

Final Minutes

Legislative Commission on Statutory Mandates Meeting

9:00 a.m. • Thursday, September 17, 2009
Executive Office Building • East Oakland Room • 1st Floor
2100 Pontiac Lake Road • Waterford, Michigan

Members Present:

Robert Daddow, Chair
Amanda Van Dusen, Co-Chair
Dennis Pollard
Louis H. Schimmel
J. Dallas Winegarden, Jr.

Members Absent:

None

I. Call to Order

The Chair called the meeting to order at 9:00 a.m. and the clerk took the roll. A quorum was present.

II. Approval of the Agenda

The Chair asked for a motion to approve today's meeting agenda. **Mr. Schimmel moved, supported by Mr. Winegarden, that the meeting agenda as proposed be approved. There was no objection and the motion was unanimously adopted.**

III. Approval of Minutes – August 25, 2009 Meeting

The Chair asked for a motion to approve the minutes of the last Legislative Commission on Statutory Mandates meeting. **Mr. Pollard moved, seconded by Mr. Winegarden, to approve the minutes of the August 25, 2009 meeting. There was no further discussion. The minutes were unanimously approved.**

IV. Status of Costing Analysis by MSU

Mr. Daddow provided an update on the costing analysis being conducted by MSU. Mr. Daddow stated he believes the content of the surveys to be deficient to a substantial degree to a point where it would be virtually impossible to garner much benefit from any of the surveys submitted so far. Mr. Daddow offered that he could contact an experienced consultant for suggestions on how to go about quantifying the cost of a mandate and a discussion of the difficulties in providing a costing analysis followed. Mr. Daddow then shared an email he received from Dr. Scorsone from MSU detailing the latest survey results. Mr. Daddow asked that Mr. Scorsone's email as well as the instructions on the completion of the mandates survey he put together be included in the minutes. He will also contact the associations to request assistance in pushing for more survey completions.

V. Discussion of the Draft Report on Commission Recommendations Distributed at the August 25, 2009 Meeting

The Chair began with a recap of the efforts made so far in drafting the report. Mr. Pollard distributed a clean version of the draft without track changes (and had previously circulated a version which tracked the same changes) that added language to address the two major changes talked about at the last Commission meeting and a couple of other minor corrections. He explained that the first major change specifies that if the legislature does not go through the fiscal note process there would be no force and effect of the mandate. The second change added language that requires that the twice annual report developed by one of the legislative service agencies in conjunction with the local unit representative be sent to the Court of Appeals Special Master. The Chair then shared that he had received suggested revisions which Ms. Van Dusen had circulated on Tuesday evening, but he had not had time to thoroughly review her proposed changes. Mr. Pollard expressed concern that it looks as if the proposed changes are a wholesale rewrite of the report and he strongly felt it would be impractical for the Commission to make these types of style changes so late in the process. Ms. Van Dusen disagreed that her changes are a wholesale rewrite and noted that not all of the changes in color are hers. She explained that all she was trying to do is organize the report in a way that would make it easier for the targeted audience to read and follow. She added that as a point of clarification, she was not trying to make substantive changes, apologized for not having had the opportunity to prepare and circulate the revisions earlier, and understood that the Commissioners would need more time to review them. Recognizing the circumstances, she asked the Commissioners to take the necessary time to read her document and delay discussion on the matter until after they have had the opportunity to read her changes. She added that she hoped the Commission could focus today on the substantive questions that emerged for her as she worked on the previous draft. The Chair stated that he did not want to get into a drawn out debate on how the report is written, but preferred to keep the focus on the substantive issues and whether there is support in the writing of the bluebacks. After a short

recess, Ms. Van Dusen proceeded to identify, and the Commission discussed, the areas of the substantive issues she had questions about in the context of Mr. Pollard's draft document, which include 1) the practicality of the court rule discussion in the last two paragraphs of Section IV. found on page 8, 2) clarification of the six-month compliance requirement starting on page 9, 3) the good faith process to determine cost also starting on page 9, 4) monitoring the State's compliance starting on page 11, 5) facilitating payment to local units found on page 14, and 6) changing "tens of millions" to "millions" in the section dealing with local units publishing in newspapers on page 15.

A discussion of the preparation of draft bills and court rules necessary to implement the Commission's recommendations followed. Draft court rules will be prepared and the Co-chairs will meet with Senator Bishop and Speaker Dillon to discuss the status of the Commission's work and the approach to use for the drafting of bills.

VI. Other Business

Mr. Daddow announced that he has been asked to make a presentation on the mandate status at the October 16 Michigan Association of Counties monthly meeting and to be the keynote speaker at the March 2010 MAC Seminar. He also shared news that the State has given counties the authority to inspect tattoo parlors and reported that Oakland County will not be inspecting tattoo parlors.

VII. Public Comment

The Chair asked if there was any public comment. There was none.

VIII. Next Meeting

After discussion, the Chair announced that the next meeting will be held at **9:00 a.m. on Monday, October 26, 2009** in Waterford. The room location for the meeting will be determined.

IX. Adjournment

Having no further business, the meeting was adjourned at 11:26 a.m.

(Approved at the October 26, 2009 Legislative Commission on Statutory Mandates meeting.)

Bob Daddow

From: Scorsone, Eric [scorsone@anr.msu.edu]
Sent: Thursday, September 17, 2009 8:53 AM
To: Daddow, Robert
Subject: survey results

Bob,

Here is the latest on the survey. Every few days I am asking the associations to continue to push the survey and we are seeking to target certain governments who we believe would be likely to respond with valid information.

46 responses to city/village
CRAM 5 responses
MSBO 6 responses
Township 50
County 19

We are on our way but still need more.

Thanks,

Eric

Dr. Eric Scorsone
Co-Chair
State and Local Government Program
Department of Agricultural, Food and Resource Economics and MSU Extension
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9/17/2009

INSTRUCTIONS – COMPLETION OF MANDATES SURVEY

LEGISLATIVE COMMISSION ON STATUTORY MANDATES

September 1, 2009

In late 2007, the State Legislature passed and the Governor signed a bill, as amended (MCL 4.1781 et seq., Public Act 356 of 2008), that created the Legislative Commission on Statutory Mandates (Commission). As one of the charges by the Legislature, the Commission must identify the range of costs of mandates imposed on the local units of government for those mandates identified through their respective Association (counties through the Michigan Association of Counties; townships through the Michigan Township Association, etc.). Towards that end, this Mandates Survey has been developed. We encourage your organization to complete this Mandates Survey, as the more local units of government doing so, the more accurate and complete information will be when presented in the final Commission report due no later than December 31, 2009.

Since early 2008, the Commission has been meeting monthly with an “Interim Report of the Legislative Commission on Statutory Mandates” having been issued in June 2009. The Interim Report highlights the findings by the Commission through June 2009, classifies the mandate issues identified by the Associations, and provides a basis for this Survey. The Interim Report can be obtained from the following web site:

<http://council.legislature.mi.gov/lcsm.html>

The Associations were requested to supply ten mandates imposed upon them by the State that presumably should have been funded at the time of passage but were not. Each Association complied. The Commission reviewed each proposed mandate and classified them into one of four categories as follows:

1. Mandates imposed on local units of government after the effective date of the Headlee Amendment which require full funding by the State under Article 9, Section 29. (The State is obligated to fund 100% of the cost of these mandates).
2. Mandates in existence as of December 23, 1978 that were being funded, in whole or in part, when the Headlee Amendment was passed and for which the State has ongoing requirements to maintain the same proportion of funding to local units. (Unfortunately, a proper benchmark of services mandated on local units of government was never completed as of December 23, 1978 and funding erosions of mandates in place at that time are very difficult to quantify).
3. Mandates that existed as of the effective date of the Headlee Amendment but for which no funding was ever provided and therefore, no funding requirement was imposed on the State after December 23, 1978 by that Amendment.
4. Activities which do not constitute mandates under the Headlee Amendment.

The Interim Report recognizes the difficulty in assembling cost information relative to the Associations’ mandates. However, the Commission is hopeful that the local units of government can assist in the cost assembly applicable to those proposed mandates, even if the amounts are estimates and / or ranges of costs incurred relating to a full-year’s cost.

In providing this information, the Commission hopes to clearly demonstrate the magnitude of the costs now borne by local units of government caused by the State-imposed mandates. The Commission is under no illusion that simply quantifying the mandate will necessarily result in the funding of the mandate itself. Rather, demonstrating the costs borne by local units of government should assist in the passage of new legislation that would inspire and compel the State to fund future mandates and potentially, secure enough support to relieve local units of the burden of existing unfunded mandates by making compliance voluntary. You can assist in this manner by helping to assemble the cost of the mandates imposed on your local unit of government. The more units that comply, the more accurate the costs will become.

Each program having mandates may have two components to it: programs that existed as of December 23, 1978 (effective date of the Headlee Amendment) and program mandates required by the State after the effective date of the Headlee Amendment. Both should be reflected in the Survey. Further, while these Instructions and the Survey Details (a separate document) provide information concerning mandates, you may have information of additional mandates of interest to the Commission in the areas described. Accordingly, a comment section in the Survey has been included for each question.

The Survey has been prepared from the proposed mandates provided to your Association and were classified as either a “1” or “2” as noted previously. The costs to be captured represent the **incremental direct costs** directly associated with the mandate itself – essentially, the new mandated costs that should be funded by the State. Only direct costs should be captured in the

Survey and could include: compensation / personnel costs (salary and fringe benefits for dedicated employees), operating costs (supplies, contractors / professional services, etc.) and capital costs (new equipment, dedicated facilities, etc.).

Do not include overhead costs (costs that would be unchanged by virtue of the mandate – for example, the cost of the local unit’s administrative salaries, general use facilities, payroll systems and similar ‘fixed’ costs). In addition, do not include indirect costs as these costs will be added by the Commission centrally (along with a provision for the fixed, overhead costs).

The costs are to represent single, recent year costs of the mandate, preferably tied to an audited financial statement, F-65 report or similar substantiating document, where possible. Regardless, even if the cost amounts cannot be directly extracted from the accounting records (which is likely), estimates of the incremental costs of the mandate need to be assembled. You will need to identify whether the costs have been ‘estimated’ or ‘calculated’ (a more precise assembly of the mandate’s costs).

Your Association is hopeful that the Survey can be completed, on line, no later than October 1, 2009 to provide the Commission the opportunity to assemble the cost data by mandate for its December 2009 final report.

**SURVEY DETAILS - MANDATE DETAIL SUBMITTED BY MICHIGAN
COMMUNITY COLLEGE ASSOCIATION (MCCA)**

**LEGISLATIVE COMMISSION ON STATUTORY MANDATES
September 3, 2009**

As described in the enclosed instructions, the following contains a brief description of the mandates and the cost information that should be assembled and input into the Survey.

QUESTION NO. 1 – GOVERNMENT INFORMATION

Please supply contact information as cited.

QUESTION NO. 2 – ACS REPORTING

ACS reporting mandates are found in Section 8, Public Act 419 of 1978. These reporting mandates became effective after the adoption of the Headlee Amendment on December 23, 1978. The collection and distribution of the required reporting information has been estimated to cost between 33 and 160 hours per community college per year – or, roughly \$2,500 to \$10,000.

Please estimate the range of costs necessary to comply with this mandate.

QUESTION NO. 3 – NATIVE AMERICAN TUITION WAIVERS

Under MCL 30.1251, community colleges are required to waive tuition for Native Americans that existed prior to the effective date of the Headlee Amendment. The State provided funding to community colleges for the cost of the waivers. However, subsequent to December 23, 1978, the State eliminated the funding but continued to require the waivers to be honored by community colleges. At the time of the funding lapse, the State failed to comply with the Headlee Amendment.

The estimated cost of the waivers provided to Native Americans should be calculated based on units and rates per credit hour (likely credit hours for units), or other appropriate base of estimating the costs incurred relating to this mandate.

QUESTION NO. 4 – FINANCIAL AID PROGRAMS

The MCCA asserts that the State requires community colleges to disclose, record, report and monitor various State-funded scholarships, including: Michigan Nursing Program, Michigan Tuition Incentive Program, Michigan Competitive Scholarship, Michigan Children of Veteran's Trust, Michigan Merit / Michigan Promise Scholarship, Michigan Educational Opportunity Grant, and Michigan Adult Part-time Grant. No funding is provided by the State and the programs were initiated after the adoption of the Headlee Amendment.

The MCCA has estimated that the administrative costs in complying with these State-mandated programs could require 130 to 140 hours of effort – or, roughly \$2,500 to \$5,000 per community college. Please estimate the costs associated with complying with this State mandate.

QUESTION NO. 5 – COST OF AUDITS

At the time of the adoption of the Headlee Amendment, the auditing services required by the State for governmental entities were inconsequential. With the refinements of the federal grant accounting and compliance embodied in the Single Audit Act in the early 1980s and expansion and changing of generally accepted accounting principles periodically throughout the past several decades, the cost of audits have increased significantly. Further, the State mandates the completion of an annual audit.

Given the above, please provide the cost of the outside audit required to prepare your comprehensive annual financial report or equivalent, including the Single Audit Act report.

QUESTION NO. 6 – VARIOUS REPORTS

The MCCA asserts that the State requires community colleges to prepare reports including extended financial reporting, an at-risk student success report, and a tech prep enrollment report. There may be other reports as well. The MCCA also reports that on average, community colleges spend between 130 to 140 hours annually complying with these reporting requirements.

Given the above, please provide the estimated cost or range of costs of complying with the above mandates.

SURVEY DETAILS - MANDATE DETAIL SUBMITTED BY COUNTY ROAD ASSOCIATION OF MICHIGAN (CRAM)

**LEGISLATIVE COMMISSION ON STATUTORY MANDATES
September 4, 2009**

As described in the enclosed instructions, the following contains a brief description of the mandates and the cost information that should be assembled and input into the Survey.

QUESTION NO. 1 – GOVERNMENT INFORMATION

Please supply contact information as cited.

QUESTION NO. 2 – MUNICIPAL FINANCE QUALIFYING STATEMENT

Reference – MCL 141.2303.

The State requires local units of government to file an annual ‘qualifying statement’ with its annual audit report. The requirement appears to have arisen after the effective date of the Headlee Amendment, December 23, 1978.

Accordingly, please estimate the cost of providing the annual ‘qualifying statement.’

QUESTION NO. 3 – COST OF AUDIT SERVICES

At the time of the adoption of the Headlee Amendment, the auditing services required by the State were rudimentary for local units of government. The refinements of the federal grant accounting and compliance embodied in the Single Audit Act in the early 1980s and the federal revenue sharing requirements, both adopted and endorsed by the State, did the mandate occur.

Given the above, please provide the cost of the outside audit required to prepare your comprehensive annual financial report or equivalent, including the Single Audit Act report.

QUESTION NO. 4 - STORM WATER PHASE II (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM / MICHIGAN PERMITTING)

The environmental laws established through the federal government and endorsed by the Michigan Department of Environmental Quality (MDEQ) set forth new mandates for all local units of government to follow. However, even as the federal mandates have been imposed, the MDEQ has set forth additional mandates beyond those required by the federal government for good practices, guidance, and un-promulgated rules in the adoption of the federal regulations. The environmental area is complex, highly regulatory and ferreting out the added requirements imposed by MDEQ difficult to communicate in a short explanation for the Survey tool, even if the local units of government have the underlying accounting records to tease out the cost of these mandates.

Many of the federal rules and regulations imposed leave the implementation of the environmental laws up to the State and local units to implement. The MDEQ’s rules and guidance convert the federal requirements into a mandate after the effective date of the Headlee Amendment. Further, because many of these costs are borne by the Departments of Public Works of local units of government the State believes the costs can be passed along in added fees to the public without any net effect on the local unit itself.

Further, several of the components of the recently passed Storm Water rules and regulations by the federal and State governments are not incurred on an on-going basis but are part of either a ‘one-time’ program or during a capital project. In other words, the level of expenditures that might impact local units may vary greatly from year to year as well.

The ability to accurately assess the cost of the mandate would be very difficult to accomplish without a detailed review of each and every local unit of government’s specific facts and circumstances. So, the Survey is asking for an annual estimate of the routine costs being incurred in compliance with the federal and State rules and regulations applicable to the Storm Water Phase II efforts. Please provide an estimated range of costs for all efforts under the environmental laws.

QUESTION NO. 5 – ASSET MANAGEMENT

County road commissions are required to provide investment reporting on infrastructure within the county boundaries. Counties receive some funds to cover the costs of assembly of this information.

Please provide the estimated range of costs necessary to comply with mandate, net of any State reimbursement.

QUESTION NO. 6 – LIMIT ON NEGOTIATED CONSTRUCTION WORK

The State limits the amount of road work road commissions can perform with their own crews to no more than \$100,000. Any work exceeding the limit must be bid out to contractors, even if the work may be more expensive in the use of outside contractors. CRAM reports that the requirement has arisen subsequent to the effective date of the Headlee Amendment.

Please estimate the cost or range of costs applicable to limitation. This may be somewhat difficult to do as the consideration of using internal resources was not analyzed for projects over \$100,000. Nevertheless, some indication of the added cost of this mandate would be warranted.

QUESTION NO. 7 – SCHEDULE C EQUIVALENT DATA

CRAM has identified the ‘Preparation of Equivalent Gain / Loss Required by MDOT for Trunkline Maintenance’ as a State mandate. The Schedule C reporting requirements arise from an agreement between road commissions and the State for maintenance of State trunklines. At this time, this item may not be considered to be a mandate but the estimated cost of complying with this requirement should be provided as part of the Survey tool until the issues are completely resolved on this matter.

QUESTION NO. 8 – ANNUAL REPORT OF CERTIFIED MILEAGE

Reference – MCL 247.664(3).

The State requires that county road commissions submit an annual report regarding each road system under its jurisdiction. Although it appears that the requirement may have existed prior to the effective date of the Headlee Amendment (December 23, 1978), the requirements have been expanded over the years.

Please supply the estimated cost of this mandate.

QUESTION NO. 9 – TOWNSHIP REPORTING REQUIREMENTS

Reference – MCL 247.664.

County road commissions are required to file a report with each township in the county showing the disposition of funds allocated for road projects in the township. This mandate was imposed on county road commissions after the effective date of the Headlee Amendment. The legislature added townships to this report in 1999 (Public Act 50 of 1999).

Please estimate the range of costs associated with the compliance with this reporting requirement.

QUESTION NO. 10 – ANDY’S LAW

Reference – MCL 257.627(9).

County road commissions are required to post certain signs in work zones. This mandate was required after the effective date of the Headlee Amendment. No funding has been provided from the State.

Please provide an estimate of the cost associated with this mandate.

SURVEY DETAILS - MANDATE DETAIL SUBMITTED BY MICHIGAN ASSOCIATION OF COUNTIES

LEGISLATIVE COMMISSION ON STATUTORY MANDATES

September 1, 2009

As described in the enclosed instructions, the following contains a brief description of the mandates and the cost information that should be assembled and input into the Survey.

QUESTION NO. 1 – GOVERNMENT INFORMATION

Please supply contact information as cited.

QUESTION NO. 2 - COST OF PUBLIC WARD'S CARE

As required under MCL 801.305 (1), counties are required to provide for public wards even before the Headlee Amendment was adopted on December 23, 1978. At the time of the Headlee Amendment adoption, the State funds 50% of the cost of the public wards' care. At times, the State has not covered the full 50% cost of care; such amount would be contrary to the Headlee Amendment.

In the last full year of operation, please provide the cost of care incurred by the county not covered under the 50 / 50 funding formula. For example, if the county incurred \$5.0 million in care but was paid \$2.4 million by the State, the unfunded cost would be \$100,000 ($\$5.0 \text{ million} \times 50\% = \2.5 million , less $\$2.4 \text{ million funded} = \$100,000$) and should be included in the Survey.

QUESTION NO. 3 – COUNTY JUVENILE AGENCY

If a county is a county juvenile agency as specified under MCL 803.305 (3), the State has required these counties to pay the entire cost of a public wards' care while committed. The mandate was enacted after the Headlee Amendment was adopted. Given that the State has provided a mandate, the cost of care should be funded by the State.

Accordingly, if the county is a county juvenile agency as defined, please provide the full cost of care for wards including personnel (salary / fringe benefits), operating and other direct costs.

QUESTION NO. 4 – FRIEND OF THE COURT (FOC)

Applicable statutes: MCL 552.505, 552.505(a), 552.511, 552.527, and 600.2530.

In 1983, the State repealed the FOC statutes and substantially revised programs, program service levels and the manner in which the State funded the county FOC offices. The former statutes had been in effect for many years prior to these changes and prior to the Headlee Amendment adoption. The benchmark for comparison to current levels of funding would be the net costs incurred today using the old funding standards, with the difference, if any, being the unfunded mandate. This may be very difficult to calculate given the age of the issue, inability to secure older records and / or local officials with institutional memories of how the FOC offices were previously funded.

Accordingly, please use your best efforts to secure a range of likely costs incurred recently over those that would have been in effect had the older funding formulas been developed. If the range of estimated cost cannot be quantified, please indicate this in the comments section of the Survey under this question.

QUESTION NO. 5 – PUBLIC HEALTH

At the time of the Headlee Amendment adoption, the State provided a 35-cent grant based on the 1970 census to each county. There were no required services to be provided. With the passage of the Public Act 368 of 1978, which was effective post-Headlee Amendment adoption, the State required 'basic and allowable services' in return for \$17.3 million in grants to counties. The proposed 'sharing' of costs for these basic and allowable services was to be split half for the State and half for counties. It took to the mid-1990s before the State honored the commitment even to this level of reimbursement.

Because there were no required services until post-Headlee Amendment adoption, the costs should be borne by the State for required services. Throughout the past several decades the types and nature of required services partially covered by the State's

grants would be considered to be a mandate fundable at 100% under the Headlee Amendment. The manner in which the State funded the required services has likewise changed several times.

Accordingly, the Survey is to capture the estimated range of costs (it is unlikely that the costs can be accurately calculated given the complexity of operations) for public health required services, net of the State's current reimbursement for the latest available year. There will be no need to separately identify those mandates prior to the Headlee Amendment adoption and those after the adoption for this question.

QUESTION NO. 6 – MENTAL HEALTH

Applicable statute: MCL 600.835.

The general funding approach for the mental health operations provided directly by counties has not changed since the Headlee Amendment. Generally, counties are financially responsible for 10% of the net costs of the mental health operations (net of grants, Medicaid, etc.). Over the years the criteria of who should be covered and how the services should be provided (largely moving from the institutional care to a community-based model). In addition, over the past decade several counties have spun off the mental health operations into a legally-separate authority, limiting the county contribution to the amounts provided at the time of separation.

The difficulty in identifying the expanded services since the adoption of the Headlee Amendment on December 31, 1978 is the lack of detailed listing of what services were covered at that point in time. However, during the 1980s and 1990s, the most significant costs involved the movement of mentally ill / developmentally disabled consumers from the State's institutional care to that of a community-based service model. Other variants of that model have also been adopted from time to time as well.

The changes in the service model has likely caused some other issues as well, such as mental health consumers winding up in jail and the criminal process, contributing to the indirect burdens on counties' costs. It is recognized that the quantifiable burdens placed on the counties will be difficult, if not impossible, to calculate with any level of precision. However, a range of estimated costs for not only the direct added costs of the mental health shifts (reduced to 10% of the net costs burdened as part of the local county match) as well as the costs of indirect care at 100% of the county costs (given that the State provides little or no support for these costs).

QUESTION NO. 7 – COST OF AUDIT SERVICES

At the time of the adoption of the Headlee Amendment, the auditing services required by the State were rudimentary for counties. The refinements of the federal grant accounting and compliance embodied in the Single Audit Act in the early 1980s and the federal revenue sharing requirements, both adopted and endorsed by the State, did the mandate occur.

Given the above, please provide the cost of the outside audit required to prepare your comprehensive annual financial report or equivalent, including the Single Audit Act report.

**SURVEY DETAILS - MANDATE DETAIL SUBMITTED BY MICHIGAN
MUNICIPAL LEAGUE**

**LEGISLATIVE COMMISSION ON STATUTORY MANDATES
September 4, 2009**

As described in the enclosed instructions, the following contains a brief description of the mandates and the cost information that should be assembled and input into the Survey.

QUESTION NO. 1 – GOVERNMENT INFORMATION

Please supply contact information as cited.

**QUESTION NO. 2 – STORM WATER PHASE II (NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM / MICHIGAN PERMITTING)**

References – MCL 324.3103 to 3133 and 324.4101 to 4113.

The environmental laws established through the federal government and endorsed by the Michigan Department of Environmental Quality (MDEQ) set forth new mandates for all local units of government to follow. However, even as the federal mandates have been imposed, the MDEQ has set forth additional mandates beyond those required by the federal government for good practices, guidance, and un-promulgated rules in the adoption of the federal regulations. The environmental area is complex, highly regulatory and ferreting out the added requirements imposed by MDEQ difficult to communicate in a short explanation for the Survey tool, even if the local units of government have the underlying accounting records to tease out the cost of these mandates.

Many of the federal rules and regulations imposed leave the implementation of the environmental laws up to the State and local units to implement. The MDEQ's rules and guidance convert the federal requirements into a mandate after the effective date of the Headlee Amendment. Further, because many of these costs are borne by the Departments of Public Works of local units of government the State believes the costs can be passed along in added fees to the public without any net effect on the local unit itself.

Further, several of the components of the recently passed Storm Water rules and regulations by the federal and State governments are not incurred on an on-going basis but are part of either a 'one-time' program or during a capital project. In other words, the level of expenditures that might impact local units may vary greatly from year to year as well.

The ability to accurately assess the cost of the mandate would be very difficult to accomplish without a detailed review of each and every local unit of government's specific facts and circumstances. So, the Survey is asking for an annual estimate of the routine costs being incurred in compliance with the federal and State rules and regulations applicable to the Storm Water Phase II efforts. Please provide an estimated range of costs for all efforts under the environmental laws.

QUESTION NO. 3 – SCHOOL ELECTIONS

The State has imposed special school elections under MCL 168.315, after the effective date of the Headlee Amendment. While there has been some discussion of whether this is a funded or unfunded mandate (the school districts are required to cover the costs), this Survey will ignore the split of funding *between* the types of local units of government and focus in on the cost of the mandate itself. Even if a city is reimbursed from the schools for costs incurred, it simply shifts from one unit to another the *overall* cost of the mandate.

Leaving alone the issue of whether the local units of government are partially funded from the schools, the Survey tool is asking for the estimated total annual cost of special school elections. Do not reduce the cost by any reimbursement from the school districts.

QUESTION NO. 4 – VOTING EQUIPMENT

Reference – MCL 168.24.

The State, through the Secretary of State, mandates the use of optical scan machines during the election process. The mandate was imposed after the effective date of the Headlee Amendment. The equipment for the mandate was originally provided

through a federal HAVA grant. Generally, the maintenance and operating costs associated with the optical scanning equipment are higher than any previous voting equipment maintenance and operations.

Equipment wears out and will eventually need to be replaced. The optical scanning equipment is costly to maintain and operate. Please provide the two pieces of data on the voting equipment:

1. The annual cost of maintaining and operating the optical scanning equipment needs to be estimated, net of the cost of the previous voting equipment's cost (also estimated). Provide the NET cost of the optical scanning equipment in the Survey tool.
2. As there is no guarantee as to federal funding being available at the time of replacement of the existing equipment, please estimate the cost of the replacement should all equipment be replace today.

QUESTION NO. 5 –CERTIFIED MAIL FOR PUBLIC HEARINGS

Reference – MCL 8.11.

The State has required certified mail for public hearings in certain instances well before the effective date of the Headlee Amendment. To the extent that the local unit of government is incurring costs for any recently-imposed mandate for mailing to residents for public hearings, please estimate the cost of this mandate.

QUESTION NO. 6 – ELECTRONIC FINGERPRINTING

Reference -MCL 28.161.

The State has recently required that the submission of fingerprints taken from offenders be submitted electronically. Previously, submitted fingerprints were provided via pre-printed cards via the mail. The new mandate, which has occurred after the effective date of the Headlee Amendment, would require acquisition costs for fingerprint equipment and costly annual maintenance. For those police departments and sheriff's offices who are unable to acquire the equipment, offenders must be transported to a near-by police department / sheriff's office to have the fingerprints taken.

This mandate has created both an increase in operating and capital costs of local law enforcement agencies. Accordingly, please supply the following information:

1. The estimated annual cost of maintenance of the electronic fingerprint equipment and other operating costs of submission to the State.
2. If you do not have electronic fingerprint equipment, the costs of transport to / from local law enforcement agencies that allows you to comply with this requirement.
3. Please provide the cost of the equipment funded out of your local unit's resources.

QUESTION NO. 7 – QUARTERLY REPORTS OF TREASURERS TO LOCAL BOARDS / COUNCILS

Reference – MCL 125.3811.

The State has increased the requirement of investment officers of local units of government (usually in the treasurer's office) to report the investment of funds and other related information to boards / councils on a quarterly basis, up from an annual reporting when the Headlee Amendment first became effective.

Please estimate the annual cost of supplying these quarterly reports.

At the time of the adoption of the Headlee Amendment, the auditing services required by the State were rudimentary for counties. The refinements of the federal grant accounting and compliance embodied in the Single Audit Act in the early 1980s and the federal revenue sharing requirements, both adopted and endorsed by the State, did the mandate occur.

Given the above, please provide the cost of the outside audit required to prepare your comprehensive annual financial report or equivalent, including the Single Audit Act report

**SURVEY DETAILS - MANDATE DETAIL SUBMITTED BY MICHIGAN
TOWNSHIP ASSOCIATION**

**LEGISLATIVE COMMISSION ON STATUTORY MANDATES
September 4, 2009**

As described in the enclosed instructions, the following contains a brief description of the mandates and the cost information that should be assembled and input into the Survey.

QUESTION NO. 1 – GOVERNMENT INFORMATION

Please supply contact information as cited.

QUESTION NO. 2 – SUMMER TAX COLLECTIONS

Reference – MCL 211.905b (2-5).

The summer tax collections are a mandate imposed by the State arising from the change in the collection periods of county taxes for some townships. A fee may be charged for this new service but to the extent that this fee, if charged, is covered by payments from other local units of government the question of the costs burdened on townships is not relevant per se. It would simply be the cost of the mandate imposed on local units of government but paid initially by the townships, with or without any reimbursement (as this would simply be a shift from one local unit of government to another).

Accordingly, please estimate the cost of providing summer tax collections under MCL 211.905b (2 – 5) without regard to any reimbursement from other governmental units (other than the State).

QUESTION NO. 3 – SCHOOL ELECTIONS

The State has imposed special school elections under MCL 168.315, after the effective date of the Headlee Amendment. While there has been some discussion of whether this is a funded or unfunded mandate (the school districts are required to cover the costs), this Survey will ignore the split of funding *between* the types of local units of government and focus in on the cost of the mandate itself. Even if a city is reimbursed from the schools for costs incurred, it simply shifts from one unit to another the *overall* cost of the mandate.

Leaving alone the issue of whether the local units of government are partially funded from the schools, the Survey tool is asking for the estimated total annual cost of special school elections. Do not reduce the cost by any reimbursement from the school districts.

QUESTION NO. 4 – NEW ASSESSING REQUIREMENTS

Reference – MCL 211.7cc.

The State has imposed new assessing requirements after the effective date of the Headlee Amendment. The State required increased administration relating to assessing under Proposal A of 1994. As a result, for example, the local units of government require tracking of homestead exemptions. Other mandated functions are required as well.

In addition, the State has imposed added burdens on those townships required to address Qualified Forest Property Programs.

Please provide the estimated range of costs necessary to comply with the increased assessing standards under the following program changes:

1. Proposal A of 1994.
2. Qualified Forest Property Program.

QUESTION NO. 5 – PUBLICATION OF NOTICES IN NEWSPAPERS

Reference – MCL 41.72a.

The State has required publication of notices in newspapers in certain instances well before the effective date of the Headlee Amendment. To the extent that the local unit of government is incurring costs for any recently-imposed mandate for mailing to residents for public hearings, please estimate the cost of this mandate.

QUESTION NO. 6 - STORM WATER PHASE II (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM / MICHIGAN PERMITTING)

References – 33 U.S.C. 1342.40 C.F.R. 1226.

The environmental laws established through the federal government and endorsed by the Michigan Department of Environmental Quality (MDEQ) set forth new mandates for all local units of government to follow. However, even as the federal mandates have been imposed, the MDEQ has set forth additional mandates beyond those required by the federal government for good practices, guidance, and un-promulgated rules in the adoption of the federal regulations. The environmental area is complex, highly regulatory and ferreting out the added requirements imposed by MDEQ difficult to communicate in a short explanation for the Survey tool, even if the local units of government have the underlying accounting records to tease out the cost of these mandates.

Many of the federal rules and regulations imposed leave the implementation of the environmental laws up to the State and local units to implement. The MDEQ's rules and guidance convert the federal requirements into a mandate after the effective date of the Headlee Amendment. Further, because many of these costs are borne by the Departments of Public Works of local units of government the State believes the costs can be passed along in added fees to the public without any net effect on the local unit itself.

Further, several of the components of the recently passed Storm Water rules and regulations by the federal and State governments are not incurred on an on-going basis but are part of either a 'one-time' program or during a capital project. In other words, the level of expenditures that might impact local units may vary greatly from year to year as well.

The ability to accurately assess the cost of the mandate would be very difficult to accomplish without a detailed review of each and every local unit of government's specific facts and circumstances. So, the Survey is asking for an annual estimate of the routine costs being incurred in compliance with the federal and State rules and regulations applicable to the Storm Water Phase II efforts. Please provide an estimated range of costs for all efforts under the environmental laws.

QUESTION NO. 7 – VOTING EQUIPMENT

Reference – MCL 168.24j.

The State, through the Secretary of State, mandates the use of optical scan machines during the election process. The mandate was imposed after the effective date of the Headlee Amendment. The equipment for the mandate was originally provided through a federal HAVA grant. Generally, the maintenance and operating costs associated with the optical scanning equipment are higher than any previous voting equipment maintenance and operations.

Equipment wears out and will eventually need to be replaced. The optical scanning equipment is costly to maintain and operate. Please provide the two pieces of data on the voting equipment:

3. The annual cost of maintaining and operating the optical scanning equipment needs to be estimated, net of the cost of the previous voting equipment's cost (also estimated). Provide the NET cost of the optical scanning equipment in the Survey tool.
4. As there is no guarantee as to federal funding being available at the time of replacement of the existing equipment, please estimate the cost of the replacement should all equipment be replace today.

QUESTION NO. 7 – COST OF AUDIT SERVICES

At the time of the adoption of the Headlee Amendment, the auditing services required by the State were rudimentary for local units of government. The refinements of the federal grant accounting and compliance embodied in the Single Audit Act in the early 1980s and the federal revenue sharing requirements, both adopted and endorsed by the State, did the mandate occur.

Given the above, please provide the cost of the outside audit required to prepare your comprehensive annual financial report or equivalent, including the Single Audit Act report.

**SURVEY DETAILS - MANDATE DETAIL SUBMITTED BY SCHOOL
DISTRICTS: MICHIGAN SCHOOL BUSINESS OFFICIALS**

**LEGISLATIVE COMMISSION ON STATUTORY MANDATES
September 2, 2009**

As described in the enclosed instructions, the following contains a brief description of the mandates and the cost information that should be assembled and input into the Survey.

QUESTION NO. 1 – GOVERNMENT INFORMATION

Please supply contact information as cited.

QUESTION NO. 2 – FIVE DIGIT CODE

Please supply the school district's five digit code for reference.

QUESTION NO. 3 – GRADUATION / DIPLOMA REQUIREMENTS

The graduation requirements created by Public Acts 123 and 124 of 2006 (MCL 380.1278a, 1278b, and 1280) are mandates imposed after the effective date of the Headlee Amendment on December 23, 1978. Prior to 2006, the only course mandated by the State for graduation was high school civics (instituted in 1976 and was not funded by the State, meaning it may be a mandate but requires no funding under the Headlee Amendment). All other requirements of PA 123 and 124 are State mandates and should be funded under the Headlee Amendment.

While calculating the costs of these new mandates may be difficult, a range of estimated costs relating to these mandates is acceptable for the Survey. There have been no appropriations to cover the costs of the mandates.

QUESTION NO. 4 – CORE ACADEMIC CURRICULUM

The core academic curriculum originally created as part of Public Act 25 of 1990 is a mandate imposed by the State after December 23, 1978, the effective date of the Headlee Amendment. PA 25 imposes mandates on school districts including personnel to create and maintain curriculum, purchasing of different text books, new laboratory equipment, and hiring of new teachers to implement the new curriculum. No amounts have been appropriated for these mandates.

While calculating the costs of these new mandates may be difficult, a range of estimated costs relating to these mandates is acceptable for the Survey. There have been no appropriations to cover the costs of the mandates.

**QUESTION NO. 5 – CENTER FOR EDUCATIONAL PERFORMANCE AND
INFORMATION (CEPI)**

CEPI was originally created by Executive Order 2000-9 in 2000, and later codified at MCL 388.1694a. It is a mandate imposed after December 23, 1978, the effective date of the Headlee Amendment. The Michigan Court of Appeals (*Adair v. People – 279 Mich App 507, 2008*) has ruled that the mandate violates the Headlee Amendment. CEPI is a state agency that oversees the collection of information maintained in the Michigan Education Information System (MEIS). MEIS is a data warehouse that consists of five individual databases dealing with separate types of information relating to school districts, including facilities, personnel, students, infrastructure and finances.

While the State required school districts to report information prior to the Headlee Amendment, the mandates under CEPI greatly expanded the information requirements. Costly requirements were also imposed on the manner in which the information is gathered, shared and transmitted to the State. With the exception of a one-time, 2002 appropriation of \$3.4 million no other funding has been provided.

Presently, the school districts have been assembling the cost of gathering the information relating to CEPI as part of the above lawsuit. To the extent that this information has been assembled by the school district, please provide the estimated range of costs relating to the annual gathering of the CEPI information.

QUESTION NO. 6 – TESTING MANDATES

State law mandates that Michigan school districts conduct numerous standardized tests, including the Michigan Education Assessment Program (MEAP), the Michigan Merit Exam (MME), and other yearly assessments to elementary students. Subsequent to December 23, 1978, the effective date of the Headlee Amendment, these tests were expanded with no State funding support and have resulted in added costs to the school districts.

Prior to the Headlee Amendment, only the MEAP administered to all students at two grade levels. Testing was gradually increased over the years. Now, the Superintendent now requires the MEAP test for all students in grades 3 through 9 and in grade 11. Presently, the MME must be offered in grades 11 and 12 as well (MCL 380.1279g). In addition, yearly assessments to elementary students are required (MCL 380.1280b) for grades 1 through 5.

Presently, the school districts have been assembling the cost of complying with the testing mandates (preliminary estimates of a portion of the costs amount to \$29.3 million). To the extent that this information has been assembled by the school district, please provide the estimated range of costs relating to the testing mandates.

QUESTION NO. 7 – EXTENDING THE SCHOOL YEAR

At December 23 1978, the effective date of the Headlee Amendment, the school year was 900 hours and 180 days long. Presently, the school year has been expanded to 1,098 hours of instruction. The expansion would affect personnel and facility costs as well as central administration.

Please provide an estimate of the added costs of moving from a level of 900 hours of instruction to one of 1,098 hours for both personnel, facility and other operating costs.