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.

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BRIEF OF AMICI CURIAE

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NOW COMES the Amici Curiae and submit, through their undersigned counsel, DENNIS R. POLLARD and JENNIFER C. HILL, this brief on the issues before the Court in this suit.

I. INTEREST OF AMICI CURIAE

The Amici Curiae are each organizations which share in their concerns with the application of, in this case, the interpretation of the 1963 Michigan Constitution as it applies to Michigan municipalities, specifically under § 30 of the Headlee Amendment.[1] Amici stand ready to provide further argument on other points than are addressed in this Brief if it would be of assistance to the Court.

ARGUMENT

II. FRAMEWORK FOR ARGUMENT

Plaintiffs' complaint and pending motion for summary disposition in this suit alleges that the Defendants ("state" or "state government") are not providing the required proportion of funding pursuant § 30 of the Headlee Amendment to the Michigan Constitution[2] to municipalities, including Michigan cities, villages, and townships ("CVTs") and counties ("Counties"). Each of those entities is expressly defined as units of "Local Government" in § 33 of the Headlee Amendment.[3] Michigan municipalities along with all other units of local government, taken as a group, are entitled under § 30 of the Headlee Amendment to a guarantee

[1] Const 1963, art 9, § 30.
[2] *Id.*
[3] Const 1963, art 9, § 33.

of payment by the state a proportion of total state spending which shall be no less than (*i.e.*, "shall not be reduced below") the same proportion of total state spending paid to them during the 1978 – 1979 state fiscal year.[4] Local Governments' proportion of total state spending in 1978 – 1979 under § 30 has been established as 48.97%. This proportion is not disputed.

This provision, when read in conjunction with § 25 of the Headlee Amendment,[5] indicates that it was the voters' manifest intent in ratifying this change to their Constitution in November of 1978 to, inter alia, prevent state government from reducing the flow of funding, i.e., "spending," available to local governments from total state revenues, defined in § 33 as including general and special revenues other than federal aid to local governments.[6] Concededly, this intent was relative in the sense that, as indicated by the phrase in § 30 "taken as a group," it implies that some changes in the flow of funding within local governments may occur up or down so long as the affected local governments' percentage paid from total state spending collectively would not be decreased below 1978-79 levels.

Notwithstanding the above, the voters' general intent, as expressed in § 30, was and remains that the entire group of local governments, *i.e.,* "*all* units of Local Government," defined in § 33 of the Headlee Amendment, would be financially stabilized by state payments of no less than the 1978 – 1979 proportion paid to them from total state spending during that fiscal year. In this sense, it is submitted that the voters' intent was to put in place, expressly in the Constitution, an equilibrium or continuing status quo between the state's share and local governments' share of total state spending. This unmistakable concept is at the core of the legal issue presently before the Court.

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[4] Const 1963, art 9, § 30.
[5] Const 1963, art 9, § 25.
[6] Const 1963, art 9, § 33

The question raised in the present pleadings and cross motions is whether due to the later ratification, in March 1994, of the Proposal A Amendment,[7] one category of local government, school districts, are receiving the payment guaranteed to them through that Amendment[8] while other categories of local governments, namely CVTs and Counties, share of total state spending paid to them as a result of the state's distribution of newly authorized tax proceeds to school districts from Proposal A should be permitted to be materially reduced below their 1978 – 1979 levels or proportions of spending from total state spending.[9] As demonstrated in following argument, such a reduction is occurring while state government's proportionate share of total state spending has been materially increased above that which existed in the 1978 – 1979 fiscal year.

This occurrence is attributable to implementation of Proposal A insofar as the monies paid to Michigan school districts pursuant to Proposal A, specifically Article 9, § 11 of the amended provision of the Constitution,[10] are treated as part of the § 30 of Headlee calculation "of total state spending paid to all units of Local Government." Amicus Curiae contends that these reductions are occurring contrary to the voters' intent as derived from the provisions of §§ 25 and 30 of the Headlee Amendment. Amici intend to demonstrate the operative facts discussed in the following argument are based on state published financial data reports. Amici Curiae also wish to make it clear that their position is that the two Constitutional Amendments are not in conflict but, rather, are capable of being applied in harmony or contemporaneous with each other in all their operative affects.

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[7] Const 1963, art 9, § 11.
[8] *Id.*
[9] Const 1963, art 9, §§ 25 and 30.
[10] Const 1963, art 9, § 11.

The provision supporting the voters' intent in this regard is found in § 25 of the Headlee Amendment where it is provided "(t)he state is prohibited from … reducing the proportion of state spending in the form of aid to local governments or from shifting the tax burden to Local Government." While it is conceded that § 25 was held by this Court in a decision rendered in 1983 that § 25 serves as an introductory paragraph for the later sections of the Headlee Amendment and not to have independent substantive effect of creating specific rights and duties.[11] However, that is not to say that the express provisions of § 25 have no substantive import in terms of understanding and interpreting the Headlee voters' intent. Indeed, it is submitted to so hold would be to attribute to the drafters insertion of § 25 into the Amendment—the opening section of the Amendment no less—a purposeless or meaningless declaration in the Headlee Amendment. It is submitted that this section is directly germane to what the voters globally intended to occur by implementation of §§ 26 – 34 by the Legislature of these later sections of the Amendment.[12]

The concept of the voters' intent is implemented, relative to the subject of this case, in § 30 of the Headlee Amendment insofar as making it clear that state government is prohibited from circumventing the intended equilibrium between state and local governments by using its otherwise superior authority over local governments to increase its proportion of total state spending at the expense of local governments. Relative particularly to § 30, the expressed intention is to guarantee that the base year proportion of spending for local governments, 48.97%, will not be reduced. Conversely, no such assurance is provided, by operation of the wording of § 30, to state government relative to the balance of the total state spending available

[11] *Waterford Sch Dist v State Bd Of Educ*, 130 Mich App 614, 620; 344 NW2d 19 (1983).
[12] Const 1963, art 9, § 34.

after required spending for local government. Thus, as long as local governments receive (*i.e.,* are "paid") the 48.97% of total state spending no requirement of the Headlee voters' intent would be transgressed if the state's portion for spending purposes resulted, for example, in something less than 51.03% being available for state spending purposes in a given year. The state however is prohibited by operation of the same language in § 30, from having available for spending purposes more than the remaining 51.03% because that would necessarily infringe on local governments' assured proportion of total state spending.

In other words, Michigan voters' plainly apparent intent, through these sections of the Headlee Amendment, is to require state government to maintain or not diminish the status quo in terms of the proportion of spending from total state revenues passing through to local governments when the Headlee Amendment was ratified in November of 1978. It is submitted that this express provision was plainly intended to preclude state government from avoiding the financial limits placed on it in §§ 26, 27, and 28 of the Headlee Amendment[13] by the otherwise available expedient of reducing revenues provided to local governments paid out of total state revenues. Absent § 30, state government could readily circumvent the intended limits on state spending expressed in those accompanying sections of the Amendment going forward.

This concept, derived from the meaning of the words in the Headlee Amendment as understood by "reasonable minds, the great mass of the people themselves would give it" [14]

[13] Const 1963, art 9, §§26 – 28.

[14] *Adair v Mich*, 486 Mich 468, 477-478; 785 NW2d 119 (2010) ("When interpreting constitutional provisions, we are mindful that the interpretation given the provision should be "'the sense most obvious to the common understanding' " and one that "'reasonable minds, the great mass of the people themselves, would give it.' " "[T]he 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....")

was intended at that time and continues through the present time as a major reform in the collection and disbursement of state tax revenues and spending.[15] It would be correct to observe that these were radical changes insofar as the people of Michigan placing tangible controls over the discretion of the executive and legislative branches of state government who would otherwise be unfettered in terms of their authority to control fiscal matters over inferior local governments.[16]

There is no other amendment to the Michigan Constitution where such specific controls were placed on state and local taxation and spending. This was done by a voter initiated Constitutional Amendment which was ratified by a considerable majority of the state voters.[17] This was, and remains, a unique exercise of authority by the people of Michigan over such governance affairs to be exercised by the executive and legislative branches of their government. Accordingly, its enforcement by this Court, as directed to occur in § 32 of the Amendment, deservers full and faithful respect to the voters' manifest intent as this Court no doubt intends.

III. ANALYSIS OF STATE FINANCIAL DATA PERTAINING TO § 30

[15] *Durant v State Bd of Educ*, 424 Mich 364, 378; 381 NW2d 662 (1985). The Supreme Court characterized the motivating intent of the Headlee voters in that case: "It was proposed as part of a nationwide "taxpayer revolt" in which taxpayers were attempting to limit legislative expansion of requirements placed on local government, to put a freeze on what they perceived was excessive government spending, and to lower their taxes both at the local and the state level." *Id.*

[16] *Id.*; *See also Bolt v City of Lansing*, 459 Mich 152, 161; 587 NW2d 264 (1998), quoting *Airlines Parking, Inc v Wayne Co*, 452 Mich 527, 532; 550 NW2d 490 (1996); *Waterford Sch Dist v State Bd of Educ*, 98 Mich App 658, 663; 296 NW2d 328 (1980) (The Headlee Amendment's "ultimate purpose was to place public spending under direct popular control.")

[17] Const 1963, art 12, § 2 (requiring the approval by a majority of voters).

A supporting report to this brief and attached tables, attached as Exhibit A, is supported by verifying affidavits by the authors of the report. This data has been prepared from published state sources or data reports. Some of the supporting tables in Exhibit A are updated from the sum of the tables previously submitted by Plaintiffs with their January 25, 2018 brief in answer to the state's motion for summary disposition. However, the data in Exhibit A is not at material variance to the information in the sworn report accompanying Plaintiffs' earlier briefing.

This report was prepared by two persons retired from state government who were deeply involved during their careers in state fiscal matters. One of the authors of the report, Mitchel E. Bean,[18] served as the Director of the House Fiscal Agency from 1999 through 2011 and previously as Senior Economist, House Fiscal Agency from 1993 – 1999. The co-author, Robert Kleine,[19] served as State Treasurer from 2006 – 2011 and in other financial capacities in the private sector and within state government, including ten years as Director of the Department of Treasury, Office of Revenue and Tax Analysis. Both Mr. Bean and Mr. Kleine are presently retired from state service.

[18] Mr. Bean's resume documenting his extensive involvement in the State's financial affairs from 1992 – 2011 is attached to his affidavit as Exhibit 1. His credentials include developing expanded and standardized fiscal agency publications and programs; created appropriation process training sessions for new House members and staff; initiated programs of economic and budget presentations (fourteen in 2008; over forty 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.

[19] Mr. Kleine's resume documenting his extensive involvement in the State's financial affairs as State Treasurer from 2006 – 2011 is attached to his affidavit as Exhibit 2. In addition to serving as State Treasurer, Mr. Kleine also has experience in analyzing public policy issues, state and local government budgets, economic forecasting, tax policy analysis, and school organization and finance. Mr. Kleine was employed by the state of Michigan for seventeen years, the last ten as Director of the Office of Revenue and Tax Analysis, where he was responsible for state economic and revenue forecasts and development of state tax policy.

It is abundantly apparent from their report ("Bean/Kleine Report") that state government has materially reduced funding to municipalities out of total state spending, as measured by the proportion which was being paid by state government to local governments in 1978 – 1979 as expressly required in § 30. Indeed, as documented in the Bean/Kleine Report, (**Bean/Kleine Report, Table E, Exhibit A**), payments to local governments, primarily CVTs and Counties statewide, but other than school districts, from total state revenues has been reduced by more than half from 1994 (the inception of Proposal A)[20] through 2016, *i.e.,* from 32.4% to 16.1% adjusted for inflation during that period. Fiscal year end 2016 is the most recent year for which audited state data is available but there is no reason to doubt that this massive reduction continued to exist at a comparable or greater extent for the 2016 – 2017 fiscal year presently under audit. This reduction is occurring for these local governments while over the same period of time, also documented in the Bean/Kleine Report **(Bean/Kleine Report, Table E, Exhibit A)**, state governments' proportionate share from total state revenues collected has increased from 1994 – 2016 by 56.4%, adjusted for inflation. So while these local mainstays of the state governmental system have been caused to either eliminate locally provided services, significantly reduce their services at the local level, or, seek to have tax increases authorized by local voters due to these greater than 50% reductions,[21] state

[20] Const 1963, art 9, § 11.

[21] Local governments are also prohibited under § 31 of the Headlee Amendment from increasing the rate of taxation of an existing tax authorization without voter approval. Specifically, they are prohibited in what they can levy based on the maximum authorized rate reduced to the rate of inflation from year to year, *i.e.* Headlee rollback. This prohibition has been most devastating to CVTs and counties due to the substantial reductions in the state equalized values of taxable property which occurred during the recession of 2007 – 2009. Their return to the levels of operating income received prior to that recession is limited by the modest cost of living increases which have subsequently occurred. The return to pre-recession levels of income may take many tens of years assuming no comparable recession occurs during the interim. See Citizens Research Council of Michigan, *The Prolonged Recovery of Michigan's*

government expenditures have been increased by more than 50% from the inception of Proposal A in 1994. This is *surely* not what was intended by Michigan voters through the Headlee Amendment as expressed in §§ 25 and 30.

Germane to the process of constitutional interpretation under Michigan law, it is important to not lose the forest for the trees by the words appearing in the constitutional provisions under consideration by abstractly relying on grammatical syntax but should also involve giving consideration to the general purpose of what the voters' intended. This perspective is particularly appropriate when later unforeseen variables arise after ratification of a constitutional amendment to apply the appropriate intent of the original choice of words in those provisions. The Supreme Court stated this point as follows:

> "The primary and fundamental rule of constitutional or statutory construction is that the Court's duty is to ascertain the purpose and intent as expressed in the constitutional or legislative provision in question. Also, while intent must be inferred from the language used, it is not the meaning of the particular words only in the abstract or their strictly grammatical construction alone that governs. *The words are to be applied to the subject matter and to the general scope of the provision, and they are to be considered in light of the general purpose sought to be accomplished or the evil sought to be remedied by the constitution or statute."*[22]

Despite the grammatical analysis which is offered by the state in its responses to Plaintiffs' motion for summary disposition in order to substantiate its compliance with § 30 of the Headlee Amendment—attributable to its treatment of Proposal A revenues—no one can seriously believe that this state of affairs is even remotely consistent with Michigan voters' intent through adopting §§ 25 and 30 of the Headlee Amendment. The voters' concept of a

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Taxable Values (Dec. 2016, last visited March 9, 2018, 1.39 P.M.), https://crcmich.org/the-prolonged-recovery-of-michigans-taxable-values-2016/.

[22] *White v Ann Arbor*, 406 Mich 554, 562; 281 NW2d 283 (1979) (citation omitted) (Emphasis added).

continuation of the status quo existing between state and local governments in their respective share of total state spending is obliterated where, as has evolved since the ratification in 1994 of Proposal A, municipalities' funding has been *reduced* 37.1% (adjusted for inflation) in 2016, resulting in those units of governments receiving payment equal to 16.1% of total state spending for that fiscal year compared with 32.4% of total state spending paid to them in 1994. Over the same period, state government's percentage of spending from total state revenues has *increased* 56.4% (adjusted for inflation). This is as documented in Table E of the Bean/Kleine Report

Albeit, that is what has occurred, dispersed between the several forms of local governments, taken as a group, other than school districts. However, municipalities, as a principal component of local governments, are being financially asphyxiated while state government's share of total state spending during the same period has been and continues to be materially increased.[23] Amici Curiae propose that what has happened to CVTs and Counties statewide is the antithesis of the voters' intent insofar as creating a relative maintenance of the 1978 – 1979 status quo existing between state and local governments' proportionate share of spending from total state revenues.

This gross disparity has occurred as a result of the state's application of newly authorized revenues received by operation of Proposal A.[24] As expanded upon in the following argument, those financial consequences involve the payments since 1994 of newly created

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[23] *See* Robert Klein & Mary Schultz, Center for Local Government Finance and Policy Michigan State University White Paper, *Service Solvency: An Analysis of the Ability of Michigan Cities to Provide an Adequate Level of Public Services*, (Sept. 2017), http://msue.anr.msu.edu/uploads/235/75790/GMI_062_Service_Solvency_Report-9-2017.pdf.

[24] Const 1963, art 9, §11.

taxes levied and collected to meet the revenue guarantee to school districts for their operating expenses by operation of the Proposal A Amendment.[25] But the state's treatment of Proposal A revenues in the context of measuring its § 30 compliance also has created a surplus of funding available for state expenditures combining revenues from the newly authorized Proposal A taxes for school district's operating costs with the concurrent reductions in state spending previously, *i.e.,* previous to implementation of Proposal A, paid to school districts. This application of the new Proposal A revenues, by counting toward the state's achieving compliance with the 48.97% required state spending to local governments, is the source of this distortion. Under the state's interpretation, regardless of the impact on municipalities' fiscal circumstances, the state is being enabled to meet and exceed its Headlee required ratio by the fortuitous operation of Proposal A. (*See* **Bean/Kleine Report, Table D, Fourth Column ("Percent Total"), Exhibit A**).

The state argues in its motion for summary disposition and in response to Plaintiffs' counter motion that the availability of these new tax revenues allows it to pay significantly reduced monies to municipalities while being compliant with § 30 because municipalities are part of the same group of "Local Government" as school districts defined in § 33. This disparity is attributable to the effect of more monies becoming available to state government as a combined consequence of a) the new Proposal A tax proceeds collected by state government to, *inter alia*, fund school district's operating expenses in excess of the amounts necessary to meet the state's Proposal A guarantee to school districts,[26] and b) the cessation of

[25] *Id.*

[26] Const 1963, art 9, § 11, where it is provided that "[b]eginning in the 1995 – 1996 state fiscal year and each state fiscal year after 1995 – 1996, the state shall guarantee that the total state and local per pupil revenue for school operating purposes for each local school district shall

monies being required to be paid to school districts under § 30 previous to Proposal A. Those monies allows the state to more than meet its § 30 funding obligations to local governments, taken as a group, at 48.97% of total state spending notwithstanding that it has materially reduce revenues paid under § 30 to municipalities. The state argues that the material reductions in payments to municipalities from pre-Proposal A levels is permissible since new Proposal A tax collections allows for payments to local governments taken as a group to amply meet its 48.97% Headlee funding obligation under § 30.

In other words, the state, in effect, asserts that if the payment of new school district revenues when added to other revenues paid to local governments are counted, all is well under § 30 of the Headlee Amendment. This is asserted to be true even if it results in state government realizing materially more proportionate (an *increase* of 56.4%) and absolute (an *increase* of $16.509 billion) dollars available for state spending. **(Bean/Kleine Report, Table E, Exhibit A)**. No sympathies are necessary for CVTs and Counties in this circumstance, the state in effect maintains. They can simply manage despite the reductions in the proportion of funding available to them from total state sending, *i.e.,* a 37.1% *reduction* from 1994 – 2016. **(Bean/Kleine Report, Table E, Third Line ("Payments to Other Local Governments"), Exhibit A)**.

While a substantial proportion of added tax revenues authorized under Proposal A are being expended by the state to meet its guarantee in § 11 to Michigan school districts to provide for school operating purposes at 1994 – 1995 levels,[27] the actual magnitude of those new monies have also provided state government with additional revenue sources which have

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not be less than the 1994 –1995 total state and local per pupil revenue for school operating purposes for that local school district,..."

[27] Const 1963, art 9, § 11.

become available for other state spending purposes than required to meet its payment requirement to all non-school district units of local governments under § 30 and meeting the state's Proposal A guarantee to school districts, under Article 9, § 11.[28] This, the state argues, is consistent with the maintaining good faith with the § 30 Headlee Amendment concept of maintaining the status quo between state and local government proportionate shares at 1978 – 1979 levels out of total state spending. Amici Curiae assert that in keeping good faith with the voters' manifest intent, discernable from §§ 25 and 30, state government should have used the additional resources made available by a) new Proposal A tax revenues and b) savings from not paying school districts pre-Proposal A payments for § 30 purposes to pay municipalities statewide in order to maintain some semblance of pre-Proposal A proportionate levels of total state spending provided to municipalities.

The total state revenues from all revenue sources available for total state spending purposes, including those made available by ratification of Proposal A from FY 1994 – 1995 through FY 2015 – 2016 and shortfalls during that period in the proportion of total state spending paid during that same time period to CVTs and Counties, are documented by type of tax and amounts collected by the state in the Bean/Kleine Report. (**Bean/Kleine Report, Table D, Exhibit A**). As also reflected in the Bean/Klein Report, (**Bean/Kleine Report, Table E, Exhibit A**), the proportion of spending from total state revenue sources for school districts has risen from $2.630 billion in 1994 to $11.919 billion in 2016; a 279.7% increase, adjusted for inflation. Correspondingly, monies spent from total state spending in 1994 for other units of local governments, foremost including municipalities, has only increased during that twenty-

[28] *Id.*

two year period from $4.844 billion to $4.933 billion spent for 2016; a 37.1% *decrease,* when adjusted for inflation during that twenty-two year period.

As also documented in Table D of Exhibit A, the *shortfall* in payments from total state spending or payments to all non-school district units of local governments for the most recent fiscal year which audited data is available, 2015 – 2016, was $4.402 billion. (**Bean/Kleine Report, Table D, Exhibit A**). The *shortfall* in total state spending or payments provided to all non-school district units of local government, is cumulatively $64.67 billion for the twenty-two year post-Proposal A time period, adjusted for inflation. That is compared to state government maintaining the 48.97% level of funding required for all local units of government, taken as a group, under § 30.

What is most significant in terms of the Michigan voters' intent, this reduction has forced municipalities to do one or, a combination of, two things to adjust for these reductions, each of which were intended to *not occur* by operation of the Headlee Amendment. First, municipalities have reduced or eliminated important, and in some cases vital, municipal services to the detriment of their constituents, wherever possible. A very current example of this is municipalities not having sufficient resources to fully maintain or repair weather deteriorated municipal roads. Second, municipalities have increased local taxation pursuant to tax or municipal bond initiatives in order to continue to finance services which would have been financed in the normal course if these shortfalls in funding had not occurred. When the voters are requested to authorize additional taxation or issuance of municipal bonds to compensate for these shortfalls, they are in reality voting to make up for the over $64 billion revenue reductions by state government from the level of funding that existed pre-Proposal A.

Both of these contravene the voters' intent as expressed in § 25 of the Headlee Amendment where it is stated:

> "The state is prohibited… from reducing the proportion of state spending in the form of aid to local governments…"[29]

It is submitted that this expresses, most plainly, the voters' intent to require the state to maintain existing levels or proportions of state aid or funding to local governments in order to prevent as much as possible reductions in necessary services provided by local governments going forward or to necessitate locally levied taxes for municipal services to replace then existing state supplied revenues. There should be no free lunches (or artificial surpluses) for the state that result from concurrently implementing Proposal A and the Headlee reforms paid for at the expense of municipalities. Indeed, it is the essence of the Headlee Amendment to generally maintain the status quo in terms of the state's fiscal circumstances versus the fiscal circumstances of local governments during the course of implementing the Headlee reforms. Again, the words of the Constitution "are to be applied to the subject matter and to the general scope of the provision, and they are to be considered in light of the general purpose sought to be accomplished or the evil sought to be remedied by the constitution or statute."[30]

As documented in the Bean/Kleine Report each fiscal year since 1994 the state has exceeded the 48.97% base year proportion under § 30 the Headlee Amendment when counting the Proposal A revenue guarantee under § 11 as part of the § 30 equation. *See* (**Bean/Kleine Report, Table D, Percent Total, Exhibit A**). Therefore, the issue before the Court is whether the amount of spending by the state for school districts under Proposal A is a constitutionally appropriate component in terms of calculating the state's payment obligation for all units of

[29] Const 1963, art 9, § 25.
[30] White, 406 Mich at 562.

local government for purposes of § 30 of the Headlee Amendment. Amici Curiae submit that the answer is no and that the resulting shortfall for FY 2015 – 2016 and all years dating back to FY 1994 – 1995 has been, most unconscionably, over $64 billion. The proportionate *decrease* over that time period for those units of local government has swung from 40.9% in FY 1994 – 1995 to 34.3% for FY 2015 – 2016. (**Bean/Kleine Report, Table D, Eighth Column ("Percent Adjusted State Spending"), Exhibit A**).

IV. REVENUE SHARING REDUCTIONS AS A PART OF MUNICIPAL REVENUE REDUCTIONS

One of the primary revenue resources for municipalities which has been substantially reduced over the last several years is revenue sharing payments. CVTs are entitled under Article 9, § 10 of the Constitution to receive 15% of the gross collections of the state sales tax.[31] They are also ostensibly entitled by statute to receive an amount equal to 21.3% of the 4% gross collections of the state sales tax "that are available", *i.e.,* as and if appropriated, pursuant to the State Revenue Sharing Act.[32] Counties are also ostensibly entitled under that Act to receive an allocation equal to 25.06% of 21.3% of the gross sales tax, as and if appropriated.[33] The point being that the statutory allocations actually paid each fiscal year are subject to legislative discretion in terms of the amount of the allocations actually appropriated to fund the specified allocation.[34] In other words, by the simple device of the Legislature not appropriating the amount indicated in the Revenue Sharing Act, these allocations are not paid to CVTs and Counties in the amounts specified in the Act.

[31] Const 1963, art 9, § 10
[32] MCL 141.913(3) and (19).
[33] MCL 141.911(4).
[34] MCL 141.913(19).

In fact, in the case of Counties, the Legislature paid nothing for revenue sharing purposes during the four year period of 2004 – 2005 through 2007 – 2008. **(Bean/Kleine Report, Table B and C, Exhibit A)**. This fluctuating amount of under-appropriations (and four years of zero appropriations for Counties) is how a substantial proportion of the reductions in revenue sharing for municipalities were accomplished. Tables B and C of the Bean/Kleine Report detail the history of the payments made and not made to Michigan municipalities for purposes of revenue sharing. The specific amounts are detailed in terms of the cuts or reductions in revenue sharing payments to municipalities over the last twenty plus years. The reductions were $5.790 billion from 1980 – 1981 to 2015 – 2016. **(Bean/Kleine Report, Table B, Exhibit A)**. Inflation adjusted revenue sharing percentage reductions of 30.7% occurred from FY 1994 – 1995 through FY 2015 – 2016. **(Bean/Kleine Report, Table C, Exhibit A)**

These net reductions demonstrate how this major source of municipalities' revenues have been eroded by state government over the post-Proposal A time period (and prior) solely by operation of legislative discretion. There is no mystery that this is a significant part of the explanation for why municipalities have experienced a 37.1% reduction in revenue from state payments, adjusted for inflation, since the FY 1994 – 1995. **(Bean/Kleine Report, Table E, "Payments to Other Local Governments", Exhibit A)**.

In so reducing revenue sharing payments the state is violating the voters' express intent in § 25 insofar as that section prohibits the state from "reducing the proportion of state spending in the form of aid to local government…." Such aid includes revenue sharing payments to municipalities as a component of such "aid to local government." As documented in Table B of the Bean/Kleine Report, revenue sharing payments and cuts or reductions in that source of payments from total state spending to municipalities is documented from year to year since

1980 – 1981. (**Bean/Kleine Report, Table B, Exhibit A**). The amount of those payments has moved up and down serving as a balancing account by state government each year for state budgeting purposes: each of which represent cuts or reductions in that source of funding to those municipalities. In total, the reductions since 1980 – 1981 amount to approximately $5.8 billion.

In reducing the proportion of revenue sharing during this state budget balancing process, there is no demonstrated adherence to the basic concept of §§ 25 and 30 of the Headlee Amendment that Michigan voters' expressly intended to prohibit them from reducing the proportion of state spending in the form of aid to all units of local governments below the proportions in effect in 1978 – 1979. This is precisely what state government has been doing relative to revenue sharing payments to municipalities during that extended time period.

This pattern of discretionary underfunding of revenue sharing dollars has substantially contributed to the disruption of the voter intended equilibrium through § 30 of the Headlee Amendment between the proportions of state spending paid to all units of local government, including municipalities, which Michigan voters' expressly intended.

V. THE STATE'S HEADLEE PROHIBITED TAX SHIFT

In response to the allegation in Plaintiffs' pleaded position that the state is shifting the tax burden as a result of Proposal A to local government, *i.e.,* primarily municipalities statewide, the state argues that these words in § 25 refer to the voters' intent solely to prohibit a shift by the state of a tax burden to affected local units of government incurred as result of an unfunded state mandate prohibited under § 29 of the Headlee Amendment.[35] The state argues that this is not occurring because a tax shift is only implicated where a state obligation

[35] Const 1963, art 9, § 29

is forced upon a local governmental unit by state law without providing funding thereby shifting the burden to raise taxes to fund the related costs to that unit. In order to have a tax shift, the state argues, there must first be an unfunded mandate and none are presented in the circumstances raised in this case.[36] The state position is that what is occurring insofar as implementing Proposal A does not involve legislative or administrative actions but, rather, simply involves applying that Amendment. They assert that implementation of Proposal A was not in itself a tax shift.

But the problem with that argument is that the Plaintiffs' claims, and those of these Amici, are that the state is shifting the tax burden to pay for the operating costs of municipalities statewide, occasioned by the state not allocating existing and available state revenue sources to maintain the same proportion of total state spending for municipalities at 1978 – 1979 levels for purposes of complying with the intent of § 30. As noted in Table E of the Bean/Klein Report, the state has realized from a combination of a) unexpended monies available from Proposal A tax revenues collections in excess of monies formerly paid to school districts to replace their 1994 – 95 ad valorem tax revenues[37] and b) savings available to the state from not being required under § 30, post-Proposal A, to expend considerable monies previously paid to fund school districts to continuously maintain the 48.97% payment obligation to local governments. (**Bean/Kleine Report, Table E, Exhibit A**).

The swing in these elements of state spending are very substantial as the data in Table E reflects. Whereas state government has realized a 56.4% increase in spending from total state resources between FY 1994 and FY 2016, local governments, other than school districts, have

[36] State's Combined Motion for Summary Disposition and Brief in support, December 6, 2017, pp.21-22.
[37] Const 1963, art. 9,§ 11.

experienced a decrease of 37.1% in the proportion of total spending over the same period; a net difference of 119.6% (adjusted for inflation) favorable to the state and at the expense of municipalities. This is a dramatic shift by the state of the tax burden for municipal operating costs statewide, as principal units of affected local governments.

This shift was most certainly avoidable, combining the available revenues, above referenced, occasioned by the advent of Proposal A newly authorized tax revenues and the cessation of pre-Proposal A payments to school districts under § 30. Had state government adhered to the concept expressed in § 30 of the Headlee Amendment of not reducing the proportion of total state spending paid to local governments below 1978 – 1979 levels, vis a vie state spending paid from that same resource, this grossly distorted situation would never have arisen. Reliance on Proposal A tax revenues to reduce municipalities proportion of state spending, relying more particularly on the phrase "taken as a group," does not provide state government a justification for such a distortion in the respective proportions of total state spending between state governments and that of municipalities. This potential for the state to exploit the wording in § 30 for such purposes was obviously not foreseen in 1978 when the Headlee Amendment was ratified, but the broad intention of maintaining the status quo in terms of state versus local government spending expressed in §§ 25 and 30 was nonetheless manifested. That intent is entitled to full respect and enforcement by state government.

VI. BRIEF HISTORY OF POST-HEADLEE AMENDMENT FUNDING UNDER § 30 BUT PRE-PROPOSAL A

By way of background on the history of § 30 funding since fiscal year 1978 – 1979, the State Department of Management and Budget ("DMB") determined after the ratification of the Headlee Amendment that the proportion of total state spending paid to all units of local government, taken as group, from total state revenues for FY 1978 – 1979 for § 30 purposes was 41.61%. The accuracy of this calculation was the central consideration of this Court's decision in *Oakland Co v Dep't of Mental Health*, 178 Mich App 48, 54-55; 443 NW2d 805 (1989). The issue in that case was whether the state was meeting its § 30 Headlee payment requirement specifically taking into account for purposes of the base year calculation (1978 – 1979) payments for statewide mental health services for mentally ill and developmentally disabled persons. Those services were required by legislation adopted in 1974, *i.e.,* the Mental Health Code, to be provided by state government as opposed to local governments.[38]

The State method of paying for the costs of these services provided at state-owned and operated facilities for the mentally ill and developmentally disabled, for purposes of determining the state's compliance with § 30 of the Headlee Amendment, was described by this Court as follows:

> "In arriving at the 41.61 percent figure, the DMB treated state spending for state-owned and state-operated facilities for the mentally ill and developmentally disabled as a departmental transfer (i.e., the money was appropriated directly to DMH). The funds were not treated as state spending to local units of government because no community mental health board had assumed the responsibility for providing such care....In 1980, the state reclassified state spending for state-owned and state-operated facilities for the mentally ill and developmentally disabled as state spending paid to local units of government."[39]

Oakland County challenged in that suit the legitimacy of the 41.61% base year proportion established by DMB, contending that these expenses were, since 1974, the state's responsibility and not the responsibility of counties for their residents in need of such services. Oakland County contested the state's claim of compliance with § 30 by treating those payments as payments to local governments. State government was providing payment for these services

[38] MCL 330.1001, et seq.
[39] *Oakland Co*, 178 Mich App at 55.

by reimbursing county mental health boards after 1981 for the costs of these services for county's residents in need of such services pursuant to MCL 18.1350(2), *et seq*.

An opinion was requested of the Attorney General by a legislator questioning "[m]ay the money made available to the community mental health boards be counted as money paid to local units of government in order to maintain compliance with Const 1963, art 9, §30?" In response, an opinion was issued and published by the Attorney General in which he concluded that the payments by DMH to county boards of health evidenced that these expenditures were intended to be state payments to local governments within the meaning of § 30 of the Headlee Amendment.[40] The state's and Attorney General's logic was that regardless of the state's underlying statutory responsibility for these costs, both before and after ratification of the Headlee Amendment, these payments were being made to counties who in turn were paying for these services for their residents after 1980. On that basis, the state argued to the Oakland County Circuit Court, and later to this Court, that this funding should not count for purposes of calculating the state's § 30 base year (1978 – 1979) minimum payment obligation to local governments, *i.e.,* as a proportion of total state spending. The state argued that these post-base year payments should be counted as being

§ 30 compliant payments to local governments.

This Court affirmed the Circuit Court's finding that the state's calculation in this regard was unconstitutional.[41] This Court concluded in affirming the Circuit Court:

> "We agree with plaintiffs [Oakland County] and the trial court that the provision of mental health care services is a state obligation for the reasons advanced by plaintiffs. Hence, we agree that the state money even though technically paid to a local unit of government remains state spending because the county is merely discharging the state's obligation.

[40] OAG, 1982, No. 6022.
[41] *Oakland Co*, 178 Mich App at 59-60.

While the state's application for leave to appeal to the Supreme Court from that decision was pending, a resolution was reached wherein the state agreed to recalculate the base year funding proportion applying the statewide costs of mental health services as a payment of a state obligation during the base year, and therefore not a payment during later years to units of local governments as provided in § 30 of the Headlee Amendment. As a result, it was determined by DMB that a 48.97% proportion of total state spending should be deemed to have been paid by the state in 1978 – 1979 and thus later payments to all units of local government should reflect that determination.

For each fiscal year from 1979 – 1980 through 1991 – 1992, two fiscal years after this suit was resolved by the revised calculation of the § 30 required payment obligation to local government, the amount of the shortfall in payments to local governments was more than 5% below the 48.97% threshold each year; *with the total amount of the shortfall in payments to local governments during that period being over $8 billion.* (*See* **Bean/Kleine Report, Table A, Exhibit A**). The point is that immediately following adoption of the Headlee Amendment local units of government taken as a group began experiencing significant reductions in state financial support notwithstanding Michigan voters' clearly expressed intention otherwise through § 30 of the Headlee Amendment.

While the foregoing will doubtless be considered ancient history by state government at this point, it needs to be noted that the ruse of treating the state's responsibility for the costs for statewide mental health service costs under the 1974 Mental Health Code as representing state payments to local governments was not the result of some easily mistaken assumption. State fiscal personnel were certainly aware in 1979 – 1980 when the base year proportion was calculated that the responsibility for the costs of mental health services was the obligation of the state and not local governments. The 1974 Mental Health Code was only four years existent when the Headlee Amendment was ratified by Michigan voters in November of 1978. Later reclassifying these expenses by DMB by no means changed state government's underlying payment responsibility for these services as this Court found in the face of pre-Headlee statutory language expressly requiring otherwise.

It is submitted that this reflects a pre-disposition within state government to reduce the state's requirements to fund local units of governments under § 30 of the Headlee Amendment by any available means; especially where local governments had no watchdogs to oversee the means of calculation of total state spending to hundreds if not thousands of diverse local units of government during FY 1978 – 1979 and later years. The reliability of this calculation was entirely reliant on the integrity of state government. A revision from 41.61% to 48.97 % in total state spending to all units of local government is no small feat in light of the fact that it involved a shortfall in required payments to local governments of over $8 billion from 1978 through 1992. This pre-disposition, or propensity, of state government needs to be kept in mind as the present issue of material Proposal A revisions in state and local spending under § 30 resulting in even more substantial revenue shortfalls for municipalities occurring after 1994 through the present time.

VII. POST-PROPOSAL A FUNDING FOR LOCAL UNITS OF GOVERNMENT UNDER § 30

As documented in detail in Table D of the Bean/Kleine Report, the estimated shortfall in payments by the state to municipalities statewide during the post-Proposal A time period, including revenue sharing shortfalls, from FY 1994 – 1995 through FY 2015 – 2016 total $64,510 billion. (**Bean/Kleine Report, Table D, Exhibit A**). This amount assumes that the state would have attempted to maintain the same proportion of payments to municipalities statewide from total state spending at the levels of payments made in 1978 – 1979. This is the magnitude of the question before this Court, for purposes of the equitable relief sought in Plaintiffs' complaint. This is not an amount in terms of recoverable damages, but in terms of measuring the extent of the state's non-compliance with the voters' intent through § 25 applied through § 30 of the Headlee Amendment following adoption of Proposal A.

The state's argument that it is meeting its payment requirement to all units of local government taken as a group by virtue of counting the revised funding scheme for school district wrought by Proposal A as part of the § 30 funding calculation ignores that state government realized a 56.4% increase in revenues (adjusted for inflation) for state spending purposes during the post Proposal A time period. This is after meeting its payment guarantee to school districts under Proposal A. This happened while payments to municipalities has been *reduced* over 50% from total state spending during that same time period.[42]

The state has permitted these reductions to occur while municipalities must deal with the Headlee constraints that limit municipalities' ability to create new financial resources or to primarily subsist on fiscal conservation, specifically due to the strictures of § 31 of the Headlee Amendment.[43] After experiencing the substantial reductions in taxable property valuations due to the 2007 – 2009 recession, the § 31 limitation restricting municipalities from recognizing the increasing values in those property valuations for taxable purposes to the lesser of market value increases or cost of living increases, prevents those municipalities for the foreseeable future from regaining pre-recession operating revenues in the ever increasing environment of rising costs occurring during the interim. This phenomenon is credibly

[42] Bean/Kleine Report, Table E, Exhibit A.
[43] Const 1963, art 9, § 31.

described in a recent publication by the non-partisan Citizens Research Council of Michigan, entitled "*The Prolonged Recovery of Michigan Taxable Values*."[44]

There is no question that the drafters of the Headlee Amendment could not have envisioned in 1978 the material shift in state funding between state government and public school districts that occurred when Proposal A was ratified by the voters in 1994. But it must also be borne in mind that unlike the drafters of Proposal A consisting of politicians and financial technicians within State Government, the Headlee Amendment was entirely a citizen initiated constitutional amendment. These committee members were not members of state government, elected or administrative, at the time the Headlee Amendments was drafted. Rather, this was a good faith attempt by a group of citizens to place before the entire Michigan electorate reforms in how their government should function at both the state and local levels. This reform was based on the perception that state government was out of control fiscally, both preceding and during the 1978 time period.[45]

While the members of the citizens' committee did not have the gift of clairvoyance in anticipating the changes wrought by Proposal A over 16 years later, they nonetheless exhibited their intentions as it relates to maintaining in a general sense that state government should not deprive local governments of necessary revenues on a proportionate basis out of total state spending in order for them to conduct their public business into the future. The manifest

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[44] *See* Citizens Research Council of Michigan, *The Prolonged Recovery of Michigan's Taxable Values* (Dec. 2016, last visited March 9, 2018, 1.39 P.M.), https://crcmich.org/the-prolonged-recovery-of-michigans-taxable-values-2016/. *See* also Robert Klein & Mary Schultz, Center for Local Government Finance and Policy Michigan State University White Paper, *Service Solvency: An Analysis of the Ability of Michigan Cities to Provide an Adequate Level of Public Services*, (Sept.2017), http://msue.anr.msu.edu/uploads/235/75790/GMI_062_Service_Solvency_Report-9-2017.pdf.
[45] *Durant,* 424 Mich at 378.

concept was that they each existed as distinct forms of local governments controlled by locally elected citizens whose efforts should not be thwarted by the shifting sands of the budgeting practices of state government. This is as evidenced by the words appearing in § 25 of the Headlee Amendment. While not in perfect alignment with the issue before the Court in this case, they are nonetheless clear in expressing the concept of maintaining an equilibrium in the proportion of total state spending to be paid to all units of local governments without diminution in favor of total state spending being retained by state government.

The only question is whether the phrase "taken as a group" appearing in § 30 is sufficient to allow one very prominent and essential group of local governments', *i.e.,* municipalities, revenues to be financially reduced by more than half total state spending in 2016 following adoption of Proposal A.[46] This opportunity to enhance state spending is made available to state government based on its interpretation of the use of the newly available tax revenues provided by operation of the Proposal A Amendment. The question now is how that use fits within the intent of the § 30 Headlee state versus local government payment/funding scheme. Whatever may be said for the validity of the State's interpretation it most certainly cannot be said that it is consonant with §§ 25 and 30 of the Headlee Amendment because it has literally destroyed the intended continuation of the financial status quo between state and local government which existed in 1978. This is not what the Michigan voters' intended. Rather, it is perverse to the voters' intent.

This is not to argue that the proponents of the Headlee Amendment envisioned that nothing would change the status quo in future funding but, rather, to argue that any such change could only occur consistent with the Headlee Amendment apparent objectives. Such a change

[46] The Bean/Kleine Report, Table E, Exhibit A.

occurred as a result of the change in school district funding occasioned by Proposal A. But what has evolved is anything but consistent with a combined and coherent reading of both the Headlee Amendment and Proposal A.

VIII. AMICI CURIAE'S CONCURRENCE WITH THE PLAINTIFFS' POSITIONS ON THE REMAINING COUNTS OF PLAINTIFFS' COMPLAINT

Amici Curiae, having reviewed Plaintiffs' positions in their briefs submitted in support of their complaint, the parties' cross motions for summary disposition and their respective answers to the cross motions concur in Plaintiffs' legal arguments on the remaining two counts of Plaintiffs' complaint which are subjects of the arguments. More specifically, Amici Curiae concur as follows:

1) Spending paid by the state to charter schools or public school academies pursuant to state laws should be excluded from the calculation of the state's payments under §30 of the Headlee Amendment since they are not defined in § 33 as local governments and they are not otherwise within the voters' understanding of the words "local government" at the time the Headlee Amendment was ratified, as argued by Plaintiffs.

2) Monies expended by the state to meet its voter imposed requirement under § 29 of the Headlee Amendment to appropriate and pay units of local governments for the necessary increased costs of activities and services required by the Legislature or any state agencies beyond that required by existing state law in 1978, or later adopted, should be excluded from the calculation of the state meeting its payment requirement under § 30 of the Headlee Amendment, as argued by Plaintiffs.

CONCLUSION

Amici Curiae respectfully submit that no speculation is required as to the voters' intent through §§ 25 and 30 of the Headlee Amendment which was as a primary objective to maintain the 1978 - 79 status quo in terms of the proportions of state spending paid from total state revenues to *all* units of local governments from that time forward. While concededly the phrase "taken as a group" qualifies that intent, it cannot be taken to intend where something as monumental as the revenue shift to school districts of several tens of billions of dollars annually as a result of Proposal A, which occurred sixteen years later, that the other units of local government should experience substantial reductions to the point that the proportions of funding would no longer even remotely resemble any sense of the original, 1978 - 79 equilibrium in the revenue proportions between state and local governments. As relates to maintaining the 1978 - 79 proportion of spending from total state revenues paid to municipalities, the Headlee voters' objective has essentially ceased to exist – without any amendment by the voters - as a result of the state's treatment of the funding expended for the state to meet the multi-billion dollar funding guarantee under the Proposal A Amendment provisions, Const 1963, art 9, §11. As a result of other, concurrent discretionary spending decisions by the Legislature, foremost the Legislature's decisions to materially reduce revenue guarantee funding during that interim, this revenue distortion has been exacerbated. These substantial reductions occurred because, as the state perceived matters, payments to local governments were comfortably in excess of the 48.97% required proportion of funding under § 30 of Headlee – attributable to the application of Proposal A spending to that equation.

It is submitted that this Court which is charged by state voters with the responsibility under § 32 of the Headlee Amendment "to enforce the provisions of" sections 25 and 30 of the

Amendment should do so by granting Plaintiffs' request for declaratory judgment holding that the payments provided to Michigan school districts pursuant to the provisions of Article 9, § 11, the Proposal A Amendment, are not lawfully part of the calculation of the proportion of state spending paid to local governments as required under § 30 of the Headlee Amendment and unconstitutional.

Respectfully Submitted,

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Dated: March 13, 2018

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BRIEF OF AMICI CURIAE

EXHIBIT A

Estimated Local Impact of Proposal A Tax and Spending Shifts

February 2018

The Michigan Municipal League (MML) retained Great Lakes Economic Consulting (GLEC) to estimate the impact of Proposal A related tax and spending shifts on local government resources.

Since 1994 (passage of Proposal A) the state has failed to provide the level of funding required by Article 9, Section 30 of the so-called Headlee Amendment. The state has failed to provide local governments the same level of support (as a share of state spending) as in FY 1979, as required by the constitution, by counting payments to school districts (resulting from a tax shift), and payments to charter schools as local support.

As a consequence, local governments have been deprived of legally entitled state funding estimated at $4.4 billion in FY 2016, and about $65 billion since 1994.

The combination of the loss of this revenue and a weak economy have created fiscal stress for many local governments, particularly cities, forcing significant cuts in vital public services, arguably placing the health and safety of Michigan citizens at risk. The plight of our cities, as exemplified by the Detroit bankruptcy and the Flint water crisis, has placed our state in an unfavorable light nationally, and could have a negative economic impact long term. There is also the potential during the next economic downturn for a wave of municipal bankruptcies.

In 1978, the voters approved the so-called Headlee Amendment which limited the taxing power of state and local governments. One the provisions, Article 9, Section 30, limited the ability of the state to reduce aid to local governments.

> *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 drafters of the amendment wanted to ensure that the state would not shift the financial burden to local governments. However, with the passage of Proposal A in 1994, this is just what happened. Proposal A largely shifted support for K-12 education from local school districts to the state. As a result, the state counted the payments from the state to the school districts as spending to local governments, increasing the proportion of state spending from the required 48.97 to 58.55% in

FY 1995 (the first full year proposal A was in effect), rendering the Headlee local spending requirement moot. The percentage peaked at 64.3% in FY 2002. As a consequence, the state was able to cut revenue sharing payments to locals when it ran into budget problems in the early 2000's. If the required proportion of state spending had remained at 48.97%, and not increased due to Proposal A, the state would not have been able to make significant cuts to revenue sharing.

As shown in Table A, state support to local units doubled from FY 1980 to FY 1994, an inflation adjusted increase of 42.6% However, since 1995, state aid to locals has declined 4% adjusted for inflation. However, the cut in state revenue sharing payments was much more dramatic. From FY 1981 to FY 1994, statutory revenue sharing payments to Cities, Villages, Townships (CVT's) and Counties increased from $311 million to $634 million. In FY 2016, statutory revenue sharing was $463 million, 55% below the 1994 level adjusted for inflation. (see Exhibits B and C). All of the decline has occurred since FY 2002, as a weak economy forced budget cutbacks, which fell disproportionally on local governments. Total payments to local governments fell from a peak of 64.3% of state spending from state sources in 2002 to 56.28% in FY 2016 (refer to Table D). Total revenue sharing payments fell from 6.3% of state spending from state sources in FY 2001 to 4.1% in FY 2015, and statutory payments fell from 3.7% to 1.6%. While state spending from state resources was increasing 19.5%, statutory revenue payments were reduced almost 50%.

In FY 2016, state payments to local governments were 56.3% of state spending from state sources. This percentage is above the 48.97% constitutional requirement (Headlee section 30). However, if the Proposal A payments for K-12 education (and other contested payments, for example, charter school payments) were excluded from the state payment percentage, payments to local units would be only 34.3% of state spending, resulting in a shortfall of about $4.6 billion to local governments (see Table D).

As shown in Table E, state payments to local units excluding school aid have declined 37%, adjusted for inflation, since 1994, and have fallen from about 32% of state spending to 16% of state spending, while state spending from state resources has increased 26% (adjusted for inflation).

This could not have been the intention of the Headlee amendment. Our view is that the amendment was aimed at general local governments and not school districts. Resources to schools have increased slightly while payments to other

local governments have been cut drastically just what Headlee was trying to prevent.

Declines in state support for local governments in Michigan have severely affected services. As shown in Figure 2, nationwide, local governments increased FTE's (full time equivalent) from 1997 to 2014 by 3 percent while local government in Michigan cut FTE's by 26 percent or 86,231. Nationwide local government increased police officers by 12 percent and firefighters by 16 percent while Michigan communities reduced police officers by 20 percent (4,205 FTE's) and firefighters by 28 percent (2,874 FTE's). Local governments in Michigan also experienced very significant declines in FTE's associated with Solid Waste; Sewerage; Parks and Recreation; and Housing and Community Development.

These types of personnel cuts were necessitated by state shifting the burden from state programs to local governments. State cuts to municipalities of this magnitude have had potentially significant negative impacts on public safety and quality of life that are beyond the control of municipalities.

TABLE A: STATE SPENDING FROM STATE SOURCES GOING TO LOCAL GOVERNMENT (In Millions)

	Total State Spending from State Sources	Total to Locals	Proportion	Shortfall From 48.97%
FY 1993-94	$14,948.8	$7,474.2	50.00%	$0.0
FY 1992-93	$13,462.6	$6,496.0	48.25%	$96.6
FY 1991-92	$12,450.9	$5,399.2	43.36%	$698.8
FY 1990-91	$12,799.0	$5,657.6	44.20%	$610.1
FY 1989-90	$12,806.3	$5,490.9	42.88%	$780.3
FY 1988-89	$11,896.5	$5,067.7	42.60%	$758.0
FY 1987-88	$11,435.8	$5,017.1	43.87%	$583.0
FY 1986-87	$10,729.4	$4,711.4	43.91%	$542.8
FY 1985-86	$10,252.8	$4,397.6	42.89%	$623.2
FY 1984-85	$9,562.0	$4,008.5	41.92%	$674.0
FY 1983-84	$8,588.5	$3,575.1	41.63%	$630.7
FY 1982-83	$7,708.3	$3,179.9	41.25%	$594.9
FY 1981-82	$7,195.6	$2,974.7	41.34%	$549.0
FY 1980-81	$6,986.0	$2,913.8	41.71%	$507.2
FY 1979-80	$6,948.4	$2,892.0	41.62%	$510.6

Source: STATE of MICHIGAN COMPREHENSIVE FINANCIAL REPORT (SOMCAFR) various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

TABLE B: REVENUE SHARING PAYMENTS and CUTS: $5,790.7 MILLION IN CUTS SINCE PROPOSAL A
(In Millions)

	Total Intergovernmental Revenue Sharing	Constitutional Payments	Statutory CVT Payments	Statutory Payments to Counties	Statutory Revenue Sharing Cuts
FY 2015-16	$1,213.5	$750.0	$248.8	$214.7	$549.3
FY 2014-15	$1,210.6	$750.7	$248.7	$211.2	$560.1
FY 2013-14	$1,120.6	$739.1	$235.7	$145.8	$550.7
FY 2012-13	$1,077.6	$722.2	$224.8	$130.6	$543.7
FY 2011-12	$1,032.2	$707.5	$209.7	$115.0	$543.2
FY 2010-11	$1,091.5	$664.7	$314.3	$112.5	$427.4
FY 2009-10	$994.2	$629.2	$309.7	$55.3	$359.8
FY 2008-09	$1,040.1	$649.1	$388.0	$3.0	$302.7
FY 2007-08	$1,076.2	$688.2	$388.0	$0.0	$344.4
FY 2006-07	$1,070.9	$666.0	$404.9	$0.0	$303.8
FY 2005-06	$1,102.5	$680.1	$422.4	$0.0	$301.4
FY 2004-05	$1,112.0	$668.7	$443.3	$0.0	$268.2
FY 2003-04	$1,304.7	$653.1	$469.5	$182.1	$225.6
FY 2002-03	$1,451.4	$660.3	$588.5	$202.6	$114.2
FY 2001-02	$1,517.3	$649.3	$650.5	$217.5	$40.5
FY 2000-01	$1,555.5	$642.8	$684.0	$228.7	$0.0
FY 1999-00	$1,462.1	$628.4	$619.4	$214.3	$49.3
FY 1998-99	$1,380.7	$580.3	$599.8	$200.6	$17.7
FY 1997-98	$1,364.0	$563.8	$599.6	$200.6	$0.0
FY 1996-97	$1,300.4	$537.6	$580.2	$182.6	$140.4
FY 1995-96	$1,259.9	$524.5	$557.4	$178.0	$81.3
FY 1994-95	$1,168.6	$477.0	$516.9	$174.7	$67.0
FY 1993-94	$1,111.7	$477.6	$471.1	$163.0	$54.5
FY 1992-93	$1,032.5	$424.2	$454.8	$153.5	$45.5
FY 1991-92	$926.5	$404.4	$399.4	$122.7	$112.2
FY 1990-91	$1,016.3	$400.6	$468.6	$147.1	$10.7
FY 1989-90	$1,032.9	$400.0	$484.9	$148.0	
FY 1988-89	$993.5	$385.3	$464.6	$143.6	
FY 1987-88	$929.6	$365.2	$429.6	$134.8	
FY 1986-87	$877.7	$345.4	$404.4	$127.9	
FY 1985-86	$832.3	$335.4	$376.1	$120.8	
FY 1984-85	$760.2	$308.2	$338.8	$113.2	
FY 1983-84	$674.3	$279.4	$291.6	$103.3	
FY 1982-83	$595.1	$243.6	$255.0	$96.5	$11.9
FY 1981-82	$525.2	$237.4	$213.4	$74.4	$40.0
FY 1980-81	$542.1	$231.0	$232.8	$78.3	$43.5

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

TABLE C: INFLATION ADJUSTED REVENUE SHARING PAYMENTS: FY 2015-16 PAYMENTS LOWER THAN PAYMENTS IN FY 1982-83; DOWN 30.7% SINCE FY 1994-95
(IN MILLIONS of 1983 ADJUSTED DOLLARS)

	Total Revenue Sharing	Constitutional Payments	Statutory CVT Payments	Payments to Counties
FY 2015-16	$548.6	$339.1	$112.5	$97.1
FY 2014-15	$552.5	$342.6	$113.5	$96.4
FY 2013-14	$505.9	$333.7	$106.4	$65.8
FY 2012-13	$491.8	$329.6	$102.6	$59.6
FY 2011-12	$479.9	$328.9	$97.5	$53.5
FY 2010-11	$519.8	$316.5	$149.7	$53.6
FY 2009-10	$485.7	$307.4	$151.3	$27.0
FY 2008-09	$512.9	$320.1	$191.3	$1.5
FY 2007-08	$526.0	$336.4	$189.6	$0.0
FY 2006-07	$538.1	$334.7	$203.5	$0.0
FY 2005-06	$562.8	$347.2	$215.6	$0.0
FY 2004-05	$588.4	$353.8	$234.6	$0.0
FY 2003-04	$707.5	$354.2	$254.6	$98.8
FY 2002-03	$797.5	$362.8	$323.4	$111.3
FY 2001-02	$854.8	$365.8	$366.5	$122.5
FY 2000-01	$895.0	$369.9	$393.6	$131.6
FY 1999-00	$868.7	$373.4	$368.0	$127.3
FY 1998-99	$848.1	$356.4	$368.4	$123.2
FY 1997-98	$858.4	$354.8	$377.3	$126.2
FY 1996-97	$836.8	$345.9	$373.4	$117.5
FY 1995-96	$831.6	$346.2	$367.9	$117.5
FY 1994-95	$792.3	$323.4	$350.4	$118.4
FY 1993-94	$778.0	$334.2	$329.7	$114.1
FY 1992-93	$744.9	$306.1	$328.1	$110.8
FY 1991-92	$685.8	$299.3	$295.6	$90.8
FY 1990-91	$767.6	$302.6	$353.9	$111.1
FY 1989-90	$814.6	$315.5	$382.4	$116.7
FY 1988-89	$823.1	$319.2	$384.9	$119.0
FY 1987-88	$809.8	$318.1	$374.2	$117.4
FY 1986-87	$792.9	$312.0	$365.3	$115.5
FY 1985-86	$769.9	$310.3	$347.9	$111.7
FY 1984-85	$718.5	$291.3	$320.2	$107.0
FY 1983-84	$658.5	$272.9	$284.8	$100.9
FY 1982-83	$598.7	$245.1	$256.5	$97.1

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

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	$16,853	$14,663	56.28%	$5,381	$1,211	$10,261	34.3%	($4,402)
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									($64,510)

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

Table E: State Payments to Local Governments (excluding schools) Has Declined Sharply
(millions)

	FY 1994	FY 2016	% Change Adjusted for Inflation
Payments to Local Govts	$7,474	$16,852	39.2%
Payments to School Districts	$2,630	$11,919	279.7%
Payments to Other Local Govts.	$4,844	$4,933	-37.1%
Local School Property Taxes	$5,857	$2,054	-78.4%
Total School Expenditures (Excludes Federal Aid)	$8,487	$13,973	1.6%
Total State Spending from State Resources	$14,949	$30,547	26.1%
Payments to Other Local Govts. as % of State Spending	32.4%	16.1%	
Total State Spending less payments to other local Govts	$10,105	$26,614	56.4%

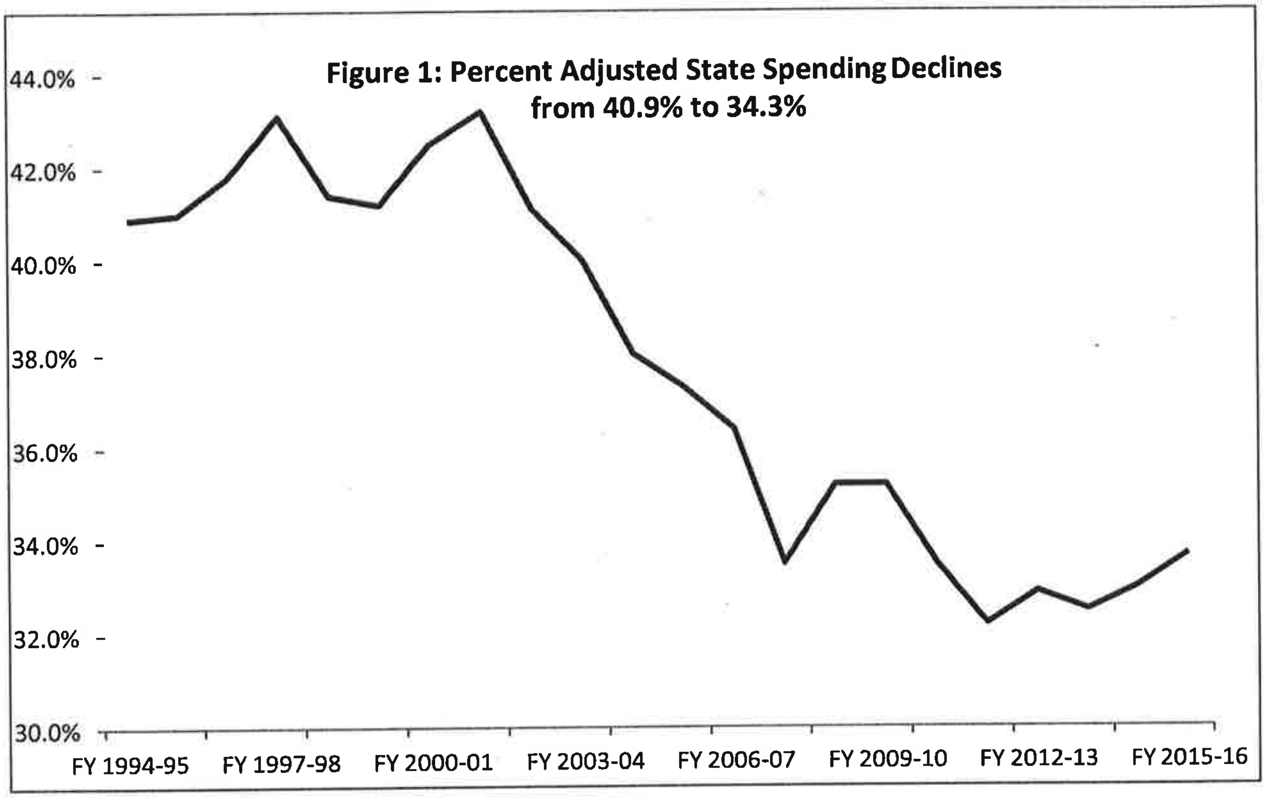
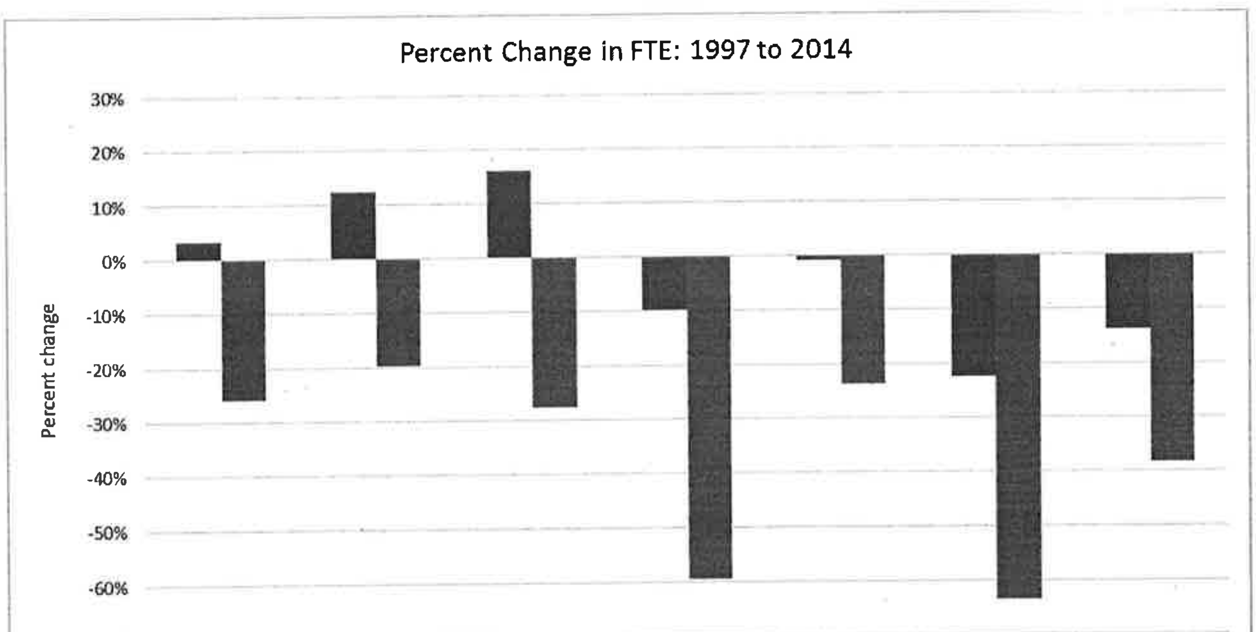


FIGURE 2: MICHIGAN AND US LOCAL GOVERNMENT EMPLOYMENT CHANGES



	Total FTE	Police Officers	Firefighters	Solid Waste Management	Sewerage	Parks and Recreation	Housing and Community Development
U.S.	3%	12%	16%	-10%	-1%	-22%	-14%
Michigan	-26%	-20%	-28%	-59%	-24%	-63%	-38%

Source: US Census Bureau, 2014 Annual Survey of Public Employment and Payroll.

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.

/

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/

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.

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 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. My resume, attached as Exhibit A, further details my professional history, education, and additional information regarding my experience as an economist with expertise on Michigan state budget matters.

8. Attached as Exhibit B is a report, dated February 2018, which I participated in creating with Mr. Robert J. Kleine as principals of Great Lakes Economic Consulting for the Michigan Municipal League under retainer from that entity. The report consists of an initial commentary containing conclusions that I have drawn from relevant published data from state government resources as indicated in the several tables attached thereto.

9. The conclusions in that commentary as to the estimated impact on Michigan local governments as a proximate result of the treatment by State government of the taxes collected and state expenditures following adoption by Michigan voters of a Constitutional Amendment in 1978, commonly known as the Headlee Amendment, and from the 1994 Amendment to the Michigan Constitution, commonly known as Proposal A, are accurate and reliably based in my professional judgment. Relative to the latter Amendment, the data reported reflects the resulting shifts in spending by State government of those taxes between state and local governments which in my professional judgment are accurate and reliably based. The data reflected in the Tables A through E attached to the report are accurate and reliably based on the sources identified in each Table.

I swear or affirm that the above and foregoing representation 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

Dated: February 26th, 2018

Subscribed and sworn before me, Mae Holmes
A Notary Public, on 2-26-18.

Notary Public, Ingham County, MI.
My commission expires 6-1-22.

4548372_1

Notarizing Mitchell Bean's Signature

SECREST WARDLE

EXHIBIT A

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

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.

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.

EXHIBIT B

Estimated Local Impact of Proposal A Tax and Spending Shifts

February 2018

The Michigan Municipal League (MML) retained Great Lakes Economic Consulting (GLEC) to estimate the impact of Proposal A related tax and spending shifts on local government resources.

Since 1994 (passage of Proposal A) the state has failed to provide the level of funding required by Article 9, Section 30 of the so-called Headlee Amendment. The state has failed to provide local governments the same level of support (as a share of state spending) as in FY 1979, as required by the constitution, by counting payments to school districts (resulting from a tax shift), and payments to charter schools as local support.

As a consequence, local governments have been deprived of legally entitled state funding estimated at $4.4 billion in FY 2016, and about $65 billion since 1994.

The combination of the loss of this revenue and a weak economy have created fiscal stress for many local governments, particularly cities, forcing significant cuts in vital public services, arguably placing the health and safety of Michigan citizens at risk. The plight of our cities, as exemplified by the Detroit bankruptcy and the Flint water crisis, has placed our state in an unfavorable light nationally, and could have a negative economic impact long term. There is also the potential during the next economic downturn for a wave of municipal bankruptcies.

In 1978, the voters approved the so-called Headlee Amendment which limited the taxing power of state and local governments. One the provisions, Article 9, Section 30, limited the ability of the state to reduce aid to local governments.

> *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 drafters of the amendment wanted to ensure that the state would not shift the financial burden to local governments. However, with the passage of Proposal A in 1994, this is just what happened. Proposal A largely shifted support for K-12 education from local school districts to the state. As a result, the state counted the payments from the state to the school districts as spending to local governments, increasing the proportion of state spending from the required 48.97 to 58.55% in

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FY 1995 (the first full year proposal A was in effect), rendering the Headlee local spending requirement moot. The percentage peaked at 64.3% in FY 2002. As a consequence, the state was able to cut revenue sharing payments to locals when it ran into budget problems in the early 2000's. If the required proportion of state spending had remained at 48.97%, and not increased due to Proposal A, the state would not have been able to make significant cuts to revenue sharing.

As shown in Table A, state support to local units doubled from FY 1980 to FY 1994, an inflation adjusted increase of 42.6% However, since 1995, state aid to locals has declined 4% adjusted for inflation. However, the cut in state revenue sharing payments was much more dramatic. From FY 1981 to FY 1994, statutory revenue sharing payments to Cities, Villages, Townships (CVT's) and Counties increased from $311 million to $634 million. In FY 2016, statutory revenue sharing was $463 million, 55% below the 1994 level adjusted for inflation. (see Exhibits B and C). All of the decline has occurred since FY 2002, as a weak economy forced budget cutbacks, which fell disproportionally on local governments. Total payments to local governments fell from a peak of 64.3% of state spending from state sources in 2002 to 56.28% in FY 2016 (refer to Table D). Total revenue sharing payments fell from 6.3% of state spending from state sources in FY 2001 to 4.1% in FY 2015, and statutory payments fell from 3.7% to 1.6%. While state spending from state resources was increasing 19.5%, statutory revenue payments were reduced almost 50%.

In FY 2016, state payments to local governments were 56.3% of state spending from state sources. This percentage is above the 48.97% constitutional requirement (Headlee section 30). However, if the Proposal A payments for K-12 education (and other contested payments, for example, charter school payments) were excluded from the state payment percentage, payments to local units would be only 34.3% of state spending, resulting in a shortfall of about $4.6 billion to local governments (see Table D).

As shown in Table E, state payments to local units excluding school aid have declined 37%, adjusted for inflation, since 1994, and have fallen from about 32% of state spending to 16% of state spending, while state spending from state resources has increased 26% (adjusted for inflation).

This could not have been the intention of the Headlee amendment. Our view is that the amendment was aimed at general local governments and not school districts. Resources to schools have increased slightly while payments to other

local governments have been cut drastically just what Headlee was trying to prevent.

Declines in state support for local governments in Michigan have severely affected services. As shown in Figure 2, nationwide, local governments increased FTE's (full time equivalent) from 1997 to 2014 by 3 percent while local government in Michigan cut FTE's by 26 percent or 86,231. Nationwide local government increased police officers by 12 percent and firefighters by 16 percent while Michigan communities reduced police officers by 20 percent (4,205 FTE's) and firefighters by 28 percent (2,874 FTE's). Local governments in Michigan also experienced very significant declines in FTE's associated with Solid Waste; Sewerage; Parks and Recreation; and Housing and Community Development.

These types of personnel cuts were necessitated by state shifting the burden from state programs to local governments. State cuts to municipalities of this magnitude have had potentially significant negative impacts on public safety and quality of life that are beyond the control of municipalities.

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TABLE A: STATE SPENDING FROM STATE SOURCES GOING TO LOCAL GOVERNMENT (In Millions)

	Total State Spending from State Sources	Total to Locals	Proportion	Shortfall From 48.97%
FY 1993-94	$14,948.8	$7,474.2	50.00%	$0.0
FY 1992-93	$13,462.6	$6,496.0	48.25%	$96.6
FY 1991-92	$12,450.9	$5,399.2	43.36%	$698.8
FY 1990-91	$12,799.0	$5,657.6	44.20%	$610.1
FY 1989-90	$12,806.3	$5,490.9	42.88%	$780.3
FY 1988-89	$11,896.5	$5,067.7	42.60%	$758.0
FY 1987-88	$11,435.8	$5,017.1	43.87%	$583.0
FY 1986-87	$10,729.4	$4,711.4	43.91%	$542.8
FY 1985-86	$10,252.8	$4,397.6	42.89%	$623.2
FY 1984-85	$9,562.0	$4,008.5	41.92%	$674.0
FY 1983-84	$8,588.5	$3,575.1	41.63%	$630.7
FY 1982-83	$7,708.3	$3,179.9	41.25%	$594.9
FY 1981-82	$7,195.6	$2,974.7	41.34%	$549.0
FY 1980-81	$6,986.0	$2,913.8	41.71%	$507.2
FY 1979-80	$6,948.4	$2,892.0	41.62%	$510.6

Source: STATE of MICHIGAN COMPREHENSIVE FINANCIAL REPORT (SOMCAFR) various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

TABLE B: REVENUE SHARING PAYMENTS and CUTS: $5,790.7 MILLION IN CUTS SINCE PROPOSAL A (In Millions)

	Total Intergovernmental Revenue Sharing	Constitutional Payments	Statutory CVT Payments	Statutory Payments to Counties	Statutory Revenue Sharing Cuts
FY 2015-16	$1,213.5	$750.0	$248.8	$214.7	$549.3
FY 2014-15	$1,210.6	$750.7	$248.7	$211.2	$560.1
FY 2013-14	$1,120.6	$739.1	$235.7	$145.8	$550.7
FY 2012-13	$1,077.6	$722.2	$224.8	$130.6	$543.7
FY 2011-12	$1,032.2	$707.5	$209.7	$115.0	$543.2
FY 2010-11	$1,091.5	$664.7	$314.3	$112.5	$427.4
FY 2009-10	$994.2	$629.2	$309.7	$55.3	$359.8
FY 2008-09	$1,040.1	$649.1	$388.0	$3.0	$302.7
FY 2007-08	$1,076.2	$688.2	$388.0	$0.0	$344.4
FY 2006-07	$1,070.9	$666.0	$404.9	$0.0	$303.8
FY 2005-06	$1,102.5	$680.1	$422.4	$0.0	$301.4
FY 2004-05	$1,112.0	$668.7	$443.3	$0.0	$268.2
FY 2003-04	$1,304.7	$653.1	$469.5	$182.1	$225.6
FY 2002-03	$1,451.4	$660.3	$588.5	$202.6	$114.2
FY 2001-02	$1,517.3	$649.3	$650.5	$217.5	$40.5
FY 2000-01	$1,555.5	$642.8	$684.0	$228.7	$0.0
FY 1999-00	$1,462.1	$628.4	$619.4	$214.3	$49.3
FY 1998-99	$1,380.7	$580.3	$599.8	$200.6	$17.7
FY 1997-98	$1,364.0	$563.8	$599.6	$200.6	$0.0
FY 1996-97	$1,300.4	$537.6	$580.2	$182.6	$140.4
FY 1995-96	$1,259.9	$524.5	$557.4	$178.0	$81.3
FY 1994-95	$1,168.6	$477.0	$516.9	$174.7	$67.0
FY 1993-94	$1,111.7	$477.6	$471.1	$163.0	$54.5
FY 1992-93	$1,032.5	$424.2	$454.8	$153.5	$45.5
FY 1991-92	$926.5	$404.4	$399.4	$122.7	$112.2
FY 1990-91	$1,016.3	$400.6	$468.6	$147.1	$10.7
FY 1989-90	$1,032.9	$400.0	$484.9	$148.0	
FY 1988-89	$993.5	$385.3	$464.6	$143.6	
FY 1987-88	$929.6	$365.2	$429.6	$134.8	
FY 1986-87	$877.7	$345.4	$404.4	$127.9	
FY 1985-86	$832.3	$335.4	$376.1	$120.8	
FY 1984-85	$760.2	$308.2	$338.8	$113.2	
FY 1983-84	$674.3	$279.4	$291.6	$103.3	
FY 1982-83	$595.1	$243.6	$255.0	$96.5	$11.9
FY 1981-82	$525.2	$237.4	$213.4	$74.4	$40.0
FY 1980-81	$542.1	$231.0	$232.8	$78.3	$43.5

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

TABLE C: INFLATION ADJUSTED REVENUE SHARING PAYMENTS: FY 2015-16 PAYMENTS LOWER THAN PAYMENTS IN FY 1982-83; DOWN 30.7% SINCE FY 1994-95
(IN MILLIONS of 1983 ADJUSTED DOLLARS)

	Total Revenue Sharing	Constitutional Payments	Statutory CVT Payments	Payments to Counties
FY 2015-16	$548.6	$339.1	$112.5	$97.1
FY 2014-15	$552.5	$342.6	$113.5	$96.4
FY 2013-14	$505.9	$333.7	$106.4	$65.8
FY 2012-13	$491.8	$329.6	$102.6	$59.6
FY 2011-12	$479.9	$328.9	$97.5	$53.5
FY 2010-11	$519.8	$316.5	$149.7	$53.6
FY 2009-10	$485.7	$307.4	$151.3	$27.0
FY 2008-09	$512.9	$320.1	$191.3	$1.5
FY 2007-08	$526.0	$336.4	$189.6	$0.0
FY 2006-07	$538.1	$334.7	$203.5	$0.0
FY 2005-06	$562.8	$347.2	$215.6	$0.0
FY 2004-05	$588.4	$353.8	$234.6	$0.0
FY 2003-04	$707.5	$354.2	$254.6	$98.8
FY 2002-03	$797.5	$362.8	$323.4	$111.3
FY 2001-02	$854.8	$365.8	$366.5	$122.5
FY 2000-01	$895.0	$369.9	$393.6	$131.6
FY 1999-00	$868.7	$373.4	$368.0	$127.3
FY 1998-99	$848.1	$356.4	$368.4	$123.2
FY 1997-98	$858.4	$354.8	$377.3	$126.2
FY 1996-97	$836.8	$345.9	$373.4	$117.5
FY 1995-96	$831.6	$346.2	$367.9	$117.5
FY 1994-95	$792.3	$323.4	$350.4	$118.4
FY 1993-94	$778.0	$334.2	$329.7	$114.1
FY 1992-93	$744.9	$306.1	$328.1	$110.8
FY 1991-92	$685.8	$299.3	$295.6	$90.8
FY 1990-91	$767.6	$302.6	$353.9	$111.1
FY 1989-90	$814.6	$315.5	$382.4	$116.7
FY 1988-89	$823.1	$319.2	$384.9	$119.0
FY 1987-88	$809.8	$318.1	$374.2	$117.4
FY 1986-87	$792.9	$312.0	$365.3	$115.5
FY 1985-86	$769.9	$310.3	$347.9	$111.7
FY 1984-85	$718.5	$291.3	$320.2	$107.0
FY 1983-84	$658.5	$272.9	$284.8	$100.9
FY 1982-83	$598.7	$245.1	$256.5	$97.1

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

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	$16,853	$14,663	56.28%	$5,381	$1,211	$10,261	34.3%	($4,402)
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									($64,510)

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

Table E: State Payments to Local Governments (excluding schools) Has Declined Sharply
(millions)

	FY 1994	FY 2016	% Change Adjusted for Inflation
Payments to Local Govts	$7,474	$16,852	39.2%
Payments to School Districts	$2,630	$11,919	279.7%
Payments to Other Local Govts.	$4,844	$4,933	-37.1%
Local School Property Taxes	$5,857	$2,054	-78.4%
Total School Expenditures (Excludes Federal Aid)	$8,487	$13,973	1.6%
Total State Spending from State Resources	$14,949	$30,547	26.1%
Payments to Other Local Govts. as % of State Spending	32.4%	16.1%	
Total State Spending less payments to other local Govts	$10,105	$26,614	56.4%

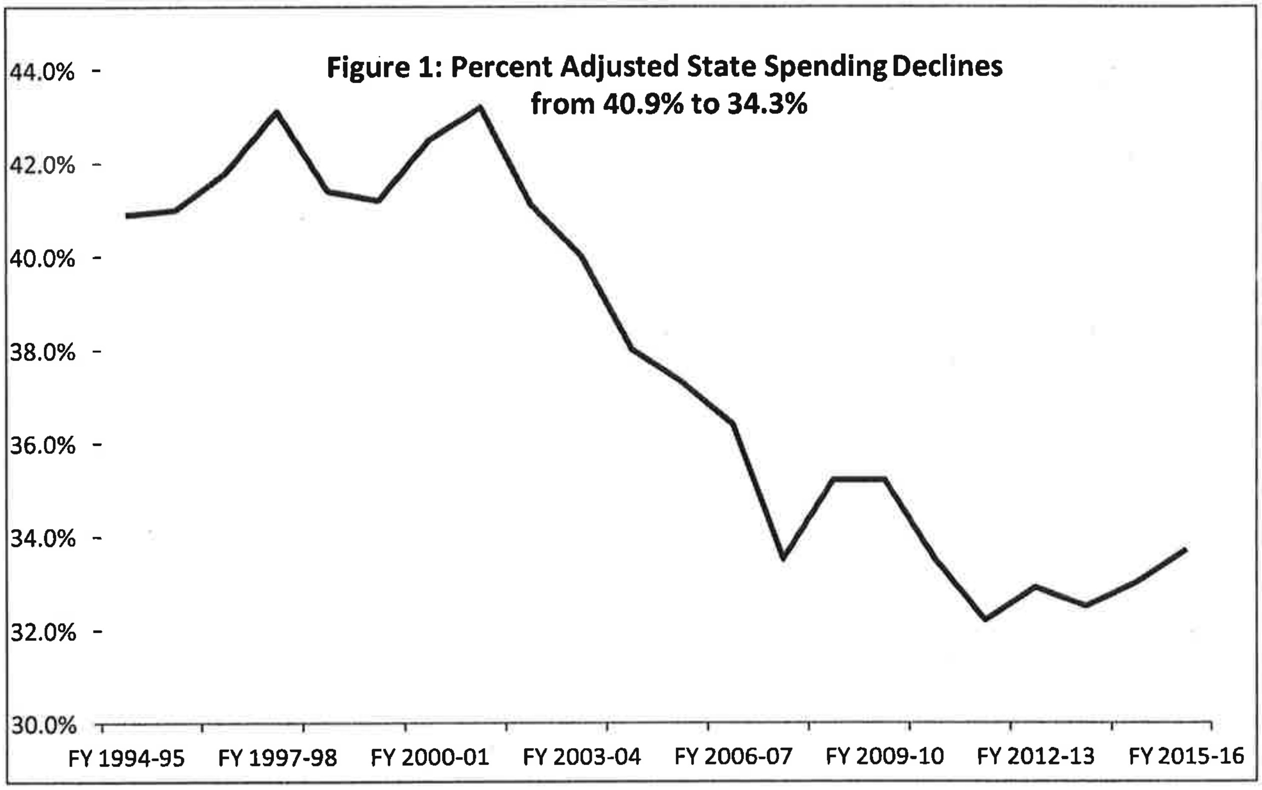
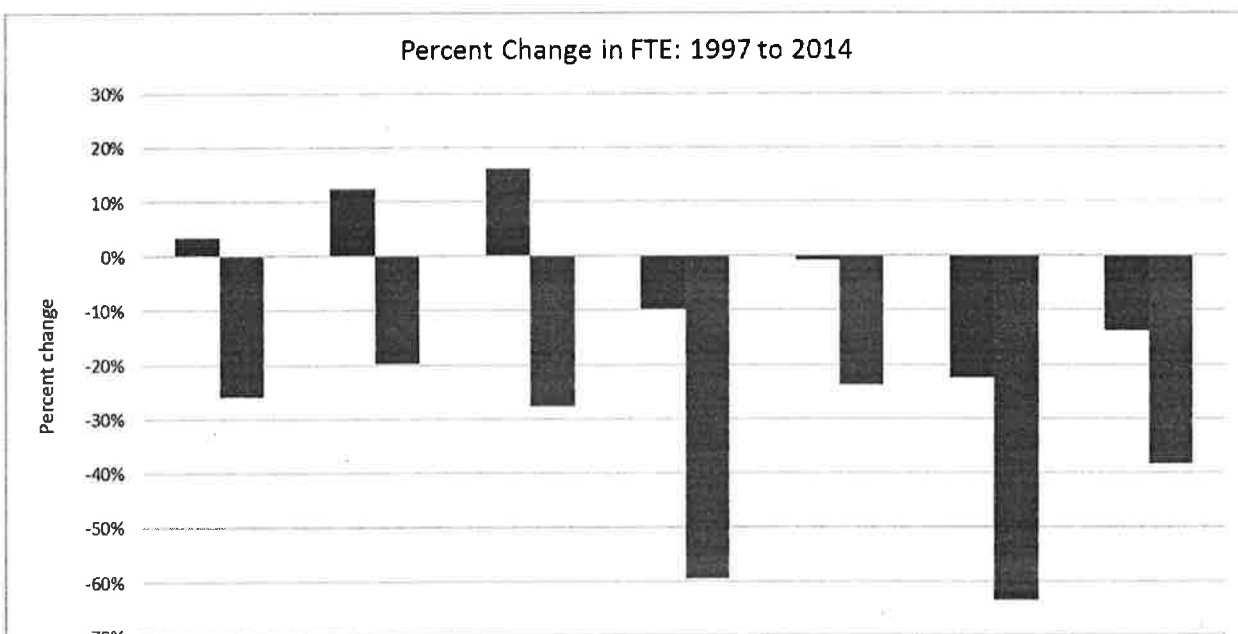


Figure 1: Percent Adjusted State Spending Declines from 40.9% to 34.3%

FIGURE 2: MICHIGAN AND US LOCAL GOVERNMENT EMPLOYMENT CHANGES



	Total FTE	Police Officers	Firefighters	Solid Waste Management	Sewerage	Parks and Recreation	Housing and Community Development
U.S.	3%	12%	16%	-10%	-1%	-22%	-14%
Michigan	-26%	-20%	-28%	-59%	-24%	-63%	-38%

Source: US Census Bureau, 2014 Annual Survey of Public Employment and Payroll.

STATE OF MICHIGAN
IN THE COURT OF APPEALS

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

Plaintiffs,

Court of Appeals No. 334663

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.
_____________________________________/

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SECREST WARDLE

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 fifty years of experience as a professional economist and presently work as interim director of the MSU Center for Local Government Finance and Policy. The Center works on issues affecting the financial stability local governments.

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.

4. From 1976 to 1977 and 1984 to 1985, I was worked as Senior Analyst in Michigan Public Finance with the 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. My responsibilities included preparation of state revenue estimates and economic forecasts; developing and analyzing state tax proposals; and analyzing all legislation affecting Michigan state revenues and the Michigan economy.

6. From1985 to 2001, I was employed as a Vice President, Senior Economist and Editor of Public Sector Reports publication. My responsibilities included revenue and economic

forecasts, preparing issue papers and studies on Michigan tax and economic matter, and providing technical assistance to staff and clients.

7. 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.

8. 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.

9. From 2016 to present, I 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.

10. My resume, attached as Exhibit A, further details my professional history, education, and additional information regarding my experience as an economist with expertise on Michigan state budget matters.

11. Attached as Exhibit B is a report, dated February 2018, which I participated in creating with Mr. Mitchell E. Bean as principals of Great Lakes Economic Consulting for the Michigan Municipal League under retainer from that entity. The report consists of an initial commentary containing conclusions that I have drawn from relevant published data from state government resources as indicated in the several tables attached thereto.

12. The conclusions in that commentary as to the estimated impact on Michigan local governments as a proximate result of the treatment by State government of the taxes collected and state expenditures following adoption by Michigan voters of a Constitutional Amendment in 1978, commonly known as the Headlee Amendment, and from the 1994

Amendment to the Michigan Constitution, commonly known as Proposal A, are accurate and reliably based in my professional judgment. Relative to the latter Amendment, the data reported reflects the resulting shifts in spending by State government of those taxes between state and local governments which in my professional judgment are accurate and reliably based. The data reflected in the Tables A through E attached to the report are accurate and reliably based on the sources identified in each Table.

I swear or affirm that the above and foregoing representation are true and correct to the best of my information and knowledge.

By: Robert J. Kleine
ROBERT J. KLEINE
Great Lakes Economic Consulting LLC
11889 Plains Road
Eaton Rapids, MI 48827

Dated: February 20, 2018

Subscribed and sworn before me,
A Notary Public, on 2/20/2018.

Notary Public, 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

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.

"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.*

"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

7/27/2016

EXHIBIT B

Estimated Local Impact of Proposal A Tax and Spending Shifts

February 2018

The Michigan Municipal League (MML) retained Great Lakes Economic Consulting (GLEC) to estimate the impact of Proposal A related tax and spending shifts on local government resources.

Since 1994 (passage of Proposal A) the state has failed to provide the level of funding required by Article 9, Section 30 of the so-called Headlee Amendment. The state has failed to provide local governments the same level of support (as a share of state spending) as in FY 1979, as required by the constitution, by counting payments to school districts (resulting from a tax shift), and payments to charter schools as local support.

As a consequence, local governments have been deprived of legally entitled state funding estimated at $4.4 billion in FY 2016, and about $65 billion since 1994.

The combination of the loss of this revenue and a weak economy have created fiscal stress for many local governments, particularly cities, forcing significant cuts in vital public services, arguably placing the health and safety of Michigan citizens at risk. The plight of our cities, as exemplified by the Detroit bankruptcy and the Flint water crisis, has placed our state in an unfavorable light nationally, and could have a negative economic impact long term. There is also the potential during the next economic downturn for a wave of municipal bankruptcies.

In 1978, the voters approved the so-called Headlee Amendment which limited the taxing power of state and local governments. One the provisions, Article 9, Section 30, limited the ability of the state to reduce aid to local governments.

> *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 drafters of the amendment wanted to ensure that the state would not shift the financial burden to local governments. However, with the passage of Proposal A in 1994, this is just what happened. Proposal A largely shifted support for K-12 education from local school districts to the state. As a result, the state counted the payments from the state to the school districts as spending to local governments, increasing the proportion of state spending from the required 48.97 to 58.55% in

FY 1995 (the first full year proposal A was in effect), rendering the Headlee local spending requirement moot. The percentage peaked at 64.3% in FY 2002. As a consequence, the state was able to cut revenue sharing payments to locals when it ran into budget problems in the early 2000's. If the required proportion of state spending had remained at 48.97%, and not increased due to Proposal A, the state would not have been able to make significant cuts to revenue sharing.

As shown in Table A, state support to local units doubled from FY 1980 to FY 1994, an inflation adjusted increase of 42.6% However, since 1995, state aid to locals has declined 4% adjusted for inflation. However, the cut in state revenue sharing payments was much more dramatic. From FY 1981 to FY 1994, statutory revenue sharing payments to Cities, Villages, Townships (CVT's) and Counties increased from $311 million to $634 million. In FY 2016, statutory revenue sharing was $463 million, 55% below the 1994 level adjusted for inflation. (see Exhibits B and C). All of the decline has occurred since FY 2002, as a weak economy forced budget cutbacks, which fell disproportionally on local governments. Total payments to local governments fell from a peak of 64.3% of state spending from state sources in 2002 to 56.28% in FY 2016 (refer to Table D). Total revenue sharing payments fell from 6.3% of state spending from state sources in FY 2001 to 4.1% in FY 2015, and statutory payments fell from 3.7% to 1.6%. While state spending from state resources was increasing 19.5%, statutory revenue payments were reduced almost 50%.

In FY 2016, state payments to local governments were 56.3% of state spending from state sources. This percentage is above the 48.97% constitutional requirement (Headlee section 30). However, if the Proposal A payments for K-12 education (and other contested payments, for example, charter school payments) were excluded from the state payment percentage, payments to local units would be only 34.3% of state spending, resulting in a shortfall of about $4.6 billion to local governments (see Table D).

As shown in Table E, state payments to local units excluding school aid have declined 37%, adjusted for inflation, since 1994, and have fallen from about 32% of state spending to 16% of state spending, while state spending from state resources has increased 26% (adjusted for inflation).

This could not have been the intention of the Headlee amendment. Our view is that the amendment was aimed at general local governments and not school districts. Resources to schools have increased slightly while payments to other

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local governments have been cut drastically just what Headlee was trying to prevent.

Declines in state support for local governments in Michigan have severely affected services. As shown in Figure 2, nationwide, local governments increased FTE's (full time equivalent) from 1997 to 2014 by 3 percent while local government in Michigan cut FTE's by 26 percent or 86,231. Nationwide local government increased police officers by 12 percent and firefighters by 16 percent while Michigan communities reduced police officers by 20 percent (4,205 FTE's) and firefighters by 28 percent (2,874 FTE's). Local governments in Michigan also experienced very significant declines in FTE's associated with Solid Waste; Sewerage; Parks and Recreation; and Housing and Community Development.

These types of personnel cuts were necessitated by state shifting the burden from state programs to local governments. State cuts to municipalities of this magnitude have had potentially significant negative impacts on public safety and quality of life that are beyond the control of municipalities.

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TABLE A: STATE SPENDING FROM STATE SOURCES GOING TO LOCAL GOVERNMENT (In Millions)

	Total State Spending from State Sources	Total to Locals	Proportion	Shortfall From 48.97%
FY 1993-94	$14,948.8	$7,474.2	50.00%	$0.0
FY 1992-93	$13,462.6	$6,496.0	48.25%	$96.6
FY 1991-92	$12,450.9	$5,399.2	43.36%	$698.8
FY 1990-91	$12,799.0	$5,657.6	44.20%	$610.1
FY 1989-90	$12,806.3	$5,490.9	42.88%	$780.3
FY 1988-89	$11,896.5	$5,067.7	42.60%	$758.0
FY 1987-88	$11,435.8	$5,017.1	43.87%	$583.0
FY 1986-87	$10,729.4	$4,711.4	43.91%	$542.8
FY 1985-86	$10,252.8	$4,397.6	42.89%	$623.2
FY 1984-85	$9,562.0	$4,008.5	41.92%	$674.0
FY 1983-84	$8,588.5	$3,575.1	41.63%	$630.7
FY 1982-83	$7,708.3	$3,179.9	41.25%	$594.9
FY 1981-82	$7,195.6	$2,974.7	41.34%	$549.0
FY 1980-81	$6,986.0	$2,913.8	41.71%	$507.2
FY 1979-80	$6,948.4	$2,892.0	41.62%	$510.6

Source: STATE of MICHIGAN COMPREHENSIVE FINANCIAL REPORT (SOMCAFR) various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

TABLE B: REVENUE SHARING PAYMENTS and CUTS: $5,790.7 MILLION IN CUTS SINCE PROPOSAL A
(In Millions)

	Total Intergovernmental Revenue Sharing	Constitutional Payments	Statutory CVT Payments	Statutory Payments to Counties	Statutory Revenue Sharing Cuts
FY 2015-16	$1,213.5	$750.0	$248.8	$214.7	$549.3
FY 2014-15	$1,210.6	$750.7	$248.7	$211.2	$560.1
FY 2013-14	$1,120.6	$739.1	$235.7	$145.8	$550.7
FY 2012-13	$1,077.6	$722.2	$224.8	$130.6	$543.7
FY 2011-12	$1,032.2	$707.5	$209.7	$115.0	$543.2
FY 2010-11	$1,091.5	$664.7	$314.3	$112.5	$427.4
FY 2009-10	$994.2	$629.2	$309.7	$55.3	$359.8
FY 2008-09	$1,040.1	$649.1	$388.0	$3.0	$302.7
FY 2007-08	$1,076.2	$688.2	$388.0	$0.0	$344.4
FY 2006-07	$1,070.9	$666.0	$404.9	$0.0	$303.8
FY 2005-06	$1,102.5	$680.1	$422.4	$0.0	$301.4
FY 2004-05	$1,112.0	$668.7	$443.3	$0.0	$268.2
FY 2003-04	$1,304.7	$653.1	$469.5	$182.1	$225.6
FY 2002-03	$1,451.4	$660.3	$588.5	$202.6	$114.2
FY 2001-02	$1,517.3	$649.3	$650.5	$217.5	$40.5
FY 2000-01	$1,555.5	$642.8	$684.0	$228.7	$0.0
FY 1999-00	$1,462.1	$628.4	$619.4	$214.3	$49.3
FY 1998-99	$1,380.7	$580.3	$599.8	$200.6	$17.7
FY 1997-98	$1,364.0	$563.8	$599.6	$200.6	$0.0
FY 1996-97	$1,300.4	$537.6	$580.2	$182.6	$140.4
FY 1995-96	$1,259.9	$524.5	$557.4	$178.0	$81.3
FY 1994-95	$1,168.6	$477.0	$516.9	$174.7	$67.0
FY 1993-94	$1,111.7	$477.6	$471.1	$163.0	$54.5
FY 1992-93	$1,032.5	$424.2	$454.8	$153.5	$45.5
FY 1991-92	$926.5	$404.4	$399.4	$122.7	$112.2
FY 1990-91	$1,016.3	$400.6	$468.6	$147.1	$10.7
FY 1989-90	$1,032.9	$400.0	$484.9	$148.0	
FY 1988-89	$993.5	$385.3	$464.6	$143.6	
FY 1987-88	$929.6	$365.2	$429.6	$134.8	
FY 1986-87	$877.7	$345.4	$404.4	$127.9	
FY 1985-86	$832.3	$335.4	$376.1	$120.8	
FY 1984-85	$760.2	$308.2	$338.8	$113.2	
FY 1983-84	$674.3	$279.4	$291.6	$103.3	
FY 1982-83	$595.1	$243.6	$255.0	$96.5	$11.9
FY 1981-82	$525.2	$237.4	$213.4	$74.4	$40.0
FY 1980-81	$542.1	$231.0	$232.8	$78.3	$43.5

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

TABLE C: INFLATION ADJUSTED REVENUE SHARING PAYMENTS: FY 2015-16 PAYMENTS LOWER THAN PAYMENTS IN FY 1982-83; DOWN 30.7% SINCE FY 1994-95
(IN MILLIONS of 1983 ADJUSTED DOLLARS)

	Total Revenue Sharing	Constitutional Payments	Statutory CVT Payments	Payments to Counties
FY 2015-16	$548.6	$339.1	$112.5	$97.1
FY 2014-15	$552.5	$342.6	$113.5	$96.4
FY 2013-14	$505.9	$333.7	$106.4	$65.8
FY 2012-13	$491.8	$329.6	$102.6	$59.6
FY 2011-12	$479.9	$328.9	$97.5	$53.5
FY 2010-11	$519.8	$316.5	$149.7	$53.6
FY 2009-10	$485.7	$307.4	$151.3	$27.0
FY 2008-09	$512.9	$320.1	$191.3	$1.5
FY 2007-08	$526.0	$336.4	$189.6	$0.0
FY 2006-07	$538.1	$334.7	$203.5	$0.0
FY 2005-06	$562.8	$347.2	$215.6	$0.0
FY 2004-05	$588.4	$353.8	$234.6	$0.0
FY 2003-04	$707.5	$354.2	$254.6	$98.8
FY 2002-03	$797.5	$362.8	$323.4	$111.3
FY 2001-02	$854.8	$365.8	$366.5	$122.5
FY 2000-01	$895.0	$369.9	$393.6	$131.6
FY 1999-00	$868.7	$373.4	$368.0	$127.3
FY 1998-99	$848.1	$356.4	$368.4	$123.2
FY 1997-98	$858.4	$354.8	$377.3	$126.2
FY 1996-97	$836.8	$345.9	$373.4	$117.5
FY 1995-96	$831.6	$346.2	$367.9	$117.5
FY 1994-95	$792.3	$323.4	$350.4	$118.4
FY 1993-94	$778.0	$334.2	$329.7	$114.1
FY 1992-93	$744.9	$306.1	$328.1	$110.8
FY 1991-92	$685.8	$299.3	$295.6	$90.8
FY 1990-91	$767.6	$302.6	$353.9	$111.1
FY 1989-90	$814.6	$315.5	$382.4	$116.7
FY 1988-89	$823.1	$319.2	$384.9	$119.0
FY 1987-88	$809.8	$318.1	$374.2	$117.4
FY 1986-87	$792.9	$312.0	$365.3	$115.5
FY 1985-86	$769.9	$310.3	$347.9	$111.7
FY 1984-85	$718.5	$291.3	$320.2	$107.0
FY 1983-84	$658.5	$272.9	$284.8	$100.9
FY 1982-83	$598.7	$245.1	$256.5	$97.1

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

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	$16,853	$14,663	56.28%	$5,381	$1,211	$10,261	34.3%	($4,402)
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								($64,510)	

Source: SOMCAFR various years; Senate Fiscal Agency; House Fiscal Agency; GLEC calculations.

Table E: State Payments to Local Governments (excluding schools) Has Declined Sharply
(millions)

	FY 1994	FY 2016	% Change Adjusted for Inflation
Payments to Local Govts	$7,474	$16,852	39.2%
Payments to School Districts	$2,630	$11,919	279.7%
Payments to Other Local Govts.	$4,844	$4,933	-37.1%
Local School Property Taxes	$5,857	$2,054	-78.4%
Total School Expenditures (Excludes Federal Aid)	$8,487	$13,973	1.6%
Total State Spending from State Resources	$14,949	$30,547	26.1%
Payments to Other Local Govts. as % of State Spending	32.4%	16.1%	
Total State Spending less payments to other local Govts	$10,105	$26,614	56.4%

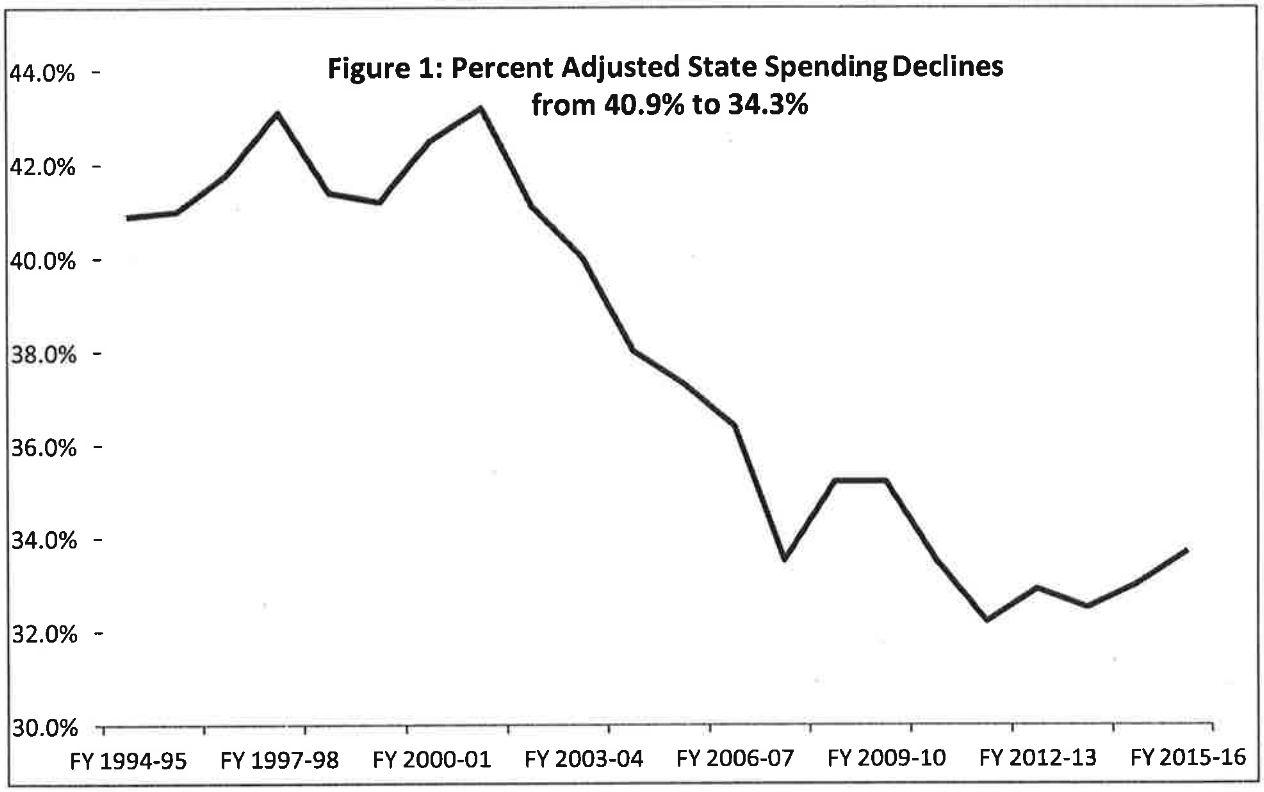
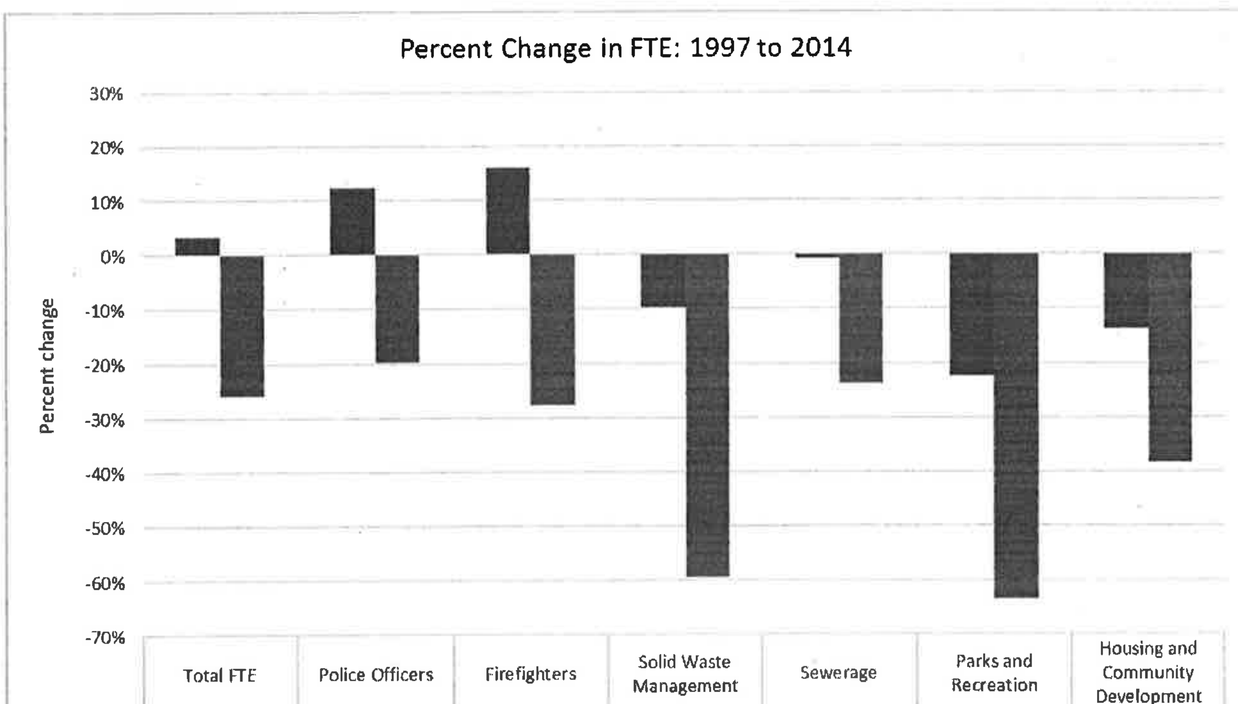


FIGURE 2: MICHIGAN AND US LOCAL GOVERNMENT EMPLOYMENT CHANGES



	Total FTE	Police Officers	Firefighters	Solid Waste Management	Sewerage	Parks and Recreation	Housing and Community Development
U.S.	3%	12%	16%	-10%	-1%	-22%	-14%
Michigan	-26%	-20%	-28%	-59%	-24%	-63%	-38%

Source: US Census Bureau, 2014 Annual Survey of Public Employment and Payroll.