

TRADING DIPLOMAS FOR DOLLARS: HOW MICHIGAN LAWMAKERS COULD USE EDUCATION AS AN ECONOMIC DEVELOPMENT MODEL

I. INTRODUCTION

As our nation struggles to endure one of the worst economic crises of its history, and cities across the nation suffer the dire consequences of depressed economies, one major city stands out. That city is Detroit. In 2008, the United States Census Bureau reported that Detroit was the poorest large city in the nation.¹ This statistic is not surprising, considering the many economic problems beleaguering the city. High concentrations of urban poor, as well as the rapid collapse of the major mainstay of the state's economy—the automobile industry—and the concomitant rise in unemployment and loss of population, all problems by themselves, have collectively resulted in, among other things, an ever-shrinking tax base for the city.² To see evidence of the severe economic problems facing the city, one need only drive down a neighborhood street, where, in many instances, “decaying neighborhoods, weedy, trash-strewn lots and vacant, burned-out houses”³ are the physical tokens of an all-too-common scene: neighborhoods consumed by extreme poverty and urban blight, exacerbated in recent times by the housing catastrophe,⁴

1. Megha Satyanarayana & Kristi Tanner, *Detroit is Poorest Big City in U.S.*, DETROIT FREE PRESS (Aug. 27, 2008), available at <http://www.freep.com> (accessed from homepage by entering search term “poorest”) (last visited Sept. 16, 2009). This statistic is based on data from the 2007 U.S. Census Bureau American Community Survey. *Id.* Not surprisingly, Michigan was the only state in that year to experience an increase in its poverty level. *Id.* In Michigan, “there are now 1,377,000 people living below the federal poverty line, which is defined as \$20,650 annually for a household of four.” *Id.*

2. *Motor City's Woes Extend Beyond Auto Industry*, MSNBC (Dec. 20, 2008), available at <http://www.msnbc.com> (accessed from home page by entering search term “Detroit economy”) (last visited Sept. 16, 2009).

3. *Id.*

4. One report stated, “Detroit registered the highest foreclosure rate among the nation's 100 largest metro areas.” *Detroit, Stockton, Las Vegas Post Highest 2007 Metro Foreclosure Rates*, REALTYTRAC (Feb. 13, 2009), available at <http://www2.realtytrac.com/ContentManagement/pressrelease.aspx?ChannelID=9&ItemID=4119> (last visited Oct. 20, 2009) (reporting on data from their Year-End 2007 Metropolitan Foreclosure Report). As a result, Detroit has become one of the “emptiest cities” in America. Christine MacDonald, *Detroit 2nd On “Emptiest City” List*, DETROIT NEWS, Feb. 18, 2009, at 5B (finding that Detroit was the second “emptiest city,” based on rental and housing vacancies). According to one source, as many as 60,000-80,000 homes and businesses in Detroit are abandoned. *Id.* Some Detroit homeowners are so desperate to unload their homes, they are willing to sell for as little as \$1. Ron French, *Foreclosure Fallout: Houses Go for \$1*, DETROIT NEWS, Aug. 13, 2008, at 1A (“The sale price of the

and plagued by violent crime, the highest rate experienced by any large city in the nation.⁵

To suburbanites and the rare out-of-towner who commute into the city and never venture too far from Woodward Avenue into the neighborhoods of Detroit, where the real problems lie,⁶ Detroit's economic situation might not seem so dismal. Recent renovations and additions to the downtown area⁷ give the misleading impression that Detroit's economy is improving.⁸ In reality, the positive effects of

home may be an anomaly, but illustrates both the depths of the foreclosure crisis in Detroit and the rapid scuttling of vacant homes in some of the city's impoverished neighborhoods." The housing situation in Detroit is so bad, it has even become the subject of international news:

America's spiraling financial crisis is wreaking so much new havoc in decaying property markets like Detroit's that even a \$1 house cannot be resold for a profit . . . The house on Traverse Street tells part of the story of a decline so dizzying that other cities around America have begun to talk fearfully of 'Detroitification', a seemingly irreversible condition of urban despair that slowly takes grip of once-flourishing communities and strips them of value and life.

Tony Allen-Mills, *America's Darkest Fear: To End Up Like Detroit*, SUNDAY TIMES (London) (Oct. 5, 2008), available at <http://www.timesonline.co.uk> (accessed from homepage by entering search terms "America's Darkest Fear") (last visited Sept. 16, 2009). Unfortunately, however, the current housing problems Detroit faces are nothing new. Almost fifty years ago, TIME Magazine reported that "blight is creeping like a fungus through many of Detroit's proud, old neighborhoods." *Decline in Detroit*, TIME MAGAZINE (Oct. 27, 1961), available at <http://www.time.com> (accessed from homepage by entering search terms "Decline in Detroit") (last visited Sept. 16, 2009).

5. *Motor City's Woes*, *supra* note 2. Although in analyzing crime data, many commentators have concluded that Detroit has the highest rate of violent crime, as with every statistic, there is serious debate about the value and accuracy of such rankings. The FBI itself cautions against ranking cities based on crime data because it fears such data will mislead the public. To view the raw data in order to draw an independent conclusion, see *Offenses Known to Law Enforcement By State By City 2007*, FEDERAL BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, available at <http://www.fbi.gov/ucr/cius2007/index.html> (accessed from homepage by selecting "violent crime" and downloading "table 8" file) (last visited Oct. 20, 2009).

6. Professor John Mogk, a Professor of Law at Wayne State University Law School who has extensively studied and written about Detroit's economic problems and who also teaches a course in Urban Development, has suggested this dichotomy between the downtown area, where development efforts are more prevalent, and the 140 square mile area surrounding the downtown area, comprised mostly of neighborhoods.

7. The newly renovated Book Cadillac Hotel and the addition of the MGM Grand Casino are just two very recent examples. For more examples, see Robert Sharoff, *Wave of Renovations Helping Downtown Detroit*, N.Y. TIMES (Jan. 30, 2005), available at <http://www.nytimes.com> (accessed from homepage by entering search terms "wave of renovations helping downtown Detroit") (last visited Oct. 20, 2009).

8. Satyanarayana & Tanner, *supra* note 1.

downtown development efforts have not spread beyond the downtown area to permeate the neighborhoods.⁹

While a vibrant downtown is a desirable economic goal, current efforts to revitalize Detroit miss the mark, not only geographically, as efforts focused primarily on downtown revitalization illustrate, but also substantively. Many efforts at economic development attempt to treat the symptoms of Detroit's economic problems, instead of the disease. The origin of many of the economic problems plaguing Detroit can be traced back to a common root—poor public education.¹⁰ Detroit has recently been singled out¹¹ in national news for its failing system of public education. Our nation's newly appointed Secretary of Education, Arne Duncan, recently expressed his “extraordinary[] concern[] about the poor quality of education . . . the children of Detroit are receiving.”¹²

This Note strives to look at the problem of Detroit's stagnant economic development through an interdisciplinary¹³ lens to arrive at a legal solution by arguing that improving educational outcomes for Detroit school children constitutes the most important element of an effective economic development model for the city of Detroit. Attacking the source of the problem—inadequate education—represents the method with the most potential to cure Detroit's economic woes. Part II of this Note juxtaposes an overview of education laws in Michigan and a survey of the documented effects of a poor system of education to illustrate the strong link between Detroit's education and economic shortcomings. Part III of this Note argues that Michigan's education laws do not ensure that Michigan school children, particularly Detroiters, receive an adequate education. As a result, Michigan's potential for

9. See *supra* notes 2-5 and accompanying text.

10. See *infra* Part II.C.

11. Although, according to one commentator, this is not the first time Detroit public schools have come under national scrutiny. For instance, “[i]n 2007, Republican Newt Gingrich, a former speaker of the house, derided Detroit's schools as a failure for its high dropout rate. He said the district should be ‘fundamentally replace[d]’ with a series of experiments.” Jennifer Mrozowski & Mike Wilkinson, *DPS Fails Kids, Fed School Chief Says*, DETROIT NEWS (Feb. 14, 2009), available at <http://www.detnews.com> (accessed from homepage by entering search term “DPS fails”) (last visited Sept. 16, 2009).

12. *Id.* Duncan also said the “federal government has a moral obligation to reform Detroit's failing city schools, which he said will be a ‘huge focus’ of his tenure.” *Id.* In commenting on a proposed federal stimulus plan, Duncan expressed his worries about Detroit schools when he said, “Without getting into too many details, I am extraordinarily concerned about the poor quality of education, quite frankly, the children of Detroit are receiving . . . I lose sleep over that one. And I think the dropout rate there is devastating.” *Id.*

13. The arguments made in this Note draw upon the knowledge of scholars and researches from several fields—including economics, sociology, and politics—to suggest a more informed legal solution.

economic growth remains stunted. Part IV of this Note concludes by suggesting ways in which reforms to Michigan education laws could produce not only an educated Detroit populace, but also an economically rich city and state.

II. BACKGROUND

A. Michigan School Accountability and Assessment Laws

1. Michigan's Constitution

"The federal constitution ignores education because regulation of education and school is a traditional state function."¹⁴ Article VIII is the portion of the Michigan Constitution dealing with education.¹⁵ Section 1 states: "[r]eligion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."¹⁶ Section 2 states: "[t]he legislature shall maintain and support a system of free public elementary and secondary schools as defined by law."¹⁷ Subsequent sections of Article VIII deal only with the appropriation of funds¹⁸ and the creation and delegation of power to school boards and governing bodies.¹⁹ According to one court, "[t]he mere fact that the Michigan Constitution of 1963 mentions education, while the federal constitution does not, provides no justification for abandoning past decisions and holding education to be a fundamental right under Michigan's constitution."²⁰ Simply put, "education is not a fundamental right under the Michigan Constitution."²¹

2. Michigan's Education Legislation

In stark contrast to the scant treatment of education in the Michigan Constitution, there are dozens upon dozens of education laws on the books in Michigan, regulating almost every imaginable facet of

14. *Palmer v. Bloomfield Hills Bd. of Educ.*, 417 N.W.2d 505, 507 (Mich. Ct. App. 1987).

15. See MICH. CONST. art. VIII.

16. MICH. CONST. art. VIII, § 1.

17. MICH. CONST. art. VIII, § 2.

18. MICH. CONST. art. VIII, §§ 2, 4.

19. MICH. CONST. art. VIII, §§ 3, 4, 6, 7.

20. *Palmer*, 417 N.W.2d at 507.

21. *Id.* at 506.

education in the state.²² A comprehensive discussion of most of this law is beyond the scope of this Note. However, Michigan laws that affect curriculum and standards, including graduation requirements and educational assessment methods, are of particular relevance to this Note's arguments.

Although education is not a "fundamental right" in Michigan, the state constitution does require the legislature "to encourage education and maintain and support public elementary and secondary schools."²³ Courts have interpreted the Michigan Constitution broadly, holding "that the Michigan Legislature is vested with control over public school systems in this State."²⁴

a. Curriculum and Standards, Generally

Under Michigan law, curriculum content standards "shall be developed and periodically updated by the state board."²⁵ Currently, the "Michigan Curriculum Framework" embodies these standards.²⁶ However, individual school districts have some leeway in adopting standards that differ from those recommended by the state board of education.²⁷

22. For a sampling of laws affecting education in Michigan, see MICHIGAN DEPARTMENT OF EDUCATION OFFICE OF SCHOOL FINANCE & SCHOOL LAW, available at http://www.michigan.gov/mde/0,1607,7-140-6530_6564_35176---,00.html (last visited Sept. 16, 2009). Notably, however, one area of law, central to the arguments made in this Note, that is not addressed is educational "adequacy." See discussion *infra* Part III.

23. *Moore v. School Reform Bd. of Detroit*, 147 F. Supp. 2d 679, 687 (E.D. Mich. 2000) (citing MICH. CONST. art. VIII, §§ 1, 2). The court noted:

The distress of the Detroit Public Schools is no small matter. Its greatest impact falls on . . . young people who study in the district. But it also affects the future of the City: if Detroit is to prosper, it must have an educated work force; if it is to have vibrant self government, it must have an educated citizenry. The distress of the Detroit Public Schools spreads well beyond the district's borders because of Detroit's size and centrality As every metropolitan region in America is discovering, its future is tied inextricably to its central city.

Id. at 684 (quoting Dr. David Adamany, then CEO of the Detroit Public School Reform Board) (internal citation omitted).

24. *Id.* at 688.

25. MICH. COMP. LAWS ANN. § 380.1278(2) (West 2000). This provision is one of several often referred to as "The Revised School Code."

26. See MICHIGAN DEPARTMENT OF EDUCATION CURRICULUM AND INSTRUCTION, available at <http://www.michigan.gov/mde/0,1607,7-140-28753---,00.html> (last visited Sept. 16, 2009).

27. MICH. COMP. LAWS ANN. § 380.1278(3)(a) states:

The board of each school district, considering academic curricular objectives defined and recommended pursuant to subsection (2), shall . . . [e]stablish a core academic curriculum for its pupils at the elementary, middle, and

b. Assessment and Accountability

Michigan measures student achievement using the Michigan Education Assessment Program (MEAP) for school children in grades three through nine.²⁸ Michigan measures the achievement of high school students using the Michigan Merit Examination.²⁹ The federal No Child Left Behind act (NCLB)³⁰ requires such testing in order to determine whether a school has made “Adequate Yearly Progress,” (AYP) defined as enough progress each year to get all the students in a school to perform at a proficient or advanced level by the 2014-2015 school year.³¹ Districts not making AYP face sanctions.³²

c. New Graduation Requirements

In April of 2006, Michigan Governor Jennifer Granholm signed into law a new set of statewide graduation requirements.³³ The new “Michigan Merit Curriculum” (MMC) sets out the number of credits each student, beginning with students entering the eighth grade in 2006, must earn in various subject areas in order to receive a diploma.³⁴ Under the MMC, students must earn four credits in math, four credits in English language arts, three credits in science, three credits in social science, one credit in physical education or health, one credit in visual, performing and applied arts, as well as participate in an “online learning experience.”³⁵ Students entering the third grade in 2006 must also earn two credits in a foreign language in order to earn a high school diploma.³⁶ According to the new law, a student earns a credit when the

secondary school levels . . . [which] may vary from the model core academic curriculum standards recommended by the state board.

28. MICH. COMP. LAWS ANN. § 380.1278(2); MICHIGAN DEPARTMENT OF EDUCATION, available at <http://www.michigan.gov/mde> (accessed from homepage by selecting “assessment and accountability” from menu) (last visited Sept. 16, 2009).

29. MICH. COMP. LAWS ANN. § 380.1278(2). The MME measures the achievement of eleventh and some twelfth grade students. MICHIGAN DEPARTMENT OF EDUCATION, *supra* note 28.

30. 20 U.S.C.A. §§ 6311-6312, 6316 (West 2009).

31. For an explanation of AYP, see MICHIGAN DEPARTMENT OF EDUCATION ASSESSMENT AND ACCOUNTABILITY, available at http://www.michigan.gov/mde/0,1607,7-140-22709_22875---,00.html (last visited Sept. 16, 2009).

32. *No Child Left Behind – A Title I Overview*, CENTER FOR LAW AND EDUCATION (2002), available at <http://www.cleweb.org> (accessed from home page by selecting article title) (last visited Sept. 16, 2009).

33. MICH. COMP. LAWS ANN. §§ 380.1278a-380.1278b (West 2007).

34. MICH. COMP. LAWS ANN. § 380.1278a(1)(a)-(b).

35. MICH. COMP. LAWS ANN. § 380.1278a(1)(a)-(b).

36. MICH. COMP. LAWS ANN. § 380.1278a(2).

student “successfully completes the subject area content expectations or guidelines developed by the department that apply to [that] credit.”³⁷ A school district must decide if a student has met the subject area content requirements “at least in part on the pupil’s performance on the assessments developed or selected by the department . . . or on 1 or more assessments developed or selected by the school district.”³⁸

B. Quantifying the Link Between Education and the Economy

Many scholars recognize the link between education and the economy.

1. Cost Savings Associated with an Improved Education

An educated populace simply costs less than an uneducated one. Costs associated with crime, health care, and other welfare and public assistance programs are prime, but not exclusive, examples of expenses that educational improvements could significantly reduce.

a. Crime

The costs associated with crime are a heavy burden on society. They include expenses related to the criminal actor, such as police payroll, court and attorney fees, and the cost of arrest and incarceration, as well as costs related to the victims of crime, including medical expenses and lost wages.³⁹ Many researchers and economists have demonstrated that education reduces crime,⁴⁰ illustrating that the social return on educational investment is even higher than the individual benefit.⁴¹ For instance, “a 1% increase in the high school completion rate of all men ages 20-60 would save the United States as much as \$1.4 billion per year

37. MICH. COMP. LAWS ANN. § 380.1278a(4)(a).

38. MICH. COMP. LAWS ANN. § 380.1278a(4)(b) (emphasis added).

39. *Saving Futures, Saving Dollars: The Impact of Education on Crime Reduction and Earnings*, ALLIANCE FOR EXCELLENT EDUCATION (Aug. 1, 2006), available at <http://www.all4ed.org> (accessed from homepage by entering keyword “saving futures”) (last visited Sept. 16, 2009).

40. There are several theories to explain why individuals with higher levels of education commit less crime, including the idea that higher wages obtained from legitimate work reduce the need to commit crime or that increased education creates norms and stigmas that dissuade individuals from committing crime. *Id.*; see also Lance Lochner & Enrico Moretti, *The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self Reports*, 94(1) AM. ECON. REV. 155, 155-56 (2004).

41. Lochner & Moretti, *supra* note 40, at 155.

in reduced costs from crime incurred by victims and society at large.”⁴² In Michigan alone, a five percent increase in male graduation rates could translate to over \$175 million in annual crime related savings on expenses related to incarceration, property loss, and the victims of crime.⁴³

b. Health Care

Health care is another significant cost to society.⁴⁴ Raising the level of education of individuals reduces health-related expenditures.⁴⁵ Experts explain this trend by illustrating that education improves cognitive functioning and decision-making ability, leads to higher income levels and a better lifestyle, and expands job opportunities, which results in greater occupational safety and access to health insurance.⁴⁶ Dropouts, on the other hand, “have higher rates of cardiovascular illness, diabetes, and other ailments, and require an average of \$35,000 in annual health-care costs, compared with \$15,000 for college graduates.”⁴⁷ To get an idea of the magnitude of the cost of health care in Michigan, in 2007, Michigan spent over twenty-three percent of its budget, well over \$10 billion, on health services.⁴⁸ In 2008, Michigan spent a total of \$11,622,966,000 on health services.⁴⁹ One source estimated the total health savings to the State of Michigan for each additional graduate in the class of 2005-2006 to be \$13,595.⁵⁰ If all students in the class of 2005-2006 had graduated from high school, Michigan could have saved as much as \$750,225,999

42. *Id.*

43. *Saving Futures, Saving Dollars*, *supra* note 39, at 4; *see also* Lochner & Moretti, *supra* note 40.

44. Symposium, *The Social Costs of Inadequate Education*, Teachers College, Columbia University (2005), available at http://www.tc.columbia.edu/i/a/3082_socialcostsofinadequate-Education.pdf (last visited Sept. 16, 2009).

45. *Healthier and Wealthier: Decreasing Health Care Costs by Increasing Educational Attainment*, ALLIANCE FOR EXCELLENT EDUCATION (Nov. 1, 2006), available at <http://www.all4ed.org> (accessed from homepage by entering keyword “healthier”) (last visited Sept. 16, 2009).

46. Peter Muennig, *Health Returns to Education Interventions* (paper prepared for Symposium on Social Costs of Inadequate Education, *see supra* note 44).

47. Symposium, *supra* note 44, at 16 (quoting *Health Returns*, *supra* note 46).

48. STATE OF MICHIGAN OFFICE OF THE STATE BUDGET, available at <http://www.michigan.gov/budget> (accessed from homepage by selecting “financial reports” from menu) (last visited on Sept. 16, 2009).

49. STATE OF MICHIGAN OFFICE OF THE STATE BUDGET, available at <http://www.michigan.gov/budget> (accessed from homepage by selecting “financial reports” from menu) (last visited Sept. 16, 2009).

50. *Healthier and Wealthier*, *supra* note 45.

in lifetime health costs related to Medicaid recipients and the uninsured.⁵¹

c. Other Forms of Welfare and Public Assistance

Finally, many researchers note the strong correlation between education levels and government spending on public assistance programs.⁵² Some researchers suggest that “America could save between \$7.9 billion and \$10.8 billion annually in spending on TANF (Temporary Assistance for Needy Families) Food Stamps and housing assistance by improving the educational attainment of those who currently do not complete high school.”⁵³ Researchers point to higher rates of employment and expanded job opportunities, and the resultant higher income, among more educated individuals to explain why improving education reduces spending on these programs.⁵⁴

2. Increased Economic Activity

a. Increased Income & Subsequent Tax Revenue

High school graduates are more frequently employed than high school dropouts,⁵⁵ and typically bring home larger salaries.⁵⁶ According to one source, “the average high school dropout earns about \$12,000 per year, nearly one half that earned by those whose highest level of education is a high school diploma, and one-third that earned by those with at least a high school education.”⁵⁷

51. *Id.*; see also PETER MUENNIG, *Consequences in Health Status and Costs*, in THE PRICE WE PAY: THE ECONOMIC AND POLITICAL CONSEQUENCES OF INADEQUATE EDUCATION 125 (Clive R. Belfield & Henry M. Levin eds., Brookings Institution Press 2007).

52. Jane Waldfogel et al., *Welfare and the Costs of Public Assistance*, in THE PRICE WE PAY: THE ECONOMIC AND POLITICAL CONSEQUENCES OF INADEQUATE EDUCATION 160 (Clive R. Belfield & Henry M. Levin eds., Brookings Institution Press 2007).

53. Symposium, *supra* note 44 (citing Waldfogel et al., *supra* note 52).

54. See discussion *supra* Part II.B.2.a.

55. Cecilia Elena Rouse, *Consequences For the Labor Market*, in THE PRICE WE PAY: ECONOMIC & SOCIAL CONSEQUENCES OF AN INADEQUATE EDUCATION 99 (Clive R. Belfield & Henry M. Levin, eds., Brookings Institution Press 2007) (Rouse’s original essay, entitled *The Labor Market Consequences of an Inadequate Education*, was prepared for the Symposium on The Social Costs of Inadequate Education, Teachers College, Columbia University).

56. *Id.*

57. *Id.*

Because dropouts earn less each year than their more educated counterparts, they are able to contribute much less to government revenues.⁵⁸ Over a lifetime, “a high school dropout pays about \$60,000 less in taxes.”⁵⁹ One estimate suggests that in the aggregate, “[l]ower earnings among dropouts alone could be costing the United States as much as \$158 billion in lost earnings and \$36 billion in lost state and federal income taxes for each class of 18-year-olds.”⁶⁰

b. Resulting Economic Development

In addition to the cost savings associated with an educated populace, increased levels of educational attainment lead to higher individual salaries and tax revenues as discussed above. Michigan could use these cost savings and increased revenues to fuel economic development.

The potential for increased education to lead to economic development does not stop there. Better schools and an educated citizenry become magnets, attracting new residents, and their tax dollars, to the areas surrounding well-performing school districts.⁶¹ In addition, an educated workforce is good for the business environment, attracting new businesses and encouraging outside investment.⁶² Many scholars recognize that a “‘relatively poor educational system[,] and the resulting limited skill set in the workforce’ impede the quality of its business environment.”⁶³ One study estimated that “the cost to Michigan businesses and post-secondary institutions of re-educating high school graduates with basic skills is more than \$600 million every year.”⁶⁴ The corollary is that areas with good schools and educated citizens are

58. *Id.*

59. Symposium, *supra* note 44.

60. *Id.* (citing Rouse, *supra* note 55).

61. Christopher Serkin, *Local Property Law: Adjusting the Scale of Property Protection*, 107 COLUM. L. REV. 883, 899 (2007) (“[L]ocal governments are in direct competition with each other to attract residents . . . [a]ll else being equal, a town with better schools will see demand for its property increase, and thus its property values rise.”); see also Richard Briffault, *Our Localism: Part II – Localism & Legal Theory*, 90 COLUM. L. REV. 346 n. 39 (1990) (arguing that suburbs are able to draw residents out of cities because “the better-financed school systems . . . present a more attractive setting to new taxpaying residents and to business and commercial development”).

62. Briffault, *supra* note 61.

63. Amanda S. Hawthorne, *The Opportunity in Adequacy Litigation: Recognizing the Legitimacy And Value of Pursuing Educational Reform Through the Courts*, 56 S.C. L. REV. 761, 777 (2005).

64. Ryan S. Olson, *Hope in State Graduation Standards Misplaced*, EDUCATION REPORT (Mar. 7, 2006) available at <http://www.educationreport.org> (accessed from homepage by entering search term “graduation standards”) (last visited Sept. 24, 2009).

goldmines for businesses, chock full of educated and talented potential employees.⁶⁵

C. Detroit Public Schools (DPS)

1. Current Status of Detroit Schools

According to a 2008 report by the Council of the Great City Schools, a national organization that represents urban school districts, Detroit Public Schools face “serious systemic problems across many facets of the district, including lack of a strategy for raising academic performance, financial systems teetering on the edge of a breakdown and a nonexistent facilities management plan.”⁶⁶ Detroit Public Schools have a long history of failing Detroit’s youth.⁶⁷ Although the problems that exist in the school district are not new, some recent statistics are particularly illuminating.

Although graduation rates are a limited measure of academic achievement because they do not reflect the quality of the education a

65. See Joshua Zumbrun, *America’s Best-and Worst-Educated Cities*, FORBES.COM (Nov. 24, 2008), available at http://www.forbes.com/2008/11/24/economics-education-colorado-biz-beltway-cx_jz_1124educated.html (last visited Oct. 20, 2009).

[W]hat of cities that contain better-educated residents—are they better off as well? Yes. A look at America’s 10 best- and 10 worst-educated cities is a study in contrasts. The best-educated cities, as measured by the proportion of people older than 25 with bachelor’s, master’s, professional and doctoral degrees, according to the U.S. Census Bureau’s American Community Survey, are a collection of university, research and corporate havens with buoyant economies and low unemployment. Those at the other end of the scale tend to be . . . just the opposite . . . on the whole, the less-educated cities have weaker economies. According to . . . data from the Bureau of Labor Statistics . . . the 10 metropolitan areas atop the list have an average unemployment of 5.1%. The 10 at the bottom? 9.4%. The national average that month was 6%. In economically troubled states, education forms a safe haven for cities. Ann Arbor has the lowest unemployment rate of any city in Michigan, where struggling automakers Ford Motor . . . , General Motors . . . and Chrysler weigh on the economy.

Id.

66. Reforming and Improving the Detroit Public Schools: Report of the Strategic Support Teams of the Council of the Great City Schools (2008), available at <http://www.cgcs.org/Pubs/Detroit08.pdf> (last visited Sept. 16, 2009) [hereinafter Great City Schools]. Council of the Great City Schools is a national organization, comprised of sixty-six of the nation’s largest city school districts, whose purpose is to promote the cause of urban schools. The Council conducted an intensive audit of Detroit Public Schools and submitted this report of their findings to the district.

67. See JEFFREY MIREL, *THE RISE AND FALL OF AN URBAN SCHOOL SYSTEM: DETROIT 1907-81* (University of Michigan Press 1999).

child receives, they are still a useful indicator of district performance.⁶⁸ In 2007, using data from the 2003-2004 school year, the Michigan Department of Education reported the graduation rate in the Detroit City School District to be 58.42%.⁶⁹ However, an independent study based on the same set of data estimated the Detroit City School District's graduation rate to be 24.9%, the lowest among the nation's fifty largest school districts.⁷⁰

Test scores from Detroit City School District students reveal even more about how poorly the district is educating Detroit's youth. Michigan uses the MEAP to measure academic achievement for children in grades three through nine.⁷¹ In 2007, only 49% of Detroit public schools' eighth grade students were performing "at or above [a] proficient level in English language arts," meaning 51% of eighth grade students in Detroit Public Schools showed only a "partial understanding" of their grade level curriculum or needed "intensive intervention."⁷² The results for eighth grade reading, writing, and math are similarly disheartening, with only 52%, 47% and an alarming 39%, respectively, achieving at least "proficiency."⁷³

Michigan uses the Michigan Merit Examination (MME) to assess the academic performance of high school students.⁷⁴ In 2007, 75.4% of Detroit's eleventh grade high school students did not meet state standards in English language arts.⁷⁵ In the same year, 68.1% of Detroit's eleventh graders failed to meet state standards in reading, 82.6% failed to meet state standards in writing, and 86.1% failed to meet state standards in

68. Rouse, *supra* note 55, at 107.

69. State of Michigan 2007 4-Year Cohort Graduation and Dropout Rate Report, MICHIGAN DEPARTMENT OF EDUCATION (2007), available at http://www.michigan.gov/documents/cepi/2007_MI_Grad-Drop_Rate_246517_7.pdf (last visited Sept. 16, 2009). In addition to detailed statistical information, this document also contains a useful explanation of the methodology of the calculations.

70. Christopher B. Swanson, *Cities in Crisis: A Special Analytic Report on High School Graduation*, EPE RESEARCH CENTER (2008), available at <http://www.edweek.org/media/swansoncitiesincrisis040108.pdf> (last visited Sept. 16, 2009).

71. See MICHIGAN DEPARTMENT OF EDUCATION, *supra* note 28.

72. Great City Schools, *supra* note 66.

73. *Id.*

74. *Id.* The MME is actually comprised of three different tests, including: (1) ACT; (2) WorldKey; and, (3) a Michigan-developed assessment in math, science, and social studies.

75. *Id.*

math.⁷⁶ Not surprisingly, Detroit did not make AYP, as required by the federal No Child Left Behind program, in 2007.⁷⁷

2. *Impact of DPS on the City of Detroit and the Michigan Economy*

Why is the health of the Detroit school system so important to the economic health of the state? According to two commentators, “It is . . . important to note the aggregate effect of these substandard results on Michigan’s economic future.”⁷⁸ The Detroit City School District “is the largest in the state,” with 102,494 students enrolled in 2007, or at least six percent of the entire state’s K-12 population.⁷⁹ One can readily observe the magnitude of the district by noting that the next largest district in Michigan is Utica, which has a total of 29,383 students.⁸⁰ Because the Detroit City School District is the largest in the state, the students enrolled in DPS schools “represent[] a substantial portion of the future workforce in Michigan, a portion that would leave high school ill-prepared to compete in the job market.”⁸¹ A court, noting “the distress of the Detroit Public Schools . . . cited the legislative history establishing the disproportionate impact that the Detroit schools have on the state as whole”⁸² The court also “cite[ed] the negative impact on all of the state’s citizens . . . when the state’s largest school district—comprising [a large percentage] . . . of the state’s future citizens and workers—fails educationally.”⁸³

76. *Id.*

77. *2007 Districts Not Making AYP*, MICHIGAN DEPARTMENT OF EDUCATION (2007), available at http://www.michigan.gov/documents/mde/HS_districts_notmaking_-216981_7.pdf (last visited Sept. 16, 2009).

78. Derek W. Meinecke & David W. Adamany, *School Reform in Detroit and Public Act 10: A Decisive Legislative Effort with an Uncertain Outcome*, 47 WAYNE L. REV. 9, 28 (2001).

79. *Id.* at 28-29 (citing 17 MICH. SEN. J. 249 (1999)). For current statistics, see CENTER FOR EDUCATIONAL PERFORMANCE AND INFORMATION, available at <http://www.michigan.gov/cepi> (accessed from homepage by selecting “data and reports,” then “public school counts” from menu) (last visited Sept. 16, 2009).

80. CENTER FOR EDUCATIONAL PERFORMANCE AND INFORMATION, available at <http://www.michigan.gov/cepi> (accessed from homepage by selecting “data and reports,” then “public school counts” from menu) (last visited Sept. 16, 2009).

81. Meinecke, *supra* note 78, at 29.

82. *Id.* at 69 (citing *Moore*, 147 F. Supp. 2d 679).

83. *Id.* at 87 (citing Robert L. Green, *A Reform Strategy for Troubled Times: Takeovers of Urban School Districts in the 1990s* (unpublished manuscript presented at the National Alliance of Black School Educators’ Third Annual National Education Policy Institute) and Beth Reinhard, *Racial Issues Cloud State Takeovers*, EDUC. WK., Jan. 14, 1998).

III. ANALYSIS

As Michigan's economy declines and individuals suffer the harsh effects, and at a time when both education and economic issues are at the forefront of the news and political scene, there is no better time than now for Michigan legislators to look for ways to unlock the potential of increased education to grow our economy. The link between education and the economy is well documented. The question is how to structure improvements in education in order to capitalize on this link, and thereby reap economic rewards.

Education experts, who suggest increased graduation rates are the single most important factor in improving educational outcomes in order to improve the economy, elevate quantity over quality.⁸⁴ When it comes to improving the economy, the quality of the education a child receives is just as important as whether or not he makes it to graduation day. An economically beneficial education demands more than a mere high school diploma. But, how much more?

A. Michigan's Education Laws Miss an Opportunity to Use Educational Improvement to Drive Economic Development

1. Failure to Address Adequacy

Michigan's Constitution⁸⁵ does not contain any provision mandating the level or quality of education that Michigan schoolchildren are entitled to receive.⁸⁶ Article VIII, section 1 states: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."⁸⁷ At first glance, this language makes it appear that Michigan is a state that is very committed to promoting education. In fact, many courts have commented on the apparent weight that the

84. Jesse L. White, Jr., *Community Economic Development and Poverty Alleviation: An Overview of Panel 4*, 10 EMP. RTS. & EMP. POL'Y J. 121 (2006) (referring to Suzanne Morse's argument that high school graduation rates should be the focus of community and economic development efforts).

85. See MICH. CONST. art. VIII.

86. Gina Umpstead, *Educational "Adequacy" and Michigan's Constitution*, EDUCATION RESOURCES INFORMATION CENTER (Nov. 2005), available at <http://www.eric.ed.gov> (accessed from homepage by entering keyword "ED494169") (last visited Sept. 16, 2009).

87. MICH. CONST. art. VIII, § 1.

Michigan Constitution gives to education.⁸⁸ Upon further examination, however, the limited extent of the Michigan Constitution's educational provisions becomes evident. Article VIII, section 2 states: "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law."⁸⁹ Thus, the only constitutional requirement is that Michigan maintain a "free" system of education. The vast number of uneducated Detroit youth illustrate that the Michigan constitution's current educational mandates are insufficient.⁹⁰ "Free" is not good enough if Michigan wants to become a state with an educated workforce, prepared to take on its daunting economic challenges.

Nor is there any existing Michigan legislation which even goes as far as mandating an "adequate" education for Michigan students, let alone defining "adequacy," although some recent legislation, the MMC, appears to be an attempt.⁹¹

The MMC is a commendable first step toward raising the level of education among all of Michigan's youth as an economic development strategy. In fact, legislative history surrounding the passage of the MMC reveals that Michigan legislators had the right goals in mind. For instance, legislators considered the "growing concern that public high schools in Michigan are not preparing students adequately for the challenges they will face in the workplace" and realized that "many businesses and postsecondary educational institutions report that high school graduates frequently lack essential skills."⁹² Furthermore, the MMC does ensure that students across the state earn a minimum number of academic credits by prohibiting any district from allowing students to graduate with fewer credits than specified.⁹³

However, while the MMC is a step in the right direction, it fails in several respects to connect the dots between educational adequacy and economic development. First, the MMC specifies the number of credits a student must earn in a given subject area, but not much else. Minimum

88. See *Mich. Female Seminary v. Sec'y of State*, 73 N.W. 131, 132 (Mich. 1897) (noting that "[i]t has always been the policy of this state, as indicated by the provisions of its constitution and a long line of legislative enactments, to encourage the cause of education"); *Dennis v. Wrigley*, 141 N.W. 605, 625 (Mich. 1913) (observing that the Michigan constitution "indicates a settled purpose on the part of the state to provide, foster, and protect educational facilities for all"); *Berry v. Sch. Dist. of Benton Harbor*, 467 F. Supp. 695, 705 (W.D. Mich. 1978) (holding that the Michigan constitution requires the State to "actively foster a sound educational system").

89. MICH. CONST. art. VIII, § 2.

90. See discussion *supra* Part II.C.1.

91. See *supra* Part II.

92. Mich. S. Fiscal Agency Bill Analysis, S.B. 1124 and H.B. 5606, 93 Leg., 2006 Sess. (2006).

93. MICH. COMP. LAWS ANN. § 380.1278a (West 2008).

“content expectations,” which the Department of Education must develop, are not enumerated.⁹⁴ This means that although there is a statutory requirement that a student take four credits of English language arts in order to graduate, there is no statutory requirement that he be able to read and comprehend complicated material or write well enough to effectively communicate to others. Without mandating that graduates leave high school with specific skills, such as effective reading and writing skills, there can be no assurance that these graduates are prepared to enter the workforce as productive employees or go on to college as competitive students. As a consequence, there can be no assurance that Michigan schools will produce a workforce capable of competing with other states and countries for jobs, or one that is able to attract employers seeking a qualified pool of applicants from which to hire.

A second reason the MMC fails to adequately capitalize on education as an economic development tool is that the MMC leaves assessment up to school districts,⁹⁵ granting districts enormous flexibility in determining if a student has successfully completed the “subject area content requirements” dictated by the Michigan Department of Education.⁹⁶ According to the statute, “a school district . . . shall base its determination of whether a pupil has . . . completed the . . . content expectations developed by the department . . . at least in part on the pupil’s performance on the assessments developed . . . by the department . . . or on 1 or more assessments developed or selected by the school district.”⁹⁷ If a district is free to measure a student’s performance any way it likes, the opportunity is wide open for districts to adopt toothless measures of performance in order to avoid a negative effect on their graduation rates. If this occurs, as it has with state educational standards under the NCLB,⁹⁸ there is absolutely no benefit whatsoever to the MMC, since there is no way to accurately assess how well prepared students are for the demands of the workplace or college.

2. Failure to Use Economy-Oriented Assessment Methods

Because neither the Michigan constitution, nor any existing legislation, properly require Michigan schoolchildren receive an “adequate” education, the assessment methods⁹⁹ districts currently use to

94. See MICH. COMP. LAWS ANN. § 380.1278b(3) (West 2008).

95. MICH. COMP. LAWS ANN. § 380.1278a(4)(b).

96. MICH. COMP. LAWS ANN. § 380.1278a(4)(b).

97. MICH. COMP. LAWS ANN. § 380.1278a(4)(b) (emphasis added).

98. See *supra* Part II.

99. See *supra* Part II for discussion of MEAP and MME exams.

measure achievement will always fail to drive improvements in the educational attainment of individual students and therefore will also fail to drive economic development.

Schools are using aggregate data from tests such as the MEAP and MME to satisfy reporting requirements and to diagnose and correct problems at the school and district levels, instead of to ensure that each individual student is on track. For instance, according to the State of Michigan, the MEAP, used in grades three through nine, “serves as a measure of accountability for Michigan schools . . . [and] can be used by schools for school improvement purposes . . . and can be used to modify instructional practice.”¹⁰⁰ Noticeably absent is any mention of using MEAP scores to improve individual student achievement. MEAP scores factor into the calculations needed to satisfy the requirements under the NCLB, such that “[i]f enough students ‘pass,’ the school is said to have made adequate yearly progress under the federal No Child Left Behind Act.”¹⁰¹ What about students who do not pass? Schools administer MEAP tests in October and examine material taught during the previous school year.¹⁰² Therefore, a teacher does not have a chance to correct an individual student’s deficiencies based on MEAP results because that child is already on to the next grade, or even the next school, where there is an entirely new set of grade-level expectations, by the time that student is tested on last year’s material.¹⁰³ By the time a student reaches high school, the deficiencies in learning and achievement acquired during each year of prior schooling, if uncorrected, can add up, making it impossible for that student to ever catch up.

Legislators hoped the MMC would “fix . . . the high need for remedial education.”¹⁰⁴ Just like the MEAP, however, the MME also fails to assess performance to drive individual educational improvement. Perhaps the easiest way to illustrate this point is to observe that schools administer the MME in the spring of students’ eleventh or twelfth

100. MEAP, MICHIGAN DEPARTMENT OF EDUCATION, *available at* http://www.michigan.gov/mde/0,1607,7-140-22709_31168---,00.html (last visited Sept. 10, 2009).

101. Lorie Shane, *Into and Beyond the MEAP*, MICHIGAN EDUCATION REPORT (Nov. 2008) *available at* <http://www.educationreport.org/pubs/mer/article.aspx?id=9993> (last visited Sept. 10, 2009).

102. MEAP, *supra* note 100.

103. Lawrence W. Reed & Mary F. Gifford, *How Does the MEAP Measure Up?*, MACKINAC CENTER FOR PUBLIC POLICY (2001), *available at* <http://www.mackinac.org/article.aspx?ID=3919> (last visited Oct. 20, 2009).

104. Ryan S. Olson, *Hope in State Graduation Standards Misplaced*, MICHIGAN EDUCATION REPORT (Mar. 7, 2006), *available at* <http://www.educationreport.org/pubs/mer/article.aspx?id=7633> (last visited Sept. 16, 2009).

grade.¹⁰⁵ By this time, it is far too late in the game to provide any meaningful intervention to cure the educational deficits of under-performing students before they go on to college or work, where not only the students themselves, but also their future professors or employers, will suffer the consequences.¹⁰⁶

The health of Michigan's economy depends in no small part on an educated populace. Without educational assessment methods designed to provide "real-time" information to educators so that they can correct any educational shortcomings before a child moves on to the next grade, Michigan's public schools, and particularly those in Detroit, will continue to churn out students who are unprepared for demands of college and the workplace.¹⁰⁷ Michigan will never enjoy the economic benefits of an educated Detroit citizenry until it develops and implements new assessment methods with economic development goals in mind.

B. How Michigan Can Adapt Education Laws to Drive Economic Development

1. Defining Educational Adequacy for Economic Improvement

In several states, the failure to define or even address the issue of educational adequacy has become the subject of litigation. "Many courts around the country have ruled that their state's government is required to provide an 'adequate' education."¹⁰⁸ In defining educational "adequacy," some states wisely recognize that "[t]he importance of education to our

105. See MICHIGAN DEPARTMENT OF EDUCATION, *available at* <http://www.michigan.gov/mde> (accessed from homepage by selecting "assessment and accountability" from menu) (last visited Sept. 16, 2009).

106. Jay P. Greene, *The Cost of Remedial Education: How Much Michigan Pays When Students Fail to Learn Basic Skills*, MACKINAC CENTER FOR PUBLIC POLICY (Sept. 2000), *available at* <http://www.mackinac.org/archives/2000/s2000-05.pdf> (last visited Sept. 16, 2009). The consequences of under-education for institutions of higher learning and employers are very real. Michigan community colleges often are forced, at added expense, to offer classes in basic subjects, like elementary algebra. *Id.* "The true cost of remedial education in community colleges alone could . . . be as high as \$350 million." *Id.* "Michigan public universities spend \$17.9 million and Michigan private universities spend \$5.9 million every year to offer remedial courses." *Id.* A survey of Michigan businesses revealed that Michigan businesses may spend as much as \$40 million just to teach "their workers basic skills such as reading, writing, and arithmetic." *Id.* "If we add the amount spent on instruction to the amount spent on technology [to make up for their employees' lack of basic skills], Michigan businesses spend about \$222 million each year correcting the shortcomings of their workers who leave high school without having acquired basic skills." *Id.*

107. Greene, *supra* note 106.

108. Umpstead, *supra* note 86.

society may be best understood in terms of its relationship to a global economy.”¹⁰⁹ Accordingly, these states are proving that they “recognize the correlation between economic performance as their reform movements and adequacy definitions demonstrate.”¹¹⁰

To further economic goals through quality education, “[m]any courts now define educational adequacy in terms of providing students with the skills necessary to compete in a global economy.”¹¹¹ The Kentucky Supreme Court, for example, defined adequacy in terms of “seven ‘capacities,’ including ‘sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization’ and ‘sufficient levels of academic or vocational skills to enable . . . students to compete favorably with their counterparts in surrounding states, in academics or in the job market.’”¹¹²

Other state courts have focused on “employability” as the proper measure of an adequate education. In *Hoke County Board of Education v. State*, a North Carolina court found employability to be an essential factor in defining an adequate education.¹¹³ In reaching its decision, the Court relied on extensive testimony from employers who would not hire Hoke County students because they lacked the skills to be good employees.¹¹⁴ Evidence from Hoke County employers revealed that applicants for entry-level jobs from Hoke schools were “not qualified to perform even basic tasks . . . needed for the jobs available,” including reading, basic math, computer tasks, effective writing, or even simply following directions.¹¹⁵

Similarly, in *Campaign for Fiscal Equity v. State*, a New York court determined that education must prepare students for employment.¹¹⁶ According to the court, “[w]hile a sound basic education need only prepare students to compete for jobs that enable them to support

109. Hawthorne, *supra* note 63, at 777.

110. *Id.* at 776.

111. *Id.* at 770.

112. *Id.* at 770.

113. *Hoke County Bd. of Educ. v. State*, 599 S.E.2d 365, 384-85 (N.C. 2004). Specifically, the court said students must receive “sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and . . . to enable the student to compete on an equal basis with others in formal education or gainful employment in contemporary society.” *Id.* at 381.

114. *Id.* at 385-86.

115. *Id.* at 384-85. In order to determine whether a student has been afforded an opportunity to gain an adequate education, the court looked at factors including students’ “performance while attending Hoke County schools, their dropout rates, their graduation rates, their need for remedial help, their inability to compete in the job markets, and their inability to compete in collegiate ranks.” *Id.* at 385.

116. *Campaign for Fiscal Equity, Inc. v. State*, 801 N.E.2d 326 (N.Y. 2003).

themselves . . . for this purpose a high school level education is now all but indispensable."¹¹⁷ Testimony from experts revealed that manufacturing jobs in New York were in short supply, and noted that service jobs "require a higher level of knowledge, skill in communication and the use of information, and the capacity to continue to learn over a lifetime."¹¹⁸ The court noted that employers who offer entry-level jobs "increasingly expect applicants to have had instruction that imparts these abilities."¹¹⁹ Following this decision, New York legislative reforms targeted "employment readiness."¹²⁰

It is possible, as some commentators suggest, that an educational adequacy¹²¹ suit could succeed in Michigan.¹²² However, litigation is costly, and Michigan could use resources that would be spent on litigation for better purposes. Considering that educational adequacy suits invariably lead to legislative reform,¹²³ the Michigan legislature should cut to the chase by confronting the issue of educational adequacy with appropriate legislative reform before the courts get the chance. The Michigan Legislature should require that public schools provide all students with an "adequate" education. In defining "adequacy," the legislature should recognize the potential for its definition to propel economic development. One way for legislators to achieve this goal is to

117. *Id.* at 331.

118. *Id.*

119. *Id.*

120. Nina R. Frant, Comment, *The Inadequate Resume of School Education Plans*, 51 HOW. L.J. 819, 848-49 (2008).

121. See Symposium: Adequacy Litigation in School Finance, 28 U. MICH. J.L. REFORM 481 (1995); Eric A. Hanushek, *A Jaundiced View of "Adequacy" in School Finance Reform*, 8 EDUC. POL'Y 460 (1994); William E. Thro, *Judicial Analysis During the Third Wave of School Finance Litigation: The Massachusetts Decision as a Model*, 35 B.C.L. REV. 597 (1994); Julie K. Underwood & William E. Sparkman, *School Finance Litigation: A New Wave of Reform*, 14 HARV. J.L. & PUB. POL'Y 517 (1991). For an overview of how courts have analyzed adequacy claims, see Mark S. Grossman, *Oklahoma School Finance Litigation: Shifting from Equity to Adequacy*, 28 U. MICH. J.L. REF. 521 (1995); Martha I. Morgan et al., *Establishing Education Program Inadequacy: The Alabama Example*, 28 U. MICH. J.L. REFORM 559 (1995).

122. Umpstead, *supra* note 86.

123. See Benjamin Michael Superfine, *Using the Courts to Influence the Implementation of No Child Left Behind*, 28 CARDOZO L. REV. 779, 827 (2006) (discussing legislative reform in response to a Kentucky court decision, noting that it "looked much like legislation that other states had enacted in response to school finance decisions"); Mark S. Grossman, *Oklahoma School Finance Litigation: Shifting From Equity to Adequacy*, 28 U. MICH. J.L. REF. 521 (1995) ("Although the legal challenge . . . was unsuccessful in the courts, the pendency of the suit helped push the state legislature toward some reforms. The threat of a new lawsuit based on alleged inadequacies in the state school system . . . propelled a comprehensive education reform plan through the state legislature . . .").

define “adequacy” in terms of “capacities,” like the Kentucky Supreme Court, or “employability,” like the courts in North Carolina and New York, rather than simply mandating the number of credits a student must earn in a particular subject area.

By ensuring each child leaves high school with an “adequate” education, defined with specific job and college related skills in mind, Michigan legislators could secure the benefits of an educated citizenry for their state. Individuals would be prepared for work or college and would enjoy a greater likelihood of employment and higher wages throughout their lifetime. With a pool of better educated citizens, Detroit could attract new investment and build a stronger tax base, inevitably leading to widespread development and revitalization.

*2. Assessing Performance in Accordance with “Adequacy”
Definitions*

Mandating and defining an “adequate” education for Michigan children is only part of the change needed to use educational improvement to fuel economic development. Legislators also need to revamp Michigan’s school assessment and accountability laws. As one author aptly noted, “[s]uccessful test scores or quality graduation rates will not insulate a school if students are incapable of holding a job or acquiring the basic skills necessary to enter college.”¹²⁴ Measuring individual student achievement is necessary if Michigan hopes to reap the economic rewards of education. Replacing the MEAP and MME with a “nationally norm-referenced exam every year [for] every student” is a first step.¹²⁵ According to one education scholar, these tests “would allow for meaningful comparisons between schools, teachers, states and districts and, more importantly, it would chart individual student progress from year to year.”¹²⁶ With such a test, students cannot “fall through the cracks between tests, which can happen with the MEAP.”¹²⁷

124. Frant, *supra* note 120, at 841.

125. Reed & Gifford, *supra* note 103.

126. *Id.* A recent S & P Report argues:

[T]he MEAP exam does not currently allow these kinds of analyses for a couple of reasons. First, the fourth grade MEAP test measures progress toward the fourth grade academic standards. The fifth grade MEAP test measures progress toward the fifth grade academic standards. These tests do not allow for comparison because they measure progress against two different standards. Second, the MEAP test is not administered at every grade level. Students are not tested before fourth grade and there are gaps between the higher grade levels.

Id.

127. *Id.*

Additionally, schools should look at an array of factors in order to make sure students leave the classroom with an “adequate” education. Useful indicators, as the court in *Hoke County* pointed out, might include students’ performance while in school, dropout rates, graduation rates, students’ need for remedial help later on, and, most importantly, students’ ability or inability to compete in the job market or in college.¹²⁸

Legislators and school districts seeking to remedy faltering school systems may look to the Rockford Public School District, near Grand Rapids, Michigan, as a model. Nearly twenty years ago, the Rockford Public Schools District surveyed the community to find out what expectations community members had for their schools.¹²⁹ In 1991, the Rockford School District added a “competency testing component as part of the requirements for a high school diploma.”¹³⁰ High schools in the district require students to take a set of math and reading tests during the spring of their freshman year.¹³¹ If a student fails either test, that student must complete one of several options for remedial training, and then retake the test.¹³² A student must successfully complete both tests in order to earn a high school diploma from a school in the Rockford district.¹³³ Rockford public high schools explain and certify each graduate’s competency on the back of that student’s diploma.¹³⁴ Most impressive, however, is that “Rockford puts its money where its mouth and testing standards are.”¹³⁵ If an employer feels that one of Rockford’s graduates does not measure up to the standards specified on the back of his diploma, Rockford will provide remedial courses to that graduate free of charge, paid for by the district.¹³⁶

IV. CONCLUSION

The comments of our nation’s new Secretary of Education¹³⁷ are encouraging because they reveal that those with the power to influence the future of education in our nation are paying particular attention to

128. See *supra* note 115.

129. Dr. Michael S. Shibler, *Schools Should Stand Behind Their Diplomas*, MICH. EDUC. REPORT (2001), available at <http://www.educationreport.org/pubs-mer/article.aspx?id=3228> (last visited Sept. 16, 2009).

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. Reed & Gifford, *supra* note 103.

135. *Id.*

136. *Id.*

137. See *supra* note 12 and accompanying text.

Detroit's educational problems. With so much attention focused on Detroit's failing public school system and at a time when our federal government might devote unprecedented resources to education¹³⁸—there is no better time than now for Michigan lawmakers to reexamine their approach to the educational failings of the Detroit public school system.

While recent legislation¹³⁹ suggests that Michigan lawmakers have considered the opportunity costs of an inadequate education, the current state of the Detroit public school system reveals that lawmakers have not yet fashioned an effective legal remedy that reflects the well-documented link between educational inputs and economic outputs and focuses enough attention on the district with a disproportionate impact on the entire state.¹⁴⁰ In failing to find such a legal solution, Michigan lawmakers miss out on an opportunity to reap large economic returns on investments in education.

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138. According to President Barack Obama, who recently signed into law a \$787 billion economic stimulus package “that would provide some \$115 billion in aid to public education,” “[w]e’re making the largest investment in education in our nation’s history.” Alyson Klein & Michelle McNeil, *Obama Signs Economic-Stimulus Package*, EDUCATION WEEK, Feb. 17, 2009, available at <http://www.edweek.org> (accessed from homepage by entering search term “economic stimulus”) (last visited Sept. 16, 2009). Michigan is expected to receive a large portion of the economic stimulus money earmarked for education. Tim Martin, *Stimulus May Restore Michigan Education Money*, CRAIN’S DETROIT BUS. (Feb. 20, 2009), available at <http://www.crainsdetroit.com> (accessed from homepage by entering search terms “education money”) (last visited Sept. 16, 2009). “The U.S. Department of Education estimated . . . that Michigan will get about \$2.5 billion for schools from the stimulus package over a two-year period.” *Id.*

139. See discussion *supra* Part II.A.2.c.

140. See *supra* Part II.C.2 for a discussion of the impact of the Detroit public school system on the entire state of Michigan.