

State Notes

TOPICS OF LEGISLATIVE INTEREST

Winter 2012



State Court Administrative Office 2011 Judicial Resources Recommendations By Dan O'Connor, Fiscal Analyst

Introduction

Every two years, the State Court Administrative Office (SCAO) publishes the Judicial Resources Recommendations (JRR), a report that analyzes the workloads of the various courts across the State. The 2011 JRR recommends the elimination by attrition of 45 trial court (district, circuit or probate) judgeships as well as the elimination by attrition of four Court of Appeals judgeships. This article highlights key aspects of the 2011 JRR report, and in particular discusses fiscal implications and provides an overview of SCAO methodology.

SCAO Methodology: The Calculation of How Many Judges Are Needed

The way the SCAO calculates each jurisdiction's need for judicial resources is much more nuanced than simply counting the number of case filings. This is an important feature because it recognizes that complex cases, such as medical malpractice, require a considerable amount of a judge's time, while simpler cases, such as civil infractions, require much less time.

The SCAO begins the analysis by conducting an extensive time study. The Office has conducted four such studies since 1997, and its most recent, in 2010, was the most extensive ever done. Instead of just studying a sample, the 2010 time study included all trial courts in Michigan. A committee put together by the SCAO observed the time it took for judges to perform their various duties and categorized these time investments based on the type of case. The researchers also did an online survey of judges and a more in-depth qualitative review with some experienced judges. The deliverables from these studies were estimates of the proper weight to assign to each type of case, called the **Case Weight**.

After conducting a time study, the SCAO takes a three-year average of case filings; thus, for the 2011 study, the case filings from 2008, 2009, and 2010 were used. This prevents a one-year spike in the data from skewing the recommendation. The resulting number is called the **Average Annual New Case Filings**. While the time study data are averaged across geographic regions, the case filing statistics are averaged across time (but at the individual court level).

The final factor considered is called the **Judicial Proportion**, which describes the percentage of judicial work that is performed by actual judges instead of magistrates or other quasijudicial officers.

The above three factors are then multiplied and the product is divided by the **Judicial Year**. A judicial year is the amount of time the average judge has annually to spend on handling cases. The amount of time spent handling cases is the amount of time in a typical workweek minus time spent on administrative work, work-related travel, and continuing education.

Therefore, the **Number of Judges Needed** results from the following formula:

$$\frac{(\text{Average Annual New Case Filings} \times \text{Case Weight} \times \text{Judicial Proportion})}{\text{Judicial Year}}$$



The results of this formula are then compared to the current number of judgeships for each district to determine whether a potential excess exists. If there is a potential excess, the SCAO conducts "extended analyses" in which it considers more qualitative factors such as travel time, technological resources, and whether that court operates a "specialty court" such as a DWI court or drug treatment court.

SCAO Recommendations

In 2011, the State of Michigan had 585 full-time trial court judgeships and one part-time position. The State also has seven Supreme Court justices, and 28 Court of Appeals judges. The SCAO recommends reducing trial judgeships by 45 and Court of Appeals judgeships by four. If the recommendations were implemented, the resulting Michigan Judiciary would contain 540.5 trial court judges, and 24 Court of Appeals judges, and would continue to have seven Supreme Court justices.

The methodology conducted by the SCAO (as described above) determined that there are 45 courts in which judgeships are underused and an excess exists. The methodology also determined that there is a judicial need for 31 additional judges; however, the SCAO is not recommending adding any judgeships, despite the need, because of the economic climate and the burden it would place on local funding units should they choose to add the judge if authorized.

One important aspect of the report is that circuit, probate, first-class district, and second-class district courts were analyzed together. The reason for grouping these courts is that they receive funding from the same county or counties and they have the potential to share workload through concurrent jurisdiction arrangements. If some judgeships are eliminated, especially in smaller-population jurisdictions, there would be less specialization among the courts. For example, a probate judge may need to hear cases otherwise handled by the district court (or in some cases the probate judge may take on a dual role and serve as both the probate and district judge).

The SCAO trial court reduction recommendation has grown to 45 in 2011, while in 2007 and 2009 the Office recommended reductions of only 10 and 15 judgeships, respectively. Some observers may be curious about the reason for the substantial increase. The SCAO says that the data have been consistent across all three reports (a six-year period), but the Office is "very confident" in this report's data set, which is "up-to-date, complete, and consistent", leading the SCAO to make the more ambitious recommendations. The Office also said that the trend of declining caseloads has continued throughout the period. Responses to this concern and many others can be found in the SCAO JRR 2011 Frequently Asked Questions section of its website: <http://courts.michigan.gov/scao/resources/publications/reports/JRR-FAQs2011.pdf>

The table following this article provides details about where the SCAO recommends making the reductions. The full JRR 2011 report can be found at: <http://courts.mi.gov/SCAO/resources/publications/reports/JRRSummary2011.pdf>



Fiscal Implications for the State

The current salaries of judges are as follows:

Court of Appeals Judge	\$151,441
Circuit Court Judge	\$139,919
Probate Court Judge	\$139,919
District Court Judge	\$138,272

The cost of a judgeship to the State of Michigan includes the entire salary (listed above) along with the employer share of FICA (Social Security/Medicare), defined contribution retirement payments (up to 7% of salary), and travel reimbursement. Therefore, the SCAO estimates that the following represent the total cost of each type of judgeship to the State:

Court of Appeals Judge	\$184,159
Circuit Court Judge	\$158,364
Probate Court Judge	\$158,364
District Court Judge	\$156,578

The SCAO recommends removing 11 district judgeships, 34 circuit or probate judgeships, and four Court of Appeals judgeships. Therefore, the *long-term* yearly savings if all of the SCAO recommendations were enacted would be as follows:

11 district judgeships @ \$156,578 = (\$1,722,358)
34 circuit or probate judgeships @ \$158,364 = (\$5,384,376)
Total Trial Court Savings: (\$7,106,734)

4 Court of Appeals judgeships @ \$184,159 = (\$736,636)

Total Court Savings including Trial and Appeals: (\$7,843,370)

It is important to note that because the reductions in judgeships would be accomplished through attrition, the annualized savings demonstrated above would be realized over a period of several years as judgeships became vacated. Events that result in a judgeship's becoming vacated are the following: death, resignation, or removal from office of the incumbent judge, or the incumbent judge's decision to retire or not to seek reelection. The timing of an attrition-inducing event is highly uncertain and depends on circumstances unique to each individual judge. However, since judges are ineligible to run for reelection after their 70th birthday, the election following a judge's 70th birthday represents the outside date that each position would be vacated and then eliminated.

Fiscal Implications for Local Government

Local funding units pay for judges' fringe benefits (such as medical or dental), court personnel/support staff (clerks, court reporters, bailiffs), facilities (courthouses and offices), and equipment/technology. These local costs would likely be reduced indirectly by the reduction of judgeships, but the exact potential savings are indeterminate and would vary widely across local funding units. Greater savings would result if overhead could be



eliminated rather than simply reapportioned among the remaining judicial offices. For example, if a local funding unit could close an entire courthouse as the result of a reduction, the savings could be substantial. However, if only one office were closed and the building that contained the vacant office still had to be used by other judges, then the savings would be minimal.

Two years ago, Public Act 228 of 2009 temporarily eliminated one circuit court judgeship each in Macomb and Oakland Counties and the estimated local savings were \$570,000 and \$450,000, respectively. However, as these are two of the more populous local funding areas of the State, their savings are not necessarily representative of the typical case. Smaller local funding units may realize smaller savings.

There also may be costs associated with the elimination of a judgeship, especially in the near term. If the elimination is facilitated by a consolidation (as would be the case in some of the more rural areas), the local funding units likely will bear the costs of merging information technology systems and staffs. Additionally, if the consolidation results in facility closure, some of those savings may be offset by additional travel expense for prosecutors and law enforcement personnel.

Conclusion

In the 2011-12 fiscal year, the Legislature recognized savings in the Judiciary budget of \$942,100 based on the future reduction of six judgeships. In order for the JRR to be fully implemented and the resulting savings to be realized, however, statutory changes removing the judgeships are required.

On December 22, 2011, Public Act 300 of 2011 was enacted to eliminate by attrition eight judgeships. One judgeship was eliminated in each of the following areas: 52nd District (outer Oakland County), 19th Circuit (Benzie and Manistee Counties), 29th Circuit (Clinton and Gratiot Counties), 40th Circuit (Lapeer County), 37th Circuit (Calhoun County), 24th Circuit (Sanilac County), 3rd Circuit (Wayne County), and the 25th and 26th Districts in Lincoln Park/Ecorse/River Rouge.

These reductions were consistent with the 2011 JRR, but were not exhaustive. Fifteen additional proposals eliminating as many as 35 more judgeships have passed the House and are awaiting further action by the Senate.

If economic conditions improve, the SCAO may revisit the 31 areas of judicial need that were set aside due to current fiscal stress. If the State authorized these judgeships, it would still be up to the local funding units whether to add the positions.

If the Legislature acts on some or all of the proposed legislation or other JRR recommendations, the local funding units will be faced with a renewed challenge to optimize their resources, in order to ensure they meet their judicial needs using the constrained resources provided.

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Court / Area of Jurisdiction	Current Judges	Judicial Need	SCAO			Reductions	
			Rec'd Reduction ¹⁾	Remaining if Enacted ²⁾	Excess/(Need) ³⁾	Rec'd Before? ⁴⁾	
41st Circuit / Dickinson, Iron, & Menominee Counties	7	3.7	(2)	5	1.3	Yes	
23rd Circuit / Alcona, Arenac, Iosco, & Oscoda Counties	7	4.3	(2)	5	0.7	Yes	
11th Circuit / Alger, Luce, Mackinac, & Schoolcraft Counties	5	2.3	(1)	4	1.7	No	
32nd Circuit / Gogebic & Ontonagon Counties	4	1.4	(1)	3	1.6	Yes	
12th Circuit / Baraga, Houghton & Keweenaw Counties	4.5	2.0	(1)	3.5	1.5	Yes	
25th Circuit / Marquette County	5	2.8	(2)	3	0.2	Yes	
42nd District / Midland County	5	3.2	(2)	3	(0.2)	No	
50th District / City of Pontiac	4	2.2	(2)	2	(0.2)	Yes	
18th Circuit / Bay County	7	5.3	(2)	5	(0.3)	No	
34th Circuit / Ogemaw & Roscommon Counties	5	3.3	(1)	4	0.7	No	
52nd District / County of Oakland (excludes many cities)	11	9.3	(1)	10	0.7	No	
68th District / City of Flint	5	3.4	(1)	4	0.6	No	
13th Circuit / Antrim, Grand Traverse, & Leelanau Counties	8	6.5	(1)	7	0.5	No	
26th Circuit / Alpena & Montmorency Counties	4	2.6	(1)	3	0.4	Yes	
19th Circuit / Benzie & Manistee Counties	4	2.6	(1)	3	0.4	Yes	
29th Circuit / Clinton & Gratiot Counties	6	4.6	(1)	5	0.4	No	
46th Circuit / Crawford, Kalkaska & Otsego Counties	6	4.6	(1)	5	0.4	Yes	
47th Circuit / Delta County	3	1.7	(1)	2	0.3	No	
52nd Circuit / Huron County	3	1.7	(1)	2	0.3	No	
40th Circuit / Lapeer County	5	3.7	(1)	4	0.3	No	
51st Circuit / Lake & Mason Counties	4	2.8	(1)	3	0.2	Yes	
33rd District / City of Woodhaven, et al.	3	1.8	(1)	2	0.2	No	
53rd Circuit / Cheboygan & Presque Isle Counties	4	2.9	(1)	3	0.1	No	
28th Circuit / Missaukee & Wexford Counties	4	2.9	(1)	3	0.1	No	
27th Circuit / Newaygo & Oceana Counties	5	4.0	(1)	4	0.0	No	
54A District / City of Lansing	5	4.0	(1)	4	0.0	No	
37th Circuit / Calhoun County	10	9.1	(1)	9	(0.1)	No	
1st Circuit / Hillsdale County	3	2.1	(1)	2	(0.1)	No	
9th Circuit / Kalamazoo County	15	14.1	(1)	14	(0.1)	Yes	
50th Circuit / Chippewa County	3	2.2	(1)	2	(0.2)	No	
24th Circuit / Sanilac County	3	2.2	(1)	2	(0.2)	No	
25th & 26th Districts / Lincoln Park-Ecorse-River Rouge	4	2.5	(2)	2	(0.5)	No	
35th Circuit / Shiawassee County	4	3.3	(1)	3	(0.3)	No	
36th Circuit / Van Buren County	5	4.3	(1)	4	(0.3)	No	
48th District / City of Bloomfield Hills, et al.	3	2.3	(1)	2	(0.3)	No	
44th District / City of Royal Oak	2	1.4	(1)	1	(0.4)	No	
45A & 45B District / Cities of Berkley, Oak Park, et al.	3	1.9	(1)	2	0.1	No	
3rd Circuit / Wayne County	69	68.9	(1)	68	(0.9)	Yes	
Total	257.5	203.9	(45)	212.5	8.6	12-Y, 26-N	
<p>1) Although many of the northern regions of the State, the Upper Peninsula in particular, have excess judicial resources according to the quantitative methodology, the SCAO extended analyses concluded that further reductions should not be made in these areas, whether due to geographical constraints or the constitutional requirement to have a probate judge in each county or probate district.</p> <p>2) "Remaining if Enacted" was calculated by subtracting the recommended reduction from the current number of judges.</p> <p>3) "Excess/(Need)" was calculated by subtracting the judicial need from the number of judges remaining if enacted; this would show the alignment between the need based on SCAO methodology and the actual number of judges if the SCAO recommendations were fully recommended.</p> <p>4) "Reductions rec'd (recommended) before?" shows "yes" if the 2009 report made a similar reduction recommendation; so, of the 38 jurisdictions where reductions are recommended, 26 did not have reductions recommended in the 2009 report. In other words, in 12 of the cases the SCAO made a similar recommendation in 2009, but the Legislature did not act on it.</p>							
Note: This table does not show the districts that SCAO analysis found to have judicial needs of 31 judgeships because adding judgeships is not in the recommendation.							

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North American Indian Tuition Waiver Program **By Bill Bowerman, Associate Director**

Introduction

Public Act 174 of 1976 provides for free tuition for Michigan resident North American Indians who attend Michigan public community colleges, public universities, and certain Federal tribally controlled community colleges. Since 1981, there have been sporadic efforts to eliminate the program. The tuition waiver program is again generating legislative attention. This article provides an overview of the program and funding issues. (The language of the Act is contained in the Appendix.)

Background

The Waiver of Tuition for North American Indians Act, as enacted in 1976, provided for free tuition for full-time students who were legal residents of Michigan for at least 18 months, and were certified by the Michigan Commission on Indian Affairs as one-half quantum blood Native American. The Act did not provide for State reimbursement to public universities and community colleges. In 1978, the Act was amended to require the state, upon application, to reimburse each institution for the total amount of tuition waived during the prior fiscal year. The 1978 amendments also reduced the quantum blood requirement to one-quarter from one-half, reduced the residency requirement from 18 months to 12 months, and extended waivers to part-time students. In 1993, an amendment extended the tuition waiver program to Federal tribally controlled community colleges. This change affects Bay Mills Community College and Saginaw Chippewa Tribal College.

Before fiscal year (FY) 1996-97, there was a separate line-item appropriation in the higher education appropriation bill to fund tuition waiver costs incurred by community colleges and universities. In FY 1996-97, the separate line item was eliminated and amounts were rolled into the base appropriations of individual universities and community colleges in order to continue funding costs of the program. The amounts rolled into base appropriations were calculated using a three-year average cost of waivers by institution. This change was made due to indications that then Governor Engler would veto funding for the North American Indian tuition waiver program. Since that time, there has been no specific earmarking of funds for Indian tuition waiver reimbursements, with the exception of pass-through appropriations in the higher education appropriation for the Saginaw Chippewa Tribal College and Bay Mills Community College.¹ While Public Act 174 of 1976, as amended, still requires the State to "reimburse each institution for the total amount of tuition waived during the prior fiscal year", that process has not been in effect since FY 1996-97 when the separate line-item appropriation for reimbursement was eliminated.

Funding Disparity

Reductions in State funding for higher education and community colleges, the level of participation in the tuition waiver program, and increases in tuition have contributed to a growing disparity between the actual cost of the program and the amounts built into the base appropriations of individual community colleges and universities. From FY 1996-97 through FY 2010-11, the total cost of waivers for public community colleges increased from \$617,391 to \$2,145,131 (247.5%). During the same time period, the total cost for public universities increased from \$2,026,581 to \$8,304,139 (309.8%). [Figure 1](#) and [Figure 2](#) illustrate the difference between State funding and actual waiver costs. The State funding

¹ Article III, Sec. 269 and Sec. 270 of Public Act 62 of 2011.



amounts are estimated based on the amount originally rolled into university and community college line items in FY 1996-97, adjusted for annual budget increases and decreases.

Figure 1

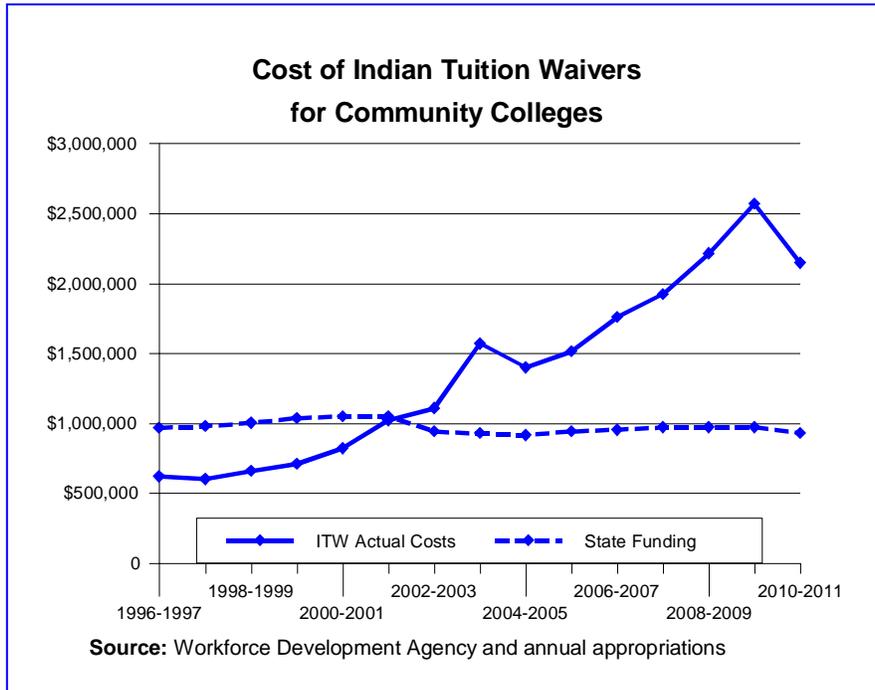
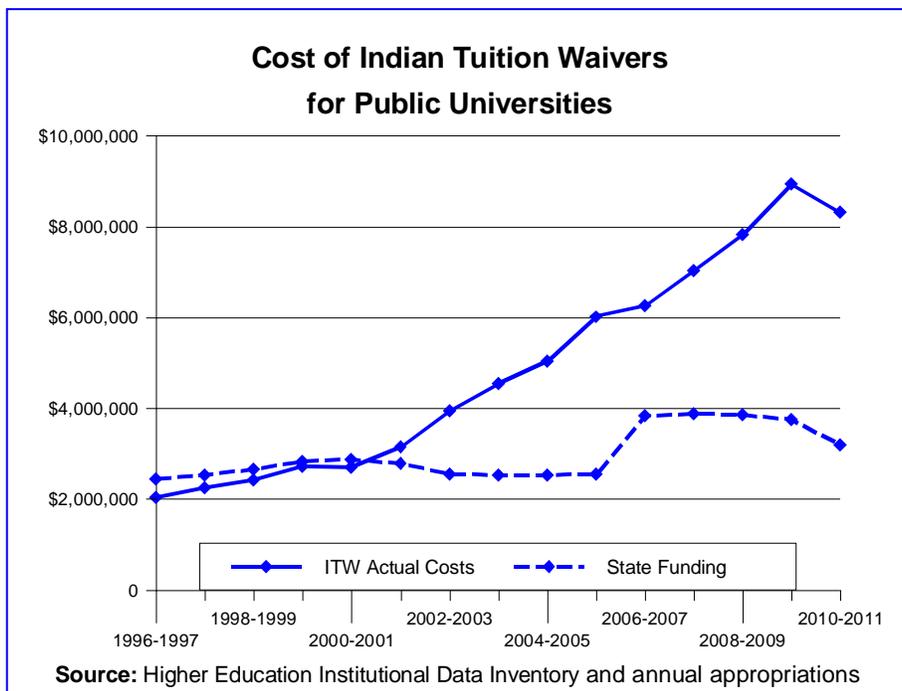


Figure 2





Educational institutions have absorbed the difference between the actual cost of tuition waivers and the amount included in base appropriations. The current shortfall is estimated at \$6.3 million. While previous appropriation bills, and the FY 2011-12 higher education appropriation bill, have included intent language that funds be allocated for unfunded North American Indian tuition waiver costs, no specific appropriation has been made to address the funding shortfall.²

Table 1 provides a summary of the FY 2011-12 shortfall in State funding for the Indian tuition waiver program, based on FY 2010-11 actual costs. The first column reflects amounts originally rolled into operating budgets in FY 1996-97. The second column reflects amounts remaining in the base appropriation based on overall adjustments (increases and decreases) to university and community college operating line items since FY 1996-97.³ The current amount necessary to reimburse community colleges and universities totals \$10.5 million, \$6.3 million more than the amounts remaining in the base budget of educational institutions.

Michigan Constitution, Article I, Section 26

On November 7, 2006, the electors approved an amendment to the Michigan Constitution that prohibits the State, public universities, community colleges, school districts, and other political subdivisions and governmental instrumentalities from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. (The language of the amendment is contained in the Appendix to this article.) There is an argument that the North American Indian tuition waiver program is considered to be the fulfillment of a treaty agreement enforceable under Federal law, and therefore excluded under the provisions of Article I, Section 26 (i.e., the preference is based not upon an individual's race or national origin, but instead upon affiliation with quasi-sovereign tribes and agreements with governmental agencies). Based on this interpretation, beginning on July 15, 2010, the Michigan Department of Civil Rights has granted waivers only to individuals who are enrolled members of Federally recognized tribal associations and are not less than one-quarter quantum blood Indian.⁴ This change has resulted in a reduction of waivers. The cost of waivers approved in FY 2009-10 totaled \$11.5 million. In FY 2010-11, the cost was \$10.4 million. It is relevant that in 2007 the Michigan Attorney General was asked whether Public Act 174 of 1976 was constitutional, specifically in relation to Article I, Section 26. The Attorney General advised that in a situation in which legal questions involve potentially disputed factual issues, resolution by the judicial branch is the appropriate course.⁵

² Article III, Section 268 of Public Act 62 of 2011.

³ The only specific adjustment related to waiver costs for FY 1996-97 was a \$1.4 million increase to universities in FY 2007-08.

⁴ The Michigan Commission on Indian Affairs was abolished by Executive Reorganization Order No. 1991-20. Its powers and duties were transferred to the Director of the Department of Civil Rights.

⁵ July 9, 2007 letter from Attorney General Mike Cox to State Representative Michael Sak.

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Table 1

NORTH AMERICAN INDIAN TUITION WAIVER (ITW) PROGRAM				
FY 2011-12 Appropriations Compared to FY 2010-11 Actual Costs¹⁾				
Community Colleges	Amount			
	Included in FY 1996-97	Adjusted ITW Funding in Base	FY 2010-11 Actual Cost	Difference
Alpena.....	\$9,800	\$9,712	\$20,608	\$10,896
Bay de Noc	69,000	68,336	139,550	71,214
Delta	41,400	41,237	33,767	(7,470)
Glen Oaks	3,100	3,090	1,459	(1,631)
Gogebic.....	14,100	13,974	43,665	29,691
Grand Rapids.....	73,000	72,486	266,941	194,455
Henry Ford.....	73,900	73,044	78,870	5,826
Jackson.....	16,700	16,572	46,773	30,201
Kalamazoo Valley	33,600	33,464	49,397	15,933
Kellogg.....	13,400	13,290	27,153	13,863
Kirtland.....	9,100	9,105	18,904	9,799
Lake Michigan.....	8,000	7,940	39,527	31,587
Lansing	66,600	66,069	175,891	109,822
Macomb.....	73,300	72,655	31,514	(41,141)
Mid Michigan.....	10,900	10,903	123,006	112,103
Monroe.....	1,900	1,897	4,408	2,511
Montcalm	1,400	1,401	5,623	4,222
Mott.....	50,600	50,197	101,115	50,918
Muskegon	31,000	30,753	85,999	55,246
North Central.....	40,300	40,183	181,284	141,101
Northwestern.....	110,500	109,405	342,504	233,099
Oakland.....	54,300	53,935	65,884	11,949
St. Clair	26,400	26,176	32,496	6,320
Schoolcraft.....	29,300	29,294	34,046	4,752
Southwestern.....	12,900	12,743	63,005	50,262
Washtenaw	30,500	30,466	55,050	24,584
Wayne County	24,900	24,745	32,042	7,297
West Shore.....	6,600	6,568	44,650	38,082
Subtotal.....	\$936,500	\$929,641	\$2,145,131	\$1,215,490
Universities				
Central	\$144,117	\$250,122	\$873,437	\$623,315
Eastern.....	103,478	141,754	300,257	158,503
Ferris.....	156,380	173,697	662,710	489,013
Grand Valley.....	114,121	239,314	731,799	492,485
Lake Superior.....	276,146	389,631	748,262	358,631
Michigan State	313,968	431,727	941,475	509,748
Michigan Tech.....	58,509	92,816	312,372	219,556
Northern.....	264,054	336,867	691,851	354,984
Oakland.....	50,610	85,569	223,688	138,119
Saginaw Valley	37,266	55,994	107,792	51,798
U of M-Ann Arbor.....	432,567	489,969	1,341,835	851,866
U of M-Dearborn	58,541	68,738	179,354	110,616
U of M-Flint	54,531	64,688	272,798	208,110
Wayne State	169,537	225,304	617,204	391,900
Western.....	111,851	145,669	299,305	153,636
Subtotal.....	\$2,345,676	\$3,191,859	\$8,304,139	\$5,112,280
TOTAL.....	\$3,282,176	\$4,121,500	\$10,449,270	\$6,327,770

¹⁾ Does not include pass-through appropriations for Bay Mills Community College (\$100,000) and Saginaw Chippewa Tribal College (\$29,700).

Sources: Senate Fiscal Agency and House Fiscal Agency Fiscal Year 2011-12 Higher Education Appropriations Report, Workforce Development Agency, Higher Education Institutional Data Inventory, and annual appropriation bills.

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Conclusion

Efforts to eliminate the North American Indian tuition waiver date back to the early 1980s. In FY 1996-97, the threat of a gubernatorial veto resulted in the elimination of the separate line item appropriation for the program. Because the costs of the program have been rolled into the base appropriation for each institution and budget reductions have taken place over the last decade, community colleges and universities have absorbed an increasing share of waiver costs. The 2006 amendment to the Michigan Constitution has generated additional questions regarding the waiver program. While the funding issue is before the Legislature, resolution of various legal issues will in all likelihood require a judicial determination.

Sources

Indian Tuition Waiver Program, Michigan Legislative Service Bureau Legislative Research Division Research Report Volume 20, Number 3, May 2000

Michigan Department of Civil Rights

Michigan Workforce Development Agency

Fiscal Year 2011-12 Higher Education Appropriations Report



Appendix

WAIVER OF TUITION FOR NORTH AMERICAN INDIANS Act 174 of 1976

An act to provide free tuition for state resident North American Indians in Michigan public community colleges, public universities, and certain federal tribally controlled community colleges; and to prescribe certain powers and duties of certain state departments, commissions, and agencies.

History: 1976, Act 174, Eff. Aug. 1, 1976; -- Am. 1993, Act 106, Imd. Eff. July 15, 1993.

The People of the State of Michigan enact:

390.1251 Waiver of tuition for North American Indians; qualifications; participation of federal tribally controlled community college; eligibility for reimbursement.

Sec. 1. (1) A Michigan public community college or public university or a federal tribally controlled community college described in subsection (2) shall waive tuition for any North American Indian who qualifies for admission as a full-time, part-time, or summer school student, and is a legal resident of the state for not less than 12 consecutive months.

(2) A federal tribally controlled community college may participate in the tuition waiver program under this act and be eligible for reimbursement under section 2a if it meets all of the following:

- (a) Is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, 92 Stat. 1325.
- (b) Is determined by the department of education to meet the requirements for accreditation by a recognized regional accrediting body.

History: 1976, Act 174, Eff. Aug. 1, 1976; -- Am. 1978, Act 505, Imd. Eff. Dec. 13, 1978; -- Am. 1993, Act 106, Imd. Eff. July 15, 1993.

390.1252 "North American Indian" defined.

Sec. 2. For the purposes of this act, "North American Indian" means a person who is not less than ¼ quantum blood Indian as certified by the person's tribal association and verified by the Michigan commission on Indian Affairs.

History: 1976, Act 174, Eff. Aug. 1, 1976; -- Am. 1978, Act 505, Imd. Eff. Dec. 13, 1978.

390.1252a Reimbursement of tuition waived; report.

Sec. 2a. The Michigan commission on Indian Affairs shall annually, upon application therefore, reimburse each institution for the total amount of tuition waived during the prior fiscal year under section 1 of this act. The commission shall report to the legislature annually the number of American Indians for whom tuition has been waived at each institution and the total amounts to be paid under this act.

History: Add. 1978, Act 505, Imd. Eff. Dec. 13, 1978.

390.1253 Effective date.

Sec. 3. This act shall take effect on August 1, 1976.

History: 1976, Act 174, Eff. Aug. 1, 1976.



Appendix

Michigan Constitution, Article I, § 26.

Sec. 26. (1) The University of Michigan, Michigan State University, Wayne State University, and any other public college or university, community college, or school district shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(3) For the purposes of this section "state" includes, but is not necessarily limited to, the state itself, any city, county, any public college, university, or community college, school district, or other political subdivision or governmental instrumentality of or within the State of Michigan not included in subsection 1.

(4) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(5) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(6) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Michigan anti-discrimination law.

(7) This section shall be self-executing. If any part or parts of this section are found to be in conflict with the United States Constitution or federal law, the section shall be implemented to the maximum extent that the United States Constitution and federal law permit. Any provision held invalid shall be severable from the remaining portions of this section.

(8) This section applies only to action taken after the effective date of this section.

(9) This section does not invalidate any court order or consent decree that is in force as of the effective date of this section.

History: Add. Init., approved Nov. 7, 2006, Eff. Dec. 23, 2006.