

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

Fall 2013



### **Development of the Michigan Energy Assistance Program and Low-Income Energy Assistance Fund**

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Michigan has a history of assisting low-income residents to pay heating bills and other utility costs. When the Low-Income Energy Efficiency Fund (LIEEF) was suspended in 2011, however, no funding mechanism existed for the assistance program, and the State realized a significant loss of Restricted revenue in the fiscal year (FY) 2011-12 budget. In response to this loss, the Legislature spent several months developing a solution to replace the defunct revenue stream, a process that included hearings, work group discussions, temporary funding solutions, and new legislation. With the enactment of Public Act 95 of 2013, the new Low-Income Energy Assistance Fund (LIEAF) was created to replace the defunct LIEEF.<sup>1</sup> The LIEAF revenue will fund the new Michigan Energy Assistance Program (MEAP), which will provide energy assistance for low-income individuals, emphasizing a path to self-sufficiency. This report provides background on the formation of both the new fund and the new program.

### **State Emergency Relief: Energy Crisis Assistance Caseload Trends**

Figure 1 shows the average monthly caseload for energy crisis assistance since FY 2006-07. When the national economic recession began in 2008, the request for services spiked along with the availability of additional Federal funding (Figure 2). The caseload has been declining steadily since FY 2010-11. This change is due to the economic recovery and, in part, the recent implementation of an asset test for eligibility, which began in March 2013. While the FY 2012-13 average caseload is comparable to the FY 2008-09 average caseload, the available funding is lower in FY 2012-13. (Figure 2 and Figure 3 portray funding trends.)

### **Federal Funding**

Figure 2 shows the total amount of Federal Low-Income Home Energy Assistance Program (LIHEAP) funding the State received from FY 2006-07 through FY 2013-14 (projected). Three distinct categories of spending – crisis assistance, other programs, and MEAP – are shown.

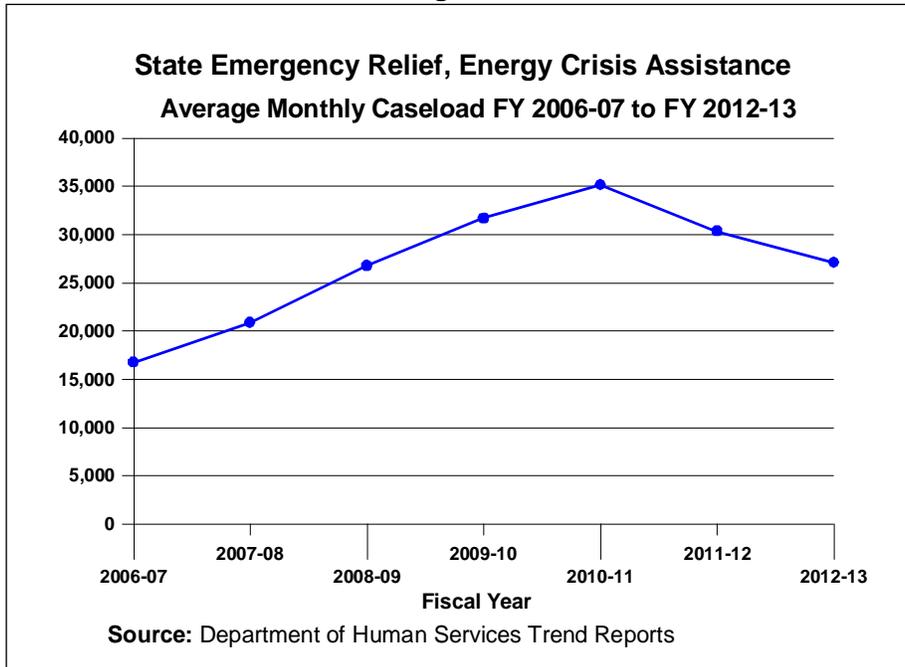
When the national economic recession began, requests for services spiked. With the introduction of Federal American Recovery and Reinvestment Act (ARRA) funding in FY 2008-09, Michigan qualified for 84.0% more LIHEAP funding than what was received in the previous year. Since 2010, however, the Federal government has steadily decreased funding nationwide, and this decline is likely to continue. The amount of the State's LIHEAP block grant peaked in FY 2009-10 at \$249.0 million and will have decreased by 78.0%, if the FY 2013-14 grant remains \$139.7 million.

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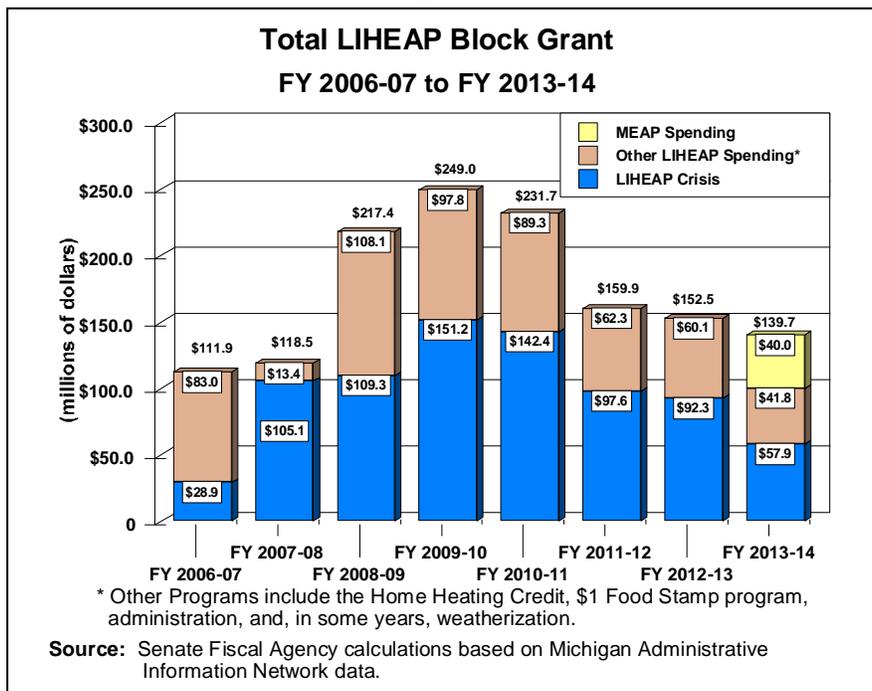
<sup>1</sup> This legislation is discussed below, and a detailed Senate Fiscal Agency analysis of Senate Bill 284, enacted as Public Act 95 of 2013, can be found at <http://www.legislature.mi.gov/documents/2013-2014/billanalysis/Senate/pdf/2013-SFA-0284-N.pdf>.



**Figure 1**



**Figure 2**





## **The Low-Income Energy Efficiency Fund**

Public Act (PA) 141 of 2000 enacted the Customer Choice and Electricity Reliability Act. Among other things, the Act established LIEEF as a State Restricted fund that was permitted to collect up to \$90.0 million in revenue. 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, which ultimately led to the disbandment of the fund in 2011.

## **Temporary Funding Solutions**

In response to loss of LIEEF Restricted revenue, the Legislature passed legislation to provide temporary funding for crisis assistance in FY 2011-12 and FY 2012-13.

In FY 2011-12, PA 274 of 2011, a supplemental appropriation, included \$35.0 million for the Vulnerable Household Warmth Fund. According to the Department of Human Services (DHS), the funding made it possible for the Department to continue to provide emergency heating and energy assistance for any eligible family or individual. Without passage of the legislation, the Department indicated that the crisis assistance funding would have been exhausted by May 2012, four months before the close of the fiscal year.

In FY 2012-13, the DHS budget (PA 200 of 2012, Article X) included one-time funding for crisis assistance in the State Emergency Relief Energy Services line item. The budget provided a total of \$59.9 million (\$27.7 million GF/GP) for this purpose.

## **Energy Work Group**

In the spring of 2012, Senator Bruce Caswell led a work group to review the State's model for providing low-income energy assistance, which was required in the FY 2011-12 DHS budget (PA 63 of 2011, Article X, Sec. 1103). Senator Caswell, along with representatives from other Senate and House offices (including Senator Mike Nofs), and representatives from the DHS, Michigan Public Service Commission (MPSC), utility companies, and nonprofit organizations convened to discuss the energy assistance model and ways to improve services.

The work group launched a conversation about the crisis model of energy assistance. The model requires a recipient to demonstrate an immediate need for assistance, such as a past-due or shut-off notice for utilities. One of the key problems identified with this model was that it limited the utilities' ability to work with customers to develop a long-term budget plan and also to avoid issuing shut-off notices. Over the course of several meetings, work group participants provided input on several key issues pertaining to the service model, including



process, accountability, affordability, and measures of success.<sup>2</sup> The work group also discussed logistical matters, including how to improve the current system, develop a path to self-sufficiency, address energy needs statewide, implement fees, and disburse funds once they were collected. When the process was complete, Senator Caswell introduced Senate Bill 1135 (PA 615 of 2012) and Senator Nofs introduced SB 1134 in 2012, which was reintroduced in the following year as SB 284 (PA 95 of 2013). The enacted legislation was based on the work group discussions and included contributions from the House.

### **Michigan Energy Assistance Act: PA 615 of 2012**

The Michigan Energy Assistance Program was established with the enactment of PA 615 of 2012, and went into effect on October 1, 2013.<sup>3</sup> The program makes it possible for eligible individuals to obtain energy assistance before they receive a shut-off notice for their energy or utility services. By reaching individuals before they experience a crisis, the goal of the program is to eliminate the costs incurred by the utilities and low-income families when utilities are turned off and then reinstated. The language also provides for individuals who use deliverable fuels to receive assistance.

The Act allows the program to be funded with any revenue source that is appropriated to the line item, and specifically refers to LIEAF. The Act allows the Department of Human Services, in consultation with the Michigan Public Service Commission, to contract with various third parties to provide energy assistance. Language also requires performance metrics for the contracts, and requires that 92.0% of funds be used for direct energy payments. A single-page application for the program is also identified. The maximum amount of LIEAF funding that may be spent outside of the crisis season (November 1 through May 31) is limited to 30.0%. (Up to \$15.0 million may be used during the summer months.) The Act does not restrict the use of Federal funding to the crisis season.

By October 1, 2014, agencies that contract with the DHS to receive funding under the MEAP program must provide or coordinate services that will enable participants to become or move toward becoming energy self-sufficient. Self-sufficiency assistance includes programs that help recipients pay their energy bills on time, help them develop a budget for energy costs, and teach them how to optimize energy efficiency. Previously, the old LIEEF program allowed revenue to be used for weatherization projects, but the new LIEAF revenue will not be used in this way.

### **The DHS Pilot Program with DTE Energy**

In FY 2011-12, the DHS implemented a pilot program with DTE Energy called the Low-Income Energy Self-Sufficiency program. The program received \$6.5 million from the DHS

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<sup>2</sup> The DHS provided a legislative report on the work group findings and recommendations. It can be found at the following link:

[http://michigan.gov/documents/dhs/SER\\_LIHEAP\\_Workgrp\\_Report\\_396229\\_7.pdf?20130930120509](http://michigan.gov/documents/dhs/SER_LIHEAP_Workgrp_Report_396229_7.pdf?20130930120509).

<sup>3</sup> The Senate Fiscal Agency summary of Senate bill 1135, enacted as Public Act 615 of 2012, can be found at <http://www.legislature.mi.gov/documents/2011-2012/billanalysis/Senate/pdf/2011-SFA-1135-N.pdf>



in its first year and \$6.5 million again in FY 2012-13. It is based on both the work group discussions and the guidelines for energy self-sufficiency that are defined in PA 615 of 2012.

The pilot program targeted DHS clients and DTE Energy clients. In order to participate in the pilot program, a client had to be low-income, eligible for State energy crisis assistance, and using less than \$2,500 worth of combined energy services annually. While participating in the pilot, the client was not permitted to receive crisis assistance. In order to remain compliant, the client was required to pay a reduced rate to DTE Energy on a consistent basis, with the option of some arrearage forgiveness in some cases. The pilot operated statewide, with a high concentration of clients in southeastern Michigan.

Both DTE Energy and the DHS consider the pilot program to be a success. As of spring 2013, DTE Energy had enrolled 20,000 customers into the pilot. Of these 20,000 customers, just 60 had been disconnected from services due to nonpayment. Without the pilot program, DTE Energy indicated that, under normal circumstances, 11,000 of those customers would have been disconnected in the same time frame.<sup>4</sup>

### **Energy Funding in the FY 2013-14 Enacted Budget**

The enacted FY 2013-14 budget for the DHS includes two line items for an energy self-sufficiency program, both of which were based on the MEAP requirements (PA 615 of 2012):

- 1) Michigan Energy Assistance Program, which was funded with \$60.0 million in anticipated Restricted funding.
- 2) Energy Self-Sufficiency Program, which was funded with \$25.0 million in Federal LIHEAP funding.

The Governor's FY 2013-14 budget proposed MEAP, providing the placeholder for \$60.0 million in Restricted funding, and the Senate concurred. The House budget, however, did not include the Restricted fund source, instead funding the line with Temporary Assistance for Needy Families and General Fund/General Purpose dollars. In order for the MEAP program to go into effect, it required an appropriation. As the bill proposed by Senator Nofs to create the Restricted fund source had not been enacted yet, the fate of MEAP was uncertain during the budget process.

Due to this uncertainty, Senator Caswell proposed the Energy Self-Sufficiency Program line item in the Senate budget, and in the Conference budget, the Senate and House agreed to shift \$25.0 million in Federal LIHEAP funding to the line. The Energy Self-Sufficiency Program was defined by boilerplate Section 621, which copied most of PA 615 word-for-word. The proposal was intended to ensure that the program model for energy self-sufficiency would be enacted regardless of whether legislation to create the Restricted fund source passed. The \$25.0 million had its own line and boilerplate in order to avoid any potential conflicts with State statute in the event that MEAP was funded with a new Restricted fund source. Subsequently, Senator Nofs introduced SB 284 (PA 95 of 2013),

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<sup>4</sup> DTE Energy provided testimony on the pilot program before the Senate Energy and Technology Committee on April 30, 2013.



which created LIEAF to replace the defunct LIEEF revenue. Pursuant to Section 621 of the budget act, the DHS may transfer the \$25.0 million that was appropriated in the Energy Self-Sufficiency Program line item back to the Low-Income Home Energy Assistance Program line item.

### **Low-Income Energy Assistance Fund: PA 95 of 2013**

Public Act 95 of 2013 created the Low-Income Energy Assistance Fund within the State Treasury to replace the defunct LIEEF program. The Low-Income Energy Assistance Fund is a State Restricted fund source that must be used for MEAP, as it was defined in PA 615 of 2012.

The Act includes several guidelines for the implementation of the Fund. The maximum amount the Fund can collect is \$50.0 million (rather than the \$60.0 million that was originally proposed) and there is a \$1 cap on monthly customer fees. Utilities may opt out of the collection program by annually filing a notice with the MPSC, but these utilities will not be permitted to shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account. The Act pertains only to electricity. Additionally, the DHS in conjunction with the MPSC must ensure that the money that is collected from a geographic area is also returned to the same area.

The Michigan Public Service Commission will implement a funding factor of \$0.99 that will be applied to customers' electric bills (residential and commercial), appearing as a separate line item. The funding factor will be added to each retail billing meter (but not more than one residential meter per residential site), and will be payable monthly by every customer receiving retail distribution service from an electric utility, regardless of the identity of the customer's electric generation supplier. Previously, the funding factor was applied to both gas and electricity rather than electricity alone. Under the old LIEEF plan, a combined Consumers residential customer would have paid an average of \$1.36 per month; a combined DTE customer would have paid \$1.85; a combined Consumers electric and DTE gas customer would have paid \$0.78; and a combined DTE electric and Consumers gas customer would have paid \$2.43 monthly. The combined commercial rates were higher, as well. All of the previous industrial rates were significantly higher.<sup>5</sup>

### **Spending Trends: Crisis Assistance and MEAP**

Figure 3 shows actual spending on both crisis assistance and the new self-sufficiency model since FY 2006-07 (prior to the availability of temporary Federal ARRA funding). Most of the funding comes from State Restricted (LIEEF and LIEAF) and Federal sources (LIHEAP).

The Low-Income Energy Efficiency Fund was permitted to collect up to \$90.0 million in revenue. The funding was distributed to the DHS, nonprofit organizations, and utility companies for both crisis assistance and energy efficiency projects. For example, in FY 2010-11, LIEEF provided a total of \$82.0 million in grants to the DHS and private organizations. In order to provide crisis assistance, the DHS received \$36.9 million and

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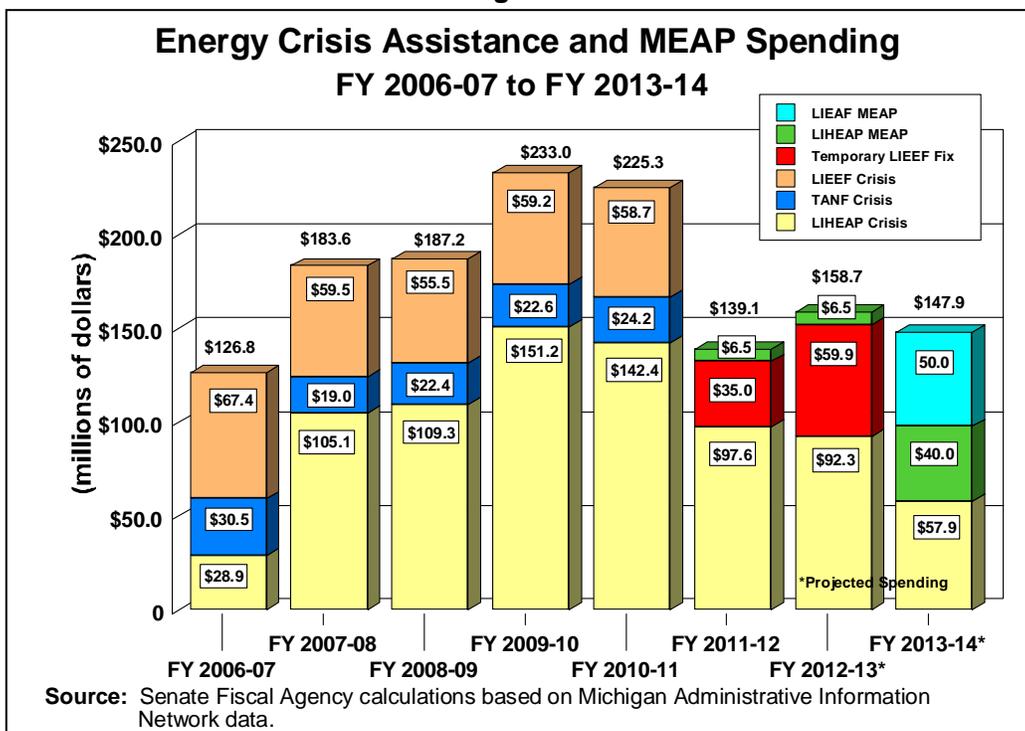
<sup>5</sup> Data provided by the Michigan Public Service Commission.



private organizations received a total of \$21.8 million. Additionally, energy efficiency grants totaling \$16.8 million to private organizations and \$10.0 million for the DHS were provided.

The new LIEAF will be permitted to collect up to \$50.0 million in revenue, which must be used exclusively for low-income energy assistance through MEAP.

**Figure 3**



**Notes:** 1) Federal LIHEAP spending trends show crisis and MEAP spending only. The trends do not show other programs funded by LIHEAP, including the Home Heating Credit, weatherization, and the enhanced food assistance program. 2) LIEEF Restricted revenue provided funding for various types of energy projects, such as weatherization. The spending trends in this graph represent only LIEEF grants that the DHS and other private organizations received to provide crisis assistance.

In FY 2006-07, LIEEF Restricted revenue accounted for 53.1% of the total crisis assistance spending. In FY 2009-10, the proportion of LIEEF spending declined significantly to 25.4% with the influx of temporary Federal funding. In FY 2013-14, the proportion of the new LIEAF revenue in total energy spending is 35.2%, demonstrating the decline of Federal dollars and increased reliance on State revenue. The Restricted funding source will continue to represent a greater portion of energy funding as Federal resources decrease.

The State did not allocate as much Federal funding to crisis assistance in FY 2006-07 as in other years. In FY 2006-07, the State's LIHEAP block grant totaled \$111.9 million compared with \$118.5 million in the following year (Figure 2). Although the grant did not increase substantially in FY 2007-08, the State allocated a much greater portion of the total grant to crisis assistance, increasing the portion from \$28.9 million to \$105.1 million.



## **FY 2013-14 Program Implementation**

The DHS and the Department of Licensing and Regulatory Affairs (LARA) have entered into an interagency agreement in order to implement the new MEAP. The program will receive a total of \$90.0 million: \$50.0 million from the LIEAF State Restricted revenue and \$40.0 million from the Federal LIHEAP block grant. Funding will be distributed through a grant process to eligible third-party agencies, which include nonprofit organizations, private agencies such as utility companies, and public agencies or local units of government.

The Michigan Public Service Commission within LARA is tasked with issuing a Request for Proposal (RFP) for the grants and administration of the program. The MPSC also will have the ability to conduct audits of grantees. The MPSC and the DHS will work together to select grantees and to complete an annual report to the Legislature. On October 25, 2013, the MPSC announced \$89.6 million in grants to 14 organizations including DTE Energy. Each organization will develop its own energy self-sufficiency program based on the guidelines in the RFP.

Implementation of MEAP is still in the early, initial roll-out phase. The plans currently include several new policies that launched at the discretion of the DHS, as current State statute and Federal rules provide flexibility. Among these policies is the decision to transfer \$40.0 million in Federal LIHEAP funding to MEAP, as the Department has the authority to allocate the Federal fund source. Additionally, the DHS will retain \$57.9 million in Federal LIHEAP funding for crisis assistance. According to the DHS's new policy, crisis assistance will not be made available from June 1 to October 31. While clients will not be able to receive both MEAP and crisis assistance, the goal is to recruit as many clients as possible into the self-sufficiency path.

## **Conclusion**

While the crisis assistance program model is still available to eligible low-income residents throughout the State, it is no longer the only option for energy services for those in need. Through the efforts of the Legislature, Department of Human Services, Michigan Public Service Commission, utility and energy providers, and nonprofit organizations, the State has developed an approach that creates a path for self-sufficiency. As the availability of Federal funding continues to decline, the new LIEAF Restricted fund source will provide a proportionately greater share of low-income energy assistance in the State.