MEMORANDUM



DATE: September 25, 2012

TO: All Interested Parties

FROM: Ben Gielczyk, Senior Fiscal Analyst, and Jim Stansell, Economist

RE: Economic Vitality Incentive Program

This memo provides information on constitutional and statutory revenue sharing and the development and enactment of the Economic Vitality Incentive Program (EVIP) for cities, villages, and townships (CVTs) in the FY 2011-12 and FY 2012-13 budgets.

Revenue Sharing Background

Historically, CVTs have received revenue sharing payments through constitutionally required revenue sharing payments and legislatively appropriated statutory revenue sharing payments. Constitutional revenue sharing payments are fixed at 15.0% of gross collections of the state sales tax collected at a 4.0% rate and are distributed to CVTs on a per capita basis. Fully-funded statutory revenue sharing payments (including payments to counties) are defined as 21.3% of gross collections of the state sales tax collected at a 4.0% rate. Full funding for just CVTs would be approximately 15.96% of gross collections of the state sales tax collected at a 4.0% rate.

While constitutional revenue sharing payments are protected under Article IX, Section 10 of the Michigan Constitution, statutory revenue sharing is subject to annual appropriation. Over the last decade, statutory revenue sharing has regularly been appropriated at less than full funding as part of efforts to balance the state budget (See Attachment 1). Amounts not appropriated are available for appropriation from GF/GP funds.

Through FY 2002-03, statutory revenue sharing distributions were determined by the statutory formula developed in PA 532 of 1998.² While statutory revenue sharing was initially distributed on a formula basis in FY 2002-03, in December of that fiscal year Executive Order 2002-22 reduced revenue sharing by \$53.1 million. Rather than calculate each CVT's share of the reduced statutory revenue sharing amount by running it through the formula, the legislature chose to reduce each CVT's total revenue sharing payment by an equal percentage of 3.5%.

Since FY 2002-03, the formulas developed in PA 532 of 1998 for determining statutory revenue sharing have been abandoned and the act was amended annually to set the combined revenue sharing payments (constitutional and statutory) to each CVT as a percentage of the previous fiscal year's combined payment for that CVT. Since constitutional revenue sharing payments cannot be altered, any changes in annual appropriations for combined revenue sharing have been made in statutory revenue sharing payments.

Prior to the enactment of EVIP, statutory revenue sharing payments had been reduced on a regular basis in an effort to balance the state budget. As a result, statutory revenue sharing payments had

House Fiscal Agency • Anderson House Office Building • P.O. Box 30014 • Lansing, MI 48909 Phone: (517) 373-8080 • Fax: (517) 373-5874 • Website: www.house.mi.gov/hfa

¹ MCL 141.913

² The statutory formula can be found in PA 140 of 1971. There is also a summary of the formula on the Michigan Department of Treasury website at <u>http://www.michigan.gov/treasury/0,4679,7-121-1751_2197-5658--,00.html</u>. Statutory formulas enacted under PA 532 of 1998 sunset on September 30, 2007.

been steadily declining as a percentage of overall revenue sharing payments (See Attachment 1). Correspondingly, the number of local units receiving statutory revenue sharing declined, with a growing number of units receiving only constitutional payments. The number of CVTs that received a statutory revenue sharing payment dropped from 1,775 in FY 1997-98 to 740 in FY 2010-11.³

Economic Vitality Incentive Program

FY 2011-12 legislative budget negotiations led to the elimination of statutory revenue sharing and the creation of an Economic Vitality Incentive Program (EVIP) in order to restructure the distribution method of unrestricted payments to CVTs. The framework of the program was originally proposed in the Governor's Special Message on Community Development and Local Government Reforms. The stated goal of the program is to reward "best practices" by providing "the incentives and flexibility to engage in serious cost control measures."⁴ The EVIP was revised and continued in the FY 2012-13 budget. Details of the EVIP and the Competitive Grant Assistance Program, a component of the EVIP, are explained below.

Funding Levels

FY 2011-12

Legislative budget negotiations resulted in the adoption of a \$200.0 million line item appropriation for the EVIP in FY 2011-12. In addition to the line-item appropriation, the FY 2011-12 budget included \$15.0 million in one-time restricted (sales tax) revenue to supplement the line-item appropriation. This appropriation was included in boilerplate (Section 1201) in the General Government article (Article VIII) of PA 63 of 2011.

Under the FY 2010-11 budget, statutory revenue sharing had totaled \$321.4 million.⁵ If combined revenue sharing payments to CVTs were maintained at 100.0% of FY 2010-11 payments, the estimated FY 2011-12 statutory revenue sharing appropriation would have been \$311.0 million. Total funding for the EVIP in FY 2011-12 represented a 37.8% reduction from the FY 2010-11 statutory revenue sharing appropriation and a 30.9% reduction from the estimated FY 2011-12 statutory revenue sharing payment.

Of the \$215.0 million appropriated for the EVIP, \$210.0 million was made available for incentive payments to CVTs. The remaining \$5.0 million was placed into a Competitive Grant Assistance Program to assist CVTs and counties with the costs associated with service consolidation and cooperation, mergers, and interlocal agreements.⁶ The FY 2011-12 Competitive Grant Assistance Program was supplemented with \$10.0 million (sales tax revenue) in PA 236 of 2012 to increase total funding to \$15.0 million. The Competitive Grant Assistance Program is discussed in more detail below.

³ In FY 2010-11 the number of CVTs receiving a statutory revenue sharing payment increased from 577 to 740 due to the required mid-year Census changes.

⁴ See the Governor's Special Message on Community Development and Local Government Reforms at <u>http://www.michigan.gov/documents/snyder/2011Special_Message-1_348148_7.pdf</u>.

⁵ FY 2010-11 statutory revenue sharing was supplemented to account for sales tax revenue estimates from the May 2011 Consensus Revenue Estimating Conference and the gains and losses in population due to the 2011 federal decennial census. See PA 83 of 2011.

⁶ Compared to the Governor's original proposal, PA 63 of 2011 broadened the acceptable uses of the \$5.0 million in grant money available for local governments.

FY 2012-13

FY 2012-13 budget negotiations resulted in the adoption of a \$217.5 million (sales tax revenue) ongoing line item appropriation for the EVIP. In addition to the ongoing line item appropriation, \$7.5 million (sales tax revenue) was included in the "One-Time Basis Only" section of the budget act. Therefore, a total of \$225.0 million was allocated to the EVIP for cities, villages, and townships; an increase of \$15.0 million (7.1%) over FY 2011-12 EVIP appropriations.

The enacted FY 2012-13 General Government budget, PA 200 of 2012, included a separate line item appropriation for the Competitive Grant Assistance Program. This differs from the FY 2011-12 budget, under which funding for the program was built into the EVIP line item and one-time boilerplate appropriation. The appropriation for FY 2012-13 totals \$15.0 million (\$10.0 million designated as one-time) which equals the supplemented year-to-date Competitive Grant Assistance Program appropriation for FY 2011-12.

Boilerplate language is included stipulating that any unexpended funds appropriated in FY 2012-13 for the EVIP, County Incentive Program (CIP), or Competitive Grant Assistance Program are designated as work project appropriations to be used for the purposes outlined in the Competitive Grant Assistance Program (Article VIII, Section 951(2) of PA 200 of 2012).⁷

Structure of the EVIP

The EVIP was initially created in boilerplate in the FY 2011-12 General Government budget.⁸ The EVIP was subsequently amended on two occasions in supplemental appropriations acts, which are explained in more detail below. Because the EVIP is created in the boilerplate language of an annual appropriations act, it must be renewed in subsequent budget bills, or incorporated into a permanent statute, to continue in future fiscal years.

For FY 2012-13, the legislature retained the EVIP in boilerplate of the General Government budget. Various changes, both structural and substantive, were incorporated to account for the shift in legislative priorities in the second year of the program. A major thematic change in the EVIP was the bifurcation of certain requirements between CVTs that had qualified for funding under a category in FY 2011-12 and CVTs that did not qualify. Also, the Competitive Grant Assistance Program was removed from the EVIP boilerplate and set up in an individual boilerplate section. The Competitive Grant Assistance Program is highlighted at the end of this memo.

In an effort to incentivize certain actions by local governments, the EVIP set up a three-staged qualification process for those CVTs eligible to receive an EVIP incentive payment. For a CVT to be considered eligible for an incentive payment under the EVIP, the CVT must have received a statutory revenue sharing payment in FY 2009-10 that was greater than \$4,500. For both FY 2011-12 and FY 2012-13, there are 486 CVTs eligible to receive EVIP payments. By implementing this threshold, 269 fewer CVTs will receive an EVIP payment in FY 2011-12 and FY 2012-13 than received a statutory revenue sharing payment in FY 2010-11.

In FY 2011-12, eligible CVTs were able to qualify for a maximum incentive payment equal to approximately 67.8%⁹ of their FY 2009-10 statutory revenue sharing payments. The increase in

⁷ PA 200 of 2012 included a new County Incentive Program (CIP) for 20.0% of overall county payments. A detailed analysis of the CIP is the subject of a separate memorandum.

⁸ PA 63 of 2011, Article VIII, Section 951.

⁹ The exact figure is 67.837363% of their FY 2009-10 statutory revenue sharing payments.

funding in FY 2012-13 increased the maximum incentive payment for CVTs to 72.7% of their FY 2009-10 statutory revenue sharing payments.¹⁰

Payment Structure

Eligible CVTs qualify for one-third of their funding in each of three stages, or categories. In FY 2011-12, a CVT must have qualified for each category of funding by the specified due date or it forfeited the remaining incentive payment associated with the category.¹¹ Specifically, each category accounted for one-third of the funding for each of the six payments. Therefore a CVT received a portion of the funding associated with categories two and three prior to the certification due date of the category. If the CVT failed to qualify for a category, it would only forfeit the funds associated with the category after the certification date. The two charts below provide an example of how the payment structure functioned in FY 2011-12.

FY 2011-12 Scenario #1: Qualified Under All Categories EVIP Eligibility - \$90,000				
Payment	Category 1	Category 2	Category 3	TOTAL
October	\$5,000	\$5,000	\$5,000	\$15,000
December	5,000	5,000	5,000	15,000
February	5,000	5,000	5,000	15,000
April	5,000	5,000	5,000	15,000
June	5,000	5,000	5,000	15,000
August	5,000	5,000	5,000	15,000
TOTAL	\$30,000	\$30,000	\$3 <mark>0,000</mark>	\$90,000

Table 1

Table 2

FY 2011-12 Scenario #2: Qualified Under Categories 1 and 2; Failed to Qualify Under Category 3 EVIP Eligibility - \$90,000

Payment	Category 1	Category 2	Category 3	TOTAL
October	\$5,000	\$5,000	\$5,000	\$15,000
December	5,000	5,000	5,000	15,000
February	5,000	5,000	5,000	15,000
April	5,000	5,000	5,000	15,000
June	5,000	5,000	0	10,000
August	<u>5,000</u>	<u>5,000</u>	<u>0</u>	10,000
TOTAL	\$30,000	\$30,000	\$20,000	\$80,000

As enacted, the FY 2011-12 EVIP did not allow for CVTs to qualify for partial funding for any of the three categories. However, the passage of PA 278 of 2011, a supplemental appropriations act, revised the EVIP language to allow for a CVT to gualify for a partial payment under categories two and three, among other things. A complete list of amended changes to the FY 2011-12 EVIP is included in the detailed category descriptions below.

¹⁰ The exact figure is 72.68289% of their FY 2009-10 statutory revenue sharing payment

¹¹ Payments are distributed on the last business day of October 2011, December 2011, February 2012, April 2012, June 2012, and August 2012.

The FY 2012-13 EVIP payment structure was amended to have the October and December payments support category one, the February and April payments support category two, and the June and August payments support category three. A CVT would be able to qualify for a partial payment (1/2 of category funding) if it was able to certify prior to the first day of the second payment month in each category. The following tables provide an example of how the FY 2012-13 payment structure would function under the same set of circumstances as Table 1 and 2.

Table 3			
FY 2012-13			
Scenario #1: Qualified Under All Categories			
EVIP Eligibility - \$90,000			

Payment	Category 1	Category 2	Category 3	TOTAL
October	\$15,000	\$0	\$0	\$15,000
December	15,000	0	0	15,000
February	0	15,000	0	15,000
April	0	15,000	0	15,000
June	0	0	15,000	15,000
August	<u>0</u>	<u>0</u>	<u>15,000</u>	15,000
TOTAL	\$30,000	\$30,000	\$30,000	\$90,000

Table 4

FY 2012-13

Scenario #2: Qualified Under Categories 1 and 2; Failed to Qualify Under Category 3 EVIP Eligibility - \$90,000

Payment 1	Category 1	Category 2	Category 3	TOTAL
October	\$15,000	\$0	\$0	\$15,000
December	15,000	0	0	15,000
February	0	15,000	0	15,000
April	0	15,000	0	15,000
June	0	0	0	0
August	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	\$30,000	\$30,000	\$0	\$60,000

For FY 2011-12 and 2012-13, forfeited funds and any other unexpended funds from the EVIP, CIP, and Competitive Grant Assistance Program are designated as work project appropriations and shall be available for the purposes outlined in the Competitive Grant Assistance Program until September 30, 2016. The three categories of funding are described in more detail below.

Category #1: Accountability and Transparency

For FY 2011-12, the first category of funding incentivized accountability and transparency. Specifically, an eligible CVT had to produce, make readily available to the public, and certify with the Department of Treasury a "citizen's guide" and a "performance dashboard" of its local finances, which had to include a recognition of its unfunded liabilities. In order to qualify for funding under this category, each eligible CVT had to submit it's "citizen's guide" and "performance dashboard" to the

Department of Treasury no later than December 1, 2011.¹² The Department of Treasury indicated that CVTs could create the required "citizen's guide" and "performance dashboard" in a manner best suited for the local unit. Nevertheless, in an effort to provide consistency in reporting, the Department of Treasury developed guidelines and templates that CVTs could follow for both the "citizen's guide" and "performance dashboard."¹³

For FY 2012-13, the first category of funding continues to incentivize accountability and transparency. The category was modified to include a projected budget report for the current year and the immediately following fiscal year. Specifically, the projected budget report is required to include revenues and expenditures, a detailed listing of debt service requirements, and an explanation of the assumptions used in formulating the budget projections. The remaining requirements, both the citizen's guide and dashboard, are retained from FY 2011-12. The certification date for a full payment is October 1, 2012. A local unit of government would qualify for half of their category one payment by certifying after October 1, 2012, but before December 1, 2012. All local units, regardless of whether they qualified in FY 2011-12 under category one, must follow the above-listed requirements to qualify for funding under this category.

Category #2: Consolidation of Services

The second category of funding incentivizes cooperation, collaboration, and consolidation among CVTs. For FY 2011-12, however, the category stopped short of requiring implementation of the cooperation, collaboration, and consolidation plan to qualify for funding. Rather, the eligible CVT was required to certify with the Department of Treasury that it had developed and made available to the public a plan with "1 or more proposals to increase its existing level cooperation, collaboration, and consolidation or with other jurisdictions." The plan was also required to include past and future service cooperation, collaborations, and consolidations already in place. Additionally, the plan was required to include savings realized from any past cooperation, collaboration, or consolidation and an estimate of the potential savings from any new service cooperation, collaboration, collaboration, and consolidation plan with the Department of Treasury no later than March 1, 2012 for the CVT to qualify for their incentive payment.¹⁴

For FY 2012-13, the legislature enacted a bifurcated category two to differentiate requirements for those CVTs that qualified for a payment under category two in FY 2011-12 and those CVTs that did not qualify in FY 2011-12. The requirements for each class of CVT are as follows:

 A CVT certifying under category two for the first time "shall include a listing of any previous services consolidated with an estimated cost savings amount for each consolidation." Additionally, the CVT shall include one or more new proposals to increase its current level of cooperation, consolidation, or collaboration which shall include an estimate of potential savings and a timeline for implementing the new proposal. There is no requirement that the CVT show evidence that the cooperation, consolidation, or collaboration has been implemented.

¹² Category one date was amended to December 1, 2011 from October 1, 2011 in PA 278 of 2011. This change allowed 18 local units to qualify for full funding under category one. Total payments to those local units of government affected by the change totaled \$395,725.

¹³ See <u>http://www.michigan.gov/treasury/0,4679,7-121-1751_2197-259606--,00.html</u>.

¹⁴ Category two certification date was amended to change January 1, 2012 to March 1, 2012 in PA 107 of 2012 to qualify for a full funding under category two. The supplemental act change allowed two CVTs that had not certified by January 1, 2012, but certified by March 1, 2012, to qualify for full funding. Certifying after March 1, 2012, but prior to April 1, 2012 would have allowed the CVT to receive a partial payment of their category two funding.

 A CVT that certified under category two in FY 2011-12 shall include an updated status of the proposals in its FY 2011-12 certification, including barriers to completion and a timeline for fully implementing the previous year's plan. The FY 2012-13 plan shall also include one or more new proposals to increase existing levels of cooperation, collaboration, and consolidation or a detailed explanation of why increasing existing levels cooperation, collaboration, and consolidation is not feasible.

A CVT must certify with the Department of Treasury by February 1, 2013 to qualify for a full payment under category two. A local unit of government would qualify for half of their category two payment by certifying after February 1, 2013, but before April 1, 2013.

Category #3: Employee Compensation

The third category of funding incentivizes reforming employee compensation. For FY 2011-12, to qualify for an incentive payment under this category, an eligible CVT was provided with two certification options.¹⁵

Under the first option, a CVT was required to certify with the Department of Treasury that it had publicized¹⁶ an employee compensation plan that the CVT "intends to implement with any new, modified, or extended contract or employment agreements for employees not covered under contract or employment agreement." Therefore, while having certified that a plan had been developed and publicized was a requirement for funds under this category, it should be noted that, unlike category two where certification of the plan would be enough, the intent was that the compensation plan would actually be implemented under any new, modified, or extended contract or employment agreement to fulfill the requirements of the category.

In boilerplate, CVTs were provided guidance on what must be included in the employee compensation plan. Each eligible CVT must include, at a minimum, the following:

- Newly hired employees that are eligible for retirement plans must be placed on a retirement plan that caps the employer contribution at 10.0% for those employees eligible for social security benefits. For employees not eligible for social security benefits, the employer contribution must be capped at 16.2%.
- If an employee is a on a defined benefit pension plan, the maximum multiplier shall be 1.5% for those employees eligible for social security benefits. If postemployment health care is not provided, the maximum multiplier shall be 2.25%. For those employees that are not eligible for social security benefits, the maximum multiplier shall be 2.25%. If postemployment health care is not provided, the maximum multiplier shall be 3.0%.
- For those employees on a defined benefit pension plan, the final average compensation shall be calculated using a minimum of three years of compensation and shall not include more than 240 hours of paid leave. Additionally, overtime hours cannot be used in calculating the final average compensation.
- If health care benefits are offered, an employee shall pay a minimum of 20.0% of the premium cost.¹⁷ In the alternative, an employer's share of the local health care plan costs shall be cost

¹⁵ PA 107 of 2012, a FY 2011-12 supplemental appropriations act, amended the EVIP to create a second qualifying option for an eligible CVT under category three. As originally enacted, the EVIP required CVTs to develop an employee compensation plan.

¹⁶ "Publicized" is defined as made available for public viewing in the CVT clerk's office or posted on a publicly accessible Internet site.

¹⁷ Please note the requirements of recently enacted Senate Bill 7. Compliance with the requirements of Senate Bill 7 effectively brings the CVT into compliance with the health care benefits requirement of the EVIP program.

competitive with the state's share of the new state preferred provider organization (PPO) health care plan.¹⁸

Under the second option, a CVT was required to certify with the Department of Treasury that it had complied with one of the following:

- Certify that it is in compliance with the requirements of the Publicly Funded Health Insurance Contribution Act, 2011 PA 152, MCL 15.561 to MCL 15.569.
- If the CVT does not offer medical benefits, the eligible CVT was required to certify with the Department of Treasury that it does not offer medical benefits to its employees.

A CVT was required to certify under either option with the Department of Treasury by June 1, 2012 to qualify for a full payment under category three. A CVT would qualify for a partial payment under category three by certifying after June 1, 2012, but before August 1, 2012.

For FY 2012-13, the category three certification requirements were unchanged from the FY 2011-12 category three requirement. A CVT will retain the two options explained in detail above. To receive full funding under category three, a CVT will need to certify by June 1, 2013. A CVT would qualify for partial funding if it certified after June 1, 2013, but prior to August 1, 2013.

The Department of Treasury is not required to specifically review each guide, dashboard, or plan; rather, the Department of Treasury was required develop a certification process for eligible CVTs to follow. For FY 2012-13, the EVIP requires the Department of Treasury to develop detailed guidance for a city, village, or township to follow in order to qualify for funding under each of the three categories. The guidance shall be posted on the Department of Treasury website and distributed to CVTs by October 1, 2012.

Competitive Grant Assistance Program

The Competitive Grant Assistance Program was incorporated in both the FY 2011-12 and FY 2012-13 General Government budget acts. While boilerplate in both bills provided general guidance, the Department of Treasury was tasked with developing a grant application process for local governments wishing to apply for service consolidation and cooperation grant funding. Qualification criteria developed by the Department of Treasury for FY 2011-12 grants included:

- Merger of two or more governmental units on or after October 1, 2011
- Consolidation of departments or a unified tax system across two or more governments
- Plan outlining cost savings, efficiencies created, and overall taxpayer benefits
- Timeframe for completion

In FY 2011-12, \$5.0 million was initially appropriated for the Competitive Grant Assistance Program to provide incentive-based grants to CVTs and counties that elect to combine government operations. PA 236 of 2012, a FY 2011-12 supplemental appropriations act, included an additional \$10.0 million for the Competitive Grant Assistance Program to be split evenly between general government operations cooperative efforts and public safety cooperative efforts, making the year-to-date total appropriation for the Competitive Grant Assistance Program \$15.0 million.

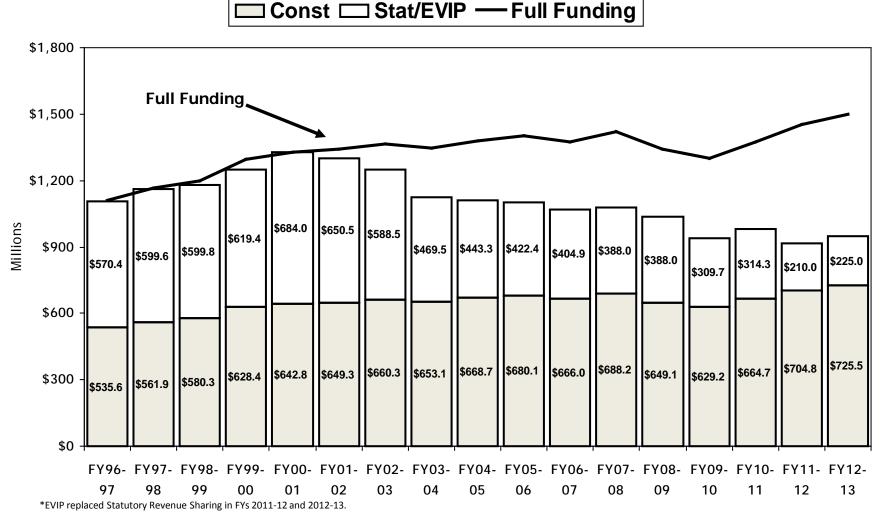
¹⁸ Applies to those employees hired by the state of Michigan after April 1, 2010. For a brief summary of the program, please see <u>http://www.michigan.gov/documents/mdcs/New_Hire_Spotlight_317332_7.pdf</u>.

For FY 2011-12, two rounds of grant awards were introduced. The first round of grant awards was announced on January 20, 2012; 28 projects received awards.¹⁹ The Department of Treasury announced a second round of grant awards following the passage of PA 236 of 2012 with over \$10.0 million of funding available.

For FY 2012-13, a total of \$15.0 million (\$10.0 million one-time) is appropriated for the Competitive Grant Assistance Program in a separate line item and boilerplate section (Section 951). As enacted, the program was expanded to include school districts and intermediate school districts (ISDs) in addition to the CVTs and counties. For a school district or ISD to qualify for grant funding, it must combine operations with a CVT or county. If a school district or ISD received funding under the school consolidation program they would not be eligible to receive funding under the Competitive Grant Assistance Program for the same qualifying project. The Department of Treasury is charged with developing an application process and method of grant distribution.

¹⁹ A listing of grantees can be found at <u>http://www.michigan.gov/treasury/0,4679,7-121-1755_1963-269779--</u>,00.html.

Attachment 1: Total Constitutional and Statutory/EVIP Revenue Sharing Payments to CVTs



House Fiscal Agency