – performed by a local unit of government. Further, the Act excludes funding for certain requirements/purposes:

- "State requirement" means a state law which requires a new activity or service or an increased level of activity or service beyond that required of a local unit of government by an existing law. State requirement does not include any of the following:

* * *

  - A requirement of a state law which applies to a larger class of persons or corporations and does not apply principally or exclusively to a local unit or units of government.

  - A requirement of a state law which does not require a local unit of government to perform an activity or service but allows a local unit of government to do so as an option, and by opting to perform such an activity or service, the local unit of government shall comply with certain minimum standards, requirements, or guidelines. MCL 21.234(5)(g)-(h).

Similarly, the Management and Budget Act, MCL 18.1304(3), provides that "State spending paid to a unit of local government does not include a payment made pursuant to a contract or agreement entered into or made for the provision of a service for the state or to state property, and loans made by the state to a unit of local government."

In other words, state mandate funding is "state spending from state sources paid to a unit of local government," but does not include spending for requirements

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that apply to a non-local class of persons/corporations, optional services that local units voluntarily choose, or state services/loans.

So what is left after the statutory carve-outs? State spending from state sources issued to local units for local services/persons. Plaintiffs' entreaties notwithstanding, they articulate no basis to exclude such funding from the § 30 calculation – to the contrary, this funding *must* be included in the § 30 calculation as a matter of law.

B. The State may reduce non-mandated funding. Plaintiffs' claimed entitlement to unrestricted state aid has no basis in Michigan law.

Plaintiffs argue that including state mandate funding in the § 30 calculation "forces Local Governments to choose whether to cut existing services or to raise taxes," and that "[t]aking this practice to its logical conclusion, the State could theoretically impose mandates upon Local Governments that require the entirety of their funding." (Pls' Br, at 41). Plaintiffs, therefore, posit what amounts to an ongoing/perpetual entitlement to unrestricted funds – i.e., funds untethered to particular state mandates, and to be used at the local's discretion. But the constitutional text does not support their argument. Nothing in §§ 29 or 30 states or even suggests that the proportion of state spending "paid to all units of Local Government" *for discretionary, no-strings-attached spending* "shall not be reduced below" 48.97%. Indeed, such an interpretation would impermissibly add the foregoing italicized language to the constitutional text. Section 30's text – which requires the State to count in the numerator spending "paid to all units of Local

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Government," without qualification – is plain and unambiguous, and requires no interpretation or added words. See *Driver v Naini,* 490 Mich 239, 246-247 (2011).

Plaintiffs cite *Schmidt*, as prohibiting state mandates that force local governments to choose between existing service reduction or raising taxes. 441 Mich at 250. But *Schmidt* does not support Plaintiffs' proposition. To the contrary, *Schmidt* only prohibits the State from reducing the proportion of funding a local unit receives to provide a particular required service. *Id.*

It is true that Michigan courts have distinguished between services that are a state obligation and services that are a local obligation. For example, in *Oakland County*, the Court of Appeals held that the State could not include funding to locals to provide a service that was a state obligation (i.e., mental health services). According to Plaintiffs, the case stands for the proposition that funding for state mandates cannot be included in spending to local governments for Headlee purposes. (Pls' Br, at 41-42). But this characterization is wrong – the Court held that the funding could not be counted; *not* because it related to state mandates imposed on local units of government, but instead, because "the provision of mental health services is a state obligation." *Id*. at 59. Here, Plaintiffs do not identify any state mandates that relate to state obligations (*a la* the *Oakland County* mental health services) – or indeed, any specific mandates at all – that the State counts as includable for § 30 purposes.

There is nothing in the plain language of Article 9, §§ 25-34 that requires the Legislature to continue to fund local units of government at an amount in excess of

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constitutional requirements, and nothing that prevents it from reducing non-mandated funding at its discretion. The Legislature is free to supplement minimum funding required by the Headlee Amendment, but the Headlee Amendment only guarantees the local government its proportionate share of the cost of mandated activities – it does not guarantee an overall net increase in state funding. *Adair v Michigan*, 302 Mich App 305, 321-23 (2013), citing *1999 Durant* (§ 29 of the Headlee Amendment did not preclude the use of foundation allowance to fund the State's Headlee obligations); *1997 Durant* (neither the Headlee amendment nor Proposal A constitutionally precludes the Legislature from allocating that portion of the foundation allowance that exceeds the base level required by Proposal A to fund Headlee obligations or additional non-mandated payments).

In short: so long as the state meets its § 11 obligation (guaranteed minimum per-pupil funding for schools), § 29 obligation (payments for mandated activities and services), and § 30 obligation (the 48.97% proportion), it may reduce any non-mandated funding to local governments or reallocate non-mandated funding among local governments. Plaintiffs' attempts to subtract categories of mandatory state spending to local governments, in essence, seeks additional discretionary funding. While there may be policy reasons for such a request, there is no legal support.

IV. The State pays in excess of the minimum proportion of state spending required under § 30.

State spending paid to all units of local government in the 2015 fiscal year exceeded the amount required under § 30 by almost $1.9 billion. This is evidenced

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by the Statement of the Proportion of Total State Spending from State Sources Paid to Units of local government, which shows that the proportion of total state spending paid to units of local government for the 2015 fiscal year was $16,313,100,000, which equals 55.25% of total state spending. (Ex B.) Again, for reference, § 30 requires the State to devote 48.97% of total state spending to units of local government. State spending to aid local government was $1.8 billion in excess of the requirement in 2015, which – notably – would absorb most of Plaintiffs' claims. *Id.* Likewise, for 2016, the excess was $1.9 billion. (Ex C.)

Assuming arguendo that some items alleged to be improperly included in the § 30 calculation (e.g., charter school funds) are removed, state spending to local governments still exceeds 48.97% of total state spending from state sources. In other words, removing that category, the percentage still exceeds the constitutional minimum. Plaintiffs can show no harm.

V. The Office of Auditor General is not a proper or necessary party to this action and should be dropped from this appeal.

Plaintiffs allege that the Office of Auditor General (OAG) failed to report a shortfall in local government spending. However, the "shortfall" Plaintiffs allege is based on their claims in this case. Plaintiffs seek mandamus to enforce a right that has not accrued; they seek enforcement of a judgment that has not been entered and under Michigan law, should not be entered.

A mandamus action requires, among other things, that the act be ministerial. *Coalition for a Safer Detroit*, 295 Mich App at 366 (2012). In this case, the OAG is

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responsible for reviewing the State Budget Office's Statement of the Proportion of Total State Spending from State Sources Paid to Units of Local Government ("Statement"), and completing a limited scope review. (Ex 1 to Pl's Br, at 2.) In substance, this means that the OAG reviews whether the Statement properly accounts for spending to units of local government in accordance with law and established policies and procedures. The OAG then concludes whether or not material modifications to the Statement are necessary. Such review "includes primarily applying analytical procedures to management's financial data and making inquiries of management." (*Id.*) The review is conducted "in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants." (*Id.*) That duty is not found within or specific to any Headlee constitutional provisions. Rather, the OAG relies on testing performed in a separate financial audit that reviews whether state spending is properly recorded in the State's accounting records and those same records are then used by the State Budget Office to compile the § 30 report.

The OAG agrees that the act of reviewing state expenditures may be considered ministerial – conducting the review itself is required. However, the application of accounting principles and analyses during that review, and its conclusions, are not ministerial. To the contrary, the OAG review includes discretion and communication to verify any areas of concern – it requires application of professional judgment consistent with well-established guidelines and procedures to new information (i.e., budgets, line-item accounting) each year.

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But discretion should not be confused with arbitrary application; the OAG has applied the same methods for its review and analysis for decades, including the interpretations included in the definitional sections for how certain funding is treated. So any purported error in its methods is neither established nor even apparent. Furthermore, the OAG's review and analysis culminate in a statement of assurance, i.e., that the Budget Office's determination that the State has met its § 30 obligations requires no material modifications. It is not a forensic audit of every transaction, in every state department and agency, spanning an entire year.

Finally, the requested relief is premature; if this Court adopts Plaintiffs' § 30 interpretations, then the OAG will apply the interpretations that the Court orders. A mandamus action would be appropriate only in the event that 1) Plaintiffs prevail, and 2) the OAG does not comply with this Court's determination going forward. That is consistent with the Michigan Supreme Court's decision in *Durant v State*, 456 Mich 175 (1997), which cited "prolonged recalcitrance" in adhering to a prior Court order, ultimately resulting in an award of damages against the State. The Judiciary initially provided the co-equal branch of government, the Executive, an opportunity to comply with the Court's legal determination. See also *Straus v Governor*, 459 Mich 526 (1999). No such legal determination exists here, and mandamus is not appropriate.

MCR 2.207 allows a party to be dropped "by order of the court on motion of a party or on the court's own initiative at any stage of the action and on terms that

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are just." Therefore, the OAG requests that it be dropped from this action. It is not a necessary party, nor an appropriate party, as the requested relief is premature.

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CONCLUSION AND RELIEF REQUESTED

Plaintiffs' claims are not supported in fact or law. Michigan voters approved Headlee in 1978 and Proposal A in 1994, placing strict checks on growth in government and tax increases. In approving Proposal A, the voters were aware of Headlee and its operation and chose to create or increase state level tax revenue and direct that the money be spent locally. That is § 30 numerator spending.

Further, charter schools, statutorily and in operation, are units of local government. State spending from state tax revenue to support public schools, including charter schools, is § 30 numerator spending. Likewise, there is no support for the claim that spending to cover state mandates must be excluded. Defendants ask that this Court dismiss this case under MCR 7.206(E)(3)(b) and 2.116(C)(10).

Respectfully submitted,

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APPENDIX A

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SCHOOL FINANCE REFORM IN MICHIGAN PROPOSAL A: RETROSPECTIVE



Office of Revenue and Tax Analysis
Michigan Department of Treasury
December 2002

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SCHOOL FINANCE REFORM IN MICHIGAN PROPOSAL A: RETROSPECTIVE



Office of Revenue and Tax Analysis
December 2002

Andrew Lockwood prepared this report under the direction of Mark P. Haas, Director, and Howard Heideman, Director of Tax Policy Analysis, Office of Revenue and Tax Analysis, Michigan Department of Treasury. Marge Morden provided production assistance. Tom Patchak-Schuster provided various property tax data calculations along with editorial assistance.

This report is available electronically at the Department of Treasury's Web site: http://www.michigan.gov/treasury.

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I. EXECUTIVE SUMMARY

For years, Michigan residents have wanted property tax relief along with more equal educational funding across the state's local school districts. Michigan property taxes were above the national average. Funding inequities among school districts continued to grow plus an increasing number of millage elections were being defeated due to voter discontent with high property taxes. Frustration with these issues peaked in August 1993 when the Michigan Legislature repealed property taxes as the primary funding source for K-12 education.

In response to the elimination of property taxes for school funding, Governor Engler proposed a new funding approach to be placed on the ballot for voter approval. On March 15, 1994, Michigan voters approved Proposal A, which revamped how schools would be funded and also provided educational reforms. Proposal A promised a minimum per pupil foundation allowance, more equity among local school districts, lower property taxes, and more school accountability.

Different from other proposals to change school funding, voters were not able to keep the status quo if the proposal did not pass. Essentially, voters were asked to increase the sales tax rate (Proposal A) or increase the income tax rate if Proposal A failed (Statutory Plan). Going back to the old system was not an option. Proposal A also provided a new mix of other tax changes that would provide funding for Michigan schools. State taxes, instead of local property taxes, would now fund local school district operating costs.

Before Proposal A, Michigan's property tax burden was more than 33 percent above the national average with the sales tax 32 percent below the national average. Both are now near the national average.

All local school districts are provided a minimum foundation allowance per pupil which has lowered the spending gap between low and high spending school districts. For FY 2003, the minimum foundation allowance is $6,700 per pupil. Before Proposal A, the top ten spending districts outspent the lowest ten spending school districts by almost a 3:1 ratio. Currently, this ratio between the top ten highest and lowest spending districts is less than a 2:1 ratio.

Publicly chartered schools and "schools of choice" were another part of the reforms enacted with Proposal A. Charter schools are considered public schools that are organized by teachers, parents, universities, etc., and chartered by a public entity. Schools of choice allow students to attend a public school in a district other than where the student resides.

Proposal A dramatically decreased the amount of property taxes paid by Michigan residents and limited future increases. Starting in calendar year 1995, property taxes have been levied on taxable value instead of state equalized value. Taxable value increases are constitutionally limited to 5 percent or the rate of inflation, whichever is less. When a property is sold, the tax base reverts to state equalized value and annual taxable values are then capped once again.

Property is now classified as homestead and nonhomestead. Homestead property is considered to be a Michigan resident's home. Business property, rental housing, and vacation homes are

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considered to be nonhomestead property. Property that is not a homestead and not qualified agricultural property can be assessed up to an additional 18 mills for local school operating purposes.

Michigan residents and businesses have seen large decreases in the millage rates assessed on their property. In 1993, the average statewide millage rate for all property was 56.64 mills. In 2000, the statewide average homestead millage rate was 31.54 mills and the nonhomestead rate was 50.10 mills.

Local school debt millage has increased since Proposal A. The number of school districts participating and the amount of new bonds issued through Michigan's School Bond Loan Program have increased dramatically. Since 1994, the number of school districts participating has jumped from 42 to 130 districts, an increase of 210 percent. The total amount of qualified debt outstanding increased from $4.1 billion in 1994 to $11.1 billion in 2001.

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II. INTRODUCTION

It has been nine years since August 1993, when Public Act 145 of 1993 became law, which effectively eliminated local property taxes as a source for K-12 and intermediate school district operating revenues. Public Act 145 of 1993 eliminated approximately $7 billion in school operating funds and did not provide any alternative funding source.

In October 1993, Governor Engler delivered a message to a joint session of the Michigan Legislature based on a report entitled *Our Kids Deserve Better, New Schools for a New Century*. In this report, the Governor outlined his plan to reform Michigan's schools and the K-12 school finance system. The Governor's plan had four basic goals:

1. **Reduce property taxes.**
   An immediate and substantial cut in property taxes to most property taxpayers.

2. **Improve school funding equity.**
   A new system of school funding: the foundation grant system. Under the foundation grant system, the State would take responsibility for a greater share of school funding in an attempt to improve funding equity across school districts. School funding equity would be enhanced through a constitutionally-guaranteed minimum funding level per student.

3. **Implement various reforms to improve the quality of education.**
   Reforms included allowing parents and children to choose among competing public schools, lengthening the school year and the creation of charter public schools. A student's foundation allowance would follow the student to his or her school of choice.

4. **Redefine state and local government relations.**
   State law would be modified to limit the number of property tax millage elections and eliminate the tie between state aid and local tax effort.

On December 24, 1993, legislation was enacted to allow for distribution of state School Aid Fund (SAF) revenues through the new foundation grant funding system. However, it was still unknown how the necessary revenue would be raised. To determine the new funding source(s), the legislature presented Michigan voters with two options. The first option, known generally as Proposal A, replaced most property taxes levied for local school operating purposes with a two-percentage point increase in the sales tax rate. The second option, known generally as the Statutory Plan (which would take effect if Proposal A was rejected), replaced most property taxes levied for local school operating purposes with a 1.4 percentage point increase in the Michigan individual income tax rate. Both plans included numerous other tax modifications, the most significant being a new state education tax (SET) levied on property. (The details are provided later in this chapter.)

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Proposal A dedicated new revenue sources to the SAF including: the two percentage point increase in the sales and use tax rate, the 6-mill SET, the 50 cent per package increase in the cigarette tax rate, and the 0.75 percent real estate transfer tax. A percentage of income tax collections are also earmarked to the SAF.

In March 1994, Michigan residents approved Proposal A. Schools would now be funded through higher sales taxes rather than higher income taxes. All tax increases were levied on consumption except the new 6-mill SET. The increase in the sales and use tax rate and the cigarette excise tax became effective May 1, 1994. The new real estate transfer tax became effective January 1, 1995. The 6-mill SET was first levied in July 1994. Because the State of Michigan's fiscal year begins October 1, only about half of the 6 mills were levied in FY 1994.

This report provides an updated retrospective of the significant changes that have occurred from 1993 to 2002. Specifically, this report focuses on Proposal A's effect on property tax millage rates, tax revenues, per pupil funding levels, and state and local tax burdens. This report is *not* intended to provide the reader with a detailed explanation of all school finance reform issues. Rather, it is best used to provide a general overview of changes to the Michigan tax system as a result of Proposal A.

Chapter III presents Proposal A's impact on millage rates and the property tax base. Chapter IV discusses Proposal A's impact on Michigan's major taxes and the shift in the tax burden from property toward consumption taxes. Chapter V examines how per pupil funding and SAF revenues have changed since 1993.

Proposal A Objectives: Property Tax Relief and School Finance Reform

While a variety of factors contributed to the sweeping changes made in March 1994, a primary force was the need to provide property tax relief to Michigan residents. In 1993, the Michigan property tax burden was 7th highest among all states. Compared to the typical property taxpayer in the U.S., Michigan residents paid nearly one-third more in property taxes. Property tax reform was a perennial topic of debate until the passage of Proposal A.

The relatively high Michigan property tax burden could be traced to two factors. The first factor was the rapid growth in property tax rate levies for local schools. Between 1980 and 1993, the total property tax rate for school operating purposes (excluding debt) increased 135.5 percent, outpacing both inflation at a 63.7 percent increase and even an "ability to pay" measure such as nominal Michigan personal income at an 112.4 percent increase (see Exhibit 1). Over this same time period, enrollment in Michigan public elementary and secondary schools actually declined from 1,797,052 to 1,599,377 students, an 11 percent reduction. Had pupil enrollment increased, it is likely that the property tax burden would have been much greater.

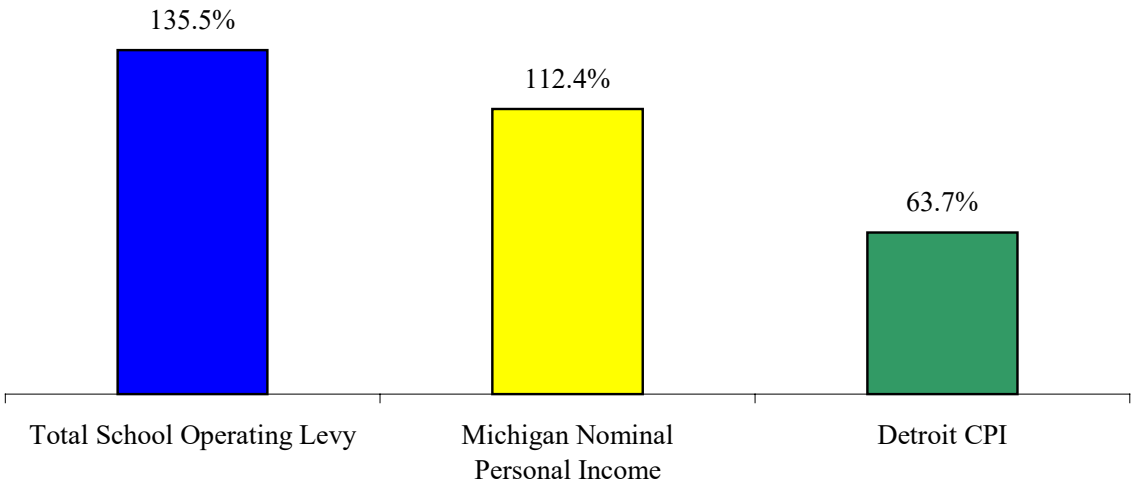
The second factor contributing to high property taxes was local school districts' heavy reliance on local property taxes as their primary source of funding for both operating expenses and capital financing. For the 1992-93 school year, approximately 61.4 percent of total local school revenues (including debt) originated from local and intermediate sources (i.e., local property

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taxes). Only three states relied more heavily on local property taxes as a source of funding for K-12 schools: New Hampshire (86.6 percent), Illinois (62.0 percent), and Vermont (61.6 percent). Nationally, local and intermediate school financing comprised only 44.7 percent of total school funding compared to Michigan's 61.4 percent.

Exhibit 1
School Funding Growth Outpaces Inflation and Income
1980-1993



Sources: State Tax Commission, Bureau of Labor Statistics and Bureau of Economic Analysis.

March 1994 Voter Options

Proposal A was not the first attempt to implement property tax reform in Michigan; prior attempts for school reforms had failed on numerous occasions. From 1972 to 1993, Michigan voters rejected property tax reform ballot proposals on eight occasions (two votes each in November 1972 and November 1989). After facing double-digit property tax assessment increases in 1993 (due to the 1992 assessment freeze), voters were more receptive to property tax reform. Due to Public Act 145 of 1993, tax reform would occur because of the elimination of all local school and intermediate school operating taxes (approximately half of all millages levied). This time, voters could not reject major reform because a vote for the status quo was not an option. The only decision left to voters was which of two new funding options would replace K-12 school operating revenues that had been eliminated.

Voters were presented with a choice between a sales tax increase or an income tax increase as a replacement for local property taxes (see Exhibit 2). Both plans made a new distinction between homestead (primary residence) and nonhomestead property (business property, rental housing, and vacation homes) and taxed the two classes of property at different rates. Under Proposal A (a "yes" vote), both homestead and nonhomestead property would be subject to a 6-mill SET; nonhomestead property would also be subject to an 18-mill tax collected by the local

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Exhibit 2
Proposal A
Funding Alternatives for Local School Operating Levies

Revenue Source	1993 Law	1994 Voter Options: Proposal A Vote "Yes"	1994 Voter Options: Statutory Plan Vote "No"
Sales & Use Tax	4.0%	6.0%	4.0%
Income Tax	4.6%	4.4%	6.0%
Single Business Tax	2.35%	2.35%	2.75%
Cigarette Tax	25 cents/pack	75 cents/pack	40 cents/pack
Other Tobacco Products	None	16%	16%
Real Estate Transfer Tax	None	0.75%	1.00%
Personal Exemption	$2,100	$2,100	$3,000
State Education Tax			
Homestead Property	None	6 mills	None
Nonhomestead Property	None	6 mills	12 mills
Local School Operating			
Homestead Property	Statewide Average	None	12 mills
Nonhomestead Property	equals 34 mills	18 mills	12 mills
Annual Cap on Property Value	None	Lesser of 5% or inflation	None
Local Enhancement Mills	None	Up to 3 mills for only 3 years	Up to 3 mills permanent

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school district. Under the Statutory Plan (a "no" vote), only nonhomestead property would be subject to a 12-mill SET; all property owners would pay a 12-mill tax to the local school district. Thus, the difference was the rate on homesteads as businesses paid 24 mills under either plan.

Also, Proposal A allowed intermediate school districts (ISD) the opportunity to levy up to three mills district wide with voter approval to be divided among the local school districts in the ISD. This was a mechanism put in place to allow the opportunity for local school districts to levy additional millage while helping to keep per pupil spending levels more equal. Currently, only one ISD levies this type of millage.

While results from the March 1994 election indicated that a majority (69 percent) of Michigan voters preferred the sales tax increase as a means to fund local schools, three other factors also contributed to Proposal A's success. First, Proposal A cut homeowner millage rates more than the Statutory Plan. Second, Proposal A increased the cigarette tax more than the Statutory Plan (voter sentiment was anti-tobacco). Third, Proposal A placed a constitutional cap on property tax increases in taxable value; the Statutory Plan did not.

Exhibit 3
Michigan Voters Approve Proposal A
69 Percent Vote Yes

Date of Vote	Percent Yes Vote	Percent No Votes
November 1972	42	58
November 1980	26	74
May 1981	28	72
November 1989	24	76
November 1992	41	59
Legislative 1992	37	63
June 1993	46	54
March 1994	**69**	**31**

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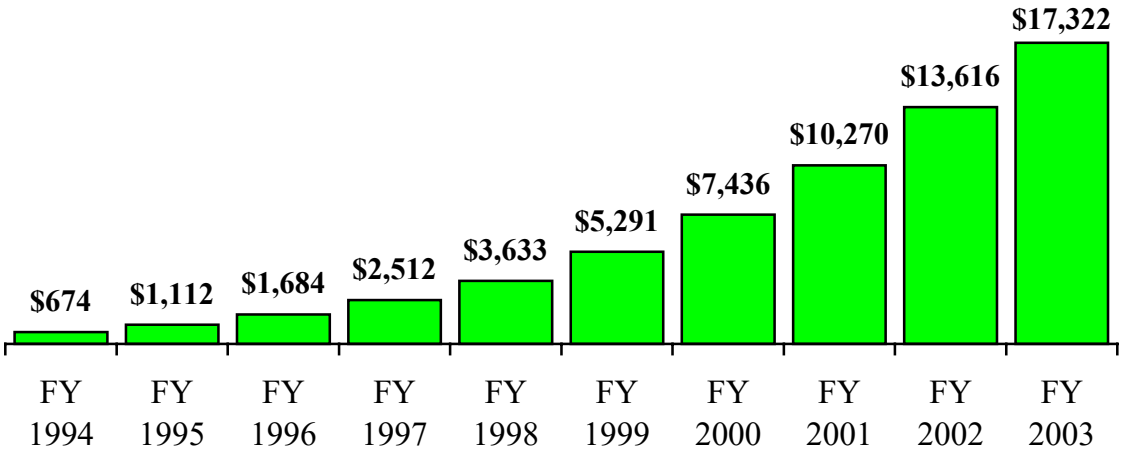
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III. PROPOSAL A's IMPACT ON PROPERTY TAXES

Proposal A cut Michigan taxes by $17 billion from FY 1993 to FY 2003. (See Exhibit 4.) The large reduction in local property taxes outpaced the increased and new state taxes. Local property taxes were cut $63 billion from 1994 through 2003 while state taxes were increased $46 billion for a net cut of $17 billion over the ten years. (See Exhibit 13.)

Exhibit 4
Proposal A Reduces Net Taxes by $17 Billion
Cumulative Tax Cut
(millions)



For property owners, the most noticeable impact of Proposal A was the immediate reduction in millage rates (see Exhibit 5). From 1993 to 2000 average statewide millage rates for all property (weighted average of homestead and nonhomestead property) decreased 17.32 mills, a 30.6 percent reduction. This decline can be attributed solely to the reduction in local school operating millage rates. Local school operating mills have declined since 1994. From 1994 to 2000, average local school operating mills (for all property) declined from 9.26 mills to 8.41 mills, or 9.2 percent. This decline is attributable to the sunset of the local 3-mill enhancement option after calendar year (CY) 1996. Voters were allowed to approve enhancement millages up to 3 mills that were levied on all property from 1994 through 1996. Enhancement millage now may only be levied ISD wide and distributed on a per pupil basis.

Since 1994, this reduction in school operating millages has been partially offset by increases in other millage rates. While all average millage rates have increased since 1994, except for local school operating mills, the trend in local school debt, and sinking fund, mills is especially noticeable. In 1994, the average statewide local school debt millage for all property was 2.56 mills and has since increased to 4.01 mills in 2000, a 57 percent increase.

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Exhibit 5
Average Statewide Millage Rates, All Property [1]

	1993	1994	1995	1996	1997	1998	1999	2000	Change, 1993-1994 Mills	Change, 1993-1994 Percent	Change, 1994-2000 Mills	Change, 1994-2000 Percent	Change, 1993-2000 Mills	Change, 1993-2000 Percent
Purpose														
County	6.22	6.27	6.28	6.36	6.32	6.30	6.28	6.27	0.05	0.8%	0.00	0.0%	0.05	0.8%
Township	3.36	3.56	3.68	3.74	3.87	4.02	3.99	4.09	0.20	6.0%	0.53	14.9%	0.73	21.7%
City	15.45	15.75	15.95	16.06	16.18	16.23	16.17	16.36	0.30	1.9%	0.61	3.9%	0.91	5.9%
Village	11.94	12.13	12.34	12.54	12.57	12.22	12.37	12.20	0.19	1.6%	0.07	0.6%	0.26	2.2%
Total Non-School	**15.89**	**16.13**	**16.23**	**16.37**	**16.40**	**16.41**	**16.30**	**16.37**	**0.24**	**1.5%**	**0.24**	**1.5%**	**0.48**	**3.0%**
Local School Operating	33.91	9.26	9.26	9.28	8.79	8.74	8.59	8.41	-24.65	-72.7%	-0.85	-9.2%	-25.50	-75.2%
Local School Debt [2]	2.54	2.56	3.03	3.27	3.57	3.63	3.80	4.01	0.02	0.8%	1.45	56.6%	1.47	57.9%
ISD/Comm College [3]	4.30	4.24	4.36	4.40	4.48	4.48	4.47	4.51	-0.06	-1.4%	0.27	6.4%	0.21	4.9%
State Education Tax (SET)	0.00	6.00	6.00	6.00	6.00	6.00	6.00	6.00	6.00	NA	0.00	0.0%	6.00	NA
Total School	40.75	22.06	22.65	22.95	22.85	22.86	22.86	22.95	-18.69	-45.9%	0.89	4.0%	-17.80	-43.7%
TOTAL MILLS	**56.64**	**38.19**	**38.88**	**39.32**	**39.25**	**39.27**	**39.16**	**39.32**	**-18.45**	**-32.6%**	**1.13**	**3.0%**	**-17.32**	**-30.6%**
Local School Operating and SET	33.91	15.26	15.26	15.28	14.79	14.74	14.59	14.41	-18.65	-55.0%	-0.85	-5.6%	-19.50	-57.5%

[1] Does not include special assessments.

[2] Includes sinking fund mills for all years. Includes 1993 building and site mills.

[3] Includes intermediate school district and community college debt mills.

Source: 1993-2000 county, township, city, village mills; 1993, 1995-2000 total school and total mills: State Tax Commission.
Other mills from Office of Revenue and Tax Analysis, Michigan Department of Treasury.

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Homestead and Nonhomestead Property

Proposal A separated property into homestead and nonhomestead property for tax purposes. Homestead property is property that a taxpayer declares as his or her primary residence. Qualified agricultural property is taxed like homestead property. All other property such as business property, rental housing, or vacation homes are considered nonhomestead property. Following school finance reform, nonhomestead property is assessed up to 18 additional mills for local K-12 school operating purposes, subject to voter approval. If additional revenues are required to enable a school district to maintain its pre-Proposal A funding level, up to 18 additional mills may be levied on homesteads ("hold harmless" millage; very few school districts levy this millage). If these revenues are not sufficient, then additional mills are levied against all property.

While the statewide millage rate for all property declined significantly from 1993 to 2001 (16.86 mills, 29.8 percent), the reduction for homestead property was much greater (24.52 mills, 43.3 percent) because most homeowners no longer pay any property tax to local school districts for operating purposes. In contrast, the reduction in the nonhomestead average millage rate from 1993 to 2001 (5.92 mills, 10.5 percent) is much smaller because most nonhomestead owners must pay 18 mills to their local school district (see Exhibit 6).

Taxable Value

Before Proposal A, property taxes were levied on a property's state equalized value (SEV). SEV is equal to 50 percent of the true cash value of the property. Beginning in CY 1995, Michigan property taxes are levied on taxable value. A constitutional amendment requires that the taxable value of a residence or business cannot increase in any one year by more than 5 percent or the rate of inflation, whichever is less (excluding the value of new construction). Therefore, if the true cash value of a property increased by 8 percent, SEV would also increase by 8 percent but the taxable value would increase by 5 percent or the rate of inflation. (When property is sold, the tax base reverts to SEV and the subsequent annual growth is capped once again.) Due to low inflation rates since 1994, annual taxable value increases on most existing property ranged from 1.6 percent to 3.2 percent. The annual inflation rate used for assessment increases is calculated by dividing the average U.S. CPI for all urban consumers for the relevant fiscal year by the average U.S. CPI from the previous fiscal year.

The cap on taxable value creates an ever-widening gap between SEV and taxable value and clearly results in substantial tax savings. By CY 2002, taxable value was approximately $68.7 billion (20.0 percent) less than SEV as a result of the assessment cap (see Exhibit 7). Thus, the taxable cap savings will reach nearly $2.3 billion for 2002 (see Exhibit 8). Also, the cap creates situations where a new homeowner living next to a person who has owned an identical house for several years could pay substantially higher property taxes than his or her neighbor whose taxable value is below their SEV.

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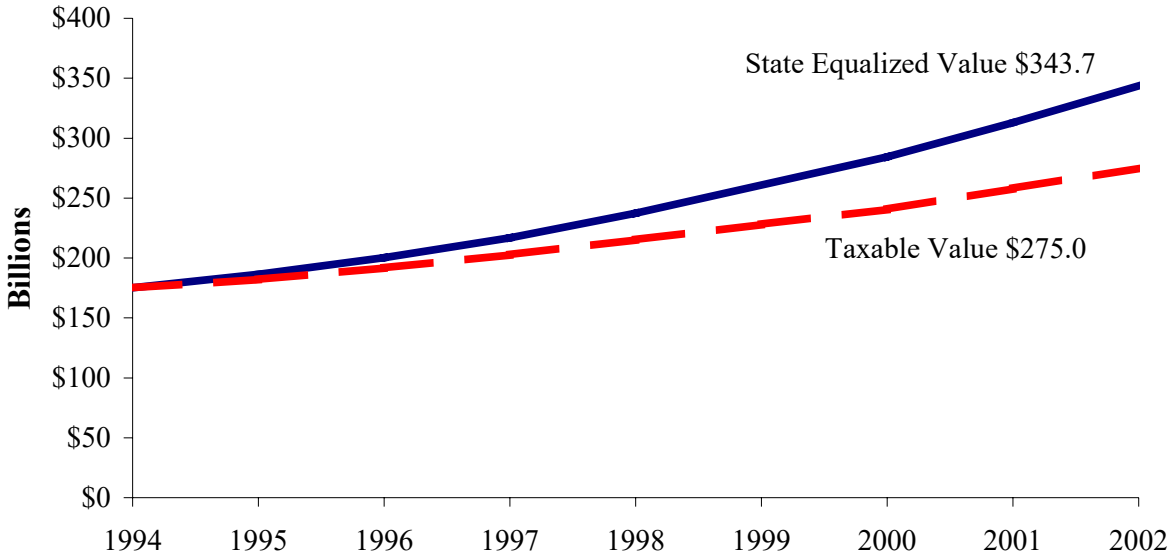
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Exhibit 6
Estimated Statewide Average Millage Rates

	1993	1994	1995	1996	1997	1998	1999	2000	2001
All Property	56.64	38.19	38.88	39.32	39.25	39.27	39.16	39.32	39.78
Homestead	NA	30.22	31.00	31.36	31.36	31.43	31.40	31.54	32.12
Nonhomestead	NA	48.17	48.79	49.54	49.63	49.68	49.76	50.10	50.72

Sources: State Tax Commission: All Property Rates, 1993, 1995-2000.
Office of Revenue and Tax Analysis: 1994 all property rate and homestead and nonhomestead rate estimates.

Exhibit 7
SEV and Taxable Property Value Gap Grows



Source: Michigan State Tax Commission.

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Exhibit 8
Tax Savings From Cap on Taxable Value
millions



Source: Michigan Department of Treasury.

Average 2000 Homestead Millage Rates by County

While all homeowners benefited from the reduction in millage rates following Proposal A, average reductions varied widely across the state. Exhibit 9 provides the total millage rate reductions by county. For homestead millage rates from 1993 to 2000, Genesee County recorded the largest millage rate reduction at 32.64 mills while Leelanau County registered the smallest millage rate reduction at 8.65 mills. As a percent reduction in homestead millage rates from 1993 to 2000, Livingston County reported a 54.4 percent reduction in homestead millage rates, while Keweenaw County recorded a 29.8 percent reduction in homestead millage rates.

Generally, counties located in northern Michigan realized smaller millage reductions because their pre-1994 local school operating millage rate was relatively low. Conversely, counties located in mid- and southern Michigan realized greater millage reductions due to their relatively high pre-1994 millage rate for local school operating purposes.

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Exhibit 9
Average Millage Rates by County
Pre-and Post-Proposal A

County	1993 Rate	2000 Rates Homestead	2000 Rates Non-homestead	Homestead Difference Mills	Homestead Difference Percent	Nonhomestead Difference Mills	Nonhomestead Difference Percent
Alcona	31.32	18.15	36.45	-13.17	-42.0%	5.13	16.4%
Alger	51.46	26.43	44.90	-25.03	-48.6	-6.56	-12.7
Allegan	52.40	29.52	50.11	-22.88	-43.7	-2.29	-4.4
Alpena	47.42	27.59	46.62	-19.83	-41.8	-0.80	-1.7
Antrim	37.45	21.50	39.52	-15.95	-42.6	2.07	5.5
Arenac	43.26	28.33	48.37	-14.93	-34.5	5.11	11.8
Baraga	54.21	37.25	52.57	-16.96	-31.3	-1.64	-3.0
Barry	52.13	26.20	46.34	-25.93	-49.7	-5.79	-11.1
Bay	57.24	32.81	52.54	-24.43	-42.7	-4.70	-8.2
Benzie	38.90	22.72	40.02	-16.18	-41.6	1.12	2.9
Berrien	42.61	24.66	40.07	-17.95	-42.1	-2.54	-6.0
Branch	56.78	28.44	50.11	-28.34	-49.9	-6.67	-11.7
Calhoun	65.35	34.88	56.76	-30.47	-46.6	-8.59	-13.1
Cass	49.93	24.66	43.83	-25.27	-50.6	-6.10	-12.2
Charlevoix	43.57	25.10	43.88	-18.47	-42.4	0.31	0.7
Cheboygan	40.30	20.32	39.19	-19.98	-49.6	-1.11	-2.8
Chippewa	49.15	28.26	47.52	-20.89	-42.5	-1.63	-3.3
Clare	46.04	23.07	41.95	-22.97	-49.9	-4.09	-8.9
Clinton	57.56	29.47	48.91	-28.09	-48.8	-8.65	-15.0
Crawford	43.54	23.78	42.81	-19.76	-45.4	-0.73	-1.7
Delta	55.65	29.54	45.49	-26.11	-46.9	-10.16	-18.3
Dickinson	57.48	33.51	49.70	-23.97	-41.7	-7.78	-13.5
Eaton	59.83	32.32	51.07	-27.51	-46.0	-8.76	-14.6
Emmet	36.77	24.21	41.27	-12.56	-34.2	4.50	12.2
Genesee	61.59	28.95	49.42	-32.64	-53.0	-12.17	-19.8
Gladwin	48.70	26.03	44.91	-22.67	-46.6	-3.79	-7.8
Gogebic	55.64	34.90	49.76	-20.74	-37.3	-5.88	-10.6
Grand Traverse	48.44	26.81	46.07	-21.63	-44.7	-2.37	-4.9
Gratiot	54.37	25.71	49.61	-28.66	-52.7	-4.76	-8.8
Hillsdale	50.95	24.69	46.56	-26.26	-51.5	-4.39	-8.6
Houghton	55.17	34.55	52.64	-20.62	-37.4	-2.53	-4.6
Huron	44.36	26.10	44.76	-18.26	-41.2	0.40	0.9
Ingham	72.27	40.46	59.75	-31.81	-44.0	-12.52	-17.3
Ionia	53.80	25.60	46.67	-28.20	-52.4	-7.13	-13.3
Iosco	39.48	21.28	38.77	-18.20	-46.1	-0.71	-1.8
Iron	57.55	32.50	48.11	-25.05	-43.5	-9.44	-16.4
Isabella	53.43	29.27	52.15	-24.16	-45.2	-1.28	-2.4
Jackson	59.42	28.69	48.80	-30.73	-51.7	-10.62	-17.9
Kalamazoo	62.00	31.24	53.82	-30.76	-49.6	-8.18	-13.2
Kalkaska	41.89	24.18	41.29	-17.71	-42.3	-0.60	-1.4
Kent	54.76	29.19	47.39	-25.57	-46.7	-7.37	-13.5
Keweenaw	38.40	26.94	39.24	-11.46	-29.8	0.84	2.2

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Exhibit 9 – Continued

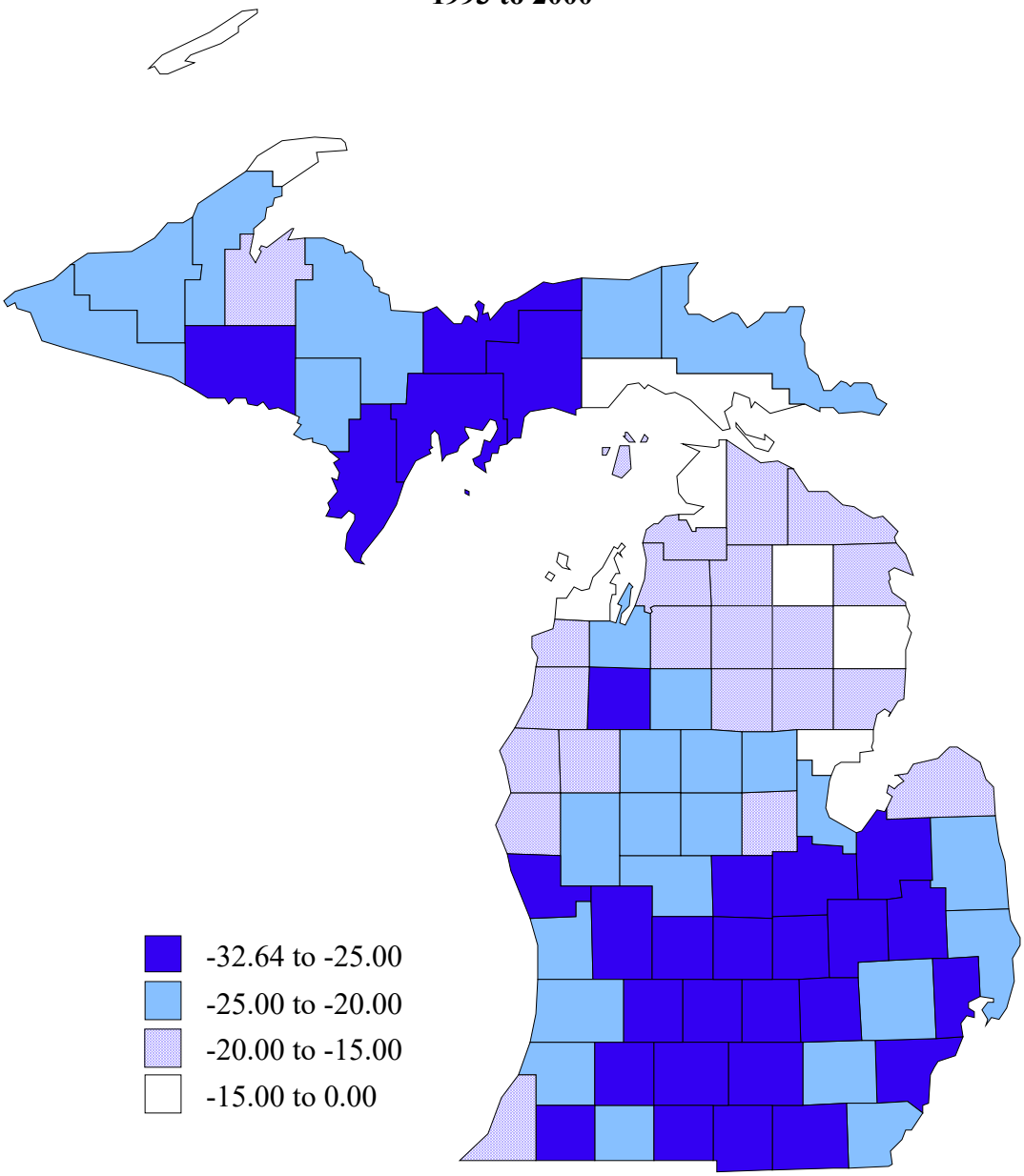
County	1993 Rate	2000 Rates		Homestead Difference		Nonhomestead Difference	
		Homestead	Non-homestead	Mills	Percent	Mills	Percent
Lake	46.45	27.85	45.03	-18.60	-40.0%	-1.42	-3.1%
Lapeer	50.21	22.94	44.09	-27.27	-54.3	-6.12	-12.2
Leelanau	27.99	19.34	32.63	-8.65	-30.9	4.64	16.6
Lenawee	56.58	28.32	48.19	-28.26	-49.9	-8.39	-14.8
Livingston	52.56	23.95	43.94	-28.61	-54.4	-8.62	-16.4
Luce	45.07	21.47	38.17	-23.60	-52.4	-6.90	-15.3
Mackinac	33.71	22.51	36.84	-11.20	-33.2	3.13	9.3
Macomb	59.79	30.04	48.07	-29.75	-49.8	-11.72	-19.6
Manistee	48.28	30.68	48.72	-17.60	-36.5	0.44	0.9
Marquette	51.88	29.27	48.00	-22.61	-43.6	-3.88	-7.5
Mason	43.11	27.19	43.82	-15.92	-36.9	0.71	1.6
Mecosta	48.59	26.49	46.21	-22.10	-45.5	-2.38	-4.9
Menominee	57.02	29.08	49.92	-27.94	-49.0	-7.10	-12.5
Midland	46.96	29.81	47.30	-17.15	-36.5	0.34	0.7
Missaukee	47.12	25.83	44.12	-21.29	-45.2	-3.00	-6.4
Monroe	49.25	27.29	47.61	-21.96	-44.6	-1.64	-3.3
Montcalm	52.06	28.62	49.32	-23.44	-45.0	-2.74	-5.3
Montmorency	36.97	22.31	40.04	-14.66	-39.7	3.07	8.3
Muskegon	58.23	30.31	50.71	-27.92	-47.9	-7.52	-12.9
Newaygo	53.55	31.14	51.54	-22.41	-41.8	-2.01	-3.8
Oakland	55.17	33.92	48.88	-21.25	-38.5	-6.29	-11.4
Oceana	46.01	28.82	46.26	-17.19	-37.4	0.25	0.5
Ogemaw	42.63	24.98	43.92	-17.65	-41.4	1.29	3.0
Ontonagon	54.16	33.34	49.95	-20.82	-38.4	-4.21	-7.8
Osceola	50.42	27.12	46.66	-23.30	-46.2	-3.76	-7.5
Oscoda	40.06	21.73	39.74	-18.33	-45.8	-0.32	-0.8
Otsego	38.67	21.52	41.91	-17.15	-44.3	3.24	8.4
Ottawa	49.06	26.65	45.75	-22.41	-45.7	-3.31	-6.7
Presque Isle	39.95	20.73	38.28	-19.22	-48.1	-1.67	-4.2
Roscommon	40.65	21.48	39.02	-19.17	-47.2	-1.63	-4.0
Saginaw	54.34	25.76	45.35	-28.58	-52.6	-8.99	-16.5
Saint Clair	50.34	27.79	46.84	-22.55	-44.8	-3.50	-7.0
Saint Joseph	52.07	27.30	49.52	-24.77	-47.6	-2.55	-4.9
Sanilac	47.79	25.36	46.48	-22.43	-46.9	-1.31	-2.7
Schoolcraft	52.24	23.94	42.79	-28.30	-54.2	-9.45	-18.1
Shiawassee	53.29	27.71	50.01	-25.58	-48.0	-3.28	-6.2
Tuscola	52.53	27.07	50.78	-25.46	-48.5	-1.75	-3.3
Van Buren	53.25	31.34	50.03	-21.91	-41.1	-3.22	-6.0
Washtenaw	59.97	37.29	53.59	-22.68	-37.8	-6.38	-10.6
Wayne	67.77	39.45	60.83	-28.32	-41.8	-6.94	-10.2
Wexford	56.78	31.64	51.66	-25.14	-44.3	-5.12	-9.0
State Average	56.64	31.54	50.10	-25.10	-44.3%	-6.54	-11.5%
State Median	50.95	27.29	46.66				

Source: 1993 average millage rates from State Tax Commission; 2000 average millage rates from Office of Revenue and Tax Analysis, Michigan Department of Treasury.

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Exhibit 10
Reduction in Average Homestead Millage Rates
1993 to 2000



State Average = 25.10 Mill Reduction

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School Bond Loan Program

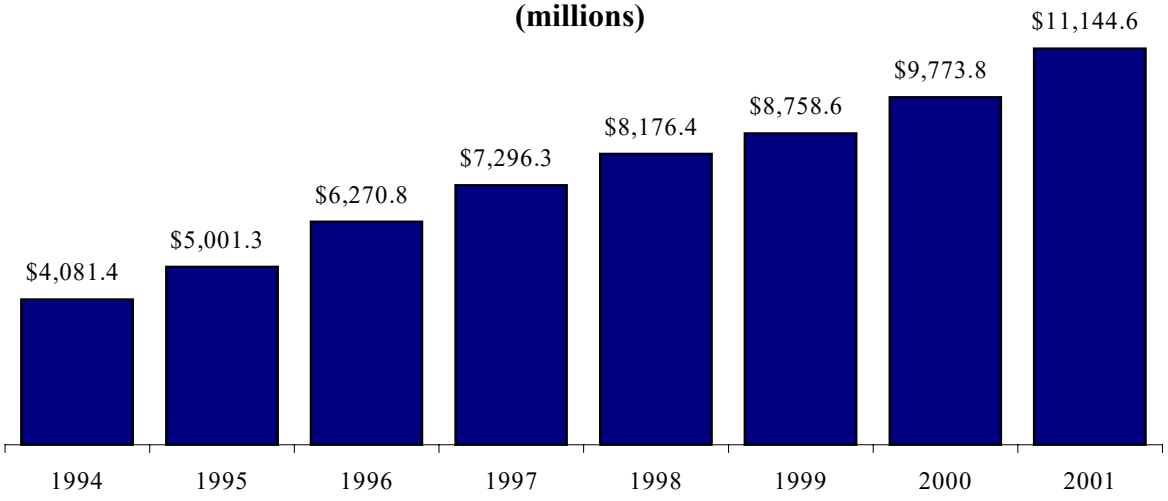
Increased local school bonding has not only resulted in higher debt mills, but has also increased borrowing from the School Bond Loan Program (SBL). The SBL program provides a state credit enhancement mechanism for school district bonds issued for capital expenditure purposes and provides for loans to school districts that need funds to pay debt service obligations. Essentially, the program provides a constitutional guarantee that pledges that states' full resources to repay K-12 school districts debt obligation if their debt mill levy is insufficient to service debt obligations. The SBL program allows local school districts to increase bonding without raising local debt mills.

School districts that are accepted into the program have their new bond issues qualified by the State. By qualifying the bonds, the State guarantees the bonded debt service and the qualified bonds benefit from the State's credit rating and allows school districts to borrow from the State an amount sufficient to enable the district to pay principal and interest requirements on its outstanding qualified bonds.

To qualify for the program, the school district must levy a minimum of seven debt mills, must demonstrate a need for increased classroom space based on enrollment, and must complete repayment within certain statutory time frames. Bond proceeds from the SBL program may be used for new school buildings, renovation of existing buildings, land, playgrounds, buses, and furniture. Bond proceeds may not be used for repairs, maintenance, salaries, or textbooks.

Since 1994, the number of school districts borrowing from and/or repaying the SBL program has increased from 42 to 130 districts. Over the same time period, newly qualified bonds issued by the SBL program increased from $637.9 million in 1994 to $2,151 million in 2001, an increase of 237 percent. The total amount of qualified debt outstanding increased from $4.1 billion to $11.1 billion (see Exhibits 11 and 12).

Exhibit 11
School Bond Loan Fund Program
Qualified Bonds Outstanding
(millions)



Source: Michigan Department of Treasury.

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Exhibit 12
School Bond Loan Program
(millions)

Year	Local School Bond Propositions	Propositions Passed	New Qualified Bonds Issued	Qualified Bonds Outstanding
1991	87	39	$892.6	$3,146.8
1992	79	28	$905.6	$3,536.5
1993	59	24	$1,342.3	$3,818.4
1994	94	34	$637.9	$4,081.4
1995	182	84	$1,323.2	$5,001.3
1996	164	83	$1,614.6	$6,270.8
1997	149	64	$1,606.0	$7,296.3
1998	107	44	$2,064.0	$8,176.4
1999	117	56	$1,232.0	$8,758.6
2000	117	57	$1,382.6	$9,773.8
2001	108	67	$2,150.5	$11,144.6

Source: Michigan Department of Treasury.

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IV. PROPOSAL A's IMPACT ON MICHIGAN TAX BURDEN

Proposal A provided a net tax cut of $17 billion from 1994 to 2003 (see Exhibit 13). A variety of state taxes replaced local school operating property taxes eliminated by Public Act 145 of 1993. Replacement revenues are deposited into the SAF for redistribution to local schools through their foundation grants. Because state taxes mainly replaced the local property taxes levied for local school operating revenues, the amount of state taxes collected since Proposal A has increased while the amount of local taxes has decreased significantly.

State and Local Tax Burden

The state and local tax burden imposed on state residents is typically quantified using two measures. The first measure is tax burden per capita. This measure divides total taxes collected by state and local governments in a given fiscal year by the state population. The second measure is tax burden as a percent of Michigan's personal income. This measure divides total state and local taxes paid by state personal income for the fiscal year. Using either measure, the total state and local tax burden includes all taxes, even business taxes, because these are ultimately paid by individuals. (Miscellaneous fees, such as hunting fees, are not included. Vehicle registration fees are included.)

A few cautionary notes regarding tax burden measures should be noted. This simple analysis is *not* meant to suggest that Michigan taxes are "too high" or "too low." A simple comparison of tax burdens across states does not take into consideration the goods and services residents receive in return.

A comparison of tax burdens across states also ignores the process of tax shifting and the exporting and importing of taxes. Tax shifting refers to the process by which a tax burden is transferred from the person who has legal responsibility to the person who ultimately pays the tax. For example, a tourist from Ohio vacationing in the Upper Peninsula pays Michigan sales tax, business tax, and possibly some property taxes, depending on the seller's ability to pass the taxes through to the final price of the good. The measures used in this section ignore this concept.

Finally, while both tax burden measures are relatively easy to compute, each has shortcomings. The personal income measure is a better measure of "ability to pay" than the per capita tax burden measure. For example, two states may have the same population and levy the same amount of taxes while one state has twice the income. The per capita measure would suggest equal tax burdens. The per capita measure also implicitly ignores the income and age distribution of a state. This can be a crucial factor in tax burden calculations, because younger residents typically have no income and pay no tax, but place demands on the system through school attendance. Some of these shortcomings can be corrected using a personal income tax burden measure. Therefore, the analysis in this section relies more on the personal income tax burden measure, though both measures are listed.

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Exhibit 13
Estimated Proposal A Tax Changes
millions

State Tax Increases	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
Sales Tax	$641.7	$1,624.9	$1,683.4	$1,733.2	$1,818.4	$1,901.1	$2,042.6	$2,065.2	$2,121.5	$2,203.4
Use Tax	$155.0	$351.1	$384.7	$403.9	$426.4	$468.7	$491.8	$486.4	$511.0	$522.3
State Education Tax	$508.7	$1,064.5	$1,110.6	$1,156.0	$1,256.9	$1,273.5	$1,381.4	$1,489.6	$1,555.0	$1,630.0
Real Estate Transfer Tax	$0.0	$91.1	$161.0	$192.8	$227.9	$261.7	$257.1	$252.9	$262.0	$264.0
Tobacco Products	$156.0	$383.7	$349.0	$318.0	$341.8	$414.9	$408.2	$404.0	$393.3	$385.4
Homestead Property Tax Credit and Renters Credit	$0.0	$639.6	$740.7	$824.2	$926.1	$1,031.1	$1,138.5	$1,247.2	$1,356.1	$1,464.0
Total State Tax Increases	$1,461.4	$4,154.9	$4,429.4	$4,628.1	$4,997.5	$5,351.0	$5,719.6	$5,945.3	$6,198.9	$6,469.1
Income Tax Rate Decrease	($102.5)	($262.5)	($271.0)	($293.2)	($313.4)	($345.4)	($363.2)	($369.0)	($370.8)	($385.6)
Subtotal of State Tax Increases	$1,358.9	$3,892.4	$4,158.4	$4,334.9	$4,684.1	$5,005.6	$5,356.4	$5,576.3	$5,828.1	$6,083.5
Local Property Tax Cut	($2,032.8)	($4,330.2)	($4,730.7)	($5,163.1)	($5,804.5)	($6,664.2)	($7,501.3)	($8,410.5)	($9,174.2)	($9,788.7)
Proposal A Change	($673.9)	($437.8)	($572.3)	($828.2)	($1,120.4)	($1,658.6)	($2,144.9)	($2,834.2)	($3,346.1)	($3,705.2)
Cumulative Proposal A Change	($673.9)	($1,111.7)	($1,684.0)	($2,512.1)	($3,632.5)	($5,291.1)	($7,436.0)	($10,270.2)	($13,616.3)	($17,321.5)

Source: Michigan Department of Treasury.

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Comparison to U.S. Average Tax Burden

One significant impact of Proposal A is that now the Michigan tax system more closely resembles the "typical" state tax system in the U.S. In FY 1993, Michigan had a relatively low sales and use tax burden and a substantially higher property tax burden compared to the national average. When all tax revenues were included, Michigan was 3.4 percent above the overall U.S. average (see Exhibit 15).

With Proposal A, a substantial shift had occurred by FY 2000. The two percentage point increase in the sales and use tax rate had pushed Michigan slightly above the national average sales and use tax burden. The elimination of most local school operating levies reduced the Michigan property tax burden to 6.1 percent above the U.S. average (see Exhibit 16). Overall, the state and local tax burden fell to 0.5 percent above the U.S. average using taxes as a percent of personal income. Using the per capita tax burden measure, the Michigan state and local tax burden was 2.4 percent above the U.S. average.

The most recent U.S. Census data for state and local taxes (FY 2000), as shown by Exhibits 16 and 17, indicate that Proposal A had an impact on the Michigan tax structure compared to pre-Proposal A (FY 1993). In FY 1993, the total state and local tax burden in Michigan ranked 14th highest using a personal income measure. Using a per capita measure, the state and local tax burden also ranked 14th highest (see Exhibit 18). For property taxes, Michigan ranked 7th (personal income and per capita) highest (see Exhibit 19). For sales and use taxes, Michigan ranked 41st (personal income and per capita) highest (see Exhibit 20).

In FY 2000, the total state and local tax burden in Michigan ranked 20th highest using a personal income measure. Using a per capita measure, the state and local tax burden ranked 16th highest (see Exhibit 21). For property taxes, Michigan ranked 20th (personal income) or 14th (per capita) highest (see Exhibit 22). For sales and use taxes, Michigan ranked 24th (personal income) or 21st (per capita) highest (see Exhibit 23).

Estimated Tax Cut

Through FY 2003, Proposal A cut Michigan taxes by an estimated $17 billion (see Exhibits 4 and 13). Exhibit 13 provides a summary of the state tax increases and local property tax cut due to the changes from Proposal A. The large reduction in local property taxes outpaces the increased and new state taxes by a large margin.

As shown by previous exhibits, Michigan's property tax burden currently mirrors the national average compared to being significantly above the national average pre-Proposal A. The revenue impact estimate assumes that state equalized value (SEV) without Proposal A would continue to increase faster than the current law taxable value limits. It was assumed that millage rates without Proposal A would remain approximately around 1993 levels (pre-Proposal A). The overall property tax cut was calculated by the difference in local property tax pre-Proposal A (Statewide SEV multiplied by Pre-Proposal A Millage Rate) less current law local property tax (Statewide Taxable Value multiplied by Current Law Millage Rate) less the SET.

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The estimated FY 2000 Proposal A tax cut of $2.14 billion suggests a state/local tax cut equal to 0.7 percent of personal income. Exhibits 18 and 21 suggest a tax cut of only four-tenths that amount. There are several explanations for this discrepancy. The most likely explanation is that Proposal A, by limiting the increase in property taxable values, prevented a large future increase in property taxes, rather than significantly cutting pre-Proposal A level of taxes. It is possible that the estimates overstate the Proposal A property tax cut for one or more of three possible reasons:

- Had Proposal A not passed, average millage rates would likely have dropped as taxpayers' property value increases would have triggered millage rollbacks that voters would not have overridden.
- Without Proposal A, the level of new construction would likely have been significantly lower than actually occurred. This means that Proposal A's lower tax burden resulted in increased construction activity and a stronger Michigan economy.
- Without Proposal A, the value of existing property in Michigan would have increased less than actually occurred, i.e., a portion of the Proposal A tax cut was capitalized into higher property values. This means that Proposal A has created billions of dollars of additional wealth for Michigan property owners.

Over one-third of Michigan residents itemize deductions on their federal income tax returns. Proposal A cut property taxes and the state income tax, which are deductible on federal income tax returns, and increased the state sales tax, which is not deductible. Proposal A increased federal income tax paid by Michigan residents by an estimated $899 million for tax year 2003, and by $5.9 billion for 1994-2003, but still resulted in a substantial net tax cut to Michigan taxpayers.

The combination of the taxable value cap along with a reduced homestead millage rate have allowed homeowners to see reduced property tax bills. It is estimated that the typical Michigan homeowner saved a little over $2,000 on their 2002 property tax bill due to the property tax changes from Proposal A (see Exhibit 14).

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Exhibit 14
State of Michigan Typical Homeowner's Property Tax
Pre- and Post-Proposal A
2002

		2002	
	1993	**With Proposal A**	**Without**
Home Value	$71,764	$127,449	$127,449
(SEV)	$35,882	$63,725	$63,725
Taxable Value	--	$49,635	--
Millage Rate	56.64	32.12	56.64
Property Tax	$2,032	$1,594	$3,609
			126%
Difference in 2002 Property Taxes			**($2,015)**

Sources: Bureau of the Census.
State Tax Commission Data.
Office of Revenue and Tax Analysis, Michigan Department of Treasury.

Note: 2002 Homestead Millage Rate unchanged from 2001.

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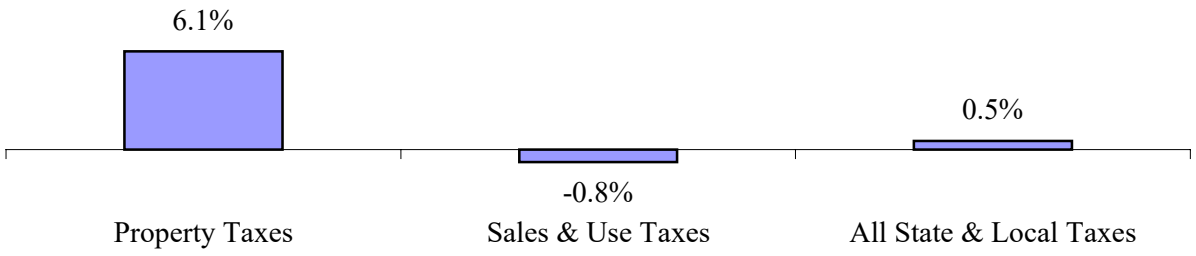
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Exhibit 15
Michigan Tax Structure Compared to the National Average, FY 1993
Taxes as a Percent of State Personal Income



Source: Bureau of the Census and Bureau of Economic Analysis, U.S. Department of Commerce.

Exhibit 16
Michigan Tax Structure Compared to the National Average, FY 2000
Taxes as a Percent of State Personal Income



Source: Bureau of the Census and Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 17
Relative State and Local Tax Burdens, FY 1993 and FY 2000 [1]

	All State/Local Taxes		Property Taxes		Sales and Use Taxes [2]	
Fiscal Year 1993	**US Avg.**	**Michigan**	**US Avg.**	**Michigan**	**US Avg.**	**Michigan**
% of Personal Income [3]	10.79%	11.16%	3.45%	4.60%	2.53%	1.72%
Relative State Rank		14		7		41
Amount per Capita	$2,276.23	$2,350.48	$727.78	$969.25	$533.74	$363.44
Relative State Rank		14		7		41
Fiscal Year 2000						
% of Personal Income [3]	10.79%	10.85%	3.08%	3.27%	2.66%	2.64%
Relative State Rank		20		20		24
Amount per Capita	$3,086.93	$3,162.59	$882.55	$954.45	$761.75	$770.34
Relative State Rank		16		14		21

[1] Does not include revenues from miscellaneous fees.

[2] Does not include excise taxes on alcohol, gasoline, or tobacco.

[3] As measured by personal income for relevant fiscal year.

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Exhibit 18
State and Local Total Tax Burden for FY 1993
Per Person and Percent of Personal Income

State	FY 1993 State & Local Taxes (thousands)	1993 Population	FY 1993 State & Local Taxes Per Person	Rank	FY 1993 Personal Income (millions)	FY 1993 Total Tax as a % of Personal Income	Rank
Alabama	$6,494,549	4,214,202	$1,541.11	49	$74,703	8.69%	49
Alaska	$2,948,181	599,432	$4,918.29	1	$14,441	20.42%	1
Arizona	$8,312,603	4,065,440	$2,044.70	29	$72,368	11.49%	11
Arkansas	$3,856,346	2,456,303	$1,569.98	48	$40,298	9.57%	45
California	$75,480,366	31,274,928	$2,413.45	11	$708,367	10.66%	22
Colorado	$7,463,456	3,613,734	$2,065.30	26	$77,067	9.68%	44
Connecticut	$10,928,703	3,309,175	$3,302.55	3	$95,182	11.48%	12
Delaware	$1,632,999	706,378	$2,311.79	15	$16,297	10.02%	36
Florida	$28,003,037	13,927,185	$2,010.67	30	$286,901	9.76%	42
Georgia	$13,791,490	6,978,240	$1,976.36	31	$134,766	10.23%	32
Hawaii	$3,478,859	1,172,838	$2,966.19	5	$28,427	12.24%	6
Idaho	$1,995,796	1,108,768	$1,800.01	39	$19,227	10.38%	29
Illinois	$27,265,125	11,809,579	$2,308.73	16	$270,035	10.10%	34
Indiana	$10,955,126	5,739,019	$1,908.88	36	$111,907	9.79%	41
Iowa	$6,207,483	2,836,972	$2,188.07	22	$53,633	11.57%	10
Kansas	$5,384,326	2,556,547	$2,106.09	25	$51,405	10.47%	25
Kentucky	$6,890,129	3,812,206	$1,807.39	38	$66,295	10.39%	28
Louisiana	$7,224,943	4,316,428	$1,673.82	46	$74,171	9.74%	43
Maine	$2,824,807	1,242,302	$2,273.85	19	$22,976	12.29%	4
Maryland	$12,705,035	4,971,889	$2,555.37	8	$121,631	10.45%	26
Massachusetts	$16,028,532	6,060,569	$2,644.72	7	$151,166	10.60%	24
Michigan	**$22,423,890**	**9,540,114**	**$2,350.48**	**14**	**$201,015**	**11.16%**	**14**
Minnesota	$12,090,244	4,555,954	$2,653.72	6	$98,955	12.22%	7
Mississippi	$4,050,846	2,655,100	$1,525.68	50	$39,502	10.25%	31
Missouri	$9,008,827	5,271,175	$1,709.07	44	$103,894	8.67%	50
Montana	$1,558,799	844,761	$1,845.25	37	$14,640	10.65%	23
Nebraska	$3,434,872	1,625,590	$2,113.00	24	$32,030	10.72%	20
Nevada	$3,143,637	1,411,215	$2,227.61	21	$31,342	10.03%	35
New Hampshire	$2,587,820	1,129,458	$2,291.21	17	$24,884	10.40%	27
New Jersey	$23,977,132	7,948,915	$3,016.40	4	$210,738	11.38%	13
New Mexico	$3,155,473	1,636,453	$1,928.24	33	$26,821	11.76%	8
New York	$66,347,397	18,374,954	$3,610.75	2	$455,697	14.56%	2
North Carolina	$13,728,744	7,042,818	$1,949.33	32	$134,813	10.18%	33
North Dakota	$1,224,600	641,216	$1,909.81	35	$11,397	10.74%	19
Ohio	$22,773,069	11,101,140	$2,051.42	28	$227,352	10.02%	38
Oklahoma	$5,743,482	3,252,285	$1,765.98	41	$57,335	10.02%	37
Oregon	$6,577,320	3,060,367	$2,149.19	23	$60,043	10.95%	17
Pennsylvania	$27,195,790	12,119,724	$2,243.93	20	$262,397	10.36%	30
Rhode Island	$2,402,313	1,015,112	$2,366.55	13	$21,665	11.09%	15
South Carolina	$6,297,766	3,663,314	$1,719.14	43	$63,315	9.95%	39
South Dakota	$1,195,450	722,159	$1,655.38	47	$13,047	9.16%	47
Tennessee	$8,690,523	5,137,584	$1,691.56	45	$97,448	8.92%	48
Texas	$34,883,070	18,161,612	$1,920.70	34	$350,876	9.94%	40
Utah	$3,353,078	1,898,404	$1,766.26	40	$30,851	10.87%	18
Vermont	$1,370,160	577,748	$2,371.55	12	$11,176	12.26%	5
Virginia	$13,425,365	6,509,630	$2,062.39	27	$143,795	9.34%	46
Washington	$12,773,686	5,278,842	$2,419.79	10	$115,417	11.07%	16
West Virginia	$3,185,407	1,817,539	$1,752.59	42	$29,839	10.68%	21
Wisconsin	$12,732,057	5,084,889	$2,503.90	9	$101,992	12.48%	3
Wyoming	$1,078,021	473,081	$2,278.72	18	$9,276	11.62%	9
U.S. Average	$590,280,729	259,323,287	$2,276.23		$5,472,811	10.79%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 19
State and Local Property Tax Burden for FY 1993
Per Person and Percent of Personal Income

State	FY 1993 State & Local Property Taxes (thousands)	1993 Population	FY 1993 State & Local Property Taxes Per Person	Rank	FY 1993 Personal Income (millions)	FY 1993 Property Taxes as a % of Personal Income	Rank
Alabama	$768,652	4,214,202	$182.40	50	$74,703	1.03%	50
Alaska	$673,113	599,432	$1,122.92	5	$14,441	4.66%	6
Arizona	$2,742,049	4,065,440	$674.48	25	$72,368	3.79%	19
Arkansas	$633,744	2,456,303	$258.01	48	$40,298	1.57%	47
California	$20,904,055	31,274,928	$668.40	26	$708,367	2.95%	32
Colorado	$2,541,764	3,613,734	$703.36	23	$77,067	3.30%	25
Connecticut	$4,219,389	3,309,175	$1,275.06	3	$95,182	4.43%	12
Delaware	$241,836	706,378	$342.36	43	$16,297	1.48%	48
Florida	$10,228,512	13,927,185	$734.43	20	$286,901	3.57%	22
Georgia	$4,026,189	6,978,240	$576.96	32	$134,766	2.99%	28
Hawaii	$603,125	1,172,838	$514.24	34	$28,427	2.12%	40
Idaho	$517,743	1,108,768	$466.95	37	$19,227	2.69%	36
Illinois	$10,762,627	11,809,579	$911.35	10	$270,035	3.99%	15
Indiana	$3,606,318	5,739,019	$628.39	30	$111,907	3.22%	26
Iowa	$2,182,471	2,836,972	$769.30	17	$53,633	4.07%	14
Kansas	$1,753,295	2,556,547	$685.81	24	$51,405	3.41%	23
Kentucky	$1,145,077	3,812,206	$300.37	45	$66,295	1.73%	44
Louisiana	$1,190,008	4,316,428	$275.69	47	$74,171	1.60%	46
Maine	$1,104,476	1,242,302	$889.06	12	$22,976	4.81%	5
Maryland	$3,613,523	4,971,889	$726.79	22	$121,631	2.97%	29
Massachusetts	$5,497,034	6,060,569	$907.02	11	$151,166	3.64%	21
Michigan	**$9,246,788**	**9,540,114**	**$969.25**	**7**	$201,015	**4.60%**	**7**
Minnesota	$3,843,498	4,555,954	$843.62	14	$98,955	3.88%	18
Mississippi	$1,021,327	2,655,100	$384.67	41	$39,502	2.59%	37
Missouri	$2,148,120	5,271,175	$407.52	40	$103,894	2.07%	41
Montana	$667,208	844,761	$789.82	16	$14,640	4.56%	9
Nebraska	$1,248,364	1,625,590	$767.95	18	$32,030	3.90%	17
Nevada	$681,349	1,411,215	$482.81	36	$31,342	2.17%	39
New Hampshire	$1,578,768	1,129,458	$1,397.81	1	$24,884	6.34%	1
New Jersey	$11,012,116	7,948,915	$1,385.36	2	$210,738	5.23%	2
New Mexico	$378,471	1,636,453	$231.28	49	$26,821	1.41%	49
New York	$22,413,158	18,374,954	$1,219.77	4	$455,697	4.92%	4
North Carolina	$2,962,701	7,042,818	$420.67	39	$134,813	2.20%	38
North Dakota	$355,733	641,216	$554.78	33	$11,397	3.12%	27
Ohio	$6,690,900	11,101,140	$602.72	31	$227,352	2.94%	33
Oklahoma	$939,861	3,252,285	$288.98	46	$57,335	1.64%	45
Oregon	$2,549,537	3,060,367	$833.08	15	$60,043	4.25%	13
Pennsylvania	$7,743,760	12,119,724	$638.94	29	$262,397	2.95%	31
Rhode Island	$966,150	1,015,112	$951.77	8	$21,665	4.46%	11
South Carolina	$1,833,679	3,663,314	$500.55	35	$63,315	2.90%	34
South Dakota	$476,496	722,159	$659.82	27	$13,047	3.65%	20
Tennessee	$1,890,943	5,137,584	$368.06	42	$97,448	1.94%	43
Texas	$13,895,659	18,161,612	$765.11	19	$350,876	3.96%	16
Utah	$862,522	1,898,404	$454.34	38	$30,851	2.80%	35
Vermont	$566,317	577,748	$980.21	6	$11,176	5.07%	3
Virginia	$4,251,962	6,509,630	$653.18	28	$143,795	2.96%	30
Washington	$3,869,992	5,278,842	$733.11	21	$115,417	3.35%	24
West Virginia	$581,747	1,817,539	$320.07	44	$29,839	1.95%	42
Wisconsin	$4,679,753	5,084,889	$920.33	9	$101,992	4.59%	8
Wyoming	$419,592	473,081	$886.93	13	$9,276	4.52%	10
U.S. Average	$188,731,471	259,323,287	$727.78		$5,472,811	3.45%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 20
State and Local Sales Tax Burden for FY 1993
Per Person and Percent of Personal Income

State	FY 1993 State & Local Sales Taxes (thousands)	1993 Population	FY 1993 State & Local Sales Taxes Per Person	Rank	FY 1993 Personal Income (millions)	FY 1993 Sales Taxes as a % of Personal Income	Rank
Alabama	$1,968,047	4,214,202	$467.00	28	$74,703	2.63%	21
Alaska	$88,013	599,432	$146.83	46	$14,441	0.61%	46
Arizona	$2,741,409	4,065,440	$674.32	7	$72,368	3.79%	5
Arkansas	$1,329,048	2,456,303	$541.08	19	$40,298	3.30%	11
California	$20,250,435	31,274,928	$647.50	9	$708,367	2.86%	15
Colorado	$2,019,119	3,613,734	$558.73	15	$77,067	2.62%	22
Connecticut	$2,056,269	3,309,175	$621.38	11	$95,182	2.16%	34
Delaware	$0	706,378	$0.00	47	$16,297	0.00%	47
Florida	$9,569,016	13,927,185	$687.07	6	$286,901	3.34%	9
Georgia	$3,983,923	6,978,240	$570.91	14	$134,766	2.96%	14
Hawaii	$1,302,919	1,172,838	$1,110.91	2	$28,427	4.58%	3
Idaho	$488,777	1,108,768	$440.83	32	$19,227	2.54%	24
Illinois	$5,332,032	11,809,579	$451.50	31	$270,035	1.97%	37
Indiana	$2,300,233	5,739,019	$400.81	38	$111,907	2.06%	35
Iowa	$1,301,909	2,836,972	$458.91	30	$53,633	2.43%	28
Kansas	$1,417,522	2,556,547	$554.47	17	$51,405	2.76%	19
Kentucky	$1,465,634	3,812,206	$384.46	40	$66,295	2.21%	33
Louisiana	$2,827,054	4,316,428	$654.95	8	$74,171	3.81%	4
Maine	$641,580	1,242,302	$516.44	23	$22,976	2.79%	17
Maryland	$1,718,152	4,971,889	$345.57	43	$121,631	1.41%	44
Massachusetts	$2,124,164	6,060,569	$350.49	42	$151,166	1.41%	45
Michigan	**$3,467,303**	**9,540,114**	**$363.44**	**41**	**$201,015**	**1.72%**	**41**
Minnesota	$2,391,486	4,555,954	$524.91	21	$98,955	2.42%	29
Mississippi	$1,419,650	2,655,100	$534.69	20	$39,502	3.59%	7
Missouri	$2,764,269	5,271,175	$524.41	22	$103,894	2.66%	20
Montana	$0	844,761	$0.00	47	$14,640	0.00%	47
Nebraska	$812,100	1,625,590	$499.57	25	$32,030	2.54%	25
Nevada	$1,041,911	1,411,215	$738.31	4	$31,342	3.32%	10
New Hampshire	$0	1,129,458	$0.00	47	$24,884	0.00%	47
New Jersey	$3,651,123	7,948,915	$459.32	29	$210,738	1.73%	40
New Mexico	$1,309,634	1,636,453	$800.29	3	$26,821	4.88%	2
New York	$11,739,258	18,374,954	$638.87	10	$455,697	2.58%	23
North Carolina	$3,319,930	7,042,818	$471.39	26	$134,813	2.46%	27
North Dakota	$267,523	641,216	$417.21	35	$11,397	2.35%	31
Ohio	$4,632,528	11,101,140	$417.30	34	$227,352	2.04%	36
Oklahoma	$1,626,510	3,252,285	$500.11	24	$57,335	2.84%	16
Oregon	$0	3,060,367	$0.00	47	$60,043	0.00%	47
Pennsylvania	$4,904,185	12,119,724	$404.64	37	$262,397	1.87%	39
Rhode Island	$413,000	1,015,112	$406.85	36	$21,665	1.91%	38
South Carolina	$1,595,501	3,663,314	$435.53	33	$63,315	2.52%	26
South Dakota	$402,661	722,159	$557.58	16	$13,047	3.09%	13
Tennessee	$3,656,675	5,137,584	$711.75	5	$97,448	3.75%	6
Texas	$11,128,109	18,161,612	$612.73	12	$350,876	3.17%	12
Utah	$1,096,311	1,898,404	$577.49	13	$30,851	3.55%	8
Vermont	$161,310	577,748	$279.20	45	$11,176	1.44%	43
Virginia	$2,190,349	6,509,630	$336.48	44	$143,795	1.52%	42
Washington	$6,146,441	5,278,842	$1,164.35	1	$115,417	5.33%	1
West Virginia	$714,369	1,817,539	$393.04	39	$29,839	2.39%	30
Wisconsin	$2,377,503	5,084,889	$467.56	27	$101,992	2.33%	32
Wyoming	$256,990	473,081	$543.23	18	$9,276	2.77%	18
U.S. Average	$138,411,884	259,323,287	$533.74		$5,472,811	2.53%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Analysis, U.S. Department of Commerce.

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Exhibit 21
State and Local Total Tax Burden for FY 2000
Per Person and Percent of Personal Income

State	FY 2000 State & Local Taxes (thousands)	2000 Population	FY 2000 State & Local Taxes Per Person	Rank	FY 2000 Personal Income (thousands)	FY 2000 Total Taxes as a % of Personal Income	Rank
Alabama	$9,415,089	4,451,493	$2,115.04	50	$104,490,250	9.01%	48
Alaska	$2,311,801	627,601	$3,683.55	6	18,131,500	12.75%	3
Arizona	$13,333,612	5,165,274	$2,581.39	36	125,661,000	10.61%	27
Arkansas	$5,961,335	2,678,030	$2,226.02	47	57,527,000	10.36%	34
California	$120,067,581	34,000,446	$3,531.35	7	1,043,978,000	11.50%	11
Colorado	$13,216,188	4,323,410	$3,056.89	18	134,820,750	9.80%	43
Connecticut	$15,651,070	3,410,079	$4,589.65	1	135,835,250	11.52%	10
Delaware	$2,618,628	786,234	$3,330.60	12	23,667,500	11.06%	16
Florida	$41,936,682	16,054,328	$2,612.17	35	437,797,500	9.58%	45
Georgia	$23,253,547	8,229,823	$2,825.52	26	222,663,000	10.44%	31
Hawaii	$4,101,617	1,212,281	$3,383.39	10	33,428,500	12.27%	6
Idaho	$3,294,239	1,299,258	$2,535.48	38	30,155,500	10.92%	18
Illinois	$40,256,016	12,435,970	$3,237.06	14	386,124,750	10.43%	32
Indiana	$16,363,430	6,089,950	$2,686.96	30	160,440,000	10.20%	39
Iowa	$8,090,525	2,927,509	$2,763.62	27	75,509,500	10.71%	24
Kansas	$7,616,353	2,691,750	$2,829.52	25	71,983,250	10.58%	28
Kentucky	$10,172,414	4,047,424	$2,513.31	39	94,603,000	10.75%	23
Louisiana	$10,887,408	4,469,970	$2,435.68	41	101,222,000	10.76%	22
Maine	$4,262,142	1,276,961	$3,337.72	11	31,784,500	13.41%	2
Maryland	$18,289,881	5,310,908	$3,443.83	9	173,277,250	10.56%	29
Massachusetts	$24,042,067	6,357,072	$3,781.94	4	228,810,000	10.51%	30
Michigan	**$31,474,162**	**9,952,006**	**$3,162.59**	**16**	**290,158,000**	**10.85%**	**20**
Minnesota	$18,172,885	4,931,093	$3,685.37	5	152,370,500	11.93%	7
Mississippi	$6,299,396	2,849,100	$2,211.01	48	58,457,750	10.78%	21
Missouri	$14,313,873	5,603,553	$2,554.43	37	148,591,000	9.63%	44
Montana	$2,131,839	903,157	$2,360.43	45	19,948,500	10.69%	26
Nebraska	$4,972,968	1,712,577	$2,903.79	23	46,513,250	10.69%	25
Nevada	$5,824,824	2,018,723	$2,885.40	24	57,518,750	10.13%	40
New Hampshire	$3,278,375	1,239,881	$2,644.10	32	39,468,000	8.31%	50
New Jersey	$32,837,939	8,429,007	$3,895.83	3	301,598,750	10.89%	19
New Mexico	$4,800,578	1,821,282	$2,635.82	33	38,695,250	12.41%	5
New York	$86,868,188	18,989,332	$4,574.58	2	625,124,250	13.90%	1
North Carolina	$21,440,029	8,077,367	$2,654.33	31	209,832,000	10.22%	37
North Dakota	$1,768,115	640,919	$2,758.72	28	15,468,750	11.43%	13
Ohio	$34,238,674	11,359,955	$3,013.98	20	312,782,000	10.95%	17
Oklahoma	$8,251,421	3,453,250	$2,389.47	43	79,890,250	10.33%	35
Oregon	$9,411,783	3,429,293	$2,744.53	29	92,246,250	10.20%	38
Pennsylvania	$36,581,020	12,282,591	$2,978.28	21	352,827,250	10.37%	33
Rhode Island	$3,412,355	1,050,236	$3,249.13	13	29,708,750	11.49%	12
South Carolina	$9,542,914	4,023,438	$2,371.83	44	94,398,250	10.11%	41
South Dakota	$1,735,628	755,509	$2,297.30	46	19,010,000	9.13%	47
Tennessee	$12,431,196	5,702,027	$2,180.14	49	145,783,750	8.53%	49
Texas	$52,226,535	20,946,503	$2,493.33	40	571,350,833	9.14%	46
Utah	$5,873,126	2,241,555	$2,620.11	34	50,791,750	11.56%	9
Vermont	$1,875,546	609,709	$3,076.13	17	16,124,500	11.63%	8
Virginia	$21,082,951	7,104,016	$2,967.75	22	212,910,250	9.90%	42
Washington	$18,733,865	5,908,372	$3,170.73	15	182,219,750	10.28%	36
West Virginia	$4,362,304	1,807,099	$2,413.98	42	38,449,250	11.35%	15
Wisconsin	$18,546,574	5,372,243	$3,452.30	8	148,446,750	12.49%	4
Wyoming	$1,504,660	494,001	$3,045.86	19	13,257,750	11.35%	14
U.S. Totals	869,135,348	281,553,565	$3,086.93		8,055,852,083	10.79%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Anaysis, U.S. Department of Commerce.

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Exhibit 22
State and Local Property Tax Burden for FY 2000
Per Person and Percent of Personal Income

State	FY 2000 State & Local Property Taxes (thousands)	2000 Population	FY 2000 State & Local Property Taxes Per Person	Rank	FY 2000 Personal Income (thousands)	FY 2000 Property Tax as a % of Personal Income	Rank
Alabama	$1,340,152	4,451,493	$301.06	50	$104,490,250	1.28%	50
Alaska	$761,244	627,601	$1,212.94	8	18,131,500	4.20%	7
Arizona	$3,905,594	5,165,274	$756.13	32	125,661,000	3.11%	22
Arkansas	$965,665	2,678,030	$360.59	48	57,527,000	1.68%	46
California	$26,235,331	34,000,446	$771.62	31	1,043,978,000	2.51%	36
Colorado	$3,679,814	4,323,410	$851.14	23	134,820,750	2.73%	33
Connecticut	$5,407,465	3,410,079	$1,585.73	3	135,835,250	3.98%	9
Delaware	$382,491	786,234	$486.48	43	23,667,500	1.62%	48
Florida	$14,098,490	16,054,328	$878.17	22	437,797,500	3.22%	21
Georgia	$5,931,692	8,229,823	$720.76	33	222,663,000	2.66%	34
Hawaii	$602,626	1,212,281	$497.10	42	33,428,500	1.80%	44
Idaho	$867,068	1,299,258	$667.36	35	30,155,500	2.88%	28
Illinois	$14,511,114	12,435,970	$1,166.87	10	386,124,750	3.76%	12
Indiana	$5,551,586	6,089,950	$911.60	18	160,440,000	3.46%	14
Iowa	$2,599,313	2,927,509	$887.89	21	75,509,500	3.44%	15
Kansas	$2,173,302	2,691,750	$807.39	30	71,983,250	3.02%	25
Kentucky	$1,721,607	4,047,424	$425.36	45	94,603,000	1.82%	43
Louisiana	$1,742,297	4,469,970	$389.78	46	101,222,000	1.72%	45
Maine	$1,598,490	1,276,961	$1,251.79	7	31,784,500	5.03%	2
Maryland	$4,809,286	5,310,908	$905.55	19	173,277,250	2.78%	32
Massachusetts	$7,642,521	6,357,072	$1,202.21	9	228,810,000	3.34%	17
Michigan	**$9,498,688**	**9,952,006**	**$954.45**	**14**	**290,158,000**	**3.27%**	**20**
Minnesota	$4,565,073	4,931,093	$925.77	17	152,370,500	3.00%	27
Mississippi	$1,462,014	2,849,100	$513.15	40	58,457,750	2.50%	37
Missouri	$3,404,879	5,603,553	$607.63	37	148,591,000	2.29%	39
Montana	$907,995	903,157	$1,005.36	13	19,948,500	4.55%	6
Nebraska	$1,548,923	1,712,577	$904.44	20	46,513,250	3.33%	18
Nevada	$1,437,281	2,018,723	$711.98	34	57,518,750	2.50%	38
New Hampshire	$2,027,817	1,239,881	$1,635.49	2	39,468,000	5.14%	1
New Jersey	$14,448,857	8,429,007	$1,714.18	1	301,598,750	4.79%	4
New Mexico	$620,463	1,821,282	$340.67	49	38,695,250	1.60%	49
New York	$25,201,914	18,989,332	$1,327.16	4	625,124,250	4.03%	8
North Carolina	$4,607,461	8,077,367	$570.42	39	209,832,000	2.20%	41
North Dakota	$527,062	640,919	$822.35	27	15,468,750	3.41%	16
Ohio	$9,544,118	11,359,955	$840.15	25	312,782,000	3.05%	23
Oklahoma	$1,302,616	3,453,250	$377.21	47	79,890,250	1.63%	47
Oregon	$2,788,611	3,429,293	$813.17	29	92,246,250	3.02%	24
Pennsylvania	$10,066,526	12,282,591	$819.58	28	352,827,250	2.85%	29
Rhode Island	$1,359,523	1,050,236	$1,294.49	5	29,708,750	4.58%	5
South Carolina	$2,680,143	4,023,438	$666.13	36	94,398,250	2.84%	30
South Dakota	$632,374	755,509	$837.02	26	19,010,000	3.33%	19
Tennessee	$2,887,113	5,702,027	$506.33	41	145,783,750	1.98%	42
Texas	$19,817,072	20,946,503	$946.08	15	571,350,833	3.47%	13
Utah	$1,303,192	2,241,555	$581.38	38	50,791,750	2.57%	35
Vermont	$782,200	609,709	$1,282.91	6	16,124,500	4.85%	3
Virginia	$5,985,891	7,104,016	$842.61	24	212,910,250	2.81%	31
Washington	$5,492,563	5,908,372	$929.62	16	182,219,750	3.01%	26
West Virginia	$855,120	1,807,099	$473.20	44	38,449,250	2.22%	40
Wisconsin	$5,689,395	5,372,243	$1,059.04	11	148,446,750	3.83%	11
Wyoming	$512,791	494,001	$1,038.04	12	13,257,750	3.87%	10
U.S. Totals	248,484,823	281,553,565	$882.55		8,055,852,083	3.08%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Anaysis, U.S. Department of Commerce.

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Exhibit 23
State and Local Sales Tax Burden for FY 2000
Per Person and Percent of Personal Income

State	FY 2000 State & Local Sales Taxes (thousands)	2000 Population	FY 2000 State & Local Sales Taxes Per Person	Rank	FY 2000 Personal Income (thousands)	FY 2000 Sales Tax as a % of Personal Income	Rank
Alabama	$2,868,357	4,451,493	$644.36	31	$104,490,250	2.75%	21
Alaska	$106,864	627,601	$170.27	46	18,131,500	0.59%	46
Arizona	$4,853,286	5,165,274	$939.60	9	125,661,000	3.86%	7
Arkansas	$2,199,195	2,678,030	$821.20	19	57,527,000	3.82%	8
California	$30,439,691	34,000,446	$895.27	12	1,043,978,000	2.92%	18
Colorado	$3,775,214	4,323,410	$873.20	13	134,820,750	2.80%	19
Connecticut	$3,419,939	3,410,079	$1,002.89	5	135,835,250	2.52%	27
Delaware	$0	786,234	$0.00	47	23,667,500	0.00%	47
Florida	$15,556,791	16,054,328	$969.01	7	437,797,500	3.55%	11
Georgia	$7,531,299	8,229,823	$915.12	11	222,663,000	3.38%	13
Hawaii	$1,536,276	1,212,281	$1,267.26	2	33,428,500	4.60%	3
Idaho	$747,134	1,299,258	$575.05	38	30,155,500	2.48%	30
Illinois	$7,275,592	12,435,970	$585.04	37	386,124,750	1.88%	40
Indiana	$3,579,416	6,089,950	$587.76	36	160,440,000	2.23%	36
Iowa	$1,893,062	2,927,509	$646.65	30	75,509,500	2.51%	28
Kansas	$2,211,216	2,691,750	$821.48	17	71,983,250	3.07%	15
Kentucky	$2,171,723	4,047,424	$536.57	41	94,603,000	2.30%	35
Louisiana	$4,324,388	4,469,970	$967.43	8	101,222,000	4.27%	4
Maine	$847,358	1,276,961	$663.57	27	31,784,500	2.67%	23
Maryland	$2,498,184	5,310,908	$470.39	43	173,277,250	1.44%	44
Massachusetts	$3,565,267	6,357,072	$560.83	39	228,810,000	1.56%	42
Michigan	**$7,666,399**	**9,952,006**	**$770.34**	**21**	**290,158,000**	**2.64%**	**24**
Minnesota	$3,757,366	4,931,093	$761.97	22	152,370,500	2.47%	31
Mississippi	$2,333,384	2,849,100	$818.99	20	58,457,750	3.99%	5
Missouri	$4,107,718	5,603,553	$733.06	23	148,591,000	2.76%	20
Montana	$0	903,157	$0.00	47	19,948,500	0.00%	48
Nebraska	$1,216,962	1,712,577	$710.60	24	46,513,250	2.62%	26
Nevada	$2,061,496	2,018,723	$1,021.19	4	57,518,750	3.58%	10
New Hampshire	$0	1,239,881	$0.00	47	39,468,000	0.00%	49
New Jersey	$5,508,046	8,429,007	$653.46	29	301,598,750	1.83%	41
New Mexico	$1,867,700	1,821,282	$1,025.49	3	38,695,250	4.83%	2
New York	$16,473,484	18,989,332	$867.51	14	625,124,250	2.64%	25
North Carolina	$4,519,995	8,077,367	$559.59	40	209,832,000	2.15%	37
North Dakota	$381,401	640,919	$595.08	33	15,468,750	2.47%	32
Ohio	$7,431,610	11,359,955	$654.19	28	312,782,000	2.38%	34
Oklahoma	$2,403,829	3,453,250	$696.11	25	79,890,250	3.01%	17
Oregon	$0	3,429,293	$0.00	47	92,246,250	0.00%	50
Pennsylvania	$7,220,639	12,282,591	$587.88	35	352,827,250	2.05%	39
Rhode Island	$621,066	1,050,236	$591.36	34	29,708,750	2.09%	38
South Carolina	$2,557,733	4,023,438	$635.71	32	94,398,250	2.71%	22
South Dakota	$627,225	755,509	$830.20	15	19,010,000	3.30%	14
Tennessee	$5,701,043	5,702,027	$999.83	6	145,783,750	3.91%	6
Texas	$17,348,954	20,946,503	$828.25	16	571,350,833	3.04%	16
Utah	$1,841,327	2,241,555	$821.45	18	50,791,750	3.63%	9
Vermont	$215,423	609,709	$353.32	45	16,124,500	1.34%	45
Virginia	$3,214,162	7,104,016	$452.44	44	212,910,250	1.51%	43
Washington	$8,918,781	5,908,372	$1,509.52	1	182,219,750	4.89%	1
West Virginia	$917,050	1,807,099	$507.47	42	38,449,250	2.39%	33
Wisconsin	$3,695,182	5,372,243	$687.83	26	148,446,750	2.49%	29
Wyoming	$463,975	494,001	$939.22	10	13,257,750	3.50%	12
U.S. Totals	214,472,202	281,553,565	$761.75		8,055,852,083	2.66%	

Sources:
1) Tax data from Government Finances, Bureau of the Census, U.S. Department of Commerce.
2) Population data from Bureau of the Census.
3) Personal income data from Bureau of Economic Anaysis, U.S. Department of Commerce.

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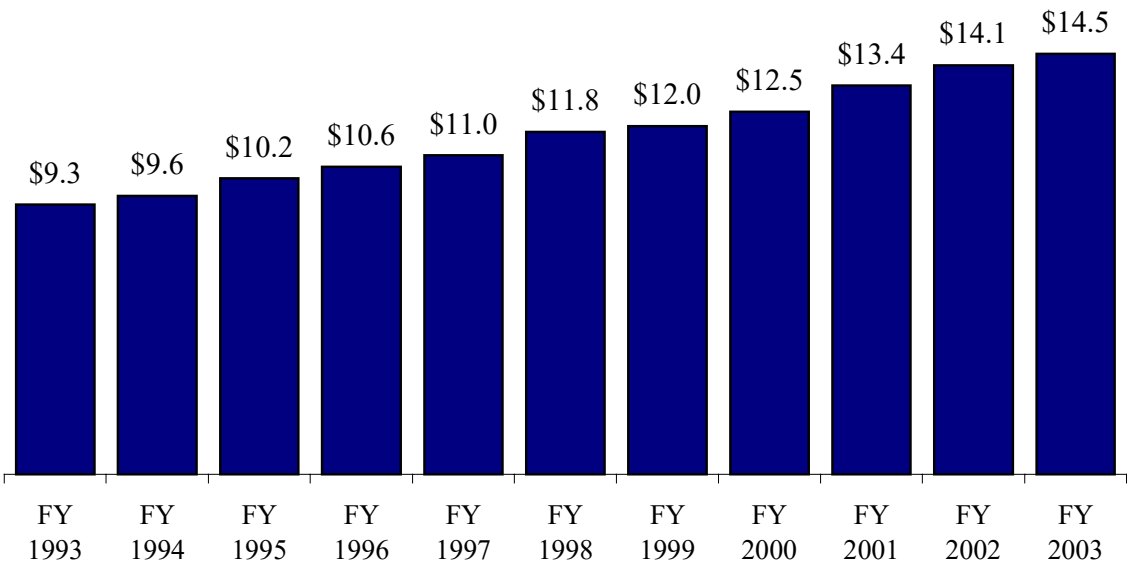
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V. PROPOSAL A's IMPACT ON MICHIGAN SCHOOLS

School funding has increased from $9.3 billion in FY 1993 to over $14.5 billion in FY 2003 as a result of Proposal A (see Exhibit 24). This increase outpaced inflation as measured by the Detroit Consumer Price Index (CPI).

Exhibit 24
State and Local School Funding Grows to Over $14 Billion
(billions)



Source: Michigan Department of Treasury.

Proposal A was a shift away from local property taxes toward state levied consumption taxes to support K-12 education in Michigan. Prior to Proposal A about two-thirds of support of K-12 education was raised from local property taxes and about 29 percent came from state resources. In FY 2001, the state share was nearly 78 percent and the local share had dropped to 17 percent (see Exhibit 25).

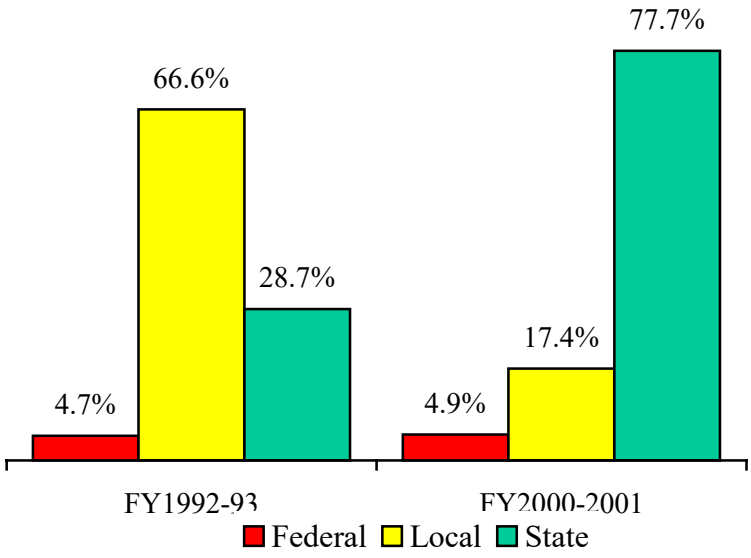
FY 2002 and FY 2003 SAF revenues are estimated from the May 2002 Consensus Revenue Estimating Conference. The additional revenues deposited into the SAF allow the State to provide more funding for schools. These amounts do not include revenues for debt, which are generated locally (see Exhibit 26).

The original income tax earmarking from Proposal A was 14.4 percent. Public Act 141 of 1995 increased the income tax collections earmarking percentage to 23.0 percent. In 1999, a five-year phased-in reduction of the income tax rate was passed which reduced the income tax rate 0.1 of a percentage point each year beginning in tax year 2000 but schools are hold harmless from this cut. In tax year 2000 the Michigan personal income tax was reduced to 4.3 percent and will be lowered to 3.9 percent by tax year 2004. In 2000, Public Act 40 of 2000 accelerated the rate

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Exhibit 25
More State Support for Education
Percent of K-12 General Funding



Source: Office of Revenue and Tax Analysis, Michigan Department of Treasury.

reduction to 4.2 percent in tax year 2000. In tax year 2001 the income tax rate remained at 4.2 percent with the scheduled reductions to keep going forward. To offset the rate reductions, the percentage of income tax collections dedicated to the SAF is increased so the SAF continues to receive the revenue it would have received had there been no rate cut.

Per Pupil Funding

Proposal A dramatically improved funding equity among school districts by creating a minimum per pupil foundation allowance and by accelerating funding for the low-revenue school districts more quickly than the other school districts. Funding for the lowest-revenue districts was immediately increased to the minimum foundation allowance, which was $4,200 for school year 1994-95. At the same time, increases in the foundation allowance for most other school districts were limited to approximately one half the dollar increase for low-revenue districts. As a result, Proposal A has reduced the funding gap between rich and poor districts in absolute dollar and percentage terms.

Exhibit 27 shows how the minimum foundation allowance has increased over the years. From FY 1994-95 to FY 2002-03, the minimum foundation allowance has grown 60 percent. Over this same time period, the Detroit CPI is forecasted to grow 23 percent based on the State's latest economic forecast (see Exhibit 28). Exhibit 29 and Exhibit 30 illustrate the impact of the per pupil funding floor. For the 1993-94 school year, 512 school districts (92 percent) received less than the $6,700 state and local funding per pupil (please see the Appendix for a listing of all school districts).

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Exhibit 26
State School Aid Fund
(millions)

Funding Source	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	Estimated [1] FY 2002	Estimated [1] FY 2003
Sales Tax	$1,743.4	$2,529.6	$3,564.6	$3,778.8	$3,933.5	$4,094.2	$4,301.5	$4,577.2	$4,631.4	$4,734.8	$4,957.5
Use Tax	$0.0	$132.0	$318.9	$341.6	$362.0	$386.4	$427.5	$452.9	$444.5	$456.0	$478.3
State Education Tax	$0.0	$446.9	$1,064.5	$1,111.1	$1,156.1	$1,256.9	$1,273.5	$1,381.4	$1,489.6	$1,558.0	$1,622.8
Income Tax	$0.0	$0.0	$882.5	$918.2	$1,582.9	$1,699.4	$1,848.1	$1,968.4	$1,955.3	$1,884.1	$1,963.6
Tobacco Tax	$19.5	$163.1	$397.2	$371.4	$350.5	$363.0	$394.4	$387.7	$383.1	$378.6	$371.0
Liquor Tax	$21.9	$21.8	$21.9	$22.6	$22.4	$23.9	$25.4	$27.2	$28.4	$29.6	$29.8
IFT/CFT	$52.1	$86.8	$106.6	$121.8	$117.0	$115.3	$136.5	$152.5	$131.3	$140.0	$143.0
Real Estate Transfer Tax	$0.0	$0.0	$91.1	$161.2	$192.8	$227.9	$261.7	$257.1	$252.9	$241.0	$254.0
Other Tax Revenues	Included in Other Revenue		$7.3	$18.1	$14.9	$13.4	$14.2	$13.4	$15.2	$14.7	$14.7
General Fund Transfer	$1,086.2	$709.6	$664.9	$621.0	$277.9	$376.0	$420.7	$420.1	$385.2	$198.4	$198.4
Lottery	$427.6	$510.7	$547.8	$548.3	$587.7	$616.1	$621.1	$618.5	$587.0	$605.0	$595.0
Casino Wagering Tax	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$6.0	$53.1	$75.4	$92.0	$96.0
Federal Funds	$57.2	$62.6	$63.1	$69.7	$70.2	$84.7	$106.8	$121.6	$148.6	$235.0	$235.0
Other Revenue [2]	$3.2	$13.2	$8.0	$179.7	$22.7	$212.0	$112.3	$48.3	$149.4	$382.0	$32.7
TOTAL	$3,411.1	$4,676.1	$7,738.4	$8,263.5	$8,690.7	$9,469.1	$9,949.7	$10,479.3	$10,677.3	$10,949.2	$10,991.8

[1] Figures are from various Executive Budgets and May 2002 Consensus Revenue Conference.

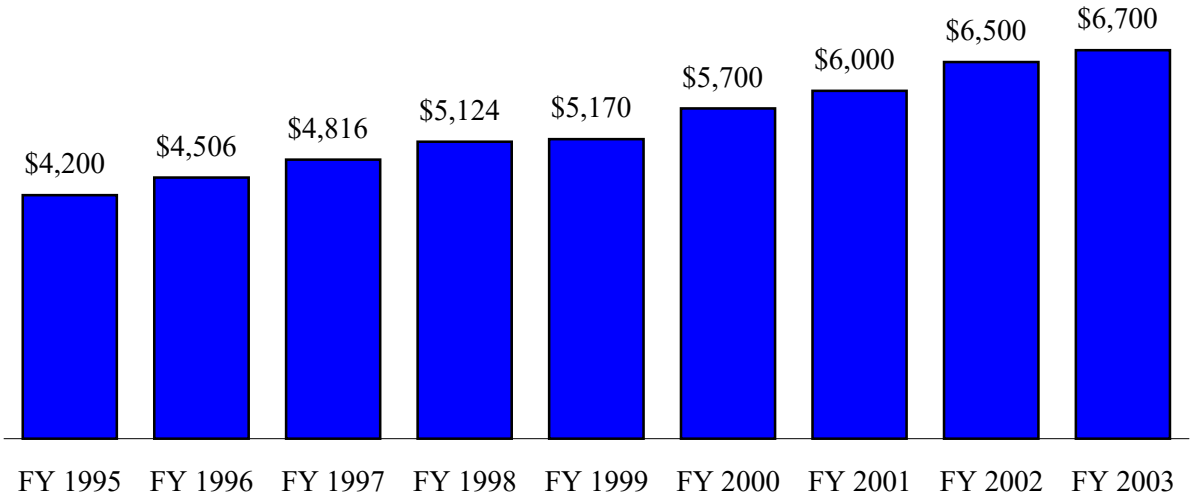
[2] Other revenue includes transfers from Budget Stabilization Fund, etc.

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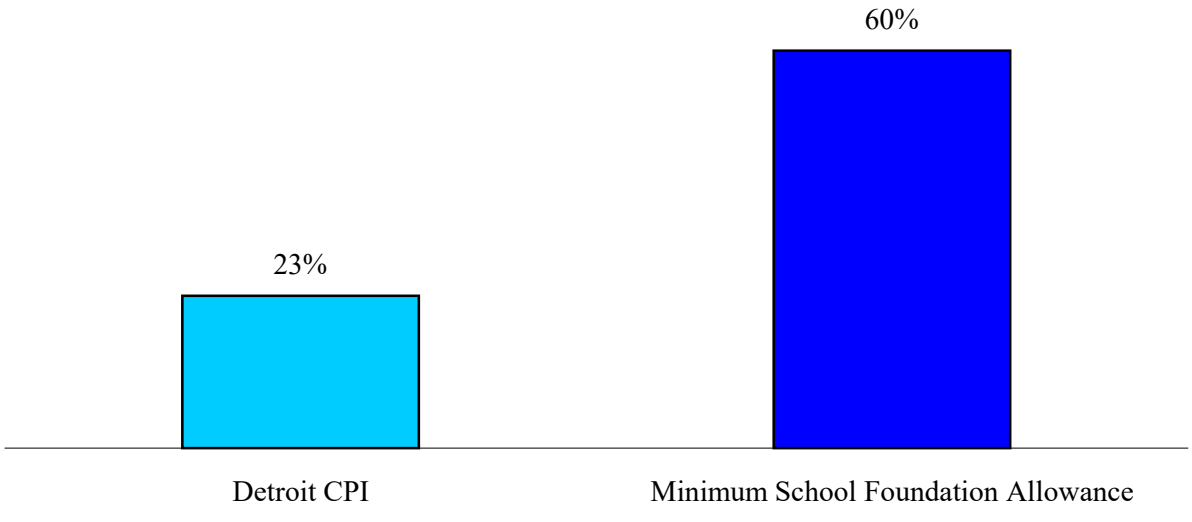
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Exhibit 27
Minimum School Foundation Allowance Per Pupil
Has Grown 60 Percent



Source: Michigan Department of Education.

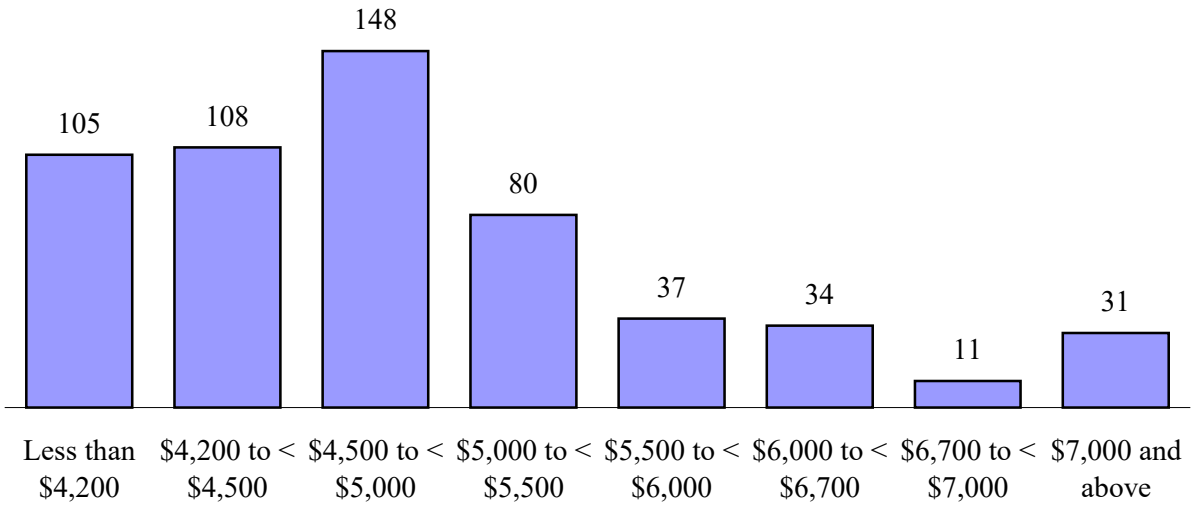
Exhibit 28
Minimum School Foundation Grows Faster Than Inflation
FY 1995 to FY 2003



Sources: Michigan Department of Education, Michigan Department of Treasury, and Bureau of Labor Statistics.

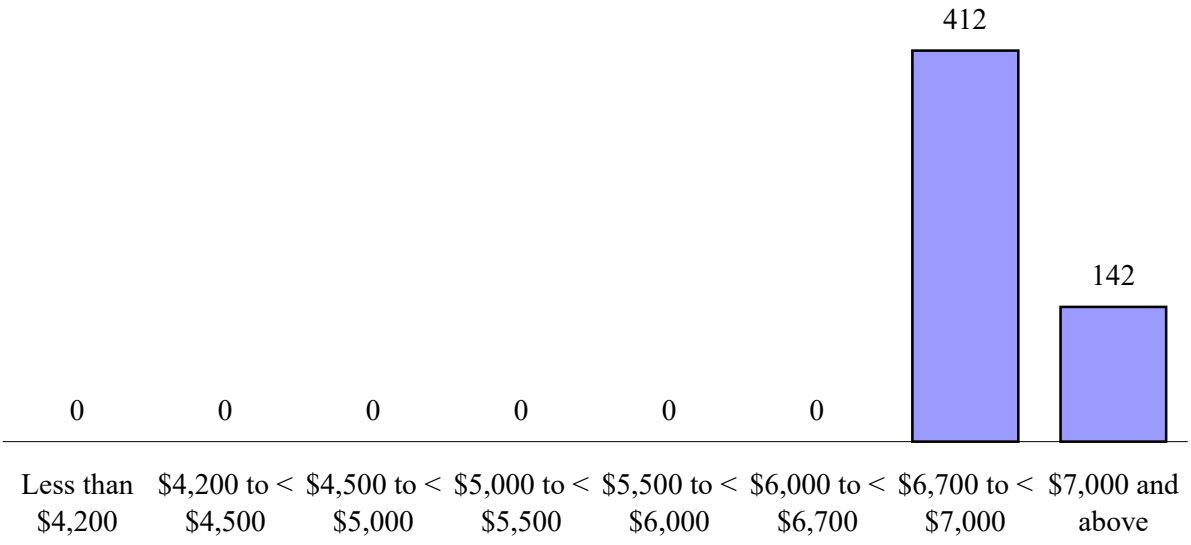
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Exhibit 29
Before School Finance Reform
512 Districts Below $6,700 Per Pupil in FY 1994



Source: Michigan Department of Education.

Exhibit 30
After School Finance Reform
No Districts Below $6,700 Per Pupil in FY 2003



Source: Michigan Department of Education.

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Proposal A has substantially reduced school funding inequities. In FY 1994, the ten lowest-revenue school districts had weighted average per pupil revenues of $3,476, while the ten highest-revenue school districts had weighted average per pupil revenues of $9,726, nearly three times more than the ten lowest-revenue school districts (see Exhibit 31). By FY 2003, the ten lowest revenue school districts had a weighted average per pupil foundation allowance of $6,700 (minimum guarantee), while the ten highest revenue districts had a weighted average foundation allowance of $11,389, less than twice as much as the minimum foundation allowance (see Exhibit 32).

Charter Schools

School reform was also an integral part of Proposal A. The creation of new publicly-chartered school academies afforded parents an alternative to traditional public schools. Since the adoption of Proposal A, 189 publicly-chartered school academies are currently in operation throughout the state. Exhibit 33 illustrates the growth of the number of publicly-chartered schools since their inception. Charter schools are public schools organized by teachers, parents, or others (e.g., university, community college, or any nonprofit organization) and chartered by a public entity, such as a local school board, the State Board of Education, a public university, or a department of state government. While charter schools enjoy the operational autonomy of a private school, they are held accountable to a public governmental authority.

Charter schools have no prescribed local service population and no local revenue base. Pupils may select a school based on its curriculum or other criteria (e.g., location). All applicants have an equal chance of admission. The foundation grant follows the student to attend the charter school of his or her choice.

Although the number of charter schools has grown substantially since 1994, the vast majority of students still attend traditional public schools. In the FY 2002 school year, approximately 64,260 pupils attended Michigan charter schools (see Exhibit 34) while approximately 1.65 million attended Michigan K-12 public schools. Overall, charter school students comprise 3.7 percent of all public K-12 students.

Schools of Choice

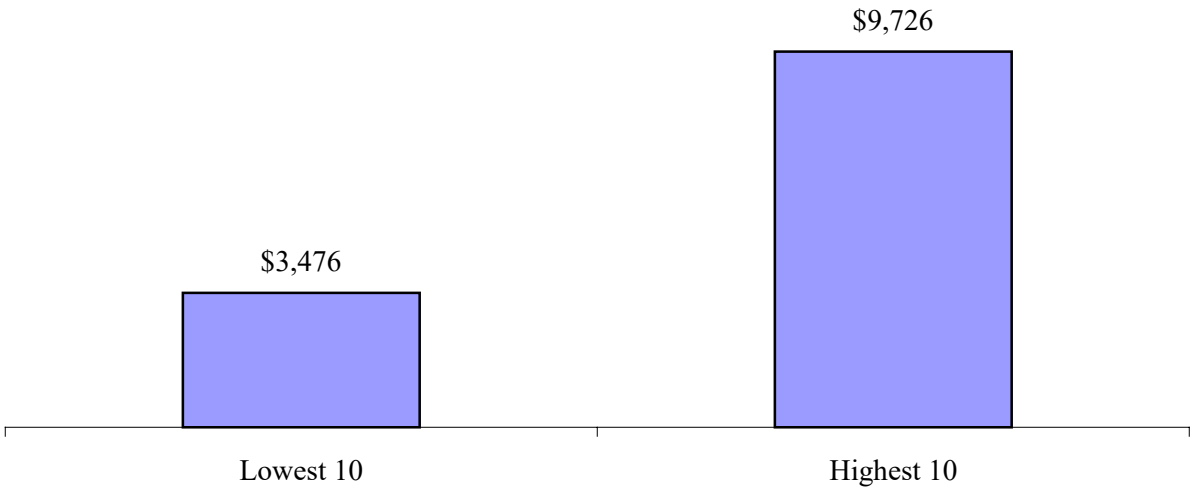
Another aspect of Proposal A was the enactment of "schools of choice" which allows students to attend a public school in a district other than the one in which he or she resides. Students are responsible for their own transportation, and all students have an equal chance of acceptance, regardless of residence. Under the current schools of choice program, local districts may opt to open their doors to students who live in other districts but reside within the same ISD. Currently, there are 554 traditional public school districts organized within 57 ISDs in Michigan. Allowing students to take their foundation grant to the public or charter school of their choice was intended to make schools more responsive to student needs and parent expectations.

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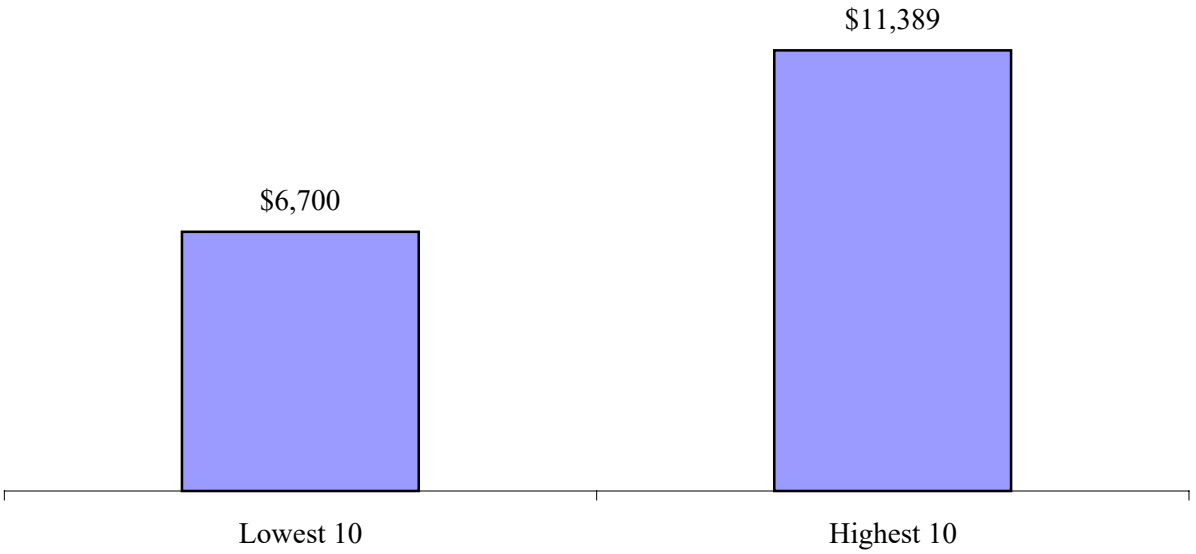
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Exhibit 31
Highest Spending Districts Outspent Lowest Spending Districts
Nearly 3 Times Per Pupil in 1993-94



Source: Michigan Department of Education.

Exhibit 32
School Spending More Equitable Between Districts
Difference Less Than Twice Per Pupil in 2002-03

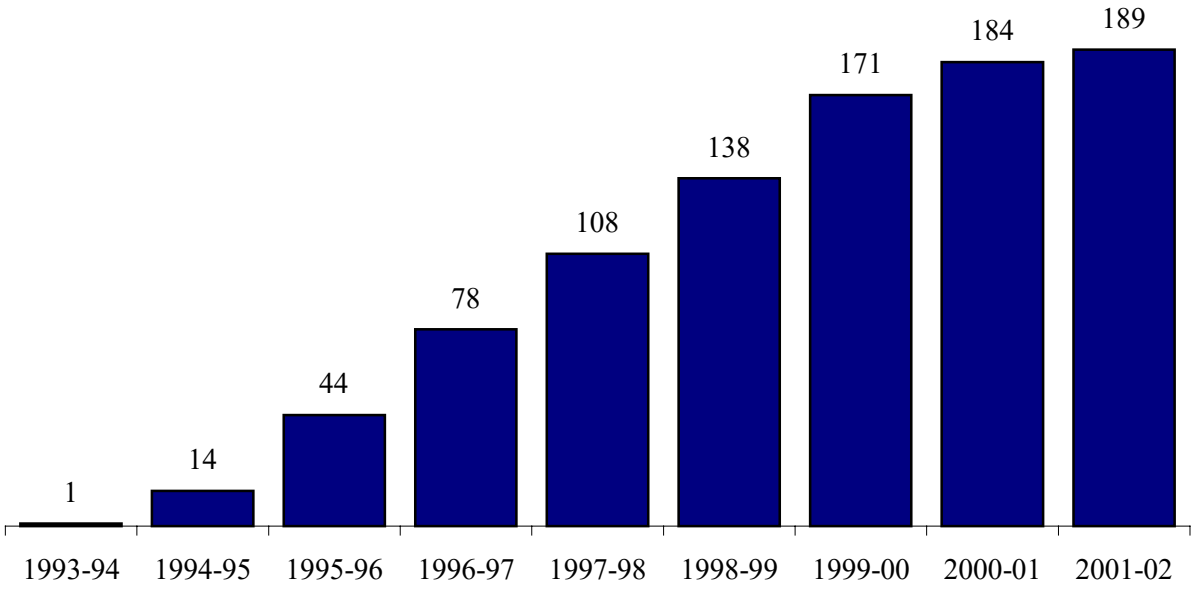


Source: Michigan Department of Education.

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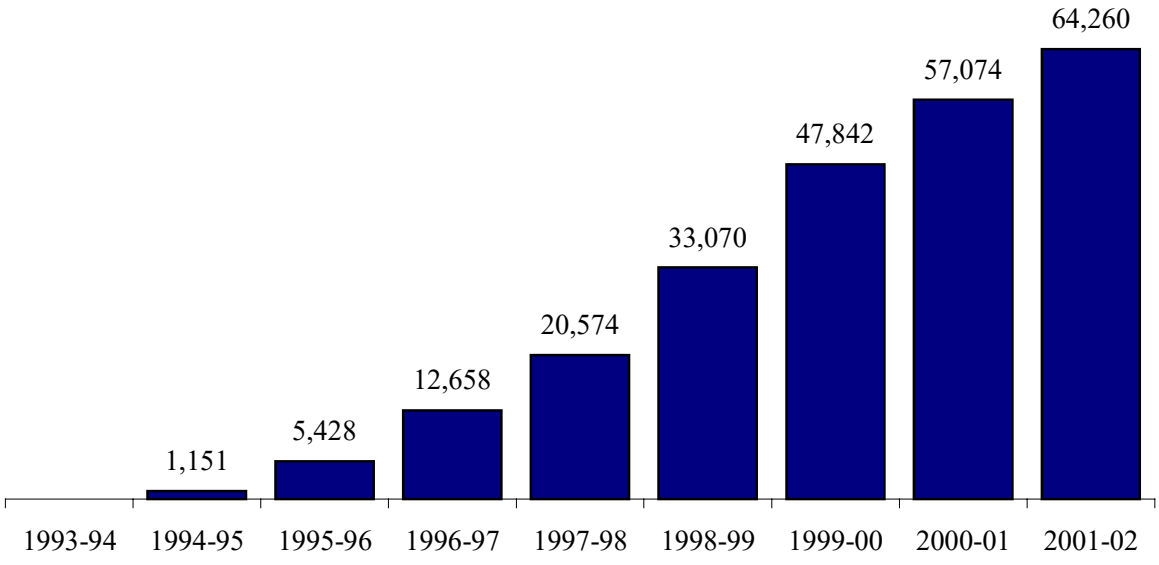
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Exhibit 33
Michigan Charter Schools



Source: Michigan Department of Education.

Exhibit 34
Students Attending Charter Schools



Source: Michigan Department of Education.

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School Vouchers

Michigan did not enact a school voucher program with its new system of charter schools, schools of choice, and foundation grants under Proposal A. Vouchers would also allow students to go to private schools. Michigan's system provides funding only for public and publicly-chartered schools.

Proposal C of 1970 amended the Michigan Constitution to prohibit direct or indirect aid to any private, denominational, or other nonpublic school. Tuition vouchers were specifically prohibited by Proposal C. Michigan voters passed Proposal C by a margin of 57 percent to 43 percent.

In November 2000, Michigan voters defeated Proposal 00-1, which would have allowed vouchers for private schools. Proposal 00-1 would have removed the general prohibition against indirect aid to a private, denominational, or other nonpublic school and remove specific prohibitions against tuition vouchers, subsidies, loans of public property or money, and other types of aid to nonpublic schools.

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VI. APPENDIX

INCREASE IN SCHOOL DISTRICTS' PER PUPIL FOUNDATION ALLOWANCES UNDER PROPOSAL A

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Increase in School Districts' Per Pupil Foundation Allowances Under Proposal A
Ranked by FY 03 Foundation Allowance

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
49020	Bois Blanc Pines School District	13,734	15,395	1,661	12.1%
42030	Grant Township Schools	10,681	12,341	1,660	15.5%
63080	Bloomfield Hills School District	10,294	11,954	1,660	16.1%
63010	Birmingham City School District	10,217	11,877	1,660	16.2%
49110	Mackinac Island Pub Schools	9,594	11,254	1,660	17.3%
58080	Jefferson Schools-Monroe Co.	9,500	11,160	1,660	17.5%
63060	Southfield Public School District	9,299	10,959	1,660	17.9%
17160	Whitefish Schools	9,270	10,930	1,660	17.9%
23490	Oneida Twp School District #3	9,022	10,682	1,660	18.4%
63280	Lamphere Public Schools	8,777	10,437	1,660	18.9%
15010	Beaver Island Comm Schools	8,627	10,287	1,660	19.2%
02020	Burt Township School District	8,428	10,088	1,660	19.7%
63200	Farmington Public School District	8,407	10,067	1,660	19.8%
11200	New Buffalo Area School District	8,367	10,027	1,660	19.8%
82055	Grosse Pointe Public Schools	8,233	9,893	1,660	20.2%
50010	Centerline Public Schools	7,885	9,545	1,660	21.1%
80040	Covert Public Schools	7,727	9,387	1,660	21.5%
81010	Ann Arbor Public Schools	7,574	9,234	1,660	21.9%
50230	Warren Consolidated Schools	7,421	9,082	1,661	22.4%
45040	Northport Public School District	7,387	9,047	1,660	22.5%
17050	Detour Area Schools	7,379	9,039	1,660	22.5%
63150	Troy Public School District	7,374	9,034	1,660	22.5%
50200	South Lake Schools	7,298	8,958	1,660	22.7%
32130	Port Hope Community Schools	7,350	8,958	1,608	21.9%
52160	Wells Township School District	7,267	8,927	1,660	22.8%
63160	West Bloomfield School District	7,225	8,886	1,661	23.0%
63040	Royal Oak School District	7,216	8,851	1,635	22.7%
32260	Colfax Township School District 1F	7,168	8,828	1,660	23.2%
27060	Marenisco School District	7,116	8,776	1,660	23.3%
82045	Melvindale Allen Park Schools	7,113	8,773	1,660	23.3%
50240	Warren Woods Public Schools	7,069	8,739	1,670	23.6%
33215	Waverly Schools	6,998	8,659	1,661	23.7%
82130	Romulus Community Schools	6,990	8,650	1,660	23.7%
82120	River Rouge City Schools	6,955	8,615	1,660	23.9%
82030	Dearborn City School District	6,933	8,594	1,660	23.9%
63100	Novi Community Schools	6,931	8,591	1,660	24.0%
82300	Grosse Ile Township Schools	6,926	8,586	1,660	24.0%
52110	Republic Michigamme Schools	6,922	8,582	1,660	24.0%
82155	Trenton Public Schools	6,874	8,542	1,668	24.3%
24020	Harbor Springs School District	6,817	8,477	1,660	24.4%
63290	Walled Lake Consolidated School District	6,792	8,437	1,646	24.2%
56010	Midland Public Schools	6,752	8,415	1,664	24.6%
11340	Bridgman Public Schools	6,694	8,354	1,660	24.8%
03080	Saugatuck Public Schools	6,671	8,331	1,660	24.9%
80240	Bangor Twp School District #8	6,652	8,312	1,660	25.0%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
63070	Avondale School District	6,606	8,266	1,660	25.1%
27080	Watersmeet Township School District	6,502	8,162	1,660	25.5%
33010	East Lansing School District	6,470	8,132	1,663	25.7%
82095	Livonia Public Schools	6,438	8,105	1,667	25.9%
63090	Clarenceville School District	6,411	8,075	1,663	25.9%
82390	Northville Public Schools	6,375	8,050	1,675	26.3%
82320	Harper Woods School District	6,341	8,008	1,666	26.3%
50090	Fitzgerald Public Schools	6,317	7,985	1,668	26.4%
33170	Okemos Public Schools	6,298	7,967	1,669	26.5%
66070	White Pine School District	6,297	7,965	1,668	26.5%
31070	Elm River Township School District	6,275	7,944	1,669	26.6%
07010	Arvon Township School District	6,266	7,936	1,670	26.7%
52100	Powell Township School District	6,261	7,931	1,670	26.7%
41110	Forest Hills Public Schools	6,257	7,927	1,670	26.7%
50100	Fraser Public Schools	6,253	7,923	1,670	26.7%
15050	Charlevoix Public Schools	6,216	7,887	1,671	26.9%
50120	Lakeshore Public Schools	6,199	7,873	1,674	27.0%
41050	Caledonia Community Schools	6,176	7,850	1,674	27.1%
51060	Onekama Consolidated Schools	6,174	7,847	1,673	27.1%
63270	Clawson City School District	6,145	7,819	1,674	27.2%
63260	Rochester Community School District	6,132	7,807	1,675	27.3%
46090	Madison School District	6,099	7,775	1,676	27.5%
63230	Lake Orion Community Schools	6,081	7,759	1,678	27.6%
50130	Lakeview Public Schools	6,050	7,732	1,682	27.8%
45020	Leland Public School District	6,050	7,728	1,678	27.7%
03440	Ganges School District #4	6,034	7,713	1,679	27.8%
82400	Riverview Community School District	6,034	7,713	1,679	27.8%
73080	Buena Vista School District	6,020	7,700	1,680	27.9%
41020	Godwin Heights Public Schools	6,015	7,695	1,680	27.9%
16070	Mackinaw City Public Schools	6,002	7,682	1,680	28.0%
25080	Carman-Ainsworth Schools	6,002	7,682	1,680	28.0%
10025	Frankfort-Elberta Area Schools	5,993	7,673	1,680	28.0%
64070	Pentwater Public School District	5,991	7,671	1,680	28.0%
50220	Van Dyke Public Schools	5,968	7,650	1,682	28.2%
63050	Berkley School District	5,966	7,649	1,683	28.2%
82140	South Redford School District	5,944	7,626	1,682	28.3%
63020	Ferndale Public Schools	5,926	7,609	1,683	28.4%
63250	Oak Park City School District	5,902	7,586	1,684	28.5%
82080	Inkster City School District	5,799	7,487	1,688	29.1%
82150	Taylor School District	5,779	7,467	1,689	29.2%
05035	Central Lake Public Schools	5,773	7,462	1,689	29.3%
82180	Flat Rock Community Schools	5,754	7,444	1,690	29.4%
81020	Ypsilanti School District	5,734	7,424	1,690	29.5%
82240	Westwood Community Schools	5,719	7,410	1,691	29.6%
50160	Mt. Clemens Community Schools	5,713	7,404	1,691	29.6%
74050	East China School District	5,711	7,403	1,692	29.6%
50020	East Detroit Public Schools	5,708	7,400	1,692	29.6%
82160	Wayne-Westland Community School District	5,211	7,396	2,185	41.9%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
05040	Bellaire Public Schools	5,699	7,391	1,692	29.7%
73190	Frankenmuth School District	5,690	7,382	1,692	29.7%
81050	Dexter Community School District	5,684	7,376	1,692	29.8%
82070	Highland Park City Schools	5,681	7,374	1,693	29.8%
49055	Engadine Consolidated Schools	5,677	7,369	1,692	29.8%
32630	Sigel Twp School District #6	5,669	7,362	1,693	29.9%
50030	Roseville Community Schools	5,659	7,352	1,693	29.9%
41040	Byron Center Public Schools	5,624	7,322	1,698	30.2%
11033	River Valley School District	5,627	7,321	1,694	30.1%
25240	Beecher Community School District	5,625	7,319	1,694	30.1%
82250	Ecorse Public School District	5,624	7,319	1,695	30.1%
50140	L'Anse Creuse Public Schools	5,607	7,302	1,695	30.2%
41090	East Grand Rapids Public Schools	5,601	7,301	1,700	30.4%
50190	Romeo Community Schools	5,584	7,280	1,696	30.4%
25010	Flint City School District	5,555	7,252	1,697	30.6%
32030	Caseville Public Schools	5,554	7,251	1,697	30.6%
82230	Crestwood School District	5,548	7,246	1,698	30.6%
50210	Utica Community Schools	5,540	7,239	1,699	30.7%
63130	Hazel Park City School District	5,536	7,234	1,698	30.7%
69030	Johannesburg-Lewiston Schools	5,519	7,218	1,699	30.8%
82430	Van Buren Public Schools	5,519	7,218	1,699	30.8%
61020	Muskegon Heights School District	5,490	7,190	1,700	31.0%
50070	Clintondale Comm Schools	5,487	7,187	1,700	31.0%
82050	Garden City School District	5,483	7,184	1,701	31.0%
25030	Grand Blanc Comm Schools	5,480	7,180	1,700	31.0%
39010	Kalamazoo City School District	5,469	7,171	1,702	31.1%
09050	Essexville Hampton School District	5,452	7,153	1,701	31.2%
82365	Woodhaven Public Schools	5,447	7,149	1,702	31.2%
33070	Holt Public Schools	5,439	7,141	1,702	31.3%
49040	Les Cheneaux Community School District	5,438	7,140	1,702	31.3%
25260	Montrose Community Schools	5,432	7,134	1,702	31.3%
70010	Grand Haven City School District	5,428	7,131	1,703	31.4%
33020	Lansing Public School District	5,401	7,105	1,704	31.5%
25200	Lake Fenton Schools	5,392	7,096	1,704	31.6%
82010	Detroit City School District	5,380	7,084	1,704	31.7%
82340	Huron School District	5,380	7,084	1,704	31.7%
81150	Willow Run Community Schools	5,378	7,083	1,705	31.7%
02010	Autrain-Onota Public Schools	5,377	7,081	1,704	31.7%
81040	Chelsea School District	5,367	7,073	1,706	31.8%
63300	Waterford School District	5,353	7,068	1,715	32.0%
82020	Allen Park Public Schools	5,364	7,068	1,704	31.8%
81120	Saline Area School District	5,361	7,066	1,705	31.8%
41145	Kenowa Hills Public Schools	5,338	7,044	1,706	32.0%
11020	St. Joseph Public Schools	5,336	7,042	1,706	32.0%
13090	Lakeview School District	5,334	7,040	1,706	32.0%
53040	Ludington Area School District	5,331	7,037	1,706	32.0%
15020	Boyne City Public School District	5,320	7,027	1,707	32.1%
82100	Plymouth Canton Community Schools	5,317	7,025	1,708	32.1%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
25230	Bentley Community School District	5,299	7,007	1,708	32.2%
73010	Saginaw City School District	5,275	6,983	1,708	32.4%
41160	Kentwood Public Schools	5,268	6,977	1,709	32.4%
61010	Muskegon City School District	5,249	6,958	1,709	32.6%
63110	Oxford Area Community School District	5,249	6,958	1,709	32.6%
50170	New Haven Community Schools	5,238	6,948	1,710	32.7%
63190	Clarkston Community School District	5,233	6,947	1,714	32.7%
82405	Southgate Community School District	5,219	6,930	1,711	32.8%
05010	Alba Public Schools	5,215	6,925	1,710	32.8%
13020	Battle Creek Public Schools	5,213	6,924	1,711	32.8%
05065	Ellsworth Community Schools	5,202	6,913	1,711	32.9%
81080	Manchester Community School District	5,195	6,906	1,711	32.9%
32090	Owendale Gagetown Area School District	5,192	6,904	1,712	33.0%
19125	Pewamo Westphalia Comm Schs	5,186	6,898	1,712	33.0%
63030	Pontiac City School District	5,172	6,884	1,712	33.1%
46050	Britton Macon Area School District	5,154	6,867	1,713	33.2%
41120	Godfrey Lee Public School District	5,153	6,866	1,713	33.2%
45010	Glen Lake Community School District	5,146	6,860	1,714	33.3%
33060	Haslett Public Schools	5,145	6,858	1,713	33.3%
47010	Brighton Area Schools	5,142	6,856	1,714	33.3%
61190	Orchard View Schools	5,125	6,839	1,714	33.4%
70020	Holland City School District	5,119	6,838	1,719	33.6%
49070	Moran Township School District	5,118	6,833	1,715	33.5%
46130	Sand Creek Community Schools	5,110	6,825	1,715	33.5%
61230	North Muskegon Public Schools	5,110	6,825	1,715	33.6%
33040	Dansville Agricultural School	5,107	6,822	1,715	33.6%
82290	Gibraltar School District	5,037	6,818	1,781	35.4%
23060	Grand Ledge Public Schools	5,099	6,815	1,716	33.6%
47060	Hartland Consolidated Schools	5,100	6,815	1,715	33.6%
19070	Fowler Public Schools	5,098	6,814	1,716	33.6%
43040	Baldwin Community Schools	5,098	6,814	1,716	33.6%
13130	Tekonsha Community Schools	5,098	6,813	1,715	33.6%
63220	Huron Valley Schools	5,090	6,806	1,716	33.7%
39050	Galesburg Augusta Community Schools	5,086	6,802	1,716	33.7%
25210	Westwood Heights School District	5,068	6,784	1,716	33.9%
41010	Grand Rapids City School District	5,066	6,782	1,716	33.9%
05060	Elk Rapids Schools	5,062	6,779	1,717	33.9%
21065	Big Bay De Noc School District	5,062	6,779	1,717	33.9%
24040	Pellston Public School District	5,061	6,778	1,717	33.9%
33130	Mason Public Schools	5,059	6,776	1,717	33.9%
50050	Armada Area Schools	5,056	6,773	1,717	34.0%
37010	Mt. Pleasant City School District	5,044	6,762	1,718	34.1%
63240	South Lyon Community Schools	5,039	6,756	1,717	34.1%
38170	Jackson Public Schools	5,034	6,752	1,718	34.1%
01010	Alcona Community Schools	5,027	6,745	1,718	34.2%
33230	Williamston Community Schools	5,026	6,744	1,718	34.2%
23590	Roxand Twp School District #12	5,018	6,737	1,719	34.3%
70300	Spring Lake Public School District	5,017	6,735	1,718	34.3%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
13010	Albion Public Schools	5,009	6,728	1,719	34.3%
58110	Whiteford Agricultural School District	5,009	6,728	1,719	34.3%
63140	Madison Public Schools	5,009	6,728	1,719	34.3%
25110	Kearsley Community Schools	5,008	6,727	1,719	34.3%
46020	Addison Community Schools	4,998	6,717	1,719	34.4%
23090	Potterville Public Schools	4,996	6,715	1,719	34.4%
41080	Comstock Park Public Schools	4,995	6,715	1,720	34.4%
82110	Redford Union School District	4,996	6,715	1,719	34.4%
58010	Monroe Public Schools	4,991	6,710	1,719	34.5%
02070	Munising Public Schools	3,875	6,700	2,825	72.9%
02080	Superior Central School District	4,589	6,700	2,111	46.0%
03010	Plainwell Community Schools	4,558	6,700	2,142	47.0%
03020	Otsego Public Schools	4,024	6,700	2,676	66.5%
03030	Allegan Public Schools	3,949	6,700	2,751	69.7%
03040	Wayland Union Schools	4,362	6,700	2,338	53.6%
03050	Fennville Public Schools	4,516	6,700	2,184	48.4%
03060	Martin Public Schools	4,394	6,700	2,306	52.5%
03070	Hopkins Public Schools	4,102	6,700	2,598	63.3%
03100	Hamilton Community Schools	4,407	6,700	2,293	52.0%
04010	Alpena Public Schools	3,961	6,700	2,739	69.2%
05070	Mancelona Public Schools	4,768	6,700	1,932	40.5%
06010	Arenac Eastern School District	3,918	6,700	2,782	71.0%
06020	Au Gres Sims School District	4,716	6,700	1,984	42.1%
06050	Standish Sterling School District	3,738	6,700	2,962	79.2%
07020	Baraga Township School District	4,041	6,700	2,659	65.8%
07040	L'Anse Area Schools	4,448	6,700	2,252	50.6%
08010	Delton-Kellogg School District	4,501	6,700	2,199	48.8%
08030	Hastings Area School District	4,675	6,700	2,025	43.3%
08050	Thornapple-Kellogg School District	4,598	6,700	2,102	45.7%
09010	Bay City School District	4,184	6,700	2,516	60.1%
09030	Bangor Township Schools	4,339	6,700	2,361	54.4%
09090	Pinconning Area Schools	4,386	6,700	2,314	52.8%
10015	Benzie County Central School	3,836	6,700	2,864	74.7%
11010	Benton Harbor Area Schools	4,364	6,700	2,336	53.5%
11030	Lakeshore School District	4,187	6,700	2,513	60.0%
11160	Galien Township School District	4,557	6,700	2,143	47.0%
11210	Brandywine Public School District	4,206	6,700	2,494	59.3%
11240	Berrien Springs Public School District	4,344	6,700	2,356	54.2%
11250	Eau Claire Public Schools	4,160	6,700	2,540	61.1%
11300	Niles Community School District	4,560	6,700	2,140	46.9%
11310	Buchanan Community School District	4,267	6,700	2,433	57.0%
11320	Watervliet School District	4,552	6,700	2,148	47.2%
11330	Coloma Community Schools	3,902	6,700	2,798	71.7%
11670	Hagar Twp School District #6	3,628	6,700	3,072	84.7%
11830	Sodus Twp School District #5	3,161	6,700	3,539	111.9%
12010	Coldwater Comm Schools	4,566	6,700	2,134	46.7%
12020	Bronson Community School District	4,004	6,700	2,696	67.3%
12040	Quincy Community School District	4,045	6,700	2,655	65.6%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
13050	Athens Area Schools	4,649	6,700	2,051	44.1%
13070	Harper Creek Comm Schools	4,690	6,700	2,010	42.9%
13080	Homer Community Schools	4,397	6,700	2,303	52.4%
13095	Mar Lee School District	4,264	6,700	2,436	57.1%
13110	Marshall Public Schools	4,664	6,700	2,036	43.7%
13120	Pennfield School District	4,903	6,700	1,797	36.6%
13135	Union City Community School District	4,091	6,700	2,609	63.8%
14010	Cassopolis Public Schools	4,526	6,700	2,174	48.0%
14020	Dowagiac Union Schools	3,997	6,700	2,703	67.6%
14030	Edwardsburg Public Schools	4,226	6,700	2,474	58.5%
14050	Marcellus Community Schools	4,188	6,700	2,512	60.0%
15030	Boyne Falls Public School District	4,149	6,700	2,551	61.5%
15060	East Jordan Public School District	4,881	6,700	1,819	37.3%
16015	Cheboygan Area Schools	4,119	6,700	2,581	62.6%
16050	Inland Lakes School District	4,647	6,700	2,053	44.2%
16100	Wolverine Community School District	3,675	6,700	3,025	82.3%
17010	Sault Ste Marie Area Schools	4,270	6,700	2,430	56.9%
17090	Pickford Public Schools	4,931	6,700	1,769	35.9%
17110	Rudyard Area Schools	3,951	6,700	2,749	69.6%
17140	Brimley Area Schools	4,264	6,700	2,436	57.1%
18010	Clare Public Schools	4,497	6,700	2,203	49.0%
18020	Farwell Area Schools	3,890	6,700	2,810	72.2%
18060	Harrison Community Schools	3,905	6,700	2,795	71.6%
19010	Dewitt Public Schools	4,718	6,700	1,982	42.0%
19100	Bath Community Schools	4,851	6,700	1,849	38.1%
19120	Ovid Elsie Area Schools	4,832	6,700	1,868	38.7%
19140	St. Johns Public Schools	4,924	6,700	1,776	36.1%
20015	Crawford Ausable Schools	3,843	6,700	2,857	74.4%
21010	Escanaba Area Public Schools	4,520	6,700	2,180	48.2%
21025	Gladstone Area Schools	4,439	6,700	2,261	50.9%
21060	Rapid River Public Schools	4,581	6,700	2,119	46.2%
21090	Bark River Harris School District	4,246	6,700	2,454	57.8%
21135	Mid Peninsula School District	4,114	6,700	2,586	62.9%
22010	Iron Mountain City School District	4,289	6,700	2,411	56.2%
22025	Norway Vulcan Area Schools	4,012	6,700	2,688	67.0%
22030	Breitung Twp School District	4,348	6,700	2,352	54.1%
22045	North Dickinson County School District	4,505	6,700	2,195	48.7%
23010	Bellevue Community School District	4,435	6,700	2,265	51.1%
23030	Charlotte Public Schools	4,795	6,700	1,905	39.7%
23050	Eaton Rapids Public Schools	4,694	6,700	2,006	42.7%
23065	Maple Valley School District	3,889	6,700	2,811	72.3%
23080	Olivet Community Schools	4,466	6,700	2,234	50.0%
24030	Littlefield Public School District	4,562	6,700	2,138	46.9%
24070	Petoskey Public Schools	4,831	6,700	1,869	38.7%
25040	Mt. Morris Consolidated Schools	4,689	6,700	2,011	42.9%
25050	Goodrich Area Schools	4,449	6,700	2,251	50.6%
25060	Bendle Public Schools	4,727	6,700	1,973	41.7%
25070	Genesee School District	4,676	6,700	2,024	43.3%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
25100	Fenton Area Public Schools	4,804	6,700	1,896	39.5%
25120	Flushing Community Schools	4,549	6,700	2,151	47.3%
25130	Atherton Community School District	4,917	6,700	1,783	36.2%
25140	Davison Community Schools	4,519	6,700	2,181	48.2%
25150	Clio Area School District	4,632	6,700	2,068	44.6%
25180	Swartz Creek Community Schs	4,868	6,700	1,832	37.6%
25250	Linden Community School District	4,400	6,700	2,300	52.3%
25280	Lakeville Community School District	4,469	6,700	2,231	49.9%
26010	Beaverton Rural Schools	3,779	6,700	2,921	77.3%
26040	Gladwin Community Schools	4,462	6,700	2,238	50.1%
27010	Bessemer City School District	4,337	6,700	2,363	54.5%
27020	Ironwood Area Schools	4,332	6,700	2,368	54.7%
27070	Wakefield Township School District	4,425	6,700	2,275	51.4%
28010	Traverse City School District	4,588	6,700	2,112	46.0%
28035	Buckley Community School District	4,612	6,700	2,088	45.3%
28090	Kingsley Area School	3,834	6,700	2,866	74.8%
29010	Alma Public Schools	4,691	6,700	2,009	42.8%
29020	Ashley Community Schools	4,743	6,700	1,957	41.3%
29040	Breckenridge Community Schools	4,477	6,700	2,224	49.7%
29050	Fulton Schools	4,815	6,700	1,885	39.1%
29060	Ithaca Public Schools	4,562	6,700	2,138	46.9%
29100	St. Louis Public Schools	4,646	6,700	2,054	44.2%
30010	Camden Frontier Schools	4,283	6,700	2,417	56.4%
30020	Hillsdale Community Public Schools	4,174	6,700	2,526	60.5%
30030	Jonesville Community Schools	4,384	6,700	2,316	52.8%
30040	Litchfield Community Schools	4,530	6,700	2,170	47.9%
30050	North Adams-Jerome Public Schools	4,077	6,700	2,623	64.4%
30060	Pittsford Area Schools	4,545	6,700	2,155	47.4%
30070	Reading Community Schools	4,135	6,700	2,565	62.0%
30080	Waldron Area Schools	4,719	6,700	1,981	42.0%
31010	Hancock Public Schools	4,096	6,700	2,605	63.6%
31020	Adams Township School District	4,321	6,700	2,379	55.1%
31030	Calumet Public Schools	3,858	6,700	2,842	73.7%
31050	Chassell Township School District	4,092	6,700	2,608	63.7%
31100	Dollar Bay-Tamarack City Area Schools	4,413	6,700	2,287	51.8%
31110	Houghton-Portage Township Schools	4,248	6,700	2,452	57.7%
31130	Lake Linden Hubbell School District	4,033	6,700	2,667	66.1%
31140	Stanton Township School District	3,842	6,700	2,858	74.4%
32010	Bad Axe Public Schools	3,590	6,700	3,110	86.7%
32040	Church School District	2,826	6,700	3,874	137.1%
32050	Elkton Pigeon Bayport School District	4,486	6,700	2,214	49.4%
32060	Harbor Beach Community Schools	4,588	6,700	2,112	46.0%
32080	North Huron School District	4,951	6,700	1,749	35.3%
32170	Ubly Community Schools	3,814	6,700	2,886	75.6%
32250	Bloomfield Township School District 7F	4,272	6,700	2,428	56.8%
32610	Sigel Twp School Dist #3 - Adams School	2,762	6,700	3,938	142.6%
32620	Sigel Twp School District #4	3,982	6,700	2,718	68.3%
32650	Verona Township School District 1F	3,286	6,700	3,414	103.9%

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School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
33100	Leslie Public Schools	4,624	6,700	2,076	44.9%
33200	Stockbridge Community Schools	4,563	6,700	2,137	46.8%
33220	Webberville Community Schools	4,834	6,700	1,866	38.6%
34010	Ionia Public Schools	4,229	6,700	2,471	58.4%
34040	Palo Community School District	4,437	6,700	2,263	51.0%
34080	Belding Area School District	4,053	6,700	2,647	65.3%
34090	Lakewood Public Schools	4,323	6,700	2,377	55.0%
34110	Portland Public School District	4,443	6,700	2,257	50.8%
34120	Saranac Community Schools	4,020	6,700	2,680	66.7%
34140	Berlin Twp School District #3	4,513	6,700	2,187	48.4%
34340	Easton Twp School District 6#	3,737	6,700	2,963	79.3%
34360	Ionia Twp School District #2	3,926	6,700	2,774	70.6%
35010	Oscoda Area Schools	4,317	6,700	2,383	55.2%
35020	Hale Area Schools	4,848	6,700	1,852	38.2%
35030	Tawas Area Schools	4,086	6,700	2,614	64.0%
35040	Whittemore Prescott Area School District	3,985	6,700	2,715	68.1%
36015	Forest Park School District	4,850	6,700	1,850	38.1%
36025	West Iron County School District	4,690	6,700	2,010	42.9%
37040	Beal City School	4,707	6,700	1,993	42.3%
37060	Shepherd Public School District	4,640	6,700	2,060	44.4%
38010	Western School District	4,761	6,700	1,939	40.7%
38020	Vandercook Lake Public Schools	4,437	6,700	2,263	51.0%
38040	Columbia School District	4,456	6,700	2,244	50.3%
38050	Grass Lake Community Schools	4,773	6,700	1,927	40.4%
38080	Concord Community Schools	4,669	6,700	2,031	43.5%
38090	East Jackson Public Schools	4,850	6,700	1,850	38.1%
38100	Hanover Horton Schools	4,237	6,700	2,463	58.1%
38120	Michigan Center School District	4,788	6,700	1,912	39.9%
38130	Napoleon Community Schools	4,503	6,700	2,197	48.8%
38140	Northwest School District	4,153	6,700	2,547	61.3%
38150	Springport Public Schools	4,379	6,700	2,321	53.0%
39020	Climax Scotts Community Schools	4,944	6,700	1,756	35.5%
39030	Comstock Public Schools	4,858	6,700	1,842	37.9%
39065	Gull Lake Community Schools	4,722	6,700	1,978	41.9%
39130	Parchment School District	4,923	6,700	1,777	36.1%
39140	Portage Public Schools	4,738	6,700	1,962	41.4%
39160	Schoolcraft Community Schools	4,422	6,700	2,278	51.5%
39170	Vicksburg Community Schools	4,410	6,700	2,290	51.9%
40020	Forest Area Community School District	3,919	6,700	2,781	71.0%
40040	Kalkaska Public Schools	3,920	6,700	2,780	70.9%
40060	Excelsior District #1	3,727	6,700	2,973	79.8%
41025	Northview Public School District	4,769	6,700	1,931	40.5%
41026	Wyoming Public Schools	4,952	6,700	1,748	35.3%
41070	Cedar Springs Public Schools	4,172	6,700	2,528	60.6%
41130	Grandville Public Schools	4,468	6,700	2,232	49.9%
41140	Kelloggsville Public Schools	4,559	6,700	2,141	47.0%
41150	Kent City Community Schools	4,380	6,700	2,320	53.0%
41170	Lowell Area School District	4,577	6,700	2,123	46.4%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
41210	Rockford Public Schools	4,402	6,700	2,298	52.2%
41240	Sparta Area Schools	4,448	6,700	2,252	50.6%
44010	Lapeer Community Schools	4,496	6,700	2,204	49.0%
44020	Almont Community Schools	4,152	6,700	2,548	61.4%
44050	Dryden Community Schools	4,785	6,700	1,915	40.0%
44060	Imlay City Community Schools	4,102	6,700	2,598	63.3%
44090	North Branch Area Schools	4,198	6,700	2,502	59.6%
45050	Suttons Bay Public School District	4,087	6,700	2,613	63.9%
46010	Adrian City School District	4,825	6,700	1,875	38.9%
46040	Blissfield Community Schools	4,483	6,700	2,217	49.5%
46060	Clinton Community Schools	4,225	6,700	2,475	58.6%
46070	Deerfield Public Schools	4,763	6,700	1,937	40.7%
46080	Hudson Area Schools	4,303	6,700	2,397	55.7%
46100	Morenci Area Schools	4,525	6,700	2,175	48.1%
46110	Onsted Community Schools	4,484	6,700	2,216	49.4%
46140	Tecumseh Public Schools	4,874	6,700	1,826	37.5%
47030	Fowlerville Community Schools	4,534	6,700	2,166	47.8%
47070	Howell Public Schools	4,803	6,700	1,897	39.5%
47080	Pinckney Community Schools	4,403	6,700	2,297	52.2%
48040	Tahquamenon Area Schools	4,108	6,700	2,592	63.1%
49010	St. Ignace City School District	4,242	6,700	2,458	57.9%
50040	Anchor Bay School District	4,785	6,700	1,915	40.0%
50080	Chippewa Valley Schools	4,880	6,700	1,820	37.3%
50180	Richmond Community Schools	4,758	6,700	1,942	40.8%
51020	Bear Lake School District	4,679	6,700	2,021	43.2%
51045	Kaleva Norman - Dickson Schools	3,975	6,700	2,725	68.6%
51070	Manistee Area Public Schools	3,923	6,700	2,778	70.8%
52015	N.I.C.E. Community Schools	4,965	6,700	1,735	34.9%
52040	Gwinn Area Community Schools	3,782	6,700	2,918	77.2%
52090	Negaunee Public Schools	4,560	6,700	2,140	46.9%
52170	Marquette City School District	4,153	6,700	2,547	61.3%
52180	Ishpeming Public School District	4,162	6,700	2,538	61.0%
53010	Mason County Central School District	4,358	6,700	2,342	53.7%
53020	Mason County Eastern School District	4,418	6,700	2,282	51.7%
53030	Freesoil Community School District	4,355	6,700	2,345	53.8%
54010	Big Rapids Public Schools	4,406	6,700	2,294	52.1%
54025	Chippewa Hills School District	4,553	6,700	2,147	47.2%
54040	Morley Stanwood Comm Schools	3,962	6,700	2,738	69.1%
55010	Carney Nadeau Public Schools	4,084	6,700	2,616	64.1%
55100	Menominee Area Public Schools	4,417	6,700	2,283	51.7%
55115	North Central Area Schools	4,349	6,700	2,351	54.1%
55120	Stephenson Area Public Schools	3,992	6,700	2,708	67.8%
56020	Bullock Creek School District	4,751	6,700	1,949	41.0%
56030	Coleman Community School District	4,559	6,700	2,141	47.0%
56050	Meridian Public Schools	4,572	6,700	2,128	46.5%
57020	Lake City Area School District	3,935	6,700	2,765	70.3%
57030	Mcbain Agricultural School District	4,064	6,700	2,636	64.9%
58020	Airport Community School District	4,446	6,700	2,254	50.7%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
58030	Bedford Public School District	4,378	6,700	2,322	53.0%
58050	Dundee Community Schools	4,239	6,700	2,461	58.1%
58070	Ida Public School District	4,429	6,700	2,271	51.3%
58090	Mason Consolidated School District	4,382	6,700	2,318	52.9%
58100	Summerfield School District	4,326	6,700	2,374	54.9%
59020	Carson City Crystal Area School District	4,761	6,700	1,939	40.7%
59045	Montabella Community School District	4,301	6,700	2,399	55.8%
59070	Greenville Public Schools	4,244	6,700	2,456	57.9%
59080	Tri County Area Schools	4,064	6,700	2,636	64.9%
59090	Lakeview Community Schools	4,037	6,700	2,663	66.0%
59125	Central Montcalm Public Schools	4,612	6,700	2,088	45.3%
59150	Vestaburg Community Schools	4,246	6,700	2,454	57.8%
60010	Atlanta Community Schools	4,510	6,700	2,190	48.6%
60020	Hillman Community Schools	4,085	6,700	2,615	64.0%
61060	Mona Shores School District	4,626	6,700	2,074	44.8%
61065	Oakridge Public Schools	4,347	6,700	2,353	54.1%
61080	Fruitport Community Schools	4,869	6,700	1,831	37.6%
61120	Holton Public Schools	4,009	6,700	2,691	67.1%
61180	Montague Area Public Schools	4,363	6,700	2,337	53.6%
61210	Ravenna Public Schools	4,775	6,700	1,925	40.3%
61220	Reeths Puffer Schools	4,500	6,700	2,200	48.9%
61240	Whitehall School District	4,660	6,700	2,040	43.8%
62040	Fremont Public School District	4,507	6,700	2,193	48.7%
62050	Grant Public School District	4,418	6,700	2,282	51.6%
62060	Hesperia Community School District	4,337	6,700	2,363	54.5%
62070	Newaygo Public School District	4,182	6,700	2,518	60.2%
62090	White Cloud Public Schools	4,482	6,700	2,218	49.5%
62470	Big Jackson School District	4,552	6,700	2,148	47.2%
63180	Brandon School District	4,719	6,700	1,981	42.0%
63210	Holly Area School District	4,844	6,700	1,856	38.3%
64040	Hart Public School District	4,236	6,700	2,464	58.2%
64080	Shelby Public Schools	4,412	6,700	2,288	51.8%
64090	Walkerville Rural Community Schools	4,331	6,700	2,369	54.7%
65045	West Branch-Rose City Area Schools	3,978	6,700	2,722	68.4%
66045	Ewen-Trout Creek Consolidated Schools	4,237	6,700	2,463	58.1%
66050	Ontonagon Area Schools	4,237	6,700	2,463	58.1%
67020	Evart Public Schools	4,225	6,700	2,475	58.6%
67050	Marion Public Schools	4,068	6,700	2,632	64.7%
67055	Pine River Area Schools	4,584	6,700	2,116	46.1%
67060	Reed City Area Public Schools	4,051	6,700	2,649	65.4%
68010	Mio Au Sable Schools	3,746	6,700	2,954	78.9%
68030	Fairview Area School District	4,315	6,700	2,385	55.3%
69020	Gaylord Community Schools	4,419	6,700	2,281	51.6%
69040	Vanderbilt Area School	4,193	6,700	2,507	59.8%
70040	Allendale Public School District	4,796	6,700	1,904	39.7%
70070	West Ottawa Public School District	4,888	6,700	1,812	37.1%
70120	Coopersville Public School District	4,013	6,700	2,687	67.0%
70175	Jenison Public Schools	4,451	6,700	2,249	50.5%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
70190	Hudsonville Public School District	3,887	6,700	2,813	72.4%
70350	Zeeland Public Schools	4,653	6,700	2,047	44.0%
71050	Onaway Area Community School District	3,398	6,700	3,302	97.2%
71060	Posen Cons School District	4,501	6,700	2,199	48.9%
71080	Rogers City Area Schools	3,943	6,700	2,757	69.9%
72010	Gerrish Higgins School District	4,129	6,700	2,571	62.3%
72020	Houghton Lake Comm Schools	4,797	6,700	1,903	39.7%
73030	Carrollton School District	4,707	6,700	1,993	42.4%
73040	Saginaw Township Community Schools.	4,797	6,700	1,903	39.7%
73110	Chesaning Union Schools	4,779	6,700	1,921	40.2%
73170	Birch Run Area School District	4,277	6,700	2,423	56.7%
73180	Bridgeport-Spaulding Community Schools	4,858	6,700	1,842	37.9%
73200	Freeland Community School District	4,249	6,700	2,451	57.7%
73210	Hemlock Public School District	4,598	6,700	2,102	45.7%
73230	Merrill Community School District	4,623	6,700	2,077	44.9%
73240	St. Charles Community Schools	4,524	6,700	2,176	48.1%
73255	Swan Valley School District	4,504	6,700	2,196	48.8%
74010	Port Huron Area School District	4,554	6,700	2,146	47.1%
74030	Algonac Community School District	4,914	6,700	1,787	36.4%
74040	Capac Community School District	4,247	6,700	2,453	57.8%
74100	Marysville Public School District	4,684	6,700	2,016	43.0%
74120	Memphis Community Schools	4,833	6,700	1,867	38.6%
74130	Yale Public Schools	4,552	6,700	2,148	47.2%
75010	Sturgis Public School District	4,308	6,700	2,392	55.5%
75020	Burr Oak Community School District	4,412	6,700	2,288	51.8%
75030	Centreville Public Schools	4,967	6,700	1,733	34.9%
75040	Colon Community School District	4,178	6,700	2,522	60.4%
75050	Constantine Public School District	4,281	6,700	2,419	56.5%
75060	Mendon Community School District	4,449	6,700	2,251	50.6%
75070	White Pigeon Community School District	3,975	6,700	2,725	68.6%
75080	Three Rivers Community Schools.	4,156	6,700	2,544	61.2%
75100	Nottawa Community School	3,776	6,700	2,924	77.5%
76060	Brown City Community School District	4,281	6,700	2,419	56.5%
76070	Carsonville-Port Sanilac School District	4,024	6,700	2,676	66.5%
76080	Croswell Lexington Community Schools	3,934	6,700	2,766	70.3%
76090	Deckerville Community School District	4,099	6,700	2,601	63.4%
76140	Marlette Community Schools	4,428	6,700	2,272	51.3%
76180	Peck Community School District	4,115	6,700	2,585	62.8%
76210	Sandusky Community School District	4,206	6,700	2,494	59.3%
77010	Manistique Area Schools	4,329	6,700	2,371	54.8%
78020	Byron Area Schools	4,504	6,700	2,196	48.8%
78030	Durand Area Schools	4,559	6,700	2,141	47.0%
78040	Laingsburg Community School District	4,911	6,700	1,789	36.4%
78060	Morrice Area Schools	4,808	6,700	1,892	39.4%
78070	New Lothrop Area Public School District	4,730	6,700	1,970	41.6%
78080	Perry Public School District	4,534	6,700	2,166	47.8%
78100	Corunna Public School District	4,827	6,700	1,873	38.8%
78110	Owosso Public Schools	4,226	6,700	2,474	58.6%

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Appendix - Continued

School Code	School District Name	FY94 Base	FY03 Foundation Allowance[1]	FY94-FY03 Increase $	FY94-FY03 Increase %
79010	Akron Fairgrove Schools	4,485	6,700	2,215	49.4%
79020	Caro Community Schools	4,350	6,700	2,350	54.0%
79030	Cass City Public Schools	4,048	6,700	2,652	65.5%
79080	Kingston Community School District	4,193	6,700	2,507	59.8%
79090	Mayville Community School District	4,607	6,700	2,093	45.4%
79100	Millington Community Schools	4,710	6,700	1,990	42.2%
79110	Reese Public Schools	4,250	6,700	2,450	57.7%
79145	Unionville Sebewaing Area Schools	4,664	6,700	2,036	43.6%
79150	Vassar Public Schools	4,185	6,700	2,515	60.1%
80010	South Haven Public Schools	3,819	6,700	2,881	75.4%
80020	Bangor Public Schools	3,954	6,700	2,746	69.5%
80050	Decatur Public Schools	4,112	6,700	2,588	63.0%
80090	Bloomingdale Public School District	4,087	6,700	2,613	63.9%
80110	Gobles Public School District	4,588	6,700	2,112	46.0%
80120	Hartford Public School District	4,521	6,700	2,179	48.2%
80130	Lawrence Public School District	4,412	6,700	2,288	51.9%
80140	Lawton Community School District	4,443	6,700	2,257	50.8%
80150	Mattawan Consolidated School District	3,891	6,700	2,809	72.2%
80160	Paw Paw Public School District	3,825	6,700	2,875	75.2%
81070	Lincoln Consolidated School District	4,978	6,700	1,722	34.6%
81100	Milan Area Schools	4,958	6,700	1,742	35.1%
81140	Whitmore Lake Public School District	4,438	6,700	2,262	51.0%
82040	Dearborn Heights School District #7	4,771	6,700	1,929	40.4%
82060	Hamtramck Public Schools	4,526	6,700	2,174	48.0%
82090	Lincoln Park Public Schools	4,849	6,700	1,851	38.2%
82170	Wyandotte City School District	4,810	6,700	1,890	39.3%
83010	Cadillac Area Public Schools	4,270	6,700	2,430	56.9%
83060	Manton Consolidated Schools	4,265	6,700	2,435	57.1%
83070	Mesick Consolidated School District	3,805	6,700	2,895	76.1%

(1) Includes section 20j payment

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VII. REFERENCES

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APPENDIX B

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RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
STATE BUDGET OFFICE
LANSING

JOHN S. ROBERTS
DIRECTOR

June 13, 2016

Michigan State Senate
c/o Mr. Jeff Cobb, Secretary
State Capitol
Lansing, MI 48909

Michigan House of Representatives
c/o Mr. Gary L. Randall, Clerk
State Capitol
Lansing, MI 48909

Dear Mr. Cobb and Mr. Randall:

This letter transmits the "Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis" for fiscal year 2015, which has been prepared in accordance with Sections 18.1115(5), 18.1303-18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws for the purpose of demonstrating compliance with Article 9, Section 30 of the Michigan Constitution.

The computed percentage of total state spending from state sources paid to local governments for fiscal year 2015 is 55.25%, which is $1.9 billion more than the minimum required.

The statement has been reviewed by the Office of the Auditor General and a copy of their independent accountant's review letter is enclosed.

If you have questions regarding this report, please contact Mr. Michael J. Moody, Director, Office of Financial Management, at 373-1010.

Sincerely,

John S. Roberts
State Budget Director

Enclosure

cc: D. Posthumus, Executive Office
Senate Appropriations Committee
House Appropriations Committee
Ellen Jeffries, Senate Fiscal Agency
Mary Ann Cleary, House Fiscal Agency

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Doug A. Ringler, CPA, CIA
Auditor General

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INDEPENDENT ACCOUNTANT'S REVIEW REPORT

The Honorable Rick Snyder, Governor
Members of the Legislature

We have reviewed the accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis (Statement) of the State of Michigan for the fiscal year ended September 30, 2015. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the accompanying statement as a whole. Accordingly, we do not express such an opinion.

Management is responsible for the preparation and fair presentation of the accompanying Statement in accordance with Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the *Michigan Compiled Laws*, which provide statutory language to implement Article IX, Section 30 of the Michigan Constitution, and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the accompanying Statement.

Our responsibility is to conduct the review in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance that there are no material modifications that should be made to the accompanying Statement. We believe that the results of our procedures provide a reasonable basis for our report.

The accompanying Statement was prepared for the purpose of complying with the *Michigan Compiled Laws* cited above, as discussed in Note 1, and is not intended to be a presentation in conformity with accounting principles generally accepted in the United States of America.

Based on our review, we are not aware of any material modifications that should be made to the accompanying Statement for the fiscal year ended September 30, 2015 in order for it to be in conformity with the basis of accounting described in Note 1.

This report is intended solely for the information and use of the Governor, the Legislature, and the State's management and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Doug Ringler

Doug Ringler
Auditor General
June 7, 2016

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State of Michigan

Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government
Legal Basis

Fiscal Year Ended September 30, 2015

Prepared by

State Budget Office
Office of Financial Management

June 7, 2016

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MICHIGAN
STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT-LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015
(In Millions)

TOTAL STATE SPENDING (Note 2)		
Expenditures and Transfers		
General Fund	$ 33,353.2	
Other Operating Funds	18,867.3	
Nonoperating Funds and Component Units	97.2	
Adjustment to General Fund Expenditures and Transfers	(21.5)	
Total Net Expenditures and Transfers:		$ 52,296.3
Interfund Transfer Deductions (Note 2)		
From General Fund to Other Operating Funds	(140.2)	
From Other Operating Funds to		
General Fund and to Other Operating Funds	(1,060.7)	
Subtotal	(1,200.9)	
Less Interfund Transfer of		
Federal Funds	1.6	
Total Interfund Transfer Deductions:		(1,199.3)
Expenditure Adjustments (Note 3)		
Debt Service	(274.8)	
Refunds (net)	(365.6)	
Accounts Receivable Write-Off	(12.8)	
Total Expenditure Adjustments:		(653.2)
TOTAL STATE SPENDING		50,443.8
NON-STATE FUNDING		
Federal Revenue	(20,728.9)	
Local Revenue	(147.9)	
Private Revenue (Note 4)	(137.0)	
Total Non-State Funding:		(21,013.9)
Budget Stabilization Fund (Note 5)		
Deposits	94.0	
Withdrawals	-	
Total Budget Stabilization Fund Adjustments:		94.0
TOTAL STATE SPENDING FROM STATE SOURCES		$ 29,523.9
STATE SPENDING PAID TO UNITS OF LOCAL GOVERNMENT		$ 16,313.1
PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT (Notes 2 and 6)		55.25%
Excess of actual payments to units of local government over minimum proportion required of 48.97% (Note 6)		$ 1,855.2

The accompanying notes are an intregal part of this financial statement.
Note that column detail may not add to totals because of rounding.
See Independent Accountant's Review Report.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015

NOTE 1 – BASIS OF ACCOUNTING AND PRESENTATION

The accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis is presented in accordance with legal requirements set forth in Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws (MCL). These sections provide statutory language to implement Article 9, Section 30 of the State Constitution. This statement is not intended to be a presentation in accordance with generally accepted accounting principles.

NOTE 2 – STATUTORY DEFINITIONS

The following definitions were used in the preparation of the financial statement:

a. Total State Spending – MCL Section 18.1305(1) defines total State spending as the sum of State operating fund expenditures, not including transfers for financing between funds. Transfers between operating funds continue to be excluded from total State spending, which eliminates the potential for duplicate counting. Transfers from operating funds to nonoperating funds are not excluded, however, and are considered a part of total State spending.

b. State Operating Fund – MCL Section 18.1304(2) defines a State operating fund as a State fund entity established by law to provide direct financial support for services delivered to the public pursuant to the State budget. Prior to fiscal year 2001, the State's operating funds consisted of the General Fund and select special revenue funds. The State's implementation of the Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments, for fiscal year 2001 resulted in some operating funds being reclassified as permanent funds. The State's implementation of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, for fiscal year 2011 resulted in some operating funds being reclassified as capital projects funds. Accordingly, the financial statement includes the General Fund, the permanent funds, and certain special revenue and capital projects funds of the State of Michigan.

   The financial statement also includes nonoperating fund and component unit appropriated administrative expenditures. The expenditures have been included because, during the computation of the base year proportion of total State spending from State sources paid to units of local government, the expenditures were recorded in the General Fund. The inclusion of these expenditures provides for consistency of the current year computation with the base year.

   The financial statement excludes certain General Fund expenditures on the line titled "Adjustment to General Fund Expenditures and Transfers." These expenditures are excluded because, during the computation of the base year, the expenditures were recorded in funds that were not considered operating funds. The exclusion of these expenditures provides for consistency of the current year computation with the base year.

c. Total State Spending From State Sources – MCL Section 18.1305(2) defines total State spending from State sources as the sum of State operating fund expenditures, not including transfers for financing between funds, federal aid, and restricted local and private sources of financing.

d. Unit of Local Government – MCL Section 18.1115(5) defines a unit of local government as a political subdivision of this State, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the State and has the power to act primarily on behalf of that area.

e. State Spending Paid to Units of Local Government – MCL Section 18.1304(3) defines State spending paid to units of local government as the sum of total State spending from State sources paid to a unit of local government. The section further provides that State spending paid to units of local government does not include payments made under a contract agreement for the providing of services to the State or to State property, and loans made by the State to a unit of local government.

   Also included in total State spending paid to units of local government are payments made on behalf of units of local government. Section 18.1350 requires the inclusion of expenditures as payments to units of local government if the expenditures relate to functions performed by the units of local government and the State assumed the financing and administration of the function after December 22, 1978.

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f. Proportion of State Spending From State Sources Paid to Units of Local Government – MCL Section 18.1303(5) defines it as the proportion of total State spending from State sources paid to all units of local government in a fiscal year. This proportion shall be calculated by dividing a fiscal year's State spending from State sources paid to units of local government by total State spending from State sources for the same fiscal period. The proportions as calculated are expressed in terms of percentages.

NOTE 3 – EXPENDITURE ADJUSTMENTS

Debt Service - Revenue dedicated to the repayment of voter approved bonds and loans to school districts authorized under Article 9, Section 16, of the State Constitution is not considered a State source for purposes of the computation of the State revenue limit under Article 9, Section 26, of the State Constitution. Therefore, expenditures recorded for the actual debt service payments are also not considered to be State spending from State sources for this statement.

Refunds – MCL Section 18.1350(2) states that refunds or other repayments of prior year revenues shall not be considered in the determination of total State spending. As such, the following adjustments have been made to total State spending:

a. As explained in more detail in the *State of Michigan Comprehensive Annual Financial Report*, the State accounts for certain income tax credits as expenditures. These expenditures, the most significant of which are related to property taxes, were not considered expenditures in the base year and are, therefore, subtracted in determining total State spending to provide consistency with the base year.

b. Certain individual income and Michigan business tax credits that are not based on actual tax liabilities are added back to State spending by reducing the "refunds" exclusion for other credits. The reason for counting these tax credits as total State spending is that the tax revenues, which finance the tax credit programs, are considered State sources of financing for the purposes of the computation of total State revenue as defined by Article 9, Section 26 of the State Constitution. Because the tax revenue is considered a State source of revenue, the expenditure of the revenue is considered State spending for purposes of this statement.

c. Tax refunds that are recorded in a fiscal year after the tax revenue has been recognized are recorded as expenditures, rather than as revenue reductions. Therefore, these refunds of prior year revenue have been subtracted in order to exclude them from total State spending.

Accounts Receivable Write-offs - Write-offs of prior year accounts receivable are recorded as expenditures. Because the write-off of a prior year accounts receivable is an adjustment to prior year revenue, the amount of such write-offs recorded as an expenditure is subtracted to be appropriately excluded from total State spending.

NOTE 4 – PRIVATE REVENUE

Private revenue has generally been defined for the preparation of this statement as revenue received from nonpublic entities, in which the use is restricted by the entity remitting the revenue or restricted by the State Constitution, statute, or an appropriation act. A statutory definition has not been developed. The largest components of fiscal year 2015 private revenues are hospital contributions ($78.2 million), child support offset collections ($13.9 million), and collections for care of patients, wards, and inmates ($15.4 million).

The child support offset collections are received by the State Disbursement Unit from State and federal tax return offsets. The amounts collected are reimbursements to the State for excess payments made by the Temporary Assistance to Needy Families program. Also, a portion of the collections must be returned to the federal government as a repayment of the federal share of the excess Temporary Assistance to Needy Families payments. The hospital contributions were voluntary contributions received from hospitals and restricted for use to finance increased payments to hospitals with a disproportionate share of indigent clients. The collections for care of patients, wards, and inmates are from the individuals in State custody, their families, or insurance providers to reimburse the State for a portion of the cost of care provided to these individuals.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2015 (CONTINUED)

NOTE 5 – BUDGET STABILIZATION FUND ADJUSTMENTS

Deposits to the Counter-Cyclical Budget and Economic Stabilization Fund are added to total State spending. When withdrawals are made from the fund, the withdrawal is subtracted from total State spending, so that the funds previously deposited are not counted as spending twice.

During fiscal year 2015, the fund received a deposit of $94.0 million from the General Fund.

During fiscal year 2014, $194.8 million was transferred to the Michigan Settlement Administration Authority to support the Detroit bankruptcy settlement. The withdrawal will be repaid to the fund in the amount of $17.5 million annually from tobacco settlement funds, beginning in fiscal year 2015. Repayments are not included in deposits to avoid double counting as the funds were added to State spending at the time of their original deposit.

NOTE 6 – BASE YEAR SPENDING PROPORTION

Article 9, Section 30 of the State Constitution requires the State to maintain the proportion of State spending to local units in at least the same proportion as that which was in effect in fiscal year 1979 (base year). The base year proportion was originally computed to be 41.61%.

Effective with fiscal year 1993, a recalculation was made of the base year proportion as a consequence of a settlement agreement reached on the County of Oakland v State of Michigan lawsuit, which was settled in 1991. The recalculated base year proportion is 48.97%.

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APPENDIX C

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RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
STATE BUDGET OFFICE
LANSING

ALTON L. PSCHOLKA
DIRECTOR

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June 30, 2017

Michigan State Senate
c/o Mr. Jeff Cobb, Secretary
State Capitol
Lansing, MI 48909

Michigan House of Representatives
c/o Mr. Gary L. Randall, Clerk
State Capitol
Lansing, MI 48909

Dear Mr. Cobb and Mr. Randall:

This letter transmits the "Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis" for fiscal year 2016, which has been prepared in accordance with Sections 18.1115(5), 18.1303-18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws for the purpose of demonstrating compliance with Article 9, Section 30 of the Michigan Constitution.

The computed percentage of total state spending from state sources paid to local governments for fiscal year 2016 is 55.17%, which is $1.9 billion more than the minimum required.

The statement has been reviewed by the Office of the Auditor General and a copy of their independent accountant's review letter is enclosed.

If you have questions regarding this report, please contact Mr. Michael J. Moody, Director, Office of Financial Management, at 373-1010.

Sincerely,

Alton L. Pscholka
State Budget Director

Enclosure

cc: D. Ackerman, Executive Office
Senate Appropriations Committee
House Appropriations Committee
Ellen Jeffries, Senate Fiscal Agency
Mary Ann Cleary, House Fiscal Agency

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OAG
Office of the Auditor General
Doug A. Ringler, CPA, CIA
Auditor General
201 N. Washington Square, Sixth Floor • Lansing, Michigan 48913 • Phone: (517) 334-8050 • audgen.michigan.gov

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INDEPENDENT ACCOUNTANT'S REVIEW REPORT

The Honorable Rick Snyder, Governor
Members of the Legislature

We have reviewed the accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis (Statement) of the State of Michigan for the fiscal year ended September 30, 2016 and the related notes to the Statement. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the Statement as a whole. Accordingly, we do not express such an opinion.

Management's Responsibility for the Financial Statement
Management is responsible for the preparation and fair presentation of the Statement in accordance with Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the *Michigan Compiled Laws*, which provide statutory language to implement Article IX, Section 30 of the Michigan Constitution; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the Statement so that it is free from material misstatement, whether due to fraud or error.

Accountant's Responsibility
Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the Statement for it to be in accordance with the basis of accounting described in Note 1. We believe that the results of our procedures provide a reasonable basis for our conclusion.

Accountant's Conclusion
Based on our review, we are not aware of any material modifications that should be made to the accompanying Statement in order for it to be in accordance with the basis of accounting described in Note 1.

Emphasis of Matters
As discussed in Note 1, the accompanying Statement was prepared for the purpose of complying with the *Michigan Compiled Laws* cited above and is not intended to be a presentation in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 6, the State is involved in litigation which challenges payments that should be counted toward, or excluded from, the proportion of total State spending from State sources paid to units of local government calculation.

Our conclusion is not modified with respect to these matters.

Restriction on Use
This report is intended solely for the information and use of the Governor, the Legislature, and the State's management and is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Doug Ringler

Doug Ringler
Auditor General
June 29, 2017

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State of Michigan

Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government Legal Basis

Fiscal Year Ended September 30, 2016

Prepared by

State Budget Office
Office of Financial Management

June 29, 2017

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MICHIGAN
STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES
PAID TO UNITS OF LOCAL GOVERNMENT-LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2016
(In Millions)

TOTAL STATE SPENDING (Note 2)		
Expenditures and Transfers		
General Fund	$ 34,545.5	
Other Operating Funds	19,112.6	
Nonoperating Funds and Component Units	108.1	
Adjustment to General Fund Expenditures and Transfers	(124.3)	
Total Net Expenditures and Transfers:		$ 53,641.9
Interfund Transfer Deductions (Note 2)		
From General Fund to Other Operating Funds	(156.2)	
From Other Operating Funds to		
General Fund and to Other Operating Funds	(1,101.8)	
Subtotal	(1,258.0)	
Less: Interfund Transfer of		
Federal Funds	1.4	
Total Interfund Transfer Deductions:		(1,256.5)
Expenditure Adjustments (Note 3)		
Debt Service	(274.6)	
Refunds (net)	(481.0)	
Accounts Receivable Write-Off	(5.0)	
Total Expenditure Adjustments:		(760.5)
TOTAL STATE SPENDING		51,624.8
NON-STATE FUNDING		
Federal Revenue	(20,868.9)	
Local Revenue	(108.9)	
Private Revenue (Note 4)	(195.1)	
Total Non-State Funding:		(21,172.9)
Budget Stabilization Fund (Note 5)		
Deposits	95.0	
Withdrawals	-	
Total Budget Stabilization Fund Adjustments:		95.0
TOTAL STATE SPENDING FROM STATE SOURCES		$ 30,546.9
STATE SPENDING PAID TO UNITS OF LOCAL GOVERNMENT		$ 16,852.5
PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT (Notes 2 and 7)		55.17%
Excess of actual payments to units of local government over minimum proportion required of 48.97% (Note 7)		$ 1,893.7

The accompanying notes are an integral part of this financial statement.
Note that column detail may not add to totals because of rounding.
See Independent Accountant's Review Report.

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MICHIGAN
NOTES TO THE STATEMENT OF THE PROPORTION OF TOTAL STATE SPENDING FROM STATE SOURCES PAID TO UNITS OF LOCAL GOVERNMENT - LEGAL BASIS
FISCAL YEAR ENDED SEPTEMBER 30, 2016

NOTE 1 – BASIS OF ACCOUNTING AND PRESENTATION

The accompanying Statement of the Proportion of Total State Spending From State Sources Paid to Units of Local Government - Legal Basis is presented in accordance with legal requirements set forth in Sections 18.1115(5), 18.1303 - 18.1305, 18.1349, 18.1350, 18.1497, and 18.1498 of the Michigan Compiled Laws (MCL). These sections provide statutory language to implement Article 9, Section 30 of the State Constitution. This statement is not intended to be a presentation in accordance with generally accepted accounting principles.

NOTE 2 – STATUTORY DEFINITIONS

The following definitions were used in the preparation of the financial statement:

a. Total State Spending – MCL Section 18.1305(1) defines total State spending as the sum of State operating fund expenditures, not including transfers for financing between funds. Transfers between operating funds continue to be excluded from total State spending, which eliminates the potential for duplicate counting. Transfers from operating funds to nonoperating funds are not excluded, however, and are considered a part of total State spending.

b. State Operating Fund – MCL Section 18.1304(2) defines a State operating fund as a State fund entity established by law to provide direct financial support for services delivered to the public pursuant to the State budget. Prior to fiscal year 2001, the State's operating funds consisted of the General Fund and select special revenue funds. The State's implementation of the Governmental Accounting Standards Board (GASB) Statement No. 34, Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments, for fiscal year 2001 resulted in some operating funds being reclassified as permanent funds. The State's implementation of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, for fiscal year 2011 resulted in some operating funds being reclassified as capital projects funds. Accordingly, the financial statement includes the General Fund, the permanent funds, and certain special revenue, capital projects, and fiduciary funds of the State of Michigan.

   The financial statement also includes nonoperating fund and component unit expenditures. The expenditures have been included because, during the computation of the base year proportion of total State spending from State sources paid to units of local government, the expenditures were recorded in the General Fund. The inclusion of these expenditures provides for consistency of the current year computation with the base year.

   The financial statement excludes certain General Fund expenditures on the line titled "Adjustment to General Fund Expenditures and Transfers." These expenditures are excluded because, during the computation of the base year, the expenditures were recorded in funds that were not considered operating funds. The exclusion of these expenditures provides for consistency of the current year computation with the base year.

c. Total State Spending From State Sources – MCL Section 18.1305(2) defines total State spending from State sources as the sum of State operating fund expenditures, not including transfers for financing between funds, federal aid, and restricted local and private sources of financing.

d. Unit of Local Government – MCL Section 18.1115(5) defines a unit of local government as a political subdivision of this State, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for citizens in a geographically limited area of the State and has the power to act primarily on behalf of that area.

e. State Spending Paid to Units of Local Government – MCL Section 18.1304(3) defines State spending paid to units of local government as the sum of total State spending from State sources paid to a unit of local government. The section further provides that State spending paid to units of local government does not include payments made under a contract agreement for the providing of services to the State or to State property, and loans made by the State to a unit of local government.

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Also included in total State spending paid to units of local government are payments made on behalf of units of local government. Section 18.1350 requires the inclusion of expenditures as payments to units of local government if the expenditures relate to functions performed by the units of local government and the State assumed the financing and administration of the function after December 22, 1978.

f. Proportion of State Spending From State Sources Paid to Units of Local Government – MCL Section 18.1303(5) defines it as the proportion of total State spending from State sources paid to all units of local government in a fiscal year. This proportion shall be calculated by dividing a fiscal year's State spending from State sources paid to units of local government by total State spending from State sources for the same fiscal period. The proportions as calculated are expressed in terms of percentages.

NOTE 3 – EXPENDITURE ADJUSTMENTS

Debt Service - Revenue dedicated to the repayment of voter approved bonds and loans to school districts authorized under Article 9, Section 16, of the State Constitution is not considered a State source for purposes of the computation of the State revenue limit under Article 9, Section 26, of the State Constitution. Therefore, expenditures recorded for the actual debt service payments are also not considered to be State spending from State sources for this statement.

Refunds – MCL Section 18.1350(2) states that refunds or other repayments of prior year revenues shall not be considered in the determination of total State spending. As such, the following adjustments have been made to total State spending:

a. As explained in more detail in the *State of Michigan Comprehensive Annual Financial Report*, the State accounts for certain income tax credits as expenditures. These expenditures, the most significant of which are related to property taxes, were not considered expenditures in the base year and are, therefore, subtracted in determining total State spending to provide consistency with the base year.

b. Certain individual income and Michigan business tax credits that are not based on actual tax liabilities are added back to State spending by reducing the “refunds” exclusion for other credits. The reason for counting these tax credits as total State spending is that the tax revenues, which finance the tax credit programs, are considered State sources of financing for the purposes of the computation of total State revenue as defined by Article 9, Section 26 of the State Constitution. Because the tax revenue is considered a State source of revenue, the expenditure of the revenue is considered State spending for purposes of this statement.

c. Tax refunds that are recorded in a fiscal year after the tax revenue has been recognized are recorded as expenditures, rather than as revenue reductions. Therefore, these refunds of prior year revenue have been subtracted in order to exclude them from total State spending.

Accounts Receivable Write-offs - Write-offs of prior year accounts receivable are recorded as expenditures. Because the write-off of a prior year accounts receivable is an adjustment to prior year revenue, the amount of such write-offs recorded as an expenditure is subtracted to be appropriately excluded from total State spending.

NOTE 4 – PRIVATE REVENUE

Private revenue has generally been defined for the preparation of this statement as revenue received from nonpublic entities, in which the use is restricted by the entity remitting the revenue or restricted by the State Constitution, statute, or an appropriation act. A statutory definition has not been developed. Significant sources of fiscal year 2016 private revenues are hospital contributions ($121.1 million), child support offset collections ($8.5 million), and collections for care of patients, wards, and inmates ($14.4 million).

The child support offset collections are received by the State Disbursement Unit from State and federal tax return offsets. The amounts collected are reimbursements to the State for excess payments made by the Temporary Assistance to Needy Families program. Also, a portion of the collections must be returned to the federal government as a repayment of the federal share of the excess Temporary Assistance to Needy Families payments. The hospital contributions were voluntary contributions received from hospitals and restricted for use to finance increased payments to hospitals with a disproportionate share of indigent clients. The collections for care of patients, wards, and inmates are from the individuals in State custody, their families, or insurance providers to reimburse the State for a portion of the cost of care provided to these individuals.

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NOTE 5 – BUDGET STABILIZATION FUND ADJUSTMENTS

Deposits to the Counter-Cyclical Budget and Economic Stabilization Fund are added to total State spending. When withdrawals are made from the fund, the withdrawal is subtracted from total State spending, so that the funds previously deposited are not counted as spending twice.

During fiscal year 2016, the fund received a deposit of $95.0 million from the General Fund.

During fiscal year 2014, $194.8 million was transferred to the Michigan Settlement Administration Authority to support the Detroit bankruptcy settlement. The withdrawal will be repaid to the fund in the amount of $17.5 million annually from tobacco settlement funds, beginning in fiscal year 2015. Repayments are not included in deposits to avoid double counting as the funds were added to State spending at the time of their original deposit.

NOTE 6 - LITIGATION

Taxpayers for Michigan Constitutional Government v The State of Michigan: On September 7, 2016, plaintiffs filed suit against defendants in the Michigan Court of Appeals under the provisions of the Headlee Amendment to the Michigan Constitution. Plaintiffs named the Department of Technology, Management and Budget, the Office of the Auditor General, and the State as defendants. Among its provision, Section 30 of the Headlee Amendment requires that "The proportion of total state spending paid to all units of local government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79." The figure was recalculated in 1993 based on prior litigation. This means that each year, State spending in the form of aid to local governments, in the aggregate, must be at least 48.97 percent of total state spending from state revenue sources, as those terms are defined.

This case involves payments that should be counted toward, or excluded from, the 48.97 percent calculation. Plaintiffs allege that Proposal A funding, Charter School funding, and certain other issues, previously litigated, should not count toward the 48.97 percent. It is impossible at this early point in the litigation to estimate the potential fiscal impact of this case. Plaintiffs' pleadings do not quantify a specific dollar amount in contention.

NOTE 7 – BASE YEAR SPENDING PROPORTION

Article 9, Section 30 of the State Constitution requires the State to maintain the proportion of State spending to local units in at least the same proportion as that which was in effect in fiscal year 1979 (base year). The base year proportion was originally computed to be 41.61%.

Effective with fiscal year 1993, a recalculation was made of the base year proportion as a consequence of a settlement agreement reached on the County of Oakland v State of Michigan lawsuit, which was settled in 1991. The recalculated base year proportion is 48.97%.

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