

State Notes

TOPICS OF LEGISLATIVE INTEREST

September/October 2006



Federal Expenditures in Michigan By Gary S. Olson, Director

Each fiscal year, the Federal government allocates a significant portion of the overall Federal budget to expenditures that have a direct impact on the states. The United States Bureau of the Census annually reports on these Federal expenditures to the states in its report entitled, "Consolidated Federal Funds Report". The most recent Consolidated Federal Funds Report is for fiscal year (FY) 2004.

The Census Bureau report covers four broad categories of Federal expenditures received by states. These categories are: direct payments to individuals, Federal salaries and wages, procurement, and grants to state and local governments. Direct payments to individuals include such large Federal programs as Social Security, Medicare, Federal retirement and disability payments, student loans, workers' compensation payments, and food stamps. Federal salaries and wages measure the amount spent on the base salary and overtime of Federal employees in each state. Procurement is the amount spent in each state for direct purchases by the Federal government of either goods or services. Grants to state and local governments are direct Federal aid programs and include such large programs as Federal transportation aid, job training aid, education spending, and the Medicaid program.

Historically, Michigan's share of Federal expenditures has lagged behind the amount of most other states. As measured on a per-capita basis, in FY 2004 total Federal expenditures in Michigan equaled \$5,982. The national average of all states on a per capita basis was \$7,362. Table 1 provides a summary of Federal expenditures in Michigan during FY 2004. Michigan's total per-capita expenditures ranked 46th among the states. The only broad category of Federal expenditures in which Michigan was close to the national average was the area of direct payments to individuals, where Michigan's share ranked 28th among the states. Michigan's rank in Federal salaries and wages was 49th among the states, Michigan's rank in procurement was 46th among the states, and Michigan's rank in grants to state and local governments was 40th among the states.

Table 1

	Total Federal Funds (millions of dollars)		Michigan as Percent of National Total	Per Capita Federal Funds		
	National Amount	Michigan Amount		National Per Capita	Michigan Per Capita	Michigan Rank
Direct Payments for Individuals	\$1,136,769	\$39,532	3.5%	\$3,871	\$3,909	28
Federal Salaries and Wages	225,601	3,610	1.6%	768	357	49
Procurement	339,681	4,119	1.2%	2,168	407	46
Grants to State and Local Governments	460,152	13,227	2.9%	1,567	1,308	40
Total	\$2,162,203	\$60,488	2.8%	\$7,362	\$5,982	46
Resident Population	293,655,404	10,112,620	3.4%			

Source: United States Bureau of the Census, Federal Expenditures by State for Fiscal Year.



An analysis of the Census Bureau data leads to the conclusion that the citizens of Michigan are receiving much less than their fair share of Federal expenditures if the expenditures were simply distributed on a per-capita basis. Table 2 provides a summary of the actual amount of Federal expenditures received in Michigan for the period FY 1985 through FY 2004 versus the amount that Michigan would have received if Federal expenditures had equaled Michigan's percentage of the total United States population. In FY 2004, this Federal funding shortfall equaled \$14.0 billion.

Table 2

Michigan's Federal Funding Shortfall (Millions of Dollars)			
Fiscal Year	Actual Federal Expenditures in Michigan	Federal Expenditures in Michigan on a Per-Capita Basis	Michigan's Expenditures Shortfall
1985	\$22,384	\$29,844	\$(7,460.8)
1986	23,342	31,398	(8,055.5)
1987	23,283	31,814	(8,530.4)
1988	23,887	33,207	(9,320.3)
1989	26,109	34,735	(8,625.3)
1990	29,433	37,438	(8,005.6)
1991	31,968	41,292	(9,323.4)
1992	36,137	44,998	(8,860.3)
1993	37,238	46,845	(9,607.2)
1994	39,485	49,021	(9,536.4)
1995	39,569	49,055	(9,486.5)
1996	39,633	50,062	(10,429.2)
1997	40,651	51,441	(10,789.7)
1998	41,917	53,905	(11,988.6)
1999	44,128	55,355	(11,227.5)
2000	46,851	58,242	(11,390.9)
2001	51,722	62,986	(11,264.3)
2002	55,910	67,566	(11,656.2)
2003	57,870	71,455	(13,584.8)
2004	60,488	74,460	(13,971.8)

Source: United States Bureau of the Census, Senate Fiscal Agency calculations.

This Federal funding shortfall in Michigan can be attributed to several factors. First is that Michigan has a smaller proportion of Federal direct employees compared with other states. The second is the lack of major defense facilities or major defense contractors within Michigan. The third major factor influencing the distribution of Federal funds is that numerous Federal funds have formulas that take into account income levels. This type of formula does not generally benefit Michigan compared with many other states. These factors and others account for the long-term distribution of Federal funds and affect the amount of Federal funds received in Michigan.

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How Kinship Care Affects Foster Children **By Lauren Hula, Intern**

Introduction

The United States has a well established tradition of extended family members' accepting child-rearing responsibilities for relatives whose birth parents are unable to care for them properly. This practice, known as kinship care, provides a valuable safety net for vulnerable children. Anthropologists coined the term kinship care when documenting the importance of kinship networks to African American slave children, whose families had been forcibly separated. These types of private kinship arrangements are still a significant part of American society. In 1999, an estimated 1.8 million children lived in private kinship care.¹

Over the past two decades, kin also have begun to serve as foster care-givers for children under state supervision. Throughout the nation, in fact, child welfare agencies are turning to kin to provide safe out-of-home placements. Unlike private kinship arrangements, child welfare agencies monitor these placements and kin must meet minimum state requirements. This unprecedented trend has changed the shape of foster care and led to a debate over proper licensing and funding procedures. In this debate, however, many people are forgetting to ask a key question: What effect does kinship care have on the well-being of foster children?

Although research on this topic is limited, early results have found several differences between children entering kinship care and those in nonkin foster care. This article provides a brief synopsis of the national research available on kinship care, discussing education, foster home conditions, permanency of the placement, and long-term differences. The paper focuses solely on kin involved with the child welfare system and, unless otherwise noted, private kinship care-givers are excluded from this analysis.

Education

Education is often seen as an important steppingstone to success. In addition to increasing a person's average income, education has been shown to increase one's trainability, health, access to information, political participation, and social status.² Given the numerous benefits associated with receiving a proper education, it is troublesome that children in kinship care perform poorly academically. Many have below-average cognitive skills, perform poorly on academic achievement tests, and have behavioral issues (ranging from poor study habits to disruptive activity).³

Educational studies have compared the overall performance of children in kinship care with the performance of average students, but have not fully analyzed how the introduction of kin into the child welfare system has affected foster children. One comparison found no difference between the educational problems of maltreated children in kinship care and the educational problems of children who experienced similar abuse but were placed with nonkin foster care-givers or not

¹ Geen, 2004

² Levin, 1987

³ Kang, 2003



removed from their homes. All three groups struggled academically based on teacher evaluations and standardized tests.⁴ These results highlight the need to compare foster children in kinship care with others in similar situations in order to produce a complete picture of how children in kinship care fare compared with children who experience alternative placement.

Even a direct comparison between foster children in kinship care and other at-risk children may be skewed due to the different conditions under which children enter kinship care. Birth parents of children in kinship care tend to be younger and unmarried.⁵ The mothers have a particularly high risk of suffering complications during pregnancy and not receiving proper prenatal care. As a result, their children are at higher risk for physical and mental disabilities. Also, a greater percentage of kinship care children have been removed from their homes because of abuse and neglect, rather than parent-child conflict or behavior problems.⁶ These early abuse and neglect experiences often scar children emotionally. Several studies have found that children in kinship care are more likely to have parents with drug and alcohol abuse problems.⁷ One study estimated that 52.0% of children in kinship care exhibit the adverse effects of parental drug exposure.⁸ Prenatal drug and alcohol exposure can seriously affect a child's cognitive abilities. All of these risk factors place children in kinship care at a higher risk of having behavioral, physical, and learning disabilities. These in turn create more educational obstacles for children in kinship care. When comparing children in kinship care and those in nonkin foster care, researchers need to realize that educational discrepancies might be a result of differences that existed before the children entered foster care.

While it is not possible to control for all of the differences between children in kinship care and those in nonkin foster care, addressing key discrepancies can create a more reliable estimate of the effect that kinship care has on the educational achievement of foster children. For example, one study controlled for drug exposure when comparing behavioral differences between children in kinship care and children in nonkin foster care. The results showed that nondrug-exposed children placed with kin were less likely to display behavioral problems, while drug-exposed children in kinship care were more likely to display behavioral problems.⁹ There is evidence that children in kinship care perform below their peers academically. There is not enough available research, however, to draw concrete conclusions about the effect of kinship care on the educational achievement of foster children.

Foster Home Environment

The purpose of removing children from their homes is to place them in a safe, nurturing environment. The profile of kinship care-givers differs from that of nonkin foster parents. Some of these differences highlight areas in which kinship care providers may struggle to provide a healthy home environment. Most differences are related to the older age and lower economic status of kinship care-givers.

⁴ Sawyer, Dubowitz, 1994

⁵ U.S Department of Health and Human Services Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, 1997

⁶ Ibid.

⁷ Ibid.

⁸ Kang, 2003

⁹ Kang, 2003



Nationally, one study found that between 15.0% and 21.0% of kinship foster parents were over 60 years old, compared with less than 9.0% of nonkin foster parents.¹⁰ The majority of kinship care providers are grandparents, which helps explain this discrepancy in age. It also helps explain why more kinship care-givers face health problems.¹¹ The age and health of these care-givers can make raising a child a daunting task. Since most presumably never expected to be raising a child at this stage of their lives, it is not surprising that many kinship care-givers experience more aggravation and symptoms of depression after becoming a foster parent.¹² The combination of these feelings and the physical limitations that kinship care-givers face raises some concerns about the home environment.

There are also economic reasons for concern. The income of kinship care-givers is significantly less than that of nonkin foster parents.¹³ Fewer kin are married, leaving the household dependent on one source of income. Overall, 44.0% of all nonkin care-givers have the benefit of relying on their spouses for income support, while only 27.0% of kinship care-givers have that safety net. This sole dependence means that families are more vulnerable to economic disruptions. Economic hardships are compounded because kinship care-givers often accept multiple children rather than force siblings to be separated.¹⁴ Kinship care-givers are more likely to have an insufficient amount of food, be without telephone service, experience crowding, and have trouble paying housing costs.¹⁵ Studies have found that children in kinship care have substantial health care needs, yet receive inadequate services.¹⁶ While these economic issues are a source of concern, they do not prove that kinship care-givers are unable to provide for the foster children in their care. One study found that kinship care-givers are more likely to make regular personal contributions to the child in their protection.¹⁷

There are also some educational discrepancies between kinship care-givers and nonkin that may raise concerns. Research has found that 32.0% of kinship care-givers do not have a high school diploma, compared with 9.0% of nonkin care-givers.¹⁸ This may make it difficult for kin to provide educational and other resources to the children in their care.

Permanency

Child welfare agencies have always stressed the importance of finding permanent placement for foster children. Kinship care-givers provide children with more stable foster care compared with care-givers in other foster care placements.¹⁹ Nevertheless, trends in kinship care show that

¹⁰ Geen, 2004

¹¹ U.S. Department of Health and Human Services Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, 1997, Wells, Agathen, 1999

¹² Wells, Agathen, 1999

¹³ Geen, 2004

¹⁴ Geen, 2004

¹⁵ Op Cit - Note 5

¹⁶ Kang, 2003

¹⁷ Op Cit – Note 5

¹⁸ Personal Responsibility and Work Opportunity Reconciliation Act

¹⁹ Kang, 2003



children remain longer in foster care and are less likely to be either reunified with a parent or adopted. There are conflicting explanations for these patterns.

Some argue that children in kinship care are less likely to be adopted because of the actions of welfare workers, while others cite the unwillingness of kin to adopt. There is some evidence that grandparents do feel uncomfortable with the idea of adopting their grandchildren.²⁰ Some kin express concern about being legally responsible for emotionally and behaviorally troubled youths. On the other hand, some researchers contend that kin are willing to adopt if they are given accurate information on the continued role of birth parents, ongoing payments, and leaving the children's birth name intact.²¹ Some claim that welfare workers automatically assume kin are not interested in adoption and do not properly inform them of their options.

Children in kinship care also are less likely to be reunified with their parents. One study found an overwhelming consensus among administrators, caseworkers, and kinship care-givers that birth parents were less motivated to meet case requirement goals for reunification when children were placed in kinship care.²² Researchers have suggested that these parents feel less social stigma for losing their children.²³ Birth parents remain in closer contact with children who are placed with kin. Often, however, this contact occurs during unscheduled and unregulated visits. These types of interaction raise safety concerns, as well as provide a possible reason why children in kinship care are less likely to be reunified with parents.

Overall, children in kinship care tend to stay in care longer than those placed with nonkin. When it is determined that children with nonkin foster care-givers cannot be reunified with their birth parents, child welfare workers push to terminate parental rights and find someone to adopt the child. In contrast, when a child is placed with kin, termination of parental rights is usually delayed. The Federal Adoption and Safe Families Act of 1997 indicated that a fit and willing relative can provide a planned permanent living arrangement, and that if such an arrangement is found, the state does not need to terminate parental rights within the normally allotted time frame. Often, caseworkers are allowed to transfer custody of a child to a kinship care-giver and consider this a permanent outcome. This type of long-term foster care is generally prohibited with nonkin. It is unclear what impact this type of permanency has compared with reunification or adoption.

Long-Term Results

In the few longitudinal studies conducted, no discernable differences between adults who were raised by kin and those raised by nonkin foster care-givers can be found in terms of education, employment, physical or mental health, or risk-taking behavior.²⁴ Differences might have existed when the children were in foster care. While more research needs to be done, these early results are disappointing for those who predicted that kinship care would improve foster care outcomes.

²⁰ Geen, Berrick, 2002

²¹ Geen, Berrick, 2002

²² Geen, 2004

²³ Geen, 2004

²⁴ Geen, 2004



Studies Focusing on Michigan

The studies referred to above were done throughout the nation. While most studies were based on relatively small, cross-sectional samples of foster children located in a specific region, some were conducted on foster children in multiple states. Since none of these studies focused exclusively on Michigan, the applicability of the results to this State is limited. Currently, there is very little research that tracks Michigan foster children in kinship care.

Michigan State University, with the support of the Families and Communities Together (FACT) Coalition, has conducted one of the few published studies on kinship care in Michigan. The study examined grandparents who accepted child-rearing responsibility for their grandchildren, as both public and private kinship care-givers. The study reinforced many of the national trends. Forty-six percent of the grandchildren had disabilities and other special needs, including attention deficit hyperactivity disorder, fetal alcohol syndrome, emotional and behavioral problems, speech or learning delays, autism, or cerebral palsy.²⁵ These issues made succeeding in school more difficult.

Half of the grandparents were still employed, with average incomes ranging from \$30,000 to \$39,000 (to support a family of three or four). Many grandparents reported living on tight fixed incomes. Of all the households surveyed, 26.0% reported average incomes of less than \$20,000.²⁶ Despite these economic challenges, however, more than half of the grandparents planned on caring for their grandchildren for the next 13 years or more.

Conclusion

National research warns that children in kinship care may face challenges different from those experienced by children placed in nonkin licensed foster homes. These needs must be addressed in order to help foster children in kinship care succeed once they leave the child welfare system on their 18th birthday. Overall, Michigan foster children struggle to succeed when they age out of the system. More than half of the children leaving foster care in Michigan have been diagnosed with a mental disorder, one-fifth have been homeless at some point in their lives, half have not completed their high school education, and one-third live below the poverty line.²⁷

Michigan increasingly turns to kin to provide safe out-of-home placements with the hope that these care-givers can provide foster children with a brighter future. Nevertheless, the State presently has no strategy to test whether these hopes are justified. Even if placing foster children with kin is a less traumatic experience compared with placement in licensed nonkin foster homes, it may be that the overall negative impact of the experience outweighs the initial benefit. More research and better data are needed to understand the impact and guide Michigan policy.

²⁵ Vaidya, 2003

²⁶ Vaidya, 2003

²⁷ Michigan Advisory Committee on the Overrepresentation of Children of Color in Child Welfare, 2006



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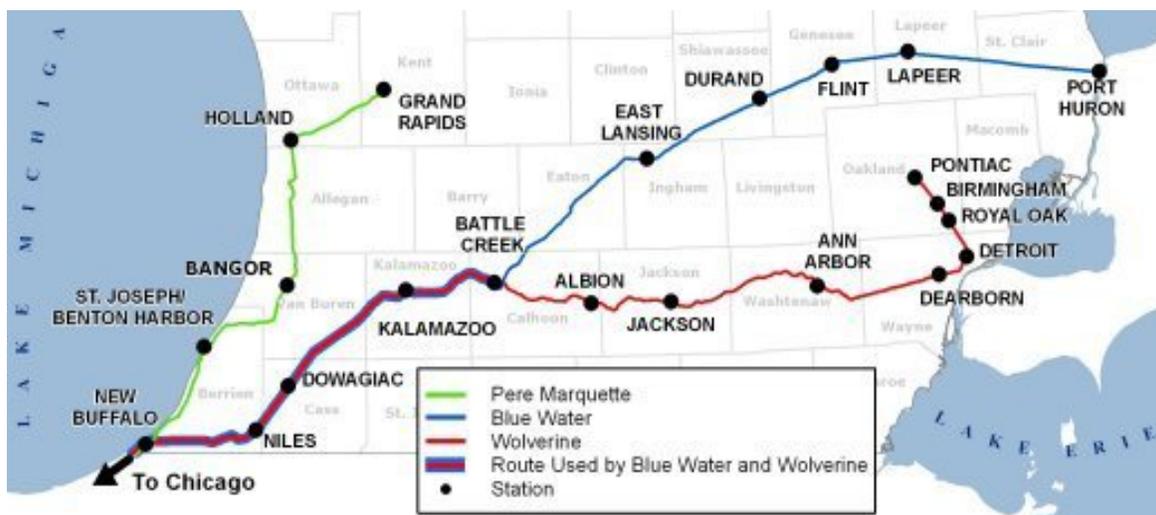
Passenger Rail Service in Michigan: Ten-Year Statistical Trends By Debra Hollon, Fiscal Analyst

Federal legislation passed in 1970 established the National Railroad Passenger Corporation (Amtrak) for the purpose of assuming passenger rail responsibilities from private freight railroads. The freight railroads maintained ownership of the tracks, while Amtrak took over the operation of the passenger routes.

Figure 1 provides a geographic summary of the Amtrak routes operated in Michigan. Amtrak established the Detroit-Chicago (Wolverine) line as one of its national corridor routes in 1971. The only section of rail line owned by Amtrak outside of the northeastern United States corridor is a 97-mile stretch from Kalamazoo, Michigan, to Porter, Indiana. In 1992, the U.S. Department of Transportation designated this section of track as a high-speed corridor. The maximum speed is currently 95 miles per hour and will soon be increased to 110 miles per hour.

In addition, Amtrak contracts to operate two State-supported routes in Michigan: the Port Huron-Chicago route (Blue Water - established in 1974) and the Grand Rapids-Chicago route (Pere Marquette - established in 1984). Beginning in 1982, the Port Huron-Chicago route extended to Toronto, Canada. Amtrak discontinued this Canadian portion in 2004 in an effort to increase schedule reliability for the route as a whole. The statistics outlined throughout this paper reflect the United States portion of the route.

Figure 1
Passenger Rail Routes



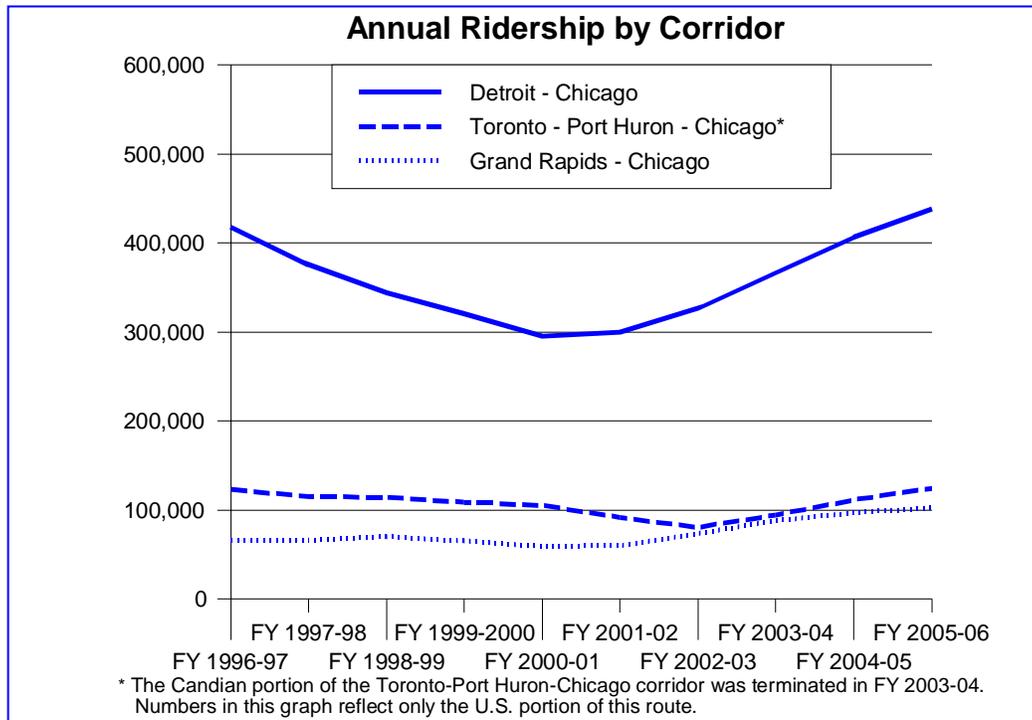
Source: Michigan Department of Transportation



Ridership

As evidenced in Figure 2, the annual ridership on all three passenger rail lines in Michigan has increased over the last several years.

Figure 2



Source: Michigan Department of Transportation

The fiscal year (FY) 2005-06 ridership on the Detroit-Chicago corridor was 438,529 passengers. This represents an increase of 32,030 passengers (7.9%) from FY 2004-05 and an increase of 20,038 passengers (4.8%) from FY 1996-97. The overall fluctuation in ridership on the Detroit-Chicago corridor over the past 10 years is due primarily to equipment adjustments by Amtrak to address capacity needs throughout the region. Other minor factors include gasoline prices and the relative cost of airfare.

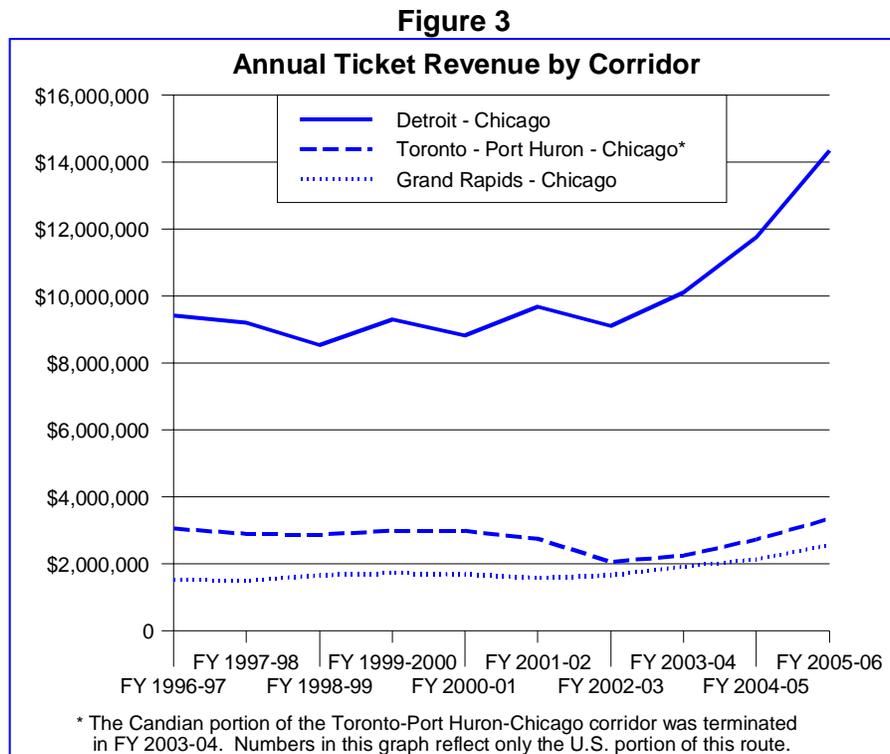
For the Port Huron-Chicago route, the FY 2005-06 ridership was 123,823 passengers. This represents an increase of 12,193 passengers (10.9%) from FY 2004-05 and an increase of 319 passengers (0.3%) over the last 10 years. A decrease in ridership on this line during FY 2002-03 was due in part to repair work that closed the section between Port Huron and East Lansing for three months. Intercity bus service was provided for that section during the service disruption, but there was a decrease in ridership nonetheless.

The FY 2005-06 ridership for the Grand Rapids-Chicago route was 101,932 passengers. This represents an increase of 5,461 passengers (5.7%) over FY 2004-05 and an increase of 36,760 passengers (56.4%) over FY 1996-97.



Ticket Revenue

Figure 3 reflects the annual ticket revenue for the three rail passenger routes. Like ridership, this revenue has increased in the past few years. Over the past 10 years, the average one-way fare (calculated by dividing ticket revenue by ridership) has increased on each of the three routes. For the Detroit-Chicago corridor, the 10-year increase was approximately \$10. For the Port Huron-Chicago route, the increase was approximately \$2.10 and for the Grand Rapids-Chicago route, approximately \$1.25. A fare increase of 5.0% was implemented for all three routes in mid-October 2006, for FY 2006-07.



Source: National Railroad Passenger Corporation (Amtrak) as compiled by Michigan Department of Transportation

Ticket revenue collected for the Detroit-Chicago corridor during FY 2005-06 was \$14.4 million. This amount represents an increase of \$2.6 million (22.1%) from FY 2004-05 and \$4.9 million (52.4%) from FY 1996-97.

For the Port Huron-Chicago route, \$3.4 million was collected in ticket revenue in FY 2005-06. This amount is an increase of \$598,972 (21.7%) over FY 2004-05 and an increase of \$270,630 (8.8%) from FY 1996-97.



The Grand Rapids-Chicago route saw ticket revenue of \$2.6 million in FY 2005-06. This represents an increase of \$428,971 (20.0%) over FY 2004-05 and an increase of \$1.0 million (64.6%) over FY 1996-97.

State Subsidy

Michigan is one of 13 states that contract with Amtrak to provide passenger rail service beyond Amtrak's national corridor routes. In Michigan, these additional routes are the Port Huron-Chicago and Grand Rapids-Chicago routes. Table 1 outlines the State subsidy paid to Amtrak over the past 10 years.

Table 1
Amtrak Operating Subsidy

Fiscal Year	Subsidy
FY 1996-97	\$2,050,000
FY 1997-98	2,050,000
FY 1998-99	2,050,000
FY 1999-2000	2,050,000
FY 2000-01	5,700,557
FY 2001-02	5,700,000
FY 2002-03	5,700,000
FY 2003-04	7,100,000
FY 2004-05	7,100,000
FY 2005-06	7,100,000

Source: Michigan Department of Transportation

The dramatic increase from FY 1999-2000 to FY 2000-01 reflects a change in the way the State subsidy is calculated to make the formula consistent across all states. The current formula is essentially a reimbursement of the direct costs of operating the route. As a result, the negotiated subsidy can fluctuate up or down based upon operational costs and route revenue. For example, additional capacity for a route (e.g., an additional car or daily round trip) would increase the operational costs for that route. If the revenue received did not meet those costs, the subsidy amount would increase. If the revenue received exceeded the operational costs, the subsidy amount would decrease.

Boilerplate language added to the Michigan Department of Transportation's budget for FY 2006-07 requires that the subsidy be limited to an amount equal to the amount of total revenue generated by the Port Huron-Chicago and Grand Rapids-Chicago routes, not to exceed \$7.1 million. As noted above, the combined FY 2005-06 ticket revenue for the two routes totaled \$5.9 million. To generate the required \$7.1 million in ticket revenue, the two routes would need 20.0% increases in revenue in FY 2006-07 similar to those seen from FY 2004-05 to FY 2005-06. This figure does not include additional amounts from concessions or other revenue streams.

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Sunrise, Sunset: Swiftly Fly the Years for DEQ Permit Fees **By Jessica Runnels, Fiscal Analyst**

October 1, 2007, will be an important day for the Department of Environmental Quality (DEQ). This is the sunset date of \$18,432,100 in annual permit fees for three major regulatory programs: air emissions, groundwater discharge, and solid waste. Therefore, the continuation of these three programs in fiscal year (FY) 2007-08 depends on either extending the permit fees or finding alternative funding. To ease the way next year, the following discussion reviews the programs and the history establishing their current fee structures.

Air Emissions

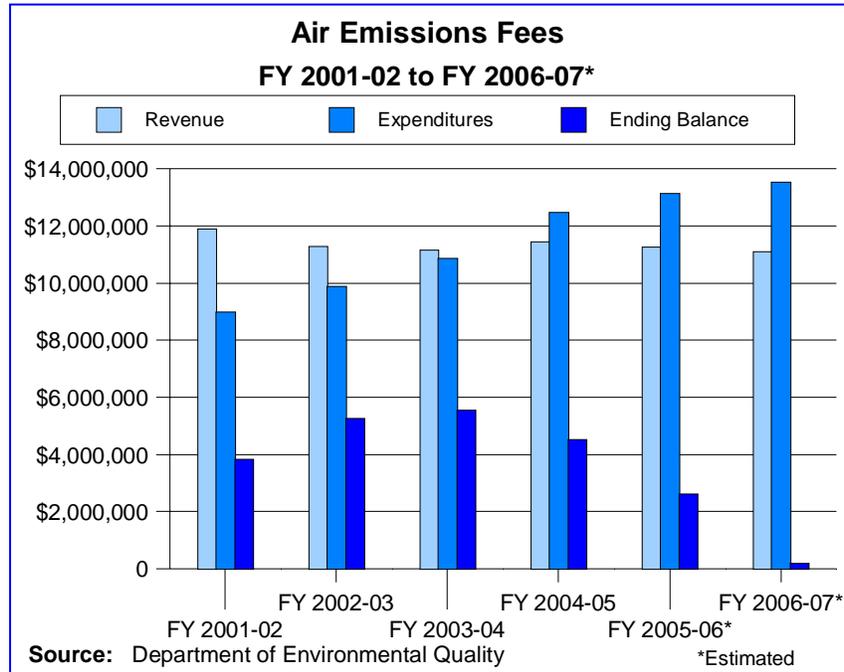
Air emissions fees are assessed on facilities that require a Renewable Operating Permit in order to discharge air contaminants. The fees are used exclusively for the administration of the Title V program. Title V refers to the section of the Federal Clean Air Act amendments of 1990 establishing the Renewable Operating Permit program and authorizing states to administer it. The State of Michigan incorporated the Federal 1990 amendments into State law in 1993 and they became operational in 1995. Michigan was authorized by the United States Environmental Protection Agency to administer the Title V air emissions program because it met a number of qualifications, which include assessing air emissions fees sufficient to operate the program and statutorily restricting expenditure of the fee revenue to Title V program costs. Fee revenue provides the sole support for operation of the Title V permitting program. Air emissions permits are valid for five years and the fees are paid annually to maintain the permits.

For the past decade or so, air emissions fees have been set in statute with a sunset date three or four years in the future. Before the sunset took effect, the fees would be renegotiated, generally with an increase to account for inflation in program costs. In 2005, the air emissions fees were extended for two more years without a change in the fee levels. A balance of over \$4.5 million had built up in the Air Emissions Fee Fund due to a hiring freeze following the State's 2002 early retirement program, furlough days, banked leave time, travel reductions, and purchasing restrictions. The fee extension was designed so the Fund balance would be used to compensate for the difference between annual fee revenue and expenditures. This may result in a tight fit financially for the Title V program to get through FY 2006-07 without program reductions.

Figure 1 compares the permit fee revenue with fee expenditures for the program. As is the pattern with all three of the regulatory program discussed, a Fund balance that built up early in the period compensates for expenditures that are greater than revenue later in the period.



Figure 1



Groundwater Discharge

The groundwater discharge permit program was established many decades ago and requires individuals, businesses, and organizations that discharge wastewater to the ground or groundwater to obtain a permit. However, groundwater dischargers were not required to pay a fee for a permit until three years ago, beginning in FY 2003-04. When the permit fees were established, the annual revenue offset General Fund support for the program and now represents 93.4% of the total appropriation for the groundwater discharge regulatory program. The appropriation in FY 2006-07 for the program includes \$1,912,300 in fee revenue, \$115,400 from the General Fund, and \$20,600 in Federal funds. Since the permit fee revenue contributes such a large portion of its support, the program's sustainability is determined by the fee collections.

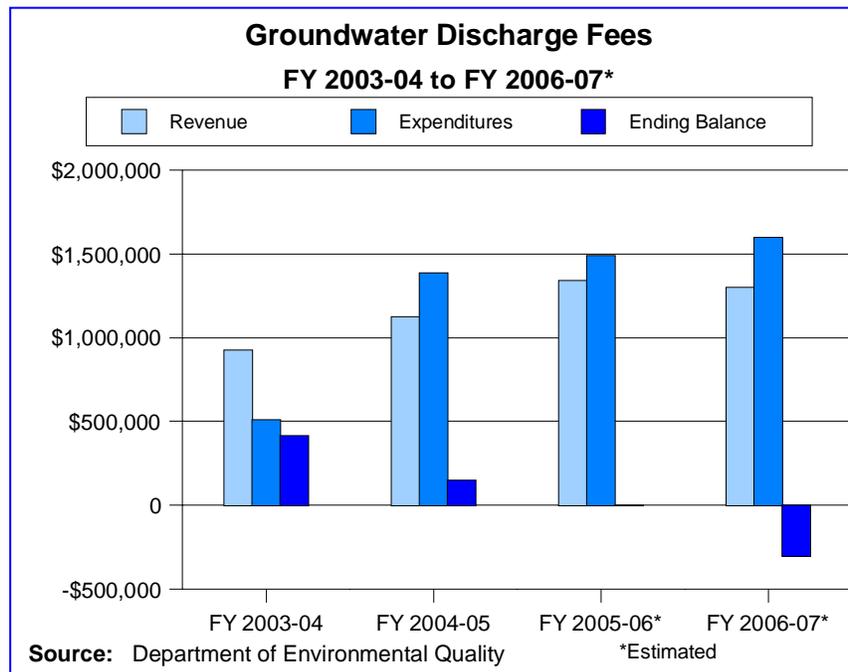
The current fee structure has three fee levels, one for each of three groups that are defined according to which administrative rule applies. Municipalities with populations less than 1,000 are combined with one of the groups regardless of which administrative rule otherwise would apply. When the bill to enact groundwater discharge permit fees was considered by the Legislature four years ago, the discussion focused on balancing the flow volume and complexity of the wastewater discharged. In addition, exemptions for different types of organizations were considered, but none were included in the final version that became law.

Figure 2 compares the groundwater discharge permit fee revenue with fee expenditures for the program. At the beginning of FY 2005-06, the program estimated annual expenditures to be about \$1.6 million. As the year progressed and it became clear that there would be



insufficient funds, program operations were adjusted to avoid a negative year-end balance. Similar adjustments will be necessary in FY 2006-07 to avoid the ending balance projected in [Figure 2](#).

Figure 2



Solid Waste

There are two types of landfills for the collection of solid waste. Type II landfills receive municipal solid waste and Type III landfills receive selected solid waste from industrial and construction activities. Type III landfills include captive facilities that receive only waste generated on-site and monofills that receive only one type of solid waste, such as coal ash. (Type I landfills are hazardous waste disposal facilities, not solid waste facilities, so they are regulated under a different program and statute.) Type II and Type III landfill owners or operators are required to obtain an operating license on a five-year basis and pay an annual surcharge fee based on the volume of solid waste received.

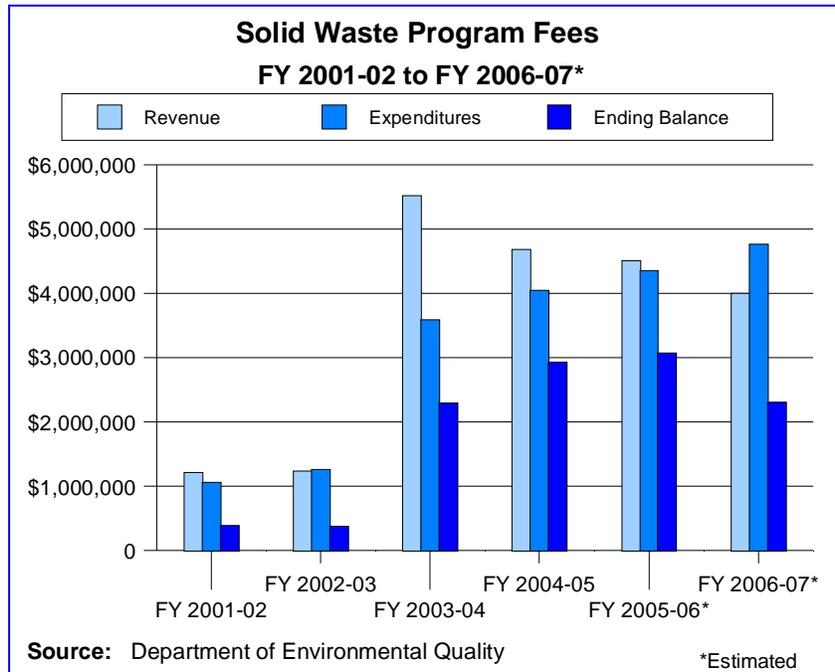
Revenue from the surcharge fees and landfill construction permit fees is deposited into the Solid Waste Management Fund and used to support the solid waste regulatory program. In FY 2006-07, the appropriation of \$4,322,000 from the Solid Waste Management Fund is the sole support for this program, with the exception of \$71,800 from waste reduction fee revenue. Operation of the solid waste management program and administrative costs of the DEQ are the only appropriations of solid waste program fee revenue.

[Figure 3](#) compares fee revenue with fee expenditures for the program. Fees have been assessed for many years, but when they were last enacted in FY 2003-04, the surcharge fee revenue replaced General Fund support for the program and replaced an administrative fee



assessed on landfill owners or operators. At that time, the surcharge and construction permit fees became the sole funding source for the solid waste management program. This change accounts for the significant increase in fee revenue in FY 2003-04, but overall funding for the program remained relatively stable. With fee levels not changing for four years and program costs increasing, this pattern was expected.

Figure 3



Conclusion

Over the past few years, restricted funds have increasingly made up a larger portion of the annual operations budget for the DEQ. In FY 2006-07, only 8.0% of the DEQ budget comes from the General Fund, compared with 24.0% in FY 2000-01. As General Fund dollars become scarce, permit fees and other restricted fund sources are filling the gap. Many of the programs in the DEQ are self-supporting with fee revenue. Of the three programs discussed here, two receive no General Fund dollars and one receives a nominal amount from the General Fund. If this trend continues, it is unlikely these programs will receive support from other fund sources. In order to continue the programs, fees will have to be reconsidered before the sun sets.

State Notes

TOPICS OF LEGISLATIVE INTEREST

September/October 2006



Fiscal Implications of Dow Chemical and Midland Cogeneration Venture Property Tax Appeal Cases

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Two very large and protracted property tax appeal cases appear to be very close to being resolved and both of these cases will have adverse fiscal impacts on the School Aid Fund. These cases, both of which began in 1997, involve property located in the City of Midland and owned by Dow Chemical Company and the Midland Cogeneration Venture. Summaries of these two property tax appeal cases are presented below, along with information on the likely tax refunds that will have to be paid by the School Aid Fund and the affected local governments and school districts.

Dow Chemical Company Property Tax Appeal

In 1997, Dow Chemical Company appealed the assessed value assigned to its corporate headquarters and its Michigan Operations Plant, both located in Midland, Michigan. Since 1997, Dow Chemical amended its appeal several times to include the property assessments for tax years 1998 through 2006, although the current case includes only tax years 1997 through 2001. At issue were the true cash, assessed, and taxable values of these properties. Dow Chemical also contended that certain personal property was being assessed as both real and personal property and therefore was being subjected to double taxation. Given the complexity of determining the fair value for these properties, hearings and court dates were frequently delayed. Finally, the Michigan Tax Tribunal (MTT) established a schedule to divide the case into two phases: Phase I was to determine which assets were real property and which assets were personal property and Phase II was to determine the values of these properties.

Phase I of the case began in March 2006, and after the MTT met for 10 days, the hearing was adjourned and scheduled to be resumed on October 18, 2006. Just before the Phase I hearing was resumed, Dow Chemical Company and the City of Midland announced they had reached an agreement, so the October 18th hearing before the MTT was canceled. The proposed agreement, which includes the appeals for tax years 1997 through 2006, was approved by the Midland City Council on October 23, 2006, and is now before the MTT. If the Tribunal approves the tentative agreement, the City of Midland, Midland County government, Midland Public Schools, Delta College, and the State of Michigan will have 20 days to refund the amounts owed to Dow Chemical Company under the agreement.

Midland Cogeneration Venture Property Tax Appeal

In 1973, Consumers Power Company (now Consumers Energy Company) began construction of a nuclear power plant in Midland, Michigan. By 1984, the nuclear plant was still being constructed and for various reasons the project was abandoned. In 1987, the Midland Cogeneration Venture (MCV) was formed by Consumers Energy and Dow Chemical Company for the purpose of converting the abandoned nuclear plant into a gas-fired cogeneration plant. This plant was designed to use natural gas to generate both electricity and steam and it is currently the largest cogeneration plant in the nation. Consumers Energy established a long-term agreement to purchase power from the MCV.



In 1997, the MCV filed a property tax appeal with the MTT against the City of Midland for its 1997 property taxes. Subsequently, the MCV expanded the appeal to include its property taxes for the 1998 through 2006 tax years. The appeal was divided into two cases. A case involving tax years 1997 through 2000 was heard first and the case concerning tax years 2001 through 2006 is being held in abeyance. One of the key questions in this property tax appeal is whether the long-term power purchase agreement the MCV has with Consumers Energy should be included in a determination of the value of the MCV property. In January 2003, the MTT ruled that the power purchase agreement should not be considered in the property's valuation because the agreement is an intangible asset. As a result, the MTT ruled that MCV's property taxes were overstated for tax years 1997 through 2000.

The City of Midland appealed the decision to the Court of Appeals, and in early 2006 the Court of Appeals upheld the Tax Tribunal ruling; however, the Court did return the case to the Tribunal to clarify whether some tax-exempt pollution control equipment and some property located outside the City of Midland were included in the final true cash value figures used by the MTT in making its final decision. The City of Midland appealed the case to the Michigan Supreme Court, but on July 31, 2006, the Michigan Supreme Court issued an order denying the City of Midland's application for leave to appeal. The case is currently back before the MTT for the limited purpose of rectifying the final true cash value levels for the four tax years in question. Once the MTT finalizes this case, the affected parties will have 20 days to make the required refunds to the MCV.

Fiscal Impact – General Discussion, Dow Chemical, and MCV

General Discussion

When local nonhomestead taxable values are adjusted downward, the State faces both increased costs in the K-12 budget and reduced School Aid Fund (SAF) revenue. Turning to an explanation of the cost side, local school districts levy mills on nonhomestead property to generate a local portion of the districts' foundation allowances. The State (up to the State funding cap) finances the difference between a district's foundation allowance and what is generated (on a per-pupil basis) in local revenue by mills levied on nonhomestead property. Therefore, when the taxable value of nonhomestead property is reduced, the local millage revenue supporting a school district's foundation allowance falls and the State must pay more to ensure the district receives its full foundation allowance.

On the revenue side, all property, homestead and nonhomestead, is subject to the six-mill State education tax (SET). The revenue generated from this tax is deposited directly into the SAF, which is used to support K-12 appropriations. Therefore, when taxable values decline, the State millage revenue generated from the SET also declines.

The explanations above discuss only the State's fiscal implications when taxable values are reduced. Any local millage revenue, supporting such things as cities, townships, community colleges, or libraries, declines when a settlement, appeal, or decision reduces an entity's taxable value. Table 1 provides estimates of the local fiscal impacts, as well as State fiscal impacts for both the Dow Chemical and MCV (1997-2000) property tax appeal cases.



Dow Chemical Case

On October 18, 2006, the City of Midland and Dow Chemical announced a proposed settlement of the disputed taxable value case involving Dow Chemical's Midland manufacturing facility and corporate headquarters. As shown in Table 1, Dow Chemical will be refunded a total of \$35.1 million under the agreed to settlement. Of this amount, the School Aid Fund will have to pay \$15.4 million in FY 2006-07 due to a \$4.4 million refund of State Education Tax collections and an \$11.0 million increase in aid payments to make sure Midland Public Schools receives their full foundation allowance funding after they refund \$11.0 million in local school property taxes to Dow Chemical. Midland Public Schools also will have to refund \$2.6 million in interest penalties to Dow Chemical, which is not reimbursed by the State. The other affected local governments, including the City of Midland, will pay refunds totaling \$17.1 million and their respective refund amounts are broken out in Table 1. The MTT still must approve the settlement before it becomes effective.

MCV 1997-2000 Case

Turning to the MCV case (for the 1997-2000 time period), the MTT is finalizing all remaining issues. When resolution occurs, the impact will be on the FY 2006-07 budget. Assuming the Tribunal does not change the taxable values already settled upon, Table 1 illustrates the estimated repayments that will have to be made by the various taxing units affected by the decision.

Table 1

Estimated Payments to Dow Chemical and Midland Cogeneration Venture (MCV) Due to Property Tax Appeals for Tax Years 1997-2006 (Millions of Dollars)			
Taxing Unit	Dow Chemical 1997-2006	Midland Cogeneration Venture	
		1997-2000	2001-2006^{a)}
State: School Aid Fund – Expenditure Side.....	\$11.0	\$13.8	\$19.4
State: School Aid Fund – Revenue Side.....	4.4	5.8	7.0
Local: City of Midland.....	9.0	12.1	17.0
Local: County of Midland.....	5.6	7.8	11.0
Local: Midland Public Schools	2.6	4.1	2.0
Local: Midland County Education Service Area (ISD)	0.8	1.1	1.5
Local: Delta Community College.....	1.7	2.0	2.8
Total	\$35.1	\$46.7	\$60.7

^{a)} Senate Fiscal Agency estimates, except for State: School Aid Fund - Expenditure and Revenue Sides and Local: Midland Public Schools.

Source: City of Midland and Midland Public Schools



As shown in Table 1, the estimated reduction in State SAF revenue is \$5.8 million, and the estimated additional cost to the State to offset reduced local millage revenue supporting Midland Public Schools' foundation allowance is \$13.8 million. These two occurrences total a \$19.6 million cost to the State's FY 2006-07 K-12 budget for the first MCV case alone.

Also shown in Table 1, Midland Public Schools will face an additional expense that will not be reimbursed by the State, namely interest costs on the overcollections from the 18-mill levy on the MCV's taxable value. Those costs for the 1997-2000 case are estimated at \$4.1 million. The Midland Area Intermediate School District is facing an estimated \$1.1 million in costs, and Delta Community College is estimated to owe \$2.0 million to the MCV. Finally, the City of Midland will pay approximately \$12.1 million to the MCV as a result of this decision.

MCV 2001-2006 Case

Turning to the MCV case covering 2001 to the present, and using the estimates provided by the Midland Public Schools and the Senate Fiscal Agency, the second MCV tax case will cost a total of \$60.7 million. Of this amount, the School Aid Fund cost will total \$26.4 million, of which \$7.0 million reflects the estimated overcollection of the SET and \$19.4 million is due to the increased State contribution to Midland Schools' foundation allowance. This case has not been settled, and therefore it is unknown when it will affect the State budget.

Conclusion

Combining the fiscal impacts for the Dow Chemical and MCV cases, the FY 2006-07 K-12 budget will face an estimated \$35.0 million in reduced revenue and increased costs, due to the proposed resolution on the Dow Chemical case and the Tax Tribunal's decision on the first Midland Cogeneration Venture case. Another case is pending before the Tribunal – the MCV case covering the time period from 2001 to the present. While it is unknown when the second MCV case will be resolved, if it is settled yet this fiscal year, then the total cost to the School Aid Fund in FY 2006-07 would increase to an estimated \$61.4 million.