State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2011

Community College Revenue Sources - REVISED
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Data Updates by Jack Hummel, SFA Intern

Introduction

This article updates information included in the March/April 2009 State Notes article: "Community College Revenue Sources: How Colleges Have Managed Increasing Costs and Declining State Aid". The conclusion of the article stated:

> It will become increasingly difficult for colleges to balance revenue and expenditures without raising tuition above inflationary increases. While overall revenue has grown for most community colleges, revenue has not kept pace with cost increases. State aid will not decrease from the current level through FY 2010-11 due to requirements of the Federal American Recovery and Reinvestment Act of 2009. After FY 2010-11, lingering State budget issues will limit the State's ability to increase funding for community colleges. State aid at best will continue at the same level, or more likely be reduced beginning in FY 2011-12. That, combined with projections regarding taxable values, leaves tuition increases and cost containment measures as the only likely means to deal with increasing costs in future years.

While there were no reductions to State appropriations for community college operations in fiscal year (FY) 2010-11, approximately $3.0 million in renaissance zone reimbursements were eliminated from the budget. The FY 2011-12 enacted appropriation for community colleges included a $12.0 million (4.1%) decrease from the $295.9 million FY 2010-11 appropriation. From FY 2001-02 through FY 2011-12, annual State appropriations for community colleges have decreased by $35.3 million (11.1%), from $319.2 million to $283.9 million.[1] As shown below, community colleges also continue to face challenges related to revenue from property taxes and tuition.

Background

The sources of data for this article include the Activities Classification Structure (ACS) Data Book & Companion for 2001-02 and 2009-10, and annual appropriation bills. Representing community college information on a statewide average or aggregate basis can result in a misleading impression of the financial position of many colleges. For example, there is a wide disparity among community college districts related to their ability to generate revenue from property taxes, which are controlled by the taxable value in each district and the millage rate. Property tax revenue accounts for less than 20.0% of total operating fund revenue at Alpena (19.0%), Bay de Noc (14.0%), Gogebic (14.0%), Jackson (11.0%), Mid Michigan (10.0%), and Henry Ford (14.0%). Property tax revenue accounts for 50.0% or more of total college operating fund revenue at Monroe (50.0%), Oakland (55.0%), Washtenaw (50.0%), Wayne (54.0%), and West Shore (50.0%). Community colleges with lower student populations do not have the ability that large urban colleges have to generate revenue from tuition. The reduction of State aid to community colleges has a greater impact on colleges that cannot generate significant amounts from property taxes and tuition. State aid ranges from 12.0% of total operating fund revenue at Oakland and Washtenaw to 44.0% at Gogebic.

College Operating Expenditures

Table 1 compares FY 2001-02 statewide community college operating fund expenditures with those expenditures in FY 2009-10.

[1] Amounts include operations and at-risk funding. Renaissance zone payments are not included.

Table 1

Community College Operating Fund Expenditures				
			Change From FY 2001-02 to FY 2009-10	
	FY 2001-02	FY 2009-10	Change	Percent
Alpena	$9,694,709	$14,260,337	$4,565,628	47.1%
Bay de Noc	9,938,827	15,295,764	5,356,937	53.9
Delta	43,630,724	64,573,393	20,942,669	48.0
Glen Oaks	7,853,603	10,253,055	2,399,452	30.6
Gogebic	6,300,282	8,370,690	2,070,408	32.9
Grand Rapids	57,916,669	103,440,112	45,523,443	78.6
Henry Ford	67,126,165	83,733,790	16,607,625	24.7
Jackson	23,831,017	38,328,328	14,497,311	60.8
Kalamazoo Valley	32,638,483	53,651,807	21,013,324	64.4
Kellogg	24,990,315	31,894,352	6,904,037	27.6
Kirtland	10,613,502	16,251,430	5,637,928	53.1
Lake Michigan	16,305,608	25,189,848	8,884,240	54.5
Lansing	71,822,715	107,412,250	35,589,535	49.6
Macomb	78,240,211	106,901,025	28,660,814	36.6
Mid Michigan	9,995,554	18,965,975	8,970,421	89.7
Monroe	17,438,803	25,007,474	7,568,671	43.4
Montcalm	8,376,276	13,865,871	5,489,595	65.5
Mott	50,586,159	71,681,858	21,095,699	41.7
Muskegon	20,547,825	30,281,527	9,733,702	47.4
North Central	8,022,941	13,908,075	5,885,134	73.4
Northwestern	25,786,552	34,479,713	8,693,161	33.7
Oakland	91,510,341	139,434,729	47,924,388	52.4
St. Clair	20,236,255	27,220,276	6,984,021	34.5
Schoolcraft	42,166,641	65,098,917	22,932,276	54.4
Southwestern	12,729,908	18,470,203	5,740,295	45.1
Washtenaw	56,390,414	87,551,395	31,160,981	55.3
Wayne County	63,280,695	95,012,801	31,732,106	50.1
West Shore	7,702,496	11,229,725	3,527,229	45.8
State Aggregate	**$895,673,690**	**$1,331,764,720**	**$436,091,030**	**48.7%**

Source: Audited Financial Statements as reported in the Activities Classification Structure (ACS) Data Books & Companion, Department of Energy, Labor, and Economic Growth

From FY 2001-02 to FY 2009-10, community colleges reported expenditure increases of 48.7%, from $895,673,690 to $1,331,764,720; aggregate expenditures per FYES decreased from $7,665 to $7,512 (2.0%). During the same time period, the United States Consumer Price Index increased by 21.5%. Factors affecting expenditures include:

- Enrollments. Fiscal year equated student (FYES) is defined as the calculated equivalent of a student who completes one full year of instructional work (31 semester credit hours). From FY 2001-02 to FY 2009-10, total FYES at community colleges increased by 60,475 (51.8%), from 116,802 to 177,277. Additional students require additional college resources.

- Demand for high-tech and health care-related classes. Certain classes are more expensive to provide compared with general education courses. For example, statewide the cost-per-student contact hour for health occupations courses is $8.12 compared with $5.40 for general education courses, and $9.93 for technical and industrial courses. From FY 2001-02 to FY 2009-10, statewide FYES in health occupations increased from 8,548 to 15,001 (75.5%). The health occupations category includes nursing, diagnostic technologies, therapeutic technologies, dental technologies, and other health-related programs. Demand for industrial and high-technology courses also has increased. These courses result in additional costs to the colleges for equipment, software, and other technology.

- Increasing employee-related costs. Community colleges report that employee-related costs (salaries and fringe benefits) account for 70.1% to 83.8% of their operating fund expenditures. The State aggregate is 78.0%. From FY 2001-02 to FY 2009-10, expenditures for salaries increased by 45.7%, while expenditures for fringe benefits increased by 63.2%. Cost increases for fringe benefits are attributable to health care and retirement, which consistently exceed inflation rates. The United States Department of Health and Human Services National Health Expenditures projections predict that this trend will continue. From FY 2001-02 to FY 2009-10, community college (employer) payments to the Michigan Public School Employees Retirement System (MPSERS) increased by 39.2%, from 12.17% of members' wages to 16.94% of members' wages. For FY 2010-11 and FY 2011-12, the MPSERS rate increased to 20.66% of members' wages and 24.46% of members' wages respectively.[2] The FY 2011-12 MPSERS rate is a 101.0% increase over FY 2001-02.

College Operating Revenue

Table 2 is based on information contained in the ACS for FY 2001-02 and FY 2009-10. Revenue sources for Michigan public community colleges consist mainly of State aid, local property tax revenue, and tuition. In FY 2001-02, State aid as a share of total operating revenue for community colleges totaled $316.4 million,[3] 30.3% of total community college operating revenue. By FY 2009-10, declining State revenue and ensuing budget reductions reduced State aid to approximately 18.9% of the total operating revenue sources for community colleges.

Table 2

Community College Operating Fund Revenue

Community College Revenue	FY 2001-02	Percent of Total	FY 2009-10	Percent of Total	Change from FY 2001-02	Percent from FY 2001-02
State Aid	$316,410,944	30.3%	$293,489,146	18.9%	($22,921,798)	(7.2%)
Property Tax	416,867,238	39.9	565,647,618	36.5	148,780,380	35.7
Tuition & Fees	280,043,137	26.8	633,514,887	40.8	353,471,750	126.2
Other	31,890,847	3.1	58,716,048	3.8	26,825,201	84.1
Total	**$1,045,212,166**	**100.0%**	**$1,551,367,699**	**100.0%**	**$506,155,533**	**48.4%**

Source: ACS

State Aid

Table 3 provides a comparison of State aid (operations and at-risk funding) appropriations for community colleges from FY 2001-02 through FY 2011-12. The FY 2011-12 appropriation represents a $12.0 million (4.1%) decrease from the $295.9 million FY 2010-11 appropriation. Fiscal

[2] FY 2009-10, FY 2010-11, and FY 2011-12 rates listed apply to employees who first worked before July 1, 2010.
[3] Differences in State aid amounts listed in Table 2 and Table 3 are due to the October to September State fiscal year and the July-to-June fiscal year for community colleges.

year 2011-12 appropriations for community colleges are $35.3 million (11.1%) below the $319.2 million appropriated in FY 2001-02.

Table 3

Community Colleges State Appropriations FY 2001-02 and FY 2010-11			
Community College	**FY 2001-02**	**FY 2011-12**	**FY 2011-12 % Over FY 2001-02**
Alpena	$5,415,977	$4,984,300	(8.0%)
Bay de Noc	5,228,594	5,040,200	(3.6)
Delta	14,924,104	13,336,200	(10.6)
Glen Oaks	2,621,344	2,320,900	(11.5)
Gogebic	4,444,025	4,140,500	(6.8)
Grand Rapids	18,707,559	16,649,700	(11.0)
Henry Ford	22,873,301	20,145,000	(11.9)
Jackson	12,684,209	11,219,700	(11.5)
Kalamazoo Valley	12,939,470	11,522,700	(10.9)
Kellogg	10,235,318	9,047,900	(11.6)
Kirtland	3,217,147	2,872,900	(10.7)
Lake Michigan	5,616,015	4,937,700	(12.1)
Lansing	32,380,906	28,651,900	(11.5)
Macomb	34,472,041	30,490,300	(11.6)
Mid Michigan	4,715,839	4,266,800	(9.5)
Monroe	4,561,498	4,094,000	(10.2)
Montcalm	3,299,224	2,946,800	(10.7)
Mott	16,400,616	14,526,400	(11.4)
Muskegon	9,484,150	8,256,700	(12.9)
North Central	3,318,548	2,886,500	(13.0)
Northwestern	9,580,843	8,430,300	(12.0)
Oakland	21,847,342	19,455,900	(10.9)
St. Clair	7,345,023	6,534,100	(11.0)
Schoolcraft	12,878,904	11,477,300	(10.9)
Southwestern	7,013,475	6,143,700	(12.4)
Washtenaw	13,098,937	11,827,300	(9.7)
Wayne County	17,373,105	15,425,900	(11.2)
West Shore	2,518,804	2,248,900	(10.7)
Total	**$319,196,318**	**$283,880,500**	**(11.1%)**

Source: ACS and appropriation acts

Tuition

From FY 2001-02 to FY 2009-10, the statewide average in-district tuition rate increased by $22.75 (42.1%), from $53.95 per credit/contact hour to $76.70 per credit/contact hour. During the same time period, the statewide average out-of-district tuition rate increased by $45.28 (56.6%), from $80.07 to $125.35. As a revenue source, tuition accounted for 26.8% of community college operating revenue in FY 2001-02. By FY 2009-10, tuition accounted for 40.8% of college operating revenue. For FY 2010-11 and FY 2011-12, the statewide in-district tuition rate increased by 6.1% and 5.3%, respectively.

Table 4 provides a comparison of community college in-district tuition rates between FY 2001-02 and FY 2011-12.

Table 4

Michigan Community College In-District Tuition Rate History FY 2001-02 and FY 2010-11			
Community College	**FY 2001-02**	**FY 2011-12**	**FY 2011-12 % Over FY 2001-02**
Alpena	$58.00	$99.00	70.7%
Bay de Noc	56.75	97.00	70.9
Delta	61.40	84.00	36.8
Glen Oaks	54.00	85.00	57.4
Gogebic	49.00	96.00	95.9
Grand Rapids	60.00	95.50	59.2
Henry Ford	55.00	75.00	36.4
Jackson	55.00	100.50	82.7
Kalamazoo Valley	45.25	79.50	75.7
Kellogg	51.75	79.50	53.6
Kirtland	54.10	86.00	59.0
Lake Michigan	51.00	81.00	58.8
Lansing	50.00	79.00	58.0
Macomb	56.00	84.00	50.0
Mid Michigan	54.25	88.00	62.2
Monroe	49.00	77.00	57.1
Montcalm	54.74	83.00	51.6
Mott	61.15	98.68	61.4
Muskegon	50.00	81.50	63.0
North Central	48.40	74.50	53.9
Northwestern	56.00	82.10	46.6
Oakland	50.30	66.70	32.6
St. Clair	61.00	91.00	49.2
Schoolcraft	55.00	84.00	52.7
Southwestern	52.00	99.25	90.9
Washtenaw	53.00	85.00	60.4
Wayne County	54.00	89.00	64.8
West Shore	54.50	79.00	45.0
Average	**$53.95**	**$85.70**	**58.9%**

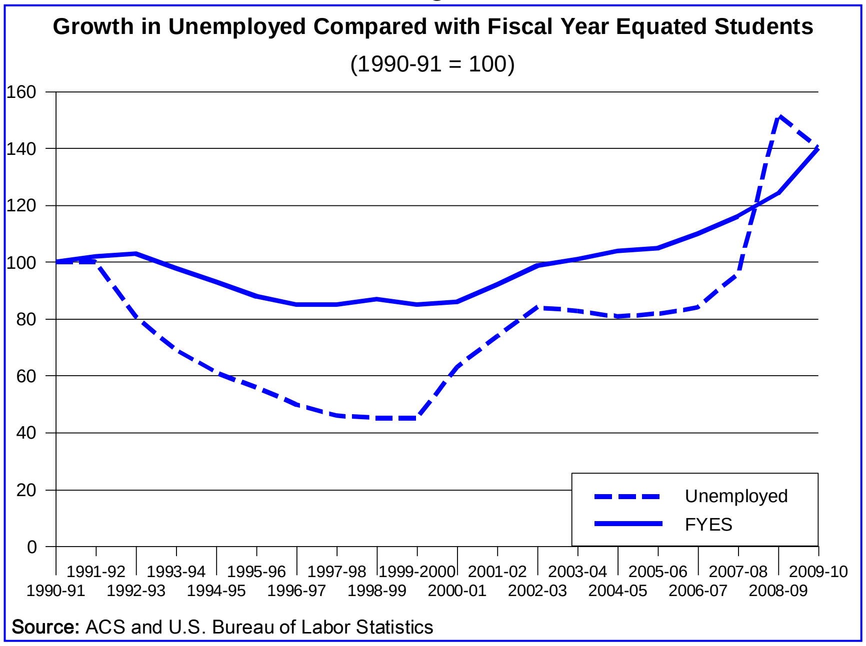
Source: ACS and Michigan Community College Business Officers Association Survey

The ability to generate additional revenue through tuition increases is affected by changes in enrollments. While FYES increased substantially from FY 2001-02 to FY 2009-10, that trend is not likely to continue. Historically, enrollments at community colleges show a strong correlation to changes in unemployment. Figure 1 compares growth in Michigan unemployment with growth in community college FYES from 1990-91 to 2009-10.

The Michigan Association of Collegiate Registrars and Admissions Officers Enrollment Reports for the fall of 2010 and 2011 listed enrollment declines for most community colleges. The availability of grant funding for worker training programs also has an impact on the number of community college students. No Worker Left Behind enrollments at two-year institutions totaled 8,260 in FY 2007-08, 20,884 in FY 2008-09, and 27,671 in FY 2009-10.[4] However, Federal appropriation constraints are expected to have an impact on future funding for this program.

[4] The No Worker Left Behind program provides up to two years of free tuition for eligible participants who are unemployed, laid off, or employed with a household income of $40,000 or less.

Figure 1



Other indicators of future declines in community college enrollments include Michigan age demographics and K-12 enrollments. Fall 12th grade headcounts show declines in recent years. The 2010 Decennial Census shows decreases for the age groups listed in Table 5.

Table 5

2000 to 2010 Change for Ages 0-14 Years Old				
Age Group	**2000**	**2010**	**Change**	**Percent Change**
Under 5 years	672,005	596,286	(75,719)	(11.3%)
5 to 9 years	745,181	637,784	(107,397)	(14.4)
10 to 14 years	747,012	675,216	(71,796)	(9.6)

Source: United States 2010 Decennial Census

Downward pressures on enrollments could be offset to a certain extent if a greater number of four-year students attend community colleges to complete the first two years of their undergraduate program. The increasing cost at four-year institutions could affect enrollments at community colleges.

Property Tax Revenue

Growth in property tax revenue is limited by constitutional provisions. Also, tax increment finance authorities and tax abatements affect potential growth in property tax revenue to community colleges. In FY 2001-02, property tax revenue accounted for 39.9% of community college operating fund revenue statewide. In FY 2007-08, property taxes still accounted for approximately 39.0% of community college operating fund revenue. By FY 2009-10, property tax revenue decreased to 36.5% of operating fund revenue. From FY 2001-02 to FY 2008-09, the taxable value of property in community colleges districts increased by $80.2 billion (38.8%), from $206.8 billion to $287.0 billion.

Over the next two fiscal years (FY 2009-10 and FY 2010-11), the taxable value decreased by $18.1 billion (6.3%).

The State Education Tax revenue is tied to statewide taxable values. That revenue declined by 1.9% in FY 2008-09 and 5.4% in FY 2009-10. The 2011 May Consensus Revenue Forecast indicated that State Education Tax revenue would continue to decline by 4.1% in FY 2010-11 and 1.2% in FY 2011-12. For FY 2012-13, the current projection is that State Education Tax revenue will increase by 1.1%.

Proposed elimination of the personal property tax also would have an impact on revenue for community colleges, depending on the source and amount of replacement revenue. In calendar year 2010, personal property tax revenue accounted for 7.1% of property tax revenue for community colleges statewide. As a percentage of property tax revenue by college, personal property tax revenue ranged from 2.2% of property tax revenue for Southwestern Michigan College to 14.4% for Bay de Noc. Four other community colleges received more than 10.0% of their property tax revenue from the personal property tax: Gogebic (10.9%), Henry Ford (13.7%), Kellogg (11.1%), and Wayne (10.7%).[5] The actual impact on each community college would depend on its overall reliance on property taxes, as discussed under the background section above. Property tax millage revenue also funds debt retirement for six community colleges.

Based on the discussion above, the only opportunity to generate additional funds from property taxes would be through a request to the voters for a millage increase. These requests usually do not have a successful outcome.

Cost Containment

While demand and costs have resulted in community college expenditures' increasing above the rate of inflation, the increases have been mitigated by cost containment measures. Over recent years, most community colleges have reported savings from:

- Increased efficiency in scheduling classes – adjusting the size and frequency of classes, eliminating low-enrollment/high-cost instructional programs, and providing webc-based instruction.
- Staff adjustments -- eliminating/consolidating positions, outsourcing, reducing professional development and travel, replacing full-time staff with part-time personnel, and adopting retirement/separation incentives.
- Employee concessions – instituting wage freezes/COLA delays, changing benefits (increased co-pays, deductibles, premiums). The impact of Public Act 152 of 2011 could further reduce costs, depending on what share of health insurance premium costs is currently paid by the employee.
- Other measures – deferring maintenance, conserving energy (use and technology), reducing community service, delaying purchases/group/bulk purchasing, and self-insuring.

[5] Utility personal property is only available at the county/city/township level. Amounts used for percentage calculations include only those local units within the boundaries of the community college's district with a single school district within the unit's boundaries, and thus underestimate the totals for each community college. Statewide, taxes on utility personal property that were able to be allocated to these units accounted for only $2.1 billion of the total $7.7 billion in utility personal property taxable value statewide, and $60.9 million of $232.6 million in personal property taxes levied by units other than counties, cities, and townships. Property tax revenue received by community college districts from other counties through contractual agreements also is not reflected in these calculations.

Conclusion

Several factors will lead to continued reliance on tuition increases and cost containment measures to meet the demand for community college services over the near future. Section 201a of Public Act 62 of 2011 (the FY 2011-12 School Aid budget) stated legislative intent that FY 2012-13 State appropriations for community colleges would be maintained at the FY 2011-12 level. This could be a best case scenario, depending on State revenue collections and any future legislation affecting the State tax base. Distributions of State aid also could be affected if the current allocation to community colleges were changed to some type of formula distribution, as has been done for incremental increases and decreases in the past. Current consensus revenue estimating numbers do not project a statewide revenue growth in the property tax base until FY 2012-13. Based on Federal budget constraints, possible future reductions could occur for Federal funding sources, including No Worker Left Behind and Pell grants. All of the above will have an impact on the ability of community colleges to balance revenue and expenditures without continuing to raise tuition above inflationary increases.

The Family Independence Program (FIP): 48-Month and 60-Month Time Limits
By Frances Carley, Fiscal Analyst

Summary

When Governor Snyder's recommended fiscal year (FY) 2011-12 budget was introduced in February 2011, it included a 48-month lifetime limit on Family Independence Program (FIP) assistance. The Legislature concurred with the proposed policy change with the passage of Public Act (P.A.) 63 of 2011, which included the annual Department of Human Services (DHS) budget. The time limit was already part of the Social Welfare Act, as it had been introduced under the Granholm Administration, along with a sunset clause that would have prevented its implementation when it was due to go into effect on October 1, 2011.

Additional policy and legislative changes have occurred since the enactment of P.A. 63. Public Acts 131 and 132 of 2011 eliminated the sunset clause and defined temporary and permanent exemptions to the work requirement. The Department of Human Services also eliminated the "hardship exemption" that was permitted for up to 20.0% of the caseload under the Federal Temporary Assistance for Needy Families (TANF) block grant. The Center for Civil Justice filed a lawsuit on behalf of three FIP recipients against DHS Director Maura Corrigan in the U.S. District Court in Detroit on September 30, 2011, seeking a temporary restraining order and preliminary injunction to prevent the changes from going into effect. United States District Judge Paul Borman granted the injunction on October 4, 2011.

This article provides an overview of the new FIP policy as implemented, highlighting changes to policy as well as changes from the Governor's proposal. Also included are updated caseload information and a revised projected fiscal impact.

Background on the Family Independence Program

- The Department of Human Services describes FIP as temporary cash assistance for low-income families with minor children. As of August 2011, the average monthly caseload was 80,024 households, or 216,946 individuals.

- Funding for FIP primarily comes from the Federal TANF block grant and the State General Fund/General Purpose (GF/GP) budget, depending on the type of case. As of August 2011, the average monthly costs for both TANF- and GF/GP-funded cases were $33,404,089. The average cost per case per month was $417.

- Pursuant to Federal eligibility requirements, a household must comply with work requirements (or qualify for work exemptions) in order to receive cash assistance.

- A majority of the cases – 83.0% in FY 2010-11 – are funded with Federal rather than State dollars. This means that up to 13,300 of the 66,500 federally funded cases could have fallen under the hardship exemption.

Policy Change: TANF Hardship Exemption

Federal regulations impose a 60-month time limit on the receipt of TANF-funded cash assistance. The Federal government, however, allows states to exempt up to 20.0% of TANF-funded cases from this time limit due to hardship. The Department of Human Services recently decided to eliminate this hardship category, which will result in the closure of more cases in FY 2011-12. These hardship cases have received assistance anywhere from five to 15 years. This change was not publically announced when the caseload estimates were provided to the Legislature in February 2011.

This hardship exemption is part of the State's current TANF State Plan, which must be submitted to the U.S. Department of Health and Human Services (HHS) every two years. Although the current plan is in effect until December 31, 2011, the change in policy will not affect the State's compliance with TANF rules. In order to implement changes to the current plan, Title IV Sec. 402 of the Social Security Act specifies a process for amending the plan:

> (b) Plan Amendments. Within 30 days after a State amends a plan submitted pursuant to subsection (a), the State shall notify the Secretary of the amendment.
> (c) Public Availability of State Plan Summary. The State shall make available to the public a summary of any plan or plan amendment section.

While HHS does not formally approve such amendments, the Department would simply acknowledge receipt of the update provided that the change follows regular TANF guidelines, which it does. The Department of Health and Human Services would notify the State if an amendment were out of compliance with TANF guidelines, although it is not clear whether this would result in a penalty or other consequences. If the DHS does not submit an amendment to the plan, the State Auditor General could later find the change to be a misuse of funds.

As part of the current TANF State Plan, the DHS defined a family to be exempt due to hardship for any month that:

a) Is not countable toward the State limit;
b) Qualifies as an extension month for purposes of State time limits; or
c) The family resides in a county that meets Food and Nutrition Services Time Limited Food Stamps waiver criteria.
   -- The waiver allows able-bodied residents to receive food assistance for more than three months without meeting work requirements. States may request a waiver of this provision in areas with an unemployment rate above 10.0%, or for those residing in an area that does not have "...a sufficient number of jobs to provide employment for the individuals".

Cases that previously fell under the hardship exemption could have included individuals who might have qualified for a work exemption. Data have not been made available, however, on the number of such cases to be cut (i.e., caregivers of disabled children and spouses, seniors, or domestic violence victims). Otherwise, the hardship exemption had been broadly defined to include anyone residing in a county where unemployment was above 10.0% or where there were not a sufficient number of jobs available.

Federal TANF Work Participation Requirement

The Department of Human Services has indicated that the primary driving force behind the decision to eliminate the 20.0% hardship category is the State's difficulty in meeting the TANF work participation rate.

The State did not achieve its actual target work participation rate in three years: 2007, 2008, and 2010. For example, Michigan's revised target rate in 2007 was 44.3% (and the State actually achieved a rate of just 28.0% that year). As a result, the DHS has already received notification that the State could possibly face both a $24.0 million and a $22.0 million fine for noncompliance in 2007 and 2008. The 2010 penalty could be as high as $25.0 million. By eliminating the hardship work exemption under TANF, the DHS expects to achieve greater success in meeting the target work participation rate in upcoming years.

The rate is set at 50.0% (meaning that 50.0% of the caseload must be working or participating in a specified job preparation activity). This 50.0% rate is then adjusted based on credits that the State is able to claim. Because these credits vary from year to year, the target work participation rate fluctuates as well.

Federal Injunction

On September 30, 2011, several welfare recipients filed a class-action lawsuit (case number 11-14298) against DHS Director Maura Corrigan in U.S. District Court in Detroit to block the limit on benefits from taking effect on October 1, 2011. The plaintiffs requested a temporary restraining order and preliminary injunction. On October 4, 2011, U.S. District Judge Paul Borman granted a temporary injunction before the next benefit payment was due to go out on October 5, 2011.

The lawsuit claims that Director Corrigan is violating the recipients' rights under the due process clause of the 14th Amendment to the U.S. Constitution. The plaintiffs also claim that they did not receive adequate notification or reason for the termination of their benefits.

Under Title 45, Section 205.10 of the Code of Federal Regulations, the State is required to provide a minimum of 10 days' notice for the termination of benefits. The language in the section also defines adequate notice and rules regarding clients' right to an administrative hearing:

> "(B) Adequate means a written notice that includes a statement of what action the agency intends to take, the reasons for the intended agency action, the specific regulations supporting such action, explanation of the individual's right to request an evidentiary hearing (if provided) and a State agency hearing, the circumstances under which assistance is continued if a hearing is requested, and if the agency action is upheld, that such assistance must be repaid under title IV-A, and must also be repaid under titles I, X, XIV or XVI (AABD) if the State plan provides for recovery of such payments."

At the time that this article was written, the potential impact of the injunction on the DHS's policy and budget was not known. Depending on the length of the injunction and the requirements, the projected budget savings might be reduced. It is possible that a month-long injunction could reduce savings by as much as $5.8 million. While the DHS is being represented by the Attorney General and such legal services are generally covered by the standard contract, it is unknown whether additional fees could be incurred if the length of the lawsuit exceeds normal billing practices. The judge is requiring the DHS to provide adequate notification before the policy can be implemented. It is not known whether the DHS will be required to provide administrative hearings to all recipients who request one before the injunction can be lifted.

Other Changes to the Governor's Recommendation

The Governor's budget recommended a 48-month lifetime limit for FIP assistance. Early caseload estimates from February 2011 assumed that 12,623 cases at an average cost of $511 per case per month would be disenrolled effective October 1, 2011. The gross savings were projected to total $77.4 million and the GF/GP savings were projected at $65.0 million. The Governor's recommendation included exemptions for approximately 6,124 cases. These exemptions would prevent the cases from being immediately disenrolled and allow households to continue receiving FIP assistance for the duration of the fiscal year. With P.A. 63 of 2011, the Legislature assumed adoption of the 48-month time limit that was described in the Governor's recommendation.

Recently, the Department provided revised estimates for the reduced caseload, exemptions, and projected savings. The adjusted caseload estimate assumed that a total of 10,897 cases would be dropped on October 1, 2011. Additional cuts will be made throughout the fiscal year so that a total of 14,062 cases will be eliminated in FY 2011-12, 12,868 cases of which will be due to the Federal 60-month time limit and 1,194 of which will be due to the State 48-month time limit. The projected savings are slightly lower than originally assumed at $74,852,364. (A revised GF/GP savings estimate is not yet available.) The average savings per case per month are $444. Table 1 shows both the total number of cases that were cut on October 1, 2011 -- some of which were due to factors other than the time limits -- as well as the adjusted caseload and projected savings throughout the year.

Some of the language regarding temporary exemptions has changed from the Governor's recommendation. For example, the description provided by the Administration specified that the exemptions for caregivers of disabled spouses would be "based on a doctor's statement and reviewed annually" and that caregivers for children would be exempt "until a child attended school". Public Acts 131 and 132 of 2011 (discussed in more detail in the following section) simply require a case review for extensions beyond specified intervals; a review is not required if a case is to be eliminated.

Table 1

Case Closures in FY 2011-12

	Cases Subject to 60-Month TANF Counter					**Cases Subject to State 48-Month Counter**						
Roll Off Date	Number of Cases Closed	**Cases Closed Due to Time Limit**	Average Grant	Monthly Savings	Monthly Annualized Savings	Number of Cases Closed	**Cases Closed Due to Time Limit**	Average Grant	Monthly Savings	Monthly Annualized Savings	Cases Closed Due to Time Limit	Total Savings based on Time-Limit Cases
10/1/2011	11,062	**10,822**	$510	$5,519,220	$66,230,640	100	**75**	$435	$32,625	$391,500		
11/1/2011	264	**198**	$451	$89,298	$982,278	59	**44**	$446	$19,736	$217,091		
12/1/2011	254	**191**	$463	$88,202	$882,015	63	**47**	$421	$19,892	$198,923		
1/1/2012	242	**182**	$489	$88,754	$798,782	89	**67**	$430	$28,703	$258,323		
2/1/2012	295	**221**	$485	$107,306	$858,450	103	**77**	$446	$34,454	$275,628		
3/1/2012	239	**179**	$454	$81,380	$569,657	109	**82**	$406	$33,191	$232,334		
4/1/2012	261	**196**	$480	$93,960	$563,760	135	**101**	$448	$45,360	$272,160		
5/1/2012	252	**189**	$459	$86,751	$433,755	140	**105**	$442	$46,410	$232,050		
6/1/2012	217	**163**	$488	$79,422	$317,688	168	**126**	$464	$58,464	$233,856		
7/1/2012	247	**185**	$482	$89,333	$267,999	183	**137**	$428	$58,743	$176,229		
8/1/2012	240	**180**	$460	$82,800	$165,600	193	**145**	$467	$67,598	$135,197		
9/1/2012	216	**162**	$454	$73,548	$73,548	251	**188**	$451	$84,901	$84,901		
FY 11-12 Totals	13,789	**12,868**			**$72,144,172**	1,593	**1,194**			**$2,708,192**	**14,062**	**$74,852,364**

Source: Department of Human Services

Table 2 compares the exemptions listed in the Governor's recommendation to the actual exemptions implemented by the DHS. Based on early projections, it was anticipated that the 6,124 exempt cases in the Governor's recommendation would be able to remain on FIP assistance for the duration of the year. At 6,135, the early projections are similar to the most recently available data. While child-only cases are not included in the table, exemptions will be provided to approximately 19,152 such cases. As child-only cases and disabled individuals are the only cases that will receive permanent exemptions from the time limit, some of the exemptions in the Table 2 are temporary. In some instances, the categories in Table 2 are not exact matches, and data are not available for comparison.

Table 2

Projected and Actual Exemptions on FY 2011-12

FY 2011-12 Exemptions From the Time Limit[1)]	**Projected Cases (as of Feb.)**	**Adjusted Cases (as of Sept.)**
Total FIP cases over 48 months as of October 1, 2011	**18,754**	**19,371**
Exemptions:		
Incapacitated adults - incapacitation over 90 days	4,042	Not available
Chronic mental health problems - granted by Medical Review Team	143	Not available
Physical limitations - granted by Medical Review Team	388	Not available
Low intellectual capacity - granted by Medical Review Team	19	Not available
Total Disabled	**4,592**	**5,078**
Needed in the home to care for disabled spouse or child	900	929
Victim of domestic violence - 90 days plus potential for 90-day extension	155	118
Pregnancy - duration plus 90 days after	477	Not available
Seniors over age 65	Not available	10
Subtotal - FIP cases with exemptions	**6,124**	**6,135**

[1)] Child-only cases are not included in this table. Approximately 19,152 child-only cases will be exempt from both the State and Federal time limits.

Sources: State Budget Office and Department of Human Services

The State's 48-Month Time Limit: P.A. 131 and P.A. 132 of 2011

Public Acts 131 and 132 amended the Social Welfare Act to implement a 48-month time limit for State-funded cases and define the circumstances under which the DHS can grant temporary and permanent exemptions to the Jobs, Education and Training (JET) Program work requirements. These exemptions can, but do not necessarily, translate to an exemption from the time limit. Under the amendments, the months in which certain cases are exempt from participating in the JET work requirements will not count toward the 48-month time limit. The DHS recently announced a new policy regarding permanent exemptions to the time limit: they will be granted only to disabled individuals and child-only cases.

Temporary exemptions from the JET work requirements were granted for certain circumstances (P.A. 132 Section 57f(4)). The language is permissive, making the exemptions optional. In practice, the maximum extension allowed will be 12 months, as these cases will no longer exceed a total of 60 months. While this 12-month provision was not part of discussions regarding the legislation, it is permissible. The language of the amendment requires case review at given intervals if a case is to receive an extension, but not necessarily if a case is to be cut off. Temporary exemptions from the work requirements include the following groups:

- Short-term mental or physical illness or disability (case review for extensions beyond 90 days).
- Domestic violence (case review for extensions beyond 90 days).
- Postpartum recovery or a parent with an infant under 60 days old (case review for extensions beyond 60 days).
- Difficult pregnancy as confirmed by a medical review.
- Caregiver of a disabled spouse (case review for extensions beyond 365 days).
- Caregiver of a disabled child (case review for extensions beyond 365 days).

There are several categories of individuals with permanent exemptions from the JET Program (P.A. 131 Section 57f (3)). Again, the permanent work exemptions do not necessarily translate into permanent exemptions from the time limit. Permanent exemptions from the JET Program include the following groups:

- A child under the age of 16 (a child-only case, which is exempt from the time limit).
- A child age 16 to 18 who is attending elementary or secondary school full time (a child-only case, which is exempt from the time limit).
- A recipient who is disabled or has a mental or physical condition (exempt from the time limit).
- A recipient otherwise unable to participate as determined by the medical review team.
- A recipient aged 65 or older.
- A recipient of Supplemental Security Income.
- A recipient of retirement, survivor, or disability insurance and one who is eligible for this insurance and is in a non-pay status.

Fund Source by Type of Case

Federal TANF funding will continue to support most of the FIP caseload. The caseload primarily consists of single-parent families that are subject to the 48-month time limit. Other Federally funded cases that will be subject to the 48-month time limit include caretakers of spouses receiving Supplemental Security Income (SSI) assistance, some victims of domestic violence, and seniors over the age of 65. Child-only cases will continue to be funded with TANF dollars, as children are not subject to the work requirement, time limit, or other factors until they turn 18.

State-funded cases will include cases that are eligible for temporary exemptions and will continue to include two-parent families, as well as disabled individuals.

State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2011

Driver Responsibility Fees
By Joe Carrasco, Jr., Fiscal Analyst

Approximately eight years ago, Michigan enacted Public Act 165 of 2003 to establish "driver responsibility fees", in addition to existing court costs and fees associated with infractions. The Act created two types of financial penalties for driving violations. One type of fee is levied on those who accrue seven or more points on their license within two years, and the other type is given for certain one-time moving violations. It was thought that the legislation would serve the dual purposes of reducing reckless driving and raising funds to support the State budget.

Public Act 165 of 2003 also imposed a $150 fee on drivers cited for having no proof of insurance, even if they were insured but did not have their paperwork with them. In 2004, the State amended the program to allow such drivers to have the responsibility fee waived if they provided the Court with proof of insurance before the ticket due date. Upon proof of insurance to the Court, the ticket and the responsibility fee are waived. This legislation also increased the fee to $200 for drivers who did not provide proof of insurance.

This article describes the fees that are imposed, the revenue collected, and proposed legislation that would eliminate the fees on certain violations.

The Fees in Detail

There are two types of driver responsibility fees: point-related fees and fees for specific serious infractions. Both types are imposed for two years; thus, a $500 fee will result in $1,000 over two years. The fees are described below.

- If a driver accrues seven or more points, a fee of $100 will be levied, with an additional $50 for each additional point. Points remain on a driver license for two years, and fees are levied based on current points on a driver's record. Therefore, any accumulation of seven or more points will result in two years of assessments.

- A fee of $150, $200, $500, or $1,000 for specific infractions is imposed for two consecutive years:

  - The $150 fee is imposed for driving with an expired license.
  - The $200 fee is imposed when an individual is driving while uninsured.
  - The $500 fee is imposed for more serious infractions, such as driving while impaired by alcohol or a controlled substance.
  - The $1,000 fee is the highest assessed, and is imposed for the most serious violations, such as operating while intoxicated, hit-and-run violations, fleeing an officer, or seriously wounding or killing someone through negligent or impaired driving.

Revenue

The revenue from driver responsibility fees is almost entirely deposited into the General Fund. Revenue from the fees also goes toward fire prevention programs through a fund created by Public Act 165 of 2003. The Fire Protection Fund (FPF) disburses grants to local fire prevention programs. In each fiscal year, the FPF receives any driver responsibility fee revenue collected in excess of $65.0 million and up to $68.5 million, as well as any revenue from $100.0 million to

$105.0 million, for a maximum possible deposit of $8.5 million per year. All other revenue derived from the fees is deposited into the General Fund.

Estimating the exact amount of revenue for any given year based on the number of assessments is difficult. Because fees are assessed over a two-year period, it is impossible to determine whether a fee that is collected is for the first year or the second year of assessment. In addition, fees for prior years are also being collected in any given year. Therefore, the available data regarding the collection of fees reflect a combination of first-year and second-year assessments as well as fees assessed in a number of prior years. Some of the fees collected in a given year may have been originally assessed as far back as the initial year of 2004.

Table 1 below provides information on the amount of fees assessed and collected for each year since the program's inception. One can see from the table that although assessments have declined, the collection rate remains in the mid-50 percent range.

Table 1

Driver Responsibility Fee Assessment and Collection Trends

			Collections	
Calendar Year	**Number Assessed**	**Assessed Amount**	**Dollars**	**Percent of Assessment**
2004	263,525	$92,255,850	$21,129,270	22.9%
2005	484,775	168,492,600	64,655,317	38.4
2006	546,288	203,655,550	108,951,540	53.5
2007	578,207	225,929,500	120,878,236	53.5
2008	493,089	185,724,600	99,362,661	53.5
2009	421,725	168,822,900	94,540,824	56.0
2010	419,676	166,953,100	93,493,736	56.0
Total to Date	**3,207,285**	**$1,211,834,100**	**$603,011,584**	**49.8%**

Source: Michigan Department of State

Proposed Legislation

Senate Bill 166 (H-8) as passed by the House would amend the Michigan Vehicle Code to prohibit the assessment of certain Driver Responsibility Fees (DRF). The fees that would be eliminated under the House-passed version of the bill include fees for the following:

- Driving without a valid license.
- Failing to produce proof of insurance.
- Failing to have no-fault insurance under the Insurance Code.

Based on first-year assessment data for DRF in calendar year 2010, the bill would result in a loss of DRF revenue of an estimated $23.6 million annually.

Additionally, the bill would change the distribution of the fees collected such that the first $8.5 million would be credited to the Fire Protection Fund and all additional funding would be credited to the General Fund.

Conclusion

Under the Governor's budget recommendation in February 2011, the DHS would implement a 48-month State time limit on FIP cash assistance with some exemptions. Since that time, the DHS has expanded the policy change to eliminate the hardship exemption for 20.0% of the TANF-funded cases in FY 2011-12. By eliminating the hardship category, the DHS expects to be more successful in meeting the Federal TANF work participation rate. Currently, the State faces potential penalties of up to $71.0 million for not meeting its target rate for three years. The State is now subject to a temporary Federal injunction as a result of a class-action lawsuit that was filed on behalf of several FIP recipients.

Among other changes to FIP policy, permanent exemptions will be granted only to disabled individuals and child-only cases, and cases with temporary exemptions from the State limit will still be subject to the 60-month Federal limit. The adjusted caseload numbers and projected savings provided by the DHS are similar to the original Governor's proposal.

State Notes
TOPICS OF LEGISLATIVE INTEREST
Fall 2011

Unemployment Compensation in Michigan: An Update
By Josh Sefton, Fiscal Analyst

Recent changes to Michigan unemployment insurance (UI) law and the substantial Federal UI debt that the State has incurred will have long-term impacts on Michigan's unemployment insurance system. This paper examines changes in the UI system due to Public Act 14 of 2011 as well as the effect of Federal Title XII debt on Michigan's UI system as a whole. For additional detail and more background information on Michigan's UI program, please see the following Senate Fiscal Agency publications:

State Notes – Summer 2010: Solvency of Unemployment Compensation Fund - An Update
State Notes – November/December 2008: Michigan's Unemployment Compensation Fund

Public Act 14 of 2011

On March 28, 2011, Governor Snyder signed Public Act 14 of 2011 (PA 14), which made several changes to Michigan's UI system. Perhaps the most significant change from a fiscal standpoint is the reduction in the maximum number of weeks an individual can collect UI benefits. Presently, out-of-work individuals can collect up to $362 per week in benefits for a maximum of 26 weeks. The actual amount and duration of benefits are determined by a formula that is based on an individual's work experience and earnings. Public Act 14 reduces the maximum number of weeks that UI recipients can collect benefits to 20 weeks; this change will take effect for initial UI claims made after January 15, 2012.

According to calendar year 2010 data from the Unemployment Insurance Agency (UIA), approximately 75% of UI benefit recipients who collected the full amount of their UI entitlements were eligible to collect a full 26 weeks of benefits, and over 87% were eligible to collect 21 or more weeks of benefits. Additionally, the average weekly benefit amount (WBA) for 2010 was $281.69.

For purposes of illustration, if 2010 UI benefit payment data are used to make a projection for 2012, approximately $258.4 million in benefits will not be paid due to PA 14. This estimate assumes that recipients who will be affected by PA 14 receive the average WBA (for 2010) of $281.69. For years following 2012, again using 2010 data, the savings will be significantly higher: approximately $447.0 million. The reason for this difference is that during 2012, there will be a large number of recipients whose initial claims were made prior to January 15, 2012, and therefore will be unaffected by PA 14. For years after 2012, all UI benefit recipients will be subject to PA 14 so the savings will be higher during those years, assuming that unemployment levels remain relatively constant. Tables 1 and 2 illustrate these examples.

The major difference between Tables 1 and 2 is that Table 2 includes all recipients who stopped collecting benefits in 2010. Table 1 weighs the number of benefit expirations by the number of days in 2012 that a new benefit recipient could start receiving benefits and then exhaust them in the same year. This weighting can roughly be used to estimate the proportion that will expire in 2012 (again, using 2010 data). If similar data for 2008 and 2009 are used, the amounts saved for 2012 are $99.9 million and $242.4 million, respectively, and the amounts for years after 2012 are $172.9 million and $419.4 million.

Savings estimates for 2012 range from $99.9 million to $258.4 million, and savings estimates for subsequent years range from $172.9 million to $447.0 million, based on these data. Moving forward, then, it will be difficult to determine how much of the decline in benefit payments is due to the changes brought about by PA 14, and how much is due to other factors. Other factors could include, for example, changes in the unemployment rate and changes in the labor market with regard to how long individuals stay unemployed.

Table 1

2012 Projection Based on 2010 Data

Week Benefits Exhausted/Expired[1)]	Recipients Exhausting Benefits	Recipients Stopped Receiving But Not Exhausting Benefits	Amount of Benefits Not Paid
Week 21	5,024	4,081	$2,564,853.37
Week 22	4,674	4,780	$5,326,389.45
Week 23	4,488	3,429	$6,689,817.50
Week 24	4,230	4,103	$9,389,320.38
Week 25	3,954	3,347	$10,282,696.27
Week 26	132,615	N/A[2)]	$224,138,193.28
Total	**154,985**	**19,740**	**$258,391,270.24**

1) Expired indicates a recipient who stopped receiving benefits but whose entitlement was not exhausted. This would likely be a person who found a new job or otherwise became ineligible for continued benefit payments.

2) N/A because recipients who received benefits in their 26th week would have exhausted their benefits.

Source: UIA data and SFA projections

Table 2

2013+ Projection Based on 2010 Data

Week Benefits Exhausted/Expired[1)]	Recipients Exhausting Benefits	Recipients Stopped Receiving But Not Exhausting Benefits	Amount of Benefits Not Paid
Week 21	8,692	7,061	$4,437,462.57
Week 22	8,087	8,270	$9,215,206.66
Week 23	7,764	5,932	$11,574,078.72
Week 24	7,319	7,098	$16,244,498.92
Week 25	6,840	5,791	$17,790,131.95
Week 26	229,438	N/A[2]	$387,782,341.32
Total	**268,140**	**34,152**	**$447,043,720.14**

1) Expired indicates a recipient who stopped receiving benefits but whose entitlement was not exhausted. This would likely be a person who found a new job or otherwise became ineligible for continued benefit payments.

2) N/A because recipients who received benefits in their 26th week would have exhausted their benefits.

Source: UIA data and SFA projections

Borrowing to Pay for UI Benefits

Since 2006, Michigan has engaged in borrowing from the Federal government to pay its UI obligations. In 2006 and 2007, this borrowing was confined to short-term cash-flow loans to help align available State Unemployment Tax Act (SUTA) revenue with benefit payment obligations. These loans were repaid in the years in which they were issued. In 2008, however, the Unemployment Compensation Fund (UCF), the primary source of revenue used to pay benefits, became insolvent. The UCF's insolvency necessitated long-term borrowing.

The UCF is the repository of all SUTA tax revenue and is used to pay unemployment benefits. For much of the 1990s, the UCF ran a surplus, as SUTA tax collections exceeded UI benefit payments. The highest balance attained by the UCF during this time was approximately $3.0 billion in 2000. In 2001, however, the amount of benefits paid exceeded the amount of SUTA revenue collected for the first time since 1992, and in every year since 2001 the amount of benefits has exceeded SUTA revenue. In 2008, the $3.0 billion balance was eliminated.

Title XII of the Social Security Act allows states to borrow from the Federal Unemployment Trust Fund if SUTA tax revenue is insufficient to pay UI benefits. Michigan's highest balance of these loans was approximately $3.9 billion. As of the beginning of fiscal year (FY) 2011-12, data from the UIA show a balance of approximately $3.4 billion. The mechanism for repaying these loans is fairly straightforward: Federal Unemployment Tax Act (FUTA) revenue collected from Michigan employers by the Federal government will be credited toward the debt, and excess SUTA collections can be remitted as payment by the UIA. Depending on the amount of SUTA and FUTA revenue collected, as well as the amount paid in UI benefits, it is reasonable to expect that the State will take four to eight years to repay this debt. If the economy declines and Michigan is forced to take out additional Title XII loans, repayment could take longer.

Until Michigan fully repays its Title XII loans, the credit that Michigan employers receive on their FUTA taxes will decrease by 0.3% per year. The FUTA tax is administered by the Internal Revenue Service and is levied on the first $7,000 of wages paid to each employee. The nominal rate of the tax is 6.2%, but is partially offset by a 5.4% credit, yielding an effective tax rate of 0.8%. This reduction means that the cost of this tax will rise by $21 per employee[1] each year until Michigan's Title XII balance is repaid. Additionally, employers with negative balances in their UI experience accounts (employers whose former employees have collected more in benefits than the employers have paid in SUTA taxes) are subject to a solvency tax of $67.50[2] per employee, per year; approximately 15% of Michigan employers are subject to this tax. Solvency tax revenue is statutorily earmarked for the payment of interest on Title XII loans, and will be collected until those loans are fully repaid. Table 3 details how FUTA and solvency taxes will change for employers while Michigan has a Title XII loan balance.

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[1] FUTA taxes are levied on the first $7,000 of wages paid; $21 assumes employees make at least $7,000 annually.

[2] The solvency tax is formally calculated as a quarter of an employer's account building component (ABC) of the SUTA tax. The maximum rate of the ABC is 3% of the first $9,000 in annual wages, so the maximum solvency tax rate is 0.75%. However, since the solvency tax applies only to employers with negative balances, their ABC rates are typically at the maximum, which is why the amount is assumed to be $67.50.

Table 3

Changes in Annual FUTA and Solvency Taxes per Employee[1]				
Calendar Year	**FUTA Tax**	**Solvency Tax**	**Positive Balance Total[2]**	**Negative Balance Total[3]**
2012	$63.00	$67.50	$63.00	$130.50
2013	84.00	67.50	84.00	151.50
2014	105.00	67.50	105.00	172.50
2015	126.00	67.50	126.00	193.50
2016	147.00	67.50	147.00	214.50
2017	168.00	67.50	168.00	235.50
2018	189.00	67.50	189.00	256.50

1) Assumes employees earn more than $9,000 annually.
2) Total for employers who have a positive balance in their experience accounts, i.e. they have paid more in SUTA taxes than their former employees have received in benefits.
3) Total for employers who have a negative balance in their experience accounts, i.e., their former employees have received more in benefits than the employers have paid in SUTA taxes.

Source: UIA

The UIA estimates that over the next several years there will be approximately 845,000 employees who work for negative-balance employers. This number yields about $57.0 million in solvency tax revenue annually. This presents a problem, as the annual interest payments due on Michigan's Title XII debt are significantly higher than that amount. The Legislature appropriated $38.3 million in GF/GP funding for the FY 2010-11 interest payment. The total amount of this payment was approximately $106.0 million, consisting of $47.7 million from the Solvency Fund (the fund that the solvency tax is deposited into), $20.0 million from the Contingency Fund-Penalty and Interest Account, and $38.3 million from General Fund/General Purpose (GF/GP) revenue. For FY 2011-12, the payment is projected to be approximately $136.4 million; the increase in interest due is attributable to the fact that FY 2010-11 interest was calculated only for calendar year 2011, as during calendar years 2009 and 2010 interest on Title XII loans was forgiven under the American Recovery and Reinvestment Act. For FY 2011-12, the interest will be calculated on the entire fiscal year. Solvency tax collections are expected to be about $57.0 million, leaving a $79.4 million funding shortfall. Additionally, the Michigan Employment Security Act requires any State funds other than Solvency Fund money used to pay Title XII interest payments to be repaid as soon as possible. Because of that requirement, the first $38.3 million in solvency tax revenue collected in FY 2011-12 presumably will be used to repay the GF/GP funding used for the FY 2010-11 interest payment, leaving only $18.7 million for the FY 2011-12 payment.

Using information obtained from the UIA, Table 4 shows the projected balance of Michigan's Title XII loans, projected interest payments, and projected interest shortfalls for the next several years. The projections assume no significant changes to UI statutes and a low level of economic growth.

Table 4 shows a projected cumulative interest payment shortfall of approximately $238.5 million through 2018. The shortfall has no dedicated funding source in statute, and absent any legislative action that would dedicate funding for it, General Fund dollars might have to be used for the shortfall. These projections also take into account the changes made to UI policy by PA 14. Table 5 uses savings projections from PA 14 with UIA revenue, expenditure, and debt projections to compare the former UI milieu of a 26-week maximum to the current 20-week maximum. Since the savings from PA 14 are likely to be highly variable, the mean of $200.2 million from the three years of data used to calculate the savings was used for FY 2011-12, and a mean of $346.4 million was used for following years.

Table 4
Title XII Debt Projections
(Figures in Millions)

Calendar Year	Year-End Title XII Balance	Interest Due	Solvency Tax Revenue	Interest Payment Shortfall
2012	$3,211	$136.4	$18.7[a)]	$117.7
2013	2,752	128.4	57.0	71.4
2014	2,323	110.1	57.0	53.1
2015	1,796	92.9	57.0	35.9
2016	1,124	71.8	57.0	14.8
2017	364	45.0	57.0	(12.0)[b)]
2018	0	14.6	57.0	(42.4)[b)]
Total	**N/A**	**$599.2**	**$360.7**	**$238.5**

a) It is reasonable to expect approximately $57.0 million to be collected in FY 2011-12, but the first $38.3 million presumably will be used to repay the GF/GP funding used to pay Title XII interest in FY 2010-11.
b) A negative shortfall would indicate a surplus of solvency tax revenue. Under current law, this surplus would be credited to whichever fund source was used to cover the solvency tax shortfalls in previous years.

Source: UIA

Table 5
Effects of Reducing Maximum Benefit Duration from 26 Weeks to 20 Weeks
(Dollars in Millions)

		2012	2013	2014	2015	2016	2017	2018
20-Week Max.	Beg. Title XII Loan Balance	3,410	3,211	2,752	2,323	1,796	1,124	364
	SUTA Revenue	1,330	1,362	1,277	1,284	1,336	1,343	1,396
	Benefits Paid	1,331	1,174	1,193	1,173	1,152	1,144	1,124
	Net SUTA	(1)	188	84	111	184	199	272
	FUTA	200	271	345	416	488	561	634
	End Title XII Loan Balance	3,211	2,752	2,323	1,796	1,124	364	0
	Est. Interest Due	136.4	128.4	110.1	92.9	71.8	45.0	14.6
	Est. Solvency	57.0	57.0	57.0	57.0	57.0	57.0	57.0
	Interest Shortfall[1)]	79.4	71.4	53.1	35.9	14.8	(12.0)	(42.4)
26-Week Max.	Beg. Title XII Loan Balance	3,410	3,411	3,298	3215	3034	2,708	2,294
	SUTA Revenue	1,330	1,362	1,277	1,284	1,336	1,343	1,396
	Benefits Paid	1,531	1,520	1,539	1,519	1,498	1,490	1,470
	Net SUTA	(201)	(158)	(262)	(235)	(162)	(147)	(74)
	FUTA	200	271	345	416	488	561	634
	End Title XII Loan Balance	3,411	3,298	3,215	3,034	2,708	2,294	1,734
	Est. Interest Due	136.4	136.4	132.0	128.6	121.4	108.3	91.8
	Est. Solvency	57.0	57.0	57.0	57.0	57.0	57.0	57.0
	Interest Shortfall	79.4	79.4	75.0	71.6	64.4	51.3	34.8

1) A positive number here would indicate a shortfall in the amount of solvency tax revenue available to pay interest costs in that year. A negative number indicates a surplus in solvency tax revenue.

Source: UIA data and SFA projections

If the projections from Tables 4 and 5 are correct, Michigan should repay its Title XII debt sometime in calendar year 2018. This does not mean that Michigan's UI system will have a totally clean bill of health after 2018. An important function of the SUTA tax and the Unemployment Compensation Fund is that the Fund can accumulate a substantial balance in years with high levels of employment and economic activity. This balance is normally what is used to pay UI benefits in years when benefit payments exceed SUTA tax collections. However, when Michigan pays off its Title XII debt, regardless of when this happens, the Fund will have a very small balance, as excess SUTA revenue will likely have been used by the UIA to pay down the Title XII debt. This means that any economic downturn resulting in increased unemployment while Michigan pays down its debt or in the years following could necessitate further borrowing.

Conclusion

Public Act 14 of 2011 will reduce the potential duration of UI benefits for thousands of individuals in Michigan; it also will serve to help save employers millions of dollars in UI benefit costs. At this point, it is extremely difficult to predict exactly how much money PA 14 will save, going forward. Whatever savings are achieved will reduce cumulative employer costs and the State budget impact of repaying its Title XII loans.

While Michigan has a Title XII loan balance, interest will continue to accrue. The funding mechanism designed to pay this interest is structurally deficient and will not be able to meet future interest obligations. The Legislature will be forced to deal with this issue in one way or another in coming years.

State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2011

State Faces Reduced Funding for Low-Income Energy Assistance Programs in Winter 2011-12
By Frances Carley, Fiscal Analyst

The Department of Human Services (DHS) operates a number of programs that provide energy and heating assistance for low-income individuals throughout the State. Federal and State restricted funding to operate these programs is expected to be reduced by as much as 40.0% in fiscal year (FY) 2011-12, leaving the State with considerably fewer resources than have been available in recent years. These cuts are due to the loss of both American Recovery and Reinvestment Act (ARRA) funding, and the Low-Income Energy and Efficiency Fund (LIEFF), a State restricted fund. It is unlikely that the costs of fuel and natural gas this winter will help to mitigate the loss in funding. At the time this article was written, the DHS was in the process of revising the annual energy assistance plan in order to account for the reduced revenue. In FY 2010-11, the State provided approximately 678,600 households with weatherization, crisis assistance, or the Home Heating Credit. It is not yet known how many households will be affected by the changes or by how much the benefit payments might be reduced in FY 2011-12.

Overview of Energy Assistance Programs

The DHS's primary energy assistance programs are weatherization and crisis assistance, the latter of which includes deliverable fuels, utility payments, and furnace repair. Additionally, the Department of Treasury manages the Home Heating Credit (HHC) program, in which credits are applied to the heating bills of eligible residents. Low-income residents may be eligible to receive the assistance based on income and other conditions, such as disability. An overview of each program area follows.

Weatherization

Low-income homeowners and renters can receive assistance to improve the energy efficiency of their homes, thereby reducing heating costs. National studies on the effectiveness of weatherization services estimate that these preventative measures can reduce heating costs by 20.0% to 25.0%, resulting in estimated savings of $300 per household each year. During the 2010 program year, more than 16,300 households in Michigan received weatherization services; of these households, 13,875 received assistance through ARRA.

Weatherization services include:

- Wall insulation
- Attic insulation and ventilation
- Foundation insulation
- Air leakage reduction
- Smoke detectors
- Dryer venting

Crisis Assistance

The State Emergency Relief (SER) program provides assistance for heating and energy, as well as other types of emergency relief such as rental payments. Included in energy services are deliverable fuels, gas and electric heating assistance, and furnace repair. In FY 2010-11, the DHS provided 267,453 households with energy crisis assistance. Payments totaled nearly $180.0 million.

There are maximum caps for payments depending on the type of assistance requested. In recent years, increased Federal funding made it possible for the State to increase the cap on these payments. With funding cuts projected at the Federal level in FY 2011-12, however, the State caps will return to the previous lower levels. The FY 2011-12 caps and previous funding levels in FY 2010-11 are as follows:

- $450 for households that heat with natural gas or wood. This cap was previously set at $850.
- $850 for households that heat with deliverable fuel other than wood (fuel oil, propane, coal, etc.). This cap was previously set at $1,500.
- $450 for households that are all-electric (including heat). This cap was previously set at $850.
- $4,000 for furnace repair. This is a lifetime limit.

Home Heating Credit

The Department of Treasury manages the Home Heating Credit (HHC) program, which provides assistance with the payment of heating bills for low-income consumers. Eligible customers must have their homestead in Michigan and own or rent the home in which they live, and for the standard allowance, their income must fall within certain limits. The Department of Treasury determines the level of credit that a household is eligible to receive and then makes the utility payments directly to DTE Energy, Consumers Energy, and SEMCO Gas on behalf of the consumers. In FY 2010-11, 394,934 qualifying individuals received this credit for an average payment amount of $169. Payments totaled $66,870,368.

The Department of Treasury bases the standard calculation for the credit on income and the number of exemptions claimed by the household. Exemptions are granted for each person who is age 65 or over, blind, deaf, paraplegic, quadriplegic, or hemiplegic. The credit is calculated by subtracting 3.5% of household income from the maximum credit available for corresponding household exemptions. The maximum credits and allowable income levels are shown in Table 1.

Table 1

Home Heating Credit Exemptions and Maximum Income		
Number of Exemptions	**Maximum Income**	**Maximum Credit**
0-1	$11,929	$418
2	16,043	562
3	20,158	706
4	24,272	850
5	28,387	994
6	32,500	1,138
	+$144 for each exemption over 6	+$4,114 for each exemption over 6

Source: Department of Treasury

Projected FY 2011-12 Funding

The State's energy assistance programs (weatherization, crisis assistance, and HHC) are funded through a combination of Federal and State restricted revenue. Federal funding includes the Low-Income Home Energy Assistance Program (LIHEAP), the Weatherization Assistance Program (WAP), and the Community Services Block Grant (CSBG). In recent years, additional funding for LIHEAP and weatherization grants was made available through ARRA. Aside from some carryforward funding that will be available in FY 2011-12, this temporary source of revenue has expired. The State restricted fund source is the Low-Income and Energy Efficiency Fund (LIEEF), which receives funding collected by the Department of Licensing and Regulatory Affairs (LARA). Table 2 compares the year-to-date appropriations for FY 2010-11 to the amounts that have been appropriated in FY 2011-12.

Table 2

Comparison of FY 2010-11 Year-to-Date Appropriations with FY 2011-12 Projections

Fund Source	Program(s) Funded	FY 2010-11 Y-T-D Appropriation	FY 2011-12 Appropriation	FY 2010-11 & FY 2011-12 Difference	% Change
LIHEAP	Crisis, HHC	$236,838,200	$116,451,600	($120,386,600)	(51.0)%
LIEEF	Weatherization, Crisis	47,000,000	0	(47,000,000)	(100.0)
WAP	Weatherization	27,400,000	28,340,000	940,000	3.0
ARRA Weatherization	Weatherization	6,962,100	0	(6,962,100)	(100.0)
ARRA Weatherization Carryforward	Weatherization	82,000,000	85,000,000	3,000,000	4.0
CSBG	Weatherization	25,400,000	25,840,000	440,000	2.0
	Subtotal	**$425,600,300**	**$255,631,600**	**($169,968,700)**	**(40.0)%**

Source: Michigan Information Data Base and Senate Fiscal Agency

Additional carryforward funding: Table 2 does not include two additional sources of funding for energy assistance. There will be some carryforward funding available from the Federal sources listed above in FY 2011-12 comparable to the FY 2010-11 carryforward. The carryforward amount for FY 2011-12 is not yet finalized.

Additional contingency funding: Table 2 also does not account for potential contingency funding that might become available to the State later in the fiscal year. The FY 2010-11 year-to-date numbers for LIHEAP and WAP include additional contingency funding that had not been included in the original budget. It is possible, but not guaranteed, that some contingency funding will be made available again to the State in FY 2011-12 at a much lower level.

Low-Income Home Energy Assistance Program

The State has budgeted for a LIHEAP grant in the amount of $116,451,600, a conservative estimate that accounts for reduced Federal funding. As stated above, it is possible that the State will receive additional contingency funding later this year. The State plan for the use of LIHEAP funds in FY 2011-12 will direct 28.0% of the funds to heating assistance through the Home Heating Credit, 61.62% to crisis assistance, and 0.38% to the $1 LIHEAP Pilot Program[1]. Due to limited funding for heating and crisis assistance, LIHEAP does not cover weatherization, a program that receives funding from other sources.

[1] The DHS describes the $1 LIHEAP pilot program as a program that provides a small LIHEAP benefit for heat but results in a much larger benefit for households that receive food assistance by allowing a higher standard utility allowance and resulting in increased food benefits. Issuing this $1 LIHEAP benefit allows the DHS to use the highest possible heat and utility deduction when determining the client's food assistance and may increase the person's benefit amount. The objective of the program is to generate additional resources for vulnerable households, increasing the likelihood that Michiganians will maintain affordable housing and sustain heat.

The Federal government is going to reduce the appropriation for the Low-Income Home Energy Assistance Program by as much as 50.0% in FY 2011-12. President Obama's request for the program was $2.57 billion, or approximately half of the FY 2010-11 allocation, which totaled $5.1 billion. This decrease would return funding to 2008 levels, and is based on forecasts from the U.S. Department of Energy predicting more moderate energy prices in winter 2011-2012. (For more information about the heating cost projections, please see " Winter 2011 Energy Cost Forecasts", page 5.) The U.S. Senate Appropriations Committee has included $3.6 billion for LIHEAP, an increase that is $1.0 billion higher than the administration's budget request. The U.S. House Appropriations Committee has recommended $3.4 billion for the program, an increase of $822.0 million above the administration's request. The budget bill has not yet been enacted.

Low-Income and Energy Efficiency Fund

In FY 2010-11, LIEEF provided a total of $82.0 million to the DHS, nonprofit organizations, and others for energy and heating assistance. The DHS was slated to receive approximately $47.0 million in LIEEF funding through an interdepartmental grant from LARA in FY 2011-12. This was the same amount that had been transferred to the DHS in FY 2010-11, with $37.0 million planned for crisis assistance and $10.0 million for weatherization. Due to a pending lawsuit to prohibit the State from collecting and distributing the funds from LIEEF, the DHS will lose $47.0 million for low-income heating assistance in FY 2011-12 (as discussed below).

Public Act (PA) 141 of 2000 established LIEEF as a State restricted fund. The Act was designed to open the electricity market to competition so alternative suppliers could market to the customers of major suppliers. In order to soften the transition for the major energy suppliers, the Act allowed them to find savings by issuing bonds to pay off their assets, i.e., through securitization savings. Later, the savings were collected as a customer fee rather than through securitization. The excess savings from both methods went to LIEEF, which in turn funded projects serving low-income customers and energy conservation efforts.

When Michigan revamped the State energy plan in 2008 with the enactment of PA 286 and PA 295, the authorization that permitted the State to collect and distribute funds through LIEEF was inadvertently eliminated from statute. This oversight exposed the State to a lawsuit. Although the case is still pending, the State is not able to guarantee funding in FY 2011-12. The LARA budget had provided for up to $95.0 million in spending authorization, but nothing will be paid. State contracts for the FY 2011-12 grants had not yet been signed, so the State will not owe anything in this fiscal year. The State is liable, however, for contracts that were in place in FY 2010-11; the maximum shortfall to cover these outstanding contracts could reach $3.6 million. It is possible that LARA will negotiate a settlement that will allow the FY 2011-12 collections to continue, or that legislation (such as proposed House Bill 5008) will be enacted to fix the gap in the 2008 amendatory language. The Legislature also has the option of implementing a short-term fix to get through the upcoming season. None of these options is certain to occur, however.

Other Federal Weatherization Assistance Funding

The U.S. Department of Energy (DOE) provides Weatherization Assistance Program grants to states. The Federal FY 2011-12 budget request included $320.0 million for WAP, a $110.0 million increase over the FY 2010-11 appropriation. The DHS received $27,400,000 in FY 2010-11 and projects a slight increase to $28,340,000 in FY 2011-12. Previously, the DOE had offered additional weatherization funding through ARRA, but this temporary, emergency revenue is no longer available.

The State also allocates the full amount of the Community Service Block Grant for weatherization, which is expected to increase by $440,000 in FY 2011-12 to $25,840,000.

Winter 2011 Energy Cost Forecasts

National forecasts regarding energy costs in winter 2011-2012 have consistently reported increased costs for deliverable fuels (propane, heating oil, and gas) but have varied regarding natural gas. The President's budget recommendation for LIHEAP funding was based on Department of Energy reports that natural gas costs would be lower than last year's costs. In mid-October, however, the U.S. Energy Information Administration (EIA) released a report stating that natural gas costs would be higher.

The Michigan Public Service Commission (MPSC) compiles the semiannual Michigan Energy Appraisal, which projects an assessment of energy markets in the upcoming six months. According to the MPSC, the assessment assists in identifying potential supply problems, including adequacy of supply, weaknesses in the distribution system, and energy price changes.

Similar to early Department of Energy reports, the MPSC report projects that residential heating bills for natural gas will be lower this winter due to lower prices. The Michigan Energy Appraisal also assumes, however, that the costs of propane and other deliverable fuels will increase due to a rise in the price of crude oil. These estimates assume that this winter will be normal and that temperatures will not vary significantly from last year. Table 3 compares the actual fuel costs in FY 2010-11 to projected fuel costs in FY 2011-12.

Table 3

Michigan Household Winter Heating Fuel Summary FY 2010-11 and FY 2011-12

	Actual FY 2010-11	Projections FY 2011-12	% Change FY '09-10/ FY '10-11 Actual
Natural Gas			
Consumption (Mcf)	77	72	
Average Price ($/Mcf)	$9.82	$9.54	(3.0)%
Expenditures ($)	$756	$687	(9.0)
Heating Oil			
Consumption (gallons)	563	546	
Avg. Price ($/gallon)	$3.07	$3.47	13.0
Expenditures ($)	$1,728	$1,895	10.0
Propane			
Consumption (gallons)	714	693	
Avg. Price ($/gallon)	$2.27	$2.41	6.0
Expenditures ($)	$1,622	$1,670	3.0

Source: Michigan Public Service Commission

It is unlikely that the State's decreased resources for energy assistance will be mitigated by fuel costs and it is possible that even fewer resources will be available to households due to prices. Deliverable fuel accounted for more than half of the State's average spending on energy crisis assistance in FY 2010-11 (more than $84.0 million). The rise in deliverable fuel costs could be offset by lower natural gas costs. Payments to utility companies through the Home Heating Credit accounted for $65.7 million in spending, a program that is more likely to be affected by the price of natural gas. With the recent U.S. EIA report predicting increased natural gas costs, however, the offset is less likely to occur.

Temporary Assistance for Needy Families (TANF) Maintenance of Effort (MOE)

As a recipient of funding for the Temporary Assistance for Needy Families (TANF) block grant, the State must direct a predetermined amount of General Fund/General Purpose funds to programs that serve low-income clients. This State spending match is referred to as the Maintenance of Effort (MOE). The State's MOE spending has been reduced to a narrow margin in recent years and must be closely monitored so the State can avoid penalties. In FY 2010-11, LIEEF contributed $36.1 million to MOE. The LIEEF spending has been eliminated from the MOE calculations in FY 2011-12, which means that more State spending in other eligible programs will be required in order for the State to qualify for additional TANF contingency funds. Because LIHEAP and other Federal funding sources are not eligible to be counted toward the MOE, cuts to these energy assistance programs will not have an impact on the MOE.

Conclusion

The DHS stands to lose as much as $170.0 million in Federal and State restricted funds in FY 2011-12 for energy assistance programs that help low-income residents, or 40.0% of the funding that was available in FY 2010-11. At the Federal level, funding for LIHEAP may face a reduction of 51.0% or more, which would return funding to 2008 levels. At the State level, the collection and distribution of funds from LIEEF has been halted indefinitely with a lawsuit, eliminating a $47.0 million grant to the DHS and approximately $35.0 million in grants to other organizations. If the costs of natural gas are indeed lower this winter, as some reports have predicted, it is unlikely that this change will mitigate the loss of funding, as the State assistance programs are heavily weighted toward the purchase of deliverable fuels, the costs of which will rise. The loss of funding will result in reductions in the energy assistance programs, whether through a reduction in the number of households receiving assistance, a reduction in the amount of available funds per individual, or a combination of both.