STATE OF MICHIGAN
COURT OF CLAIMS

MACKINAC CENTER FOR PUBLIC POLICY,
a domestic nonprofit corporation,

Plaintiff,

v

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY,
a state government entity,

Defendant,

and

THE PEOPLE OF THE STATE OF MICHIGAN,

Intervening Defendant.

No. 25-000082-MM

Hon. Michael F. Gadola

BRIEF IN SUPPORT OF PLAINTIFF'S 07/20/2026 CROSS-MOTION FOR SUMMARY DISPOSITION AND OPPOSITION TO STATE OF MICHIGAN'S 07/13/2026 SUMMARY DISPOSITION MOTION

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ORAL ARGUMENT NOT REQUESTED

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INTRODUCTION

Plaintiff challenged two appropriations[1] – each related to a separate professional baseball field – from the general omnibus fiscal year 2024-25 budget ("FY 2024-25 general omnibus budget"). 2024 PA 121. One ballpark is owned by a private entity and the second is owned by a municipality. Each appropriation violates Const 1963, art 4, § 30.

The general prohibition against "appropriation of public money or property for local or private purposes," Const 1963, art 4, § 30, traces back to the 1850 Constitution.[2] The Legislature may overcome this prohibition with a two-thirds vote of members elected and serving in both its chambers. As the FY 2024-25 general omnibus budget did not receive a two-thirds vote in each legislative chamber, neither appropriation was constitutional, and Defendant Department of Labor and Economic Opportunity (LEO) could not disburse the funds.

On May 12, 2026, this Court issued an opinion and order which granted Plaintiff a preliminary injunction preventing any further funds from being disbursed to either field, and also preventing the entry of a grant agreement related to Jackson Field.

After the parties agreed to a set of stipulated facts, Intervening Defendant the State of Michigan filed a July 13, 2026 motion and brief seeking summary disposition solely on the merits of the legal claim. Plaintiff is cross-moving for summary disposition, declaratory judgment, and a permanent injunction.

[1] Under MCL 600.2041, Plaintiff, as a "domestic nonprofit corporation organized for civic, protective, or improvement purposes," can file "an action to prevent the illegal expenditure of state funds or to test the constitutionality of a statute relating thereto."

[2] Const 1850, art 4, § 45; see also Const 1908, art 5, § 24.

The stipulated facts do not change the context in which this Court entered the preliminary injunction, and the Intervening Defendant State of Michigan's arguments in support of its motion add nothing that changes the legal conclusion that these appropriations were for a local purpose and did not receive the necessary two-thirds votes in both legislative chambers. Therefore, this Court should enter summary disposition in Plaintiff's favor and grant Plaintiff's requested relief.

FACTS

Public Act 121 of 2024, the FY 24-25 omnibus budget, was not passed with two-thirds of the votes in either chamber. This budget was adopted in the State House with a vote of 56-54 on June 27, 2024.[3] It was adopted in the State Senate with a vote of 21-17 on June 27, 2024.[4] It was signed by the Governor on July 24, 2024.[5]

The two grants to baseball stadiums that are the subject of this challenge were made as part of 2024 PA 121. They are both "community enhancement grants." Defendant Department of Labor and Economic Opportunity's portion of the FY 2024-25 general omnibus budget was at pages 215-69. Defendant LEO received a total of $140,852,000 for community enhancement grants for the fiscal year. *Id*. at § 113, p 220. The Legislature deemed each grant as satisfying a public purpose: "For any grant program or project funded in part 1 intended for a single recipient organization or unit of local government, the grant program or project is for a public purpose." *Id*. at § 222(1), p

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[3] 2024 House Journal 1438. Two-thirds of 110 elected and serving members requires a 74-member vote.

[4] 2024 Senate Journal 1272. Two-thirds of 38 elected and serving members requires a 26-member vote.

[5] 2024 Senate Journal 1443.

224. Defendant LEO was supposed to "[v]erify to the extent possible that a grant recipient will use funds for a public purpose that serves the economic prosperity, health, safety, or general welfare of the residents of this state." *Id*. at § 222(2)(c), p 224.

While the Legislature used population thresholds to putatively claim these were generally applicable grants, they were directed at specific ballparks: "a $1,000,000 grant directed to Jackson Field in Lansing, and a $1,500,000 grant directed to Jimmy John's Field in Utica." 6/30/2026 Joint Statement of Material Facts at ¶¶ 10, 11, and 12.

Either a legislator or Defendant LEO must sponsor a community enhancement grant. 2024 PA 121 at § 222(3). Both ballparks had their own legislative sponsor. 6/30/2026 Joint Statement of Material Facts at ¶¶ 13, 14, Ex. A, and Ex. B.

On March 7, 2025, Defendant LEO entered into a grant agreement with the corporate entity that owned Jimmy John's Field.[6] Defendant LEO's 6/17/2025 Response, Ex. B.[7] This agreement contained a provision that states:

> 3.4 Termination
>
> . . .
>
> B. Termination for Convenience
>
> The State may immediately terminate this Grant in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. If the State terminates this Grant for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Grant Responsibilities.

[6] The stadium has been renamed, but the parties have agreed to continue referring to it as Jimmy John's Field to avoid confusion.

[7] While this document is in the record, Plaintiff's oversight led to it not being more conveniently included within the Joint Statement of Material Facts.

Id. No such grant agreement was entered into regarding Jackson Field before the instant suit was filed.

Defendant LEO approved two payments related to Jimmy John's Field before this action was filed: (1) $8,215 on March 26, 2025; and (2) $15,231.50 on May 2, 2025. 6/30/2026 Joint Statement of Material Facts at ¶ 37.

The instant action was filed on May 20, 2025, with an amended complaint adding the necessary verification being filed on May 22, 2025. Regarding Jimmy John's Field, Plaintiff argued the appropriation was both for a local purpose and a private purpose. Verified Complaint at ¶¶ 36-44. Regarding Jackson Field, Plaintiff argued the appropriation was for a local purpose. Id. at ¶¶ 45-51. A preliminary injunction to prevent Defendant LEO from spending any money related to either appropriation was sought. Verified Complaint at pp 9-10.

On May 24, 2025, a $60,376.90 payment for Jimmy John's Field was approved by Defendant LEO. 6/30/2026 Joint Statement of Material Facts at ¶ 37.[8]

Defendant LEO filed its response on June 17, 2025. In that document, it did not take a position on the constitutionality of the appropriations. On August 14, 2025, the State of Michigan intervened to defend the constitutionality of the appropriations. Oral argument was set for September 16, 2025.

Before that argument occurred, three more payments were approved by Defendant LEO for Jimmy John's Field: (1) $62,764.88 on June 25, 2025; (2) $26,502.78 on August 13, 2025; and (3) $15,552.50 on September 12, 2025. 6/30/2026 Joint Statement of Material Facts at ¶ 37.

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[8] To the extent relevant, the flawed initial complaint was served on May 21, 2025, and the corrected verified complaint was served on May 27, 2025.

The oral argument occurred as scheduled. At that argument, Judge Swartzle stated the following regarding additional payments for Jimmy John's Field:

> I would hope that LEO would not spend money like a drunken sailor and make the question of clawing back much more difficult. I'm not suggesting that you can't go about your normal business, but just be mindful that it is entirely possible that you lose, and we're going to figure out what to do if - - it that happens.

September 16, 2025 hearing transcript at 50-51. No preliminary injunction entered at that time and the matter was taken under advisement with the hope of a decision before the end of the year. *Id.* at 51.

After the hearing, Defendant LEO approved $ 1,311,024.44 for Jimmy John's Field in four separate payments: (1) $389,899.28 on November 14, 2025; (2) $370,777.10 also on November 14, 2025; (3) $506,870.56 on January 8, 2026; and (4) $43,477.50 on March 25, 2026. 6/30/2026 Joint Statement of Material Facts at ¶ 37. That brought the total spent on Jimmy John's Field to $1,499,668.00, thereby leaving a total of $332 unspent from the $1.5 million grant. *Id.* at ¶¶ 37, 38.[9]

On May 12, 2026, this Court[10] entered an order granting Plaintiff a preliminary injunction, stating:

> IT IS ORDERED that plaintiff's motion for a preliminary injunction is GRANTED.
>
> IT IS FURTHER ORDERED that DLEO is PRELIMINARILY ENJOINED from disbursing additional funds held in its possession in relation to the FY 24-25 budget grants to Jackson Field and Jimmy John's Field without further order of this Court.

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[9] In total, Defendant LEO disbursed 99.97% of the funds appropriated for Jimmy John's Field prior to the entry of a preliminary injunction.

[10] This matter was judicially reassigned on January 1, 2026.

IT IS FURTHER ORDERED that DLEO is PRELIMINARILY ENJOINED from executing a grant agreement for the FY 24-25 budget grant in relation to Jackson Field without further order of this Court.

Opinion and Order at 22.

Before the issuance of that opinion and order, Jackson Field became a part of a second lawsuit related to appropriations. *Michigan House of Representatives v Dep't of Tech, Mgmt and Budget*, Court of Claims Case No. 26-000007-MB. Very simply, the House's theory was that as the Jackson Field appropriation had not been "encumbered," it and other unencumbered funds could be challenged by a committee of the House under the Management and Budget Act. A settlement as to the $370,762,162 in unencumbered funds was reached on May 26, 2026. As part of that settlement, the $1,000,000 appropriated for Jackson Field lapsed to the state fund from which it was appropriated. 6/30/2026 Joint Statement of Material Facts at ¶ 34, Ex. C. That led to the dismissal of that case. *Id*. at Ex. D. Because the Jimmy John's Field appropriation had been encumbered, it was not part of that case. *Id*. at ¶ 36.

The parties entered a joint statement of facts on June 30, 2026. Intervening Defendant State of Michigan moved for summary disposition on July 13, 2026. Plaintiff now cross-moves for summary disposition and seeks declaratory judgment and a permanent injunction while opposing Intervening Defendant State of Michigan's summary disposition motion.

I. General standards.

MCR 2.116(A)(2) allows a trial court to enter summary disposition on stipulated facts. Plaintiffs seeks summary disposition under MCR 2.116(C)(9) and (10). As to relief, Plaintiff seeks declaratory relief under MCR 2.605, and a permanent injunction under MCR 3.310(C). Injunctive relief is "an extraordinary remedy that issues only when justice requires" and where a plaintiff meets its burden of showing there is no adequate remedy at law and there exists a real and imminent danger of irreparable injury. *Youmans v Charter Twp of Bloomfield*, 336 Mich App 161, 221 (2021).

II. Under Const 1963, art 4, § 30 an appropriation serves a local purpose if it, in form or in fact, applies to one locality as opposed to operating on every section of the State.

The State of Michigan begins its substantive analysis of Section 30 by misconstruing *Moreton v Haggerty*, 240 Mich 584 (1927). In *Moreton*, a statute authorized collection of a gasoline tax and placed collective revenues into a "state highway fund." *Moreton*, 240 Mich at 586. The statute set forth a formula by which those funds would be distributed by a "schedule." *Id*. Portions of this schedule allowed payments to "county treasurers" based on the amount gathered on a separate vehicular weight tax. *Id*. at 587. Another portion of the schedule paid cities or villages a sum based on the number of miles of "state trunk line highways" within their jurisdiction. *Id*. The payments to the counties, cities, and villages were challenged under Const 1908, art 5, § 24, the analogue to Const 1963, art 4, § 30.

The Michigan Supreme Court set forth the issue:

> The act is a highway finance measure. It provides that the tax collected shall be deposited to the credit of the state highway fund, and appropriated from that fund for certain purposes, one of which is the payment of specified amounts to the several counties of the state which are to be expended for the construction and maintenance of highways, 'under the supervision of the state administrative board, in accordance with the highway laws.' Is this an appropriation for local purposes within the meaning of the Constitution?

Moreton, 240 Mich at 588.

The *Moreton* Court cited *Loomis v Rogers*, 197 Mich 265 (1917) for the proposition that "While yet recognizing local interest in and a reasonable local control over highways, the present constitution makes plain that their improvement for public travel is not to be regarded as solely and exclusively a matter of local concern, but of general public interest and state-wide importance." *Moreton*, 240 Mich at 589; see also, Const 1908, art 8, § 26 (stating in part: "The legislature may by general law provide for the laying out, construction, improvement and maintenance of highways, bridges and culverts by counties, districts and townships; and may authorize counties or districts to take charge and control of any highways within their limits for such purposes.").

Having indirectly recognized that, as a matter of constitutional text, highways were a state interest, Michigan Supreme Court then stated:

> And this interest of the state at large in the building of highways is not now merely an incidental and remote public interest. Under present conditions, **it is such a direct and substantial interest as to divest a state appropriation for a county highway of its local character.** To say that a highway appropriation is for local purposes means that it is for the benefit of the locality where it is expended. The purpose of these appropriations is, not for the benefit of certain localities, but for the state at large.
>
> But probably the most convincing reason **why the appropriations in question are not for local purposes is that the act does not in form or in fact apply to any one particular locality. It is made to operate in the same way on every section of the state. It is not directed to one county, but to every county. It is a general statute enacted for a statewide purpose.** The extent of the territory to which it is applied, whether to a limited area or to the entire territory of the state, would seem to furnish a reasonably accurate test as to whether it is for general or local purposes.

Id. at 589 (emphasis added).

The State of Michigan ignores the indirect reference to the 1908 provision and instead latches onto that portion of *Loomis* citing "local interest in" highways. From that, the State of Michigan seeks to contend that any local interest can be transformed into a state one. It claims this Court improperly interpreted *Moreton* to require "appropriations benefit every corner of the State with equal force." State of Michigan Summary Disposition Brief at 8. The State contends "that the locality of expenditure benefits the most – does not make an appropriation 'local' so long as its benefits also reach beyond that locality." *Id*. at 9. The State claims its reading would not make the local-purpose prohibition of Section 30 a nullity in that any "appropriation whose benefit runs only to the residents of the host locality – a facility used by no one else, serving no one else – is local, and § 30's supermajority requirement applies." *Id*. The State concludes:

> In short, an appropriation spent in a single place can still serve interests beyond the locality when its benefit is not confined there. To make *Moreton*'s observation a freestanding rule – i.e. local whenever one locality is named – would discard *Moreton*'s benefit definition, substituting the measure of a statute's form for § 30's measure of its purpose.

Id. at 11.

While the State is careful not to forward as overtly the one-tourist rule it advanced in its preliminary injunction brief and at oral argument, much of its one-tourist rule remains. The State posits that if there is any putative benefit outside of the locality, then a purpose is not local (thus transforming one tourist into one putative benefit). It does not address *Moreton*'s requirement that an appropriation act "does not in form or in fact apply to any one locality." The Legislature knows how to and does and make appropriations that forward a generic state interest (like the State's proffered recreation interest or its community-programming interest) without having a single, localized recipient. More than a slogan and a single location is required under Section 30.

An example of a broad appropriation supporting a state interest in the recent Fiscal Year 26-27 budget is the food and agriculture investment program, SB 878, art 1, section 106 ($2,224,300), which allows "small, medium, and large food, agriculture, and forest companies" to participate in a "performance-based grant" whereby the farms put "forward their investment plan, demonstrate financing and due diligence on the project, carry out the project, and submit a reimbursement amount per the grant agreement when the investment project is completed."[11] Another example is the water affordability program, SB 878, art 6, section 122 ($5,000,000),

[11] Michigan Department of Agriculture, Food and Agriculture Investment Program (March 2024) at p 2.

which provides "bill payment for eligible low-income residents who have financial burden, water and/or wastewater arrears and disconnects" and that the "[f]unding is administered through MDHHS to Community Action Agencies and other non-profit entities until September 30, 2027 unless funding is depleted prior to that date."[12]

The State of Michigan's second argument is related to Const 1963, art 4, § 29 and is misplaced. That provision is a general prohibition against a "local or special act," Const 1963, art 4, § 29, and traces back to the 1908 Constitution.[13] Plaintiff recognized that the Legislature was attempting to hide its local appropriations (a Section 30 question guided by the *Moreton* analysis) by using Section 29 case law related to "local acts." The use of Section 29 language was designed to disguise appropriations for a local purpose to appear as general, despite not being so, to allow the Legislative majority (not a two-thirds supermajority) to micro target its earmarks. Likely in part due to this Court's decision, in this budget cycle, the Legislature gave up that ruse and just overtly named the recipients. See e.g., SB 878, art 9, section 1006 (Defendant LEO's budget explicitly naming entities receiving "legislatively directed spending items" – i.e. earmarks). Plaintiff argues that earmarks properly unmasked as a hyper-targeting a specific entity have to meet the Section 30 test as guided by *Moreton*. Quite simply, it appears the State of Michigan did not understand that Plaintiff's Section 29 analysis was provided to defeat the Legislature's attempt to disguise local earmarks as general legislation. The Mackinac Center's argument was that even if the Legislature was attempting to use Section 29 case law to import a veneer of generality, that

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[12] https://www.michigan.gov/mdhhs/assistance-programs/water-assistance-program

[13] Const 1908, art 5, § 30.

attempt would fail because under that case law, a close-ended law – which all budgets are – does not satisfy Section 29.

Finally on the proper interpretation of what is a "local purpose," the State of Michigan contends budgeting would be impossible if Const 1963, art 4, § 30 is enforced: "Every budget directs money to named recipients – particular universities, hospitals, and museums – and, under the Mackinac Center's logic, each would be 'local,' requiring a two-thirds vote the Constitution never demanded." State of Michigan Summary Disposition Brief at 2. This concern is overblown for at least four reasons.

First, the Constitutional Convention delegates presumed that localities would have sufficient funds to pay for local projects due to Const 1963, art 9, § 10, which at the Constitution's enactment stated:

> One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

2 Official Record, Constitutional Convention 1961 at 3344. Second, the State of Michigan can use a generally applicable grant application process for state purposes like the food investment and water affordability programs discussed above – everyone can apply and the state's chosen criteria applies to all as opposed to the erection of a legislative façade meant to exclude all but one recipient. Third, four out of the last six state omnibus budgets had earmarks and met the constitutionally required voting thresholds.[14] Finally, the Constitutional Convention debates make

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[14] The conference report for SB 878, the FY 26-27 omnibus, was adopted by both chambers with a 99-7 vote in the House, 2026 House Journal 1230, 1581 (No 56, July 3, 2026), and a 27-9 vote in the Senate. 2026 Senate Journal 855, 1202 (No 62, July 3, 2026). The FY 25-26 omnibus

(Note continued on next page.)

it clear that at least private sector earmarks were a rarity at that time. The delegates identified 4-H, aeronautic associations, tourist and resort associations, and conventions as examples of private sector earmarks at the time of the convention. 1 Official Record, Constitutional Convention 1961 at 696.[15] Thus, the State survived between 1835 and 1961 without many private earmarks and has required a supermajority vote for approving them since 1850. See Const 1850, art 4, § 45. Modern legislators may want to increase the number of both private and local earmarks. But those legislators still must follow Const 1963, art 4, § 30 in order to do so.

III. The appropriation to Jimmy John's Field is for a local purpose.

This Court indicated that "the primary benefit of the grant to Jimmy John's Field will be to serve the local community." Opinion and Order at 18. In its summary disposition motion, the State proffers the same purported interests – recreation and community programing – which were considered and rejected at the preliminary injunction stage. The particulars - Girl Scout outings, youth baseball camps, picnics, and whiffle ball – are also direct repeats.

It is not that the State cannot overcome the local-purpose hurdle and thereby subsidize Jimmy John's Field. It could promote community recreation by providing for funding of ballparks throughout the State and likely including Jimmy John's Field– but it did not. Instead, it chose to fund a single entity thereby enhancing a local purpose that needs to be funded locally – recreation

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had the conference report for HB 4706 adopted by the House by a vote of 101-8, 2025 House Journal 1080, 1434-35, while the Senate adopted that same conference report by a vote of 31-5. 2025 Senate Journal 1208, 1557-58. For the FY 22-23 omnibus, on July 1, 2022, the House (97-9) and Senate (37-0) adopted the conference report for HB 5783. 2022 House Journal 1090, 1436; 2022 Senate Journal 1237, 1583. For the FY 21-22 omnibus, the conference report for SB 82 was approved by the Senate (35-0) and the House (99-6). 2021 Senate Journal 1283, 1561-62; and 2021 House Journal 1791-92.

[15] It is unknown if these types of items received two-thirds votes from each chamber and if not, whether they were challenged under Const 1908, art 5, § 24.

and community programming for Utica – as opposed to a state interest of recreation and community programming that either needs to be funded statewide or receive a two--thirds vote from each legislative chamber under Const 1963, art 4, § 30.[16]

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[16] In a footnote, the State contends that Plaintiff did not challenge Jimmy John's Field as both an improper local-purpose appropriation and an improper private-purpose appropriation. This is untrue. Page 7 of the Verified Complaint states: "**COUNT I – THE GRANT TO JIMMY JOHN'S FIELD IS UNCONSTITUTIONAL BECAUSE IT SERVES A PRIVATE AND A LOCAL PURPOSE**." See also *Id*. ¶ 37 (stating "The grant in Sec 1050c(6) was made for a local purpose, as the grant can only refer to Jimmy John's field."), and ¶ 38 (stating "The grant in Sec 1050(c)(6) was not made for a general purpose that benefited the State as a whole" i.e. the *Moreton* test. Page 7 of Plaintiff's Preliminary Injunction Brief states "**Both appropriations are for a local purpose and therefore violate Const 1963, art 4, § 30**." That section then goes on to discuss the *Moreton* test.

What the State likely meant is that only local-purpose analysis applies to grants to government entities. If so, Plaintiff disagrees. Take a grant for all the private hamburger fast-food stores in Michigan. That could serve a state interest in providing quick, affordable nutrition and might be seen to meet the *Moreton* test as a state purpose as opposed to a local purpose. But it would fail the private-purpose prong of section § 30 because the benefits are going to private entities. Now consider a single private fast-food store located in locality. A grant to it would fail both prongs.

This Court agreed:

> The People suggest that an appropriation to a private entity need not be analyzed under the "local purpose" provision. There is no support for this position in the language of Article 4, § 30. Again, Michigan's Constitution requires a two-thirds vote for the appropriation of public money for "local or private purposes." Const 1963, art 4, § 30 (emphasis added). Thus, even if the Utica grant were considered "public" in nature, it would still need to be nonlocal in nature to avoid the two-thirds vote requirement. See *id*.

To be clear, Plaintiff still contends the grant to Jimmy John's Field also violates Section 30 as a private purpose for the reasons stated in its preliminary injunction briefing and means to preserve that argument for any appeal. But given that the State offers very little in the ways of new material and argument, and that this Court indicated it would decide this matter on the basis of local purpose and not decide the private-purpose question, Plaintiff seeks to incorporate that material by reference instead of replicating it in full.

IV. The appropriation to Jackson Field is for a local purpose.

Because the Jackson Field appropriation has lapsed, Plaintiff will address mootness. There is a mootness exception where the matter "is publicly significant, likely to recur, and yet likely to evade judicial review." *Adams v Parole Bd*, 340 Mich App 251, 259 (2022). "Publicly significant" is straightforward. In the FY 24-25 budget, there were hundreds of earmarks totaling hundreds of millions of dollars in spending. "Likely to recur" is also straightforward. For fiscal year 26-27, the Legislature required its members to submit their earmark requests 45 days before final vote. Hundreds of requests totaling over $4 billion were submitted.[17] Clearly, legislative demand for earmarks remains high. The last question is evading review. First, consider the year-over-year population masking that sought to insulate earmarks from judicial review. Second, consider Defendant LEO's argument that spent money cannot be recouped. Third, it may be that now that there is no masking there need not be a putative grant process that could slow down payments. Further, the grant recipients could get all the money when the law becomes effective – that will certainly be the incentive so that a grantee does not get caught up in the work-project process that was recently litigated in *Michigan House of Representatives v Department of Technology, Management and Budget*. Finally, the appropriation process only exists for a year and there is no guarantee that in the future that earmarks will be introduced weeks before a final vote. As this Court noted in denying Defendant LEO's mootness argument, disbursement before legal actions have been filed could thwart review. Opinion and Order at 19.

Turning to the merits, the interest the State puts forward for Jackson Field is "preserving a public recreational venue for the people of the State." As at the preliminary injunction stage, the

[17] https://bridgemi.com/michigan-government/michigan-lawmakers-ok-125m-in-earmarks-from-tulip-time-to-eviction-aid/

State contends that Jackson Field draws in both intrastate and interstate visitors to watch baseball games. Applying its newer any-non-local-benefit test (really, the renamed one-tourist test), the State argues that the amount of tourism makes this appropriation non-local under *Moreton*. As at the preliminary injunction stage, the State cites *Alan v Wayne County*, 388 Mich 210, 320 (1972) to argue that baseball stadiums are a public purpose (as opposed to a private purpose) but fails to note that decision does not address local purpose.

Further, the State adds a reference to Const 1963, art 4, § 51: "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health." Unstated, is how the text of this would make local baseball stadium anything but a local purpose. Using the purported state purpose of Section 51, public-health-and-general-welfare, requires a statewide funding scheme. A localized appropriation is not such a scheme. Again, more than a slogan and a single location is needed to satisfy Section 30.

Thus, both appropriations violate Section 30 as being for a local purpose without sufficient votes.

V. There is no adequate remedy at law for violation of Section 30 and there exists a real and imminent danger of irreparable injury.

At the preliminary injunction stage, this Court recognized that there was not an adequate remedy at law and that there was a danger of irreparable injury:

> The Court agrees with plaintiff that its claim for irreparable injury is not solely economic in nature. Should DLEO disburse the remaining funds in question while this lawsuit is pending, it will be difficult, if not impossible, to claw back the funds should plaintiff prevail on the merits, rendering the injury irreparable in nature. This is not the type of injury that can be remedied through economic damages. Thus plaintiff, which purports to represent the taxpayers of the State, does not request damages but instead requests declaratory relief.

Opinion and Order at 20. Thus, permanent injunctive relief in Plaintiff's favor is appropriate.

RELIEF REQUESTED

For the reasons stated above and in its May 20, 2025 brief in support of its preliminary injunction request, Plaintiff requests that this Court enter summary disposition in its favor, declare that the two challenged appropriations violate Const 1963, art 4, sec 30, and enter a permanent injunction prohibiting the Department LEO from disbursing any additional funds appropriated to the grants challenged herein.

Respectfully Submitted,

/s/ Patrick J. Wright
Patrick J. Wright (P54052)
Attorney for Mackinac Center for Public Policy

Date: July 20, 2026