

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: January 25, 2021

TO: Members of the Senate

FROM: Ellyn Ackerman, Ryan Bergan, John Maxwell, Cory Savino, Michael Siracuse Fiscal Analysts; Josh Sefton, Senior Fiscal Analyst; Steven Angelotti and Kathryn Summers, Associate Directors, and Christopher Harkins, Director

RE: Federal Stimulus Act in Response to the Coronavirus Pandemic: HR 133

At the end of calendar year 2020, the United States Congress passed House of Representatives bill (HR) 133, which was signed by the President on December 27, 2020, and enacted as Public Law No. 116-260. The Act included a wide range of issues; the purpose of this memorandum is to address briefly the most notable aspects of the Act pertaining to the coronavirus disease 2019, COVID-19, and issues affecting the State of Michigan.

In total, the Act appropriates approximately \$900.0 billion of additional COVID-19 relief to individuals and to state, local, and Federal programming around the nation. Of this amount, approximately \$325.0 billion is appropriated to aid small businesses, \$166.0 billion is appropriated for direct stimulus checks in the form of \$600 refundable tax credits for individual filers, \$120.0 billion is appropriated to extend unemployment insurance benefits, and \$82.0 billion is directed for the Education Stabilization Fund. Funding also is included related to vaccine distribution and administration, emergency rental assistance, broadband infrastructure, and Supplemental Nutritional Assistance Program benefits.

HR 133 DETAILS

Division M - Coronavirus Response and Relief Supplemental Appropriations Act, 2021

Title III: Department of Health and Human Services

Substance Abuse and Mental Health Services Administration. The Act provides \$4.25 billion to prevent, prepare for and respond to the COVID-19 pandemic. Of the \$4.25 billion, the Act allocates \$125.0 million to tribes, tribal organizations, urban Indian health organizations, or health or behavioral health service providers to tribes (although the Act does not specify how much of the \$125.0 million must come from each of the appropriations described below).

Substance Abuse Prevention and Treatment Block Grant Program. The Act appropriates \$1.65 billion for grants through the Substance Abuse Prevention and Treatment Block Grant Program. Per the Public Health Service Act, authorized activities under the Substance Abuse Prevention and Treatment Block Grant Program include the planning, carrying out, and evaluation of activities to prevent and treat substance use disorders. The Federal Funds Information for States (FFIS) estimates that Michigan will receive approximately \$52.2 million of this appropriation.

Community Mental Health Services Block Grant Program. The Federal Stimulus Act appropriates \$1.65 billion for grants through the Community Mental Health Services Block Grant Program. The funding from the Community Mental Health Services Block Grant that flows through the State

goes to Prepaid Inpatient Health Plans and Community Mental Health Services Programs to provide mental health services. The FFIS estimates that Michigan will receive approximately \$48.0 million of this appropriation. However, the Act requires that at least 50% of funds be provided directly to facilities defined in Section 1913(c) of the Public Health Service Act. This means that, of the \$48.0 million that the State is expected to receive, only \$24.0 million will flow directly through the State.

Community Behavioral Health Clinics. The Act includes \$600.0 million to support the Certified Community Behavioral Health Clinic Expansion Grant Program. This program increases access to community mental health and substance use disorder treatment by expanding the number and quality of certified community behavioral health clinics. Currently, there are seven certified community behavioral health clinics located in Michigan. Since this funding will be distributed as grants directly to community behavioral health clinics, there will be no direct impact on the State, but the estimated impact on clinics within the State is approximately \$18.0 million. This is in addition to the \$250.0 million included in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) for certified community behavioral health clinics.

Other Funding. The Act includes \$50.0 million for suicide prevention but there is not sufficient information as to how the funding will be distributed. It remains to be seen if any of this funding will flow through the State or if it will be delivered through grants to specific entities. This funding is in addition to \$50.0 million that was included for suicide prevention programs in the CARES Act.

The Act includes \$240.0 million for activities authorized under section 501(o) of the Public Health Service Act such as the provision of noncompetitive grants, contracts or cooperative agreements to public entities to enable those entities to address emergency substance abuse or mental health needs in local communities. This funding is in addition to the \$100.0 million included in the CARES Act for the same purposes. The money appears to be flexible funding that will not necessarily go to the states. The Act allows for the prioritization of these funds to eligible states that did not receive funds made available for these purposes under the CARES Act.

The Act includes \$50.0 million for Project AWARE (Advancing Wellness and Resiliency in Education), which provides grants to State Education Agencies, Local Educational Agencies, and communities to increase awareness of mental health issues among schoolchildren. From 2014 to 2018, Michigan received a Project AWARE grant of \$1.94 million per year; however, the Act does not provide information as to how much of the funding will be used for grants to each type of eligible entity. The Act includes \$10.0 million for the National Child Traumatic Stress Network to improve access to services for traumatized children. This funding will not flow through the State but will be awarded directly to the National Child Traumatic Stress Network.

Testing/Vaccines

COVID-19 Vaccine Distribution. The Act appropriates not less than \$4.5 billion of the total \$8.75 billion vaccine-related appropriation to states, localities, territories, and tribes to plan, prepare for, promote, distribute, administer, monitor, and track coronavirus vaccines to ensure broad-based distribution, access, and vaccination. Funds will be allocated using the Federal Fiscal Year (FY) 2019-20 Public Health Emergency Preparedness formula and funding may be used for obligations incurred before enactment related to vaccine promotion, preparedness, tracking, and distribution. It is estimated that Michigan will receive \$109.4 million of vaccine promotion, preparedness, tracking, and distribution funding.

COVID-19 Testing and Contact Tracing. The Act provides \$22.4 billion for states, localities, territories, and tribes for testing, contact tracing, surveillance, containment, and mitigation. From the total, \$2.5 billion is reserved for improving testing capabilities and other purposes in high-risk and underserved populations. The remaining funding will be allocated using the Federal FY 2019-20 Public Health Emergency Preparedness formula and must be allocated within 21 days of enactment. The funding may be used for rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-Federal facilities to improve state and local preparedness and response. It is estimated that Michigan will receive \$487.5 million for expenses associated with testing, contact tracing, surveillance, containment, and mitigation to monitor and suppress COVID-19, including tests for both active infection and previous exposure. The State must update its testing plans within 60 days after funds have been awarded and must submit quarterly reports on uses of funding.

Title III: Department of Education

Division M provides \$81.9 billion for the Education Stabilization Fund, which is distributed to outlying areas (0.5% of the total allocation), the Bureau of Indian Education (0.5%), Governor's Emergency Education Relief Fund (4.95%), the Elementary and Secondary Schools Emergency Relief Fund (66.33%), and the Higher Education Emergency Relief Fund (27.72%). The Act requires that states meet maintenance of effort requirements, which specify that FY 2021-22 State funding for elementary and secondary education and for higher education must be at least proportional to the average, total State spending for FYs 2017, 2018, and 2019. In addition, a district or public school academy, the State, an institution or higher education, or any other entity that receives funds under Division M is required, to the greatest extent practicable, to continue to pay its employees and contractors during any periods of disruption or closure related to COVID-19.

Governor's Emergency Education Relief (GEER). The Act allocates \$4.1 billion for the GEER to states under the same application requirements of the CARES Act. Of the \$4.1 billion, \$2.8 billion is awarded to governors with approved applications to provide grants for emergency assistance to nonpublic schools. The Act requires the Secretary of Education to issue a notice inviting applications within 30 days of enactment and to approve or deny a governor's application for funds within 15 days of receiving the application. The Act requires each governor to designate a state education agency (in Michigan, this is the Michigan Department of Education (MDE)) to administer the program. State education agencies will have to make applications available to nonpublic schools within 30 days after receiving the funds from governors with approved applications, and then approve or deny applications from nonpublic schools within 30 days. State education agencies must prioritize services or assistance to nonpublic schools that enroll low-income students and are most affected by the qualifying emergency. The amount of allotments to states will be based on the number of children aged five through 17 at or below 185% of poverty who are enrolled in nonpublic schools in the State. An estimate of Michigan's potential grant amount is not yet available. The MDE may reserve the greater of \$200,000, or 0.05%, of the grant amount for administration of the program providing grants for nonpublic schools. Michigan is estimated to receive \$86.8 million for this portion of the GEER fund.

For the remaining \$1.3 billion, allocations to states are based 60% on the population aged five to 24 and 40% on the Title 1 population. Governor's Emergency Education Relief funding may be used for emergency support grants to districts and charter schools that the MDE determines to be most affected by COVID-19; grants to institutions of higher education that the Governor determines have been affected most significantly by COVID-19; and support to any other higher education entity, school district, or charter school that the Governor deems essential for carrying

out emergency educational services to students. Any funds not awarded after one year are returned to the Federal government for reallocation. Funds must be used for activities authorized under the Elementary and Secondary Education Act, the Higher Education Act, child care and early childhood education, social and emotional support, and protection of education-related jobs. It is estimated that Michigan will receive \$38.9 million for this portion of the GEER fund.

Elementary and Secondary School Emergency Relief (ESSER). The Act allocates \$54.8 billion for ESSER. The allocation is to be distributed to states receiving CARES Act funds using the Title 1 basic grant formula. Of the amount received by the State, at least 90% must be allocated to local education agencies (local districts and public school academies) and up to 0.5% may be reserved for administration. The remaining funds (up to 9.5%) may be used for emergency needs as determined by MDE to address issues responding to COVID-19, including measuring and addressing learning loss. The funds may be allocated through the use of grants or contracts. It is estimated that Michigan will receive nearly \$1.7 billion in total; up to \$8.3 million of that amount may be used for administration. Approximately \$1.5 billion (at least 90%) must be distributed to districts (at least 90%); the remaining \$165.0 million will be available either for additional formulaic grants or for emergency needs, as determined by MDE. Any funds not awarded after one year must be returned to the US Department of Education.

Elementary and Secondary School Emergency Relief funds may be used for a number of activities, including COVID-19 response coordination; resources for school leaders; activities to address the unique needs of low-income children, children with disabilities, English language learners, minority students, students experiencing homelessness, and foster care youth; systems to improve the preparedness and response efforts of school districts; training on and supplies for sanitation and cleaning; planning and coordination of school closures including the provision of meals; purchasing of technology; mental health services; summer and after-school learning programs; learning loss mitigation; facility repairs and improvements; and projects to improve indoor air quality in schools. In addition, funds may be used for other activities necessary to maintain the operation of and continuity of services in school districts and to continue to employ existing staff.

Higher Education Emergency Relief (HEER)

The Act allocates \$22.7 billion for HEER; 89.0%, or \$20.2 billion, will be distributed directly to institutions of higher education to prevent, prepare for, and respond to COVID-19. Those funds will be distributed as follows:

- 37.5% based on relative share of full-time Pell students who were not exclusively enrolled in distance learning before the COVID-19 pandemic.
- 37.5% based on relative share of all Pell students who were not exclusively enrolled in distance learning before the COVID-19 pandemic.
- 11.5% based on relative share of full-time non-Pell students who were not exclusively enrolled in distance learning before the COVID-19 pandemic.
- 11.5% based on relative share of all non-Pell students who were not exclusively enrolled in distance learning before the COVID-19 pandemic.
- 1.0% based on relative share of full-time Pell students who were exclusively enrolled in distance learning before the COVID-19 pandemic.
- 1.0% based on relative share of all Pell students who were exclusively enrolled in distance learning prior to COVID-19 pandemic.

Seven percent, or \$1.7 billion, will be awarded based on each institution's current awards under the following Titles of the Federal Higher Education Act: Parts A and B of Title III (Strengthening Institutions), Parts A and B of Title V (Developing Institutions), and Subpart 4 of Part A of Title VII (Graduate and Postsecondary Improvement Programs). While these funds will be distributed proportionately to each institution's current awards under these programs, funds awarded must be used to address needs directly related to COVID-19.

Three percent, or \$680.9 million, will be awarded to for-profit institutions, distributed under the same formula as described for the 89.0% "pot". The final 0.5%, or \$113.5 million, will be distributed under Part B of Title VII, the Fund for the Improvement of Postsecondary Education. These funds will be distributed to institutions with the highest unmet need related to COVID-19, as determined by the United States Secretary of Education.

It is estimated that Michigan institutions will receive a total of about \$550.0 million under the Act. This figure is the statewide total, and reflects estimated awards for both public and private universities and colleges.

Title IV: Department of Transportation

Federal Transportation Aid – Overview. The Act provides \$45.0 billion in Federal grants to states for transit, aviation, Amtrak, Federal-aid eligible highway programs, and employee assistance for aviation workers and transportation services providers. Michigan's share, divided between the State and local units of government, is approximately \$454.6 million.

Federal-Aid Eligible Highways. The Act provides \$10.0 billion split among four separate Federal road programs. The largest share of this amount, \$9.8 billion, will be split among the states through the Surface Transportation Block Grant (STBG) Program. Michigan's share of this amount will be approximately \$261.6 million, most of which may be spent on the State's trunkline system for reconstruction and maintenance, with a few exceptions for local projects. The funds are provided by the Act as a 100% matching share, meaning the Michigan Department of Transportation (MDOT) will not have to match at 10% or 20% to use the aid, as it does with annual Federal aid through the STBG Program. The additional aid will be slightly more than an 18% increase in Federal aid for MDOT for FY 2020-21, and it will require an appropriation by the Legislature.

In addition to the STBG funding, the Act also sets aside \$114.6 million for the Federal Tribal Transportation Program, \$35.8 million for the Puerto Rico Highway Program, and \$9.5 million for the Territorial Highway Program. Any supplemental funding provided to local Michigan agencies through these programs likely will not flow through MDOT and will not require an appropriation by the Legislature.

Transit Programs. The Act provides \$14.0 billion in additional funding for transit agencies through three Federal programs: the Enhanced Mobility of Seniors and Individuals with Disabilities Program (Section 5310), the Urbanized Area Formula Grant Program (Section 5307), and the Rural Area Formula Grant Program (Section 5311).

The Act will distribute \$13.3 billion through the Urbanized Grant Program. The purpose of the aid is to assist with transit agency operating expenses and revenue losses that may have accrued beginning in January 2020. Combined, no transit agency may receive more than 75% of its

annual operating expenses through the Act and the CARES Act passed in March of 2020. The grant amounts in the following Michigan cities are estimated as follows:

- Ann Arbor: \$15,824,000
- Bay City: \$274,000
- Detroit: \$42,605,000
- Flint: \$2,244,000
- Grand Rapids: \$6,348,000
- Kalamazoo: \$2,737,000
- Lansing: \$16,182,000
- Port Huron: \$440,000

The amounts listed above will be direct grant awards to transit agencies in those cities and will not require an appropriation by the Legislature for distribution.

The Act will distribute \$50.0 million for enhanced mobility programs for seniors and individuals with disabilities. These grants do not require matching funds from transit agencies. Michigan's share of this amount will be \$1,620,000. It is not known if this aid will require an appropriation by the Legislature.

The Act will distribute \$678.7 million grants for transit agencies in rural areas for operating costs. Michigan's expected share of this amount is \$55,426,000. This funding will flow through MDOT and will require an appropriation by the Legislature.

Airports. The Act provides \$2.0 billion in grants for airports under several programs. This aid is intended for operating costs and is added to any unspent funds from the CARES Act from March 2020. Primary and specified cargo airports will receive \$1.75 billion of this amount, \$45.0 million is set aside for general aviation and commercial airports, and \$5.0 million is set aside for Federal Aviation Administration salaries and expenses to carry out the Small Community Air Service Development Program. The remaining \$200.0 million is intended for sponsors of primary airports to provide rent relief for airport vendors, such as car service providers and retailers. Michigan's estimated share of this aid is expected to be \$49,285,000, which likely will flow through MDOT. This will require an appropriation by the Legislature.

Amtrak. The Act provides \$1.0 billion in aid for Amtrak service, the majority of which will go to the northeast corridor, which is not a part of the Amtrak service provided in Michigan. The Act provides \$345.0 million for the national network, of which \$175.0 million is intended for state payments to Amtrak for state-supported routes. Michigan's payments for the Wolverine, Blue Water, and Pere Marquette Amtrak routes totaled \$19.4 million in FY 2018-19, the most recent fiscal year for which reported data are available. It is not certain the aid authorized under the Act will cover some, or any, of the annual amount for FY 2020-21. If it does, it will require an appropriation by the Legislature.

Division N – Additional Coronavirus Response and Relief

Title II, Subtitle A: Assistance to Individuals, Families, and Businesses

Unemployment Insurance Extension. Title II of Division N extends the Unemployment Compensation programs established in the CARES Act to March 14, 2021, with benefits extended through April 5, 2021, or when the maximum number of weeks is met. The Pandemic

Unemployment Assistance program is modified to extend the eligible duration of maximum benefit weeks from 39 to 50 weeks. Within 30 days after the bill's enactment, states must verify the identity of applicants, and applicants must recertify weekly. Also, applicants must document former employment starting January 31; however, individuals who otherwise are eligible for benefits may not have their benefits terminated for failing to submit past required weekly benefit recertifications. The Federal Pandemic Unemployment Compensation amount is set at \$300 per week beginning December 26, 2020, and includes recipients of Short-Time Compensation. The maximum duration of Pandemic Emergency Unemployment Compensation is extended from 13 to 24 weeks.

The Act extends several provisions from the CARES Act, which include suspension of state trust fund loan interest accrual and payments. The State of Michigan does not currently have any Federal Trust Fund Loans. The Act extends unemployment relief for governments and nonprofits, allows for flexibility to staff the state unemployment insurance agencies, and provides Federal funding for the first week of State benefits with the amount reduced from 100% to 50%.

The Act includes a requirement for each state to monitor benefit recipients for refusals to accept job offers. Also, the Act allows states to add an additional \$100 in benefits to recipients who earned at least \$5,000 of self-employment income in the most recent taxable year provided they have documentation. Finally, the Act allows states to waive a requirement that claimants repay incorrectly awarded benefits.

Title II, Subtitle B: COVID-Related Tax Relief Act of 2020.

Additional 2020 Recovery Rebates for Individuals. The legislation authorized rebate checks to individuals using generally the same eligibility requirements as the Economic Impact Payments authorized in the CARES Act (please see the Senate Fiscal Agency's memorandum regarding Federal Stimulus Acts in Response to the Coronavirus Pandemic, dated March 31, 2020). Eligible individuals will receive \$600 (\$1,200 for eligible individuals filing a joint return) plus an additional \$600 for each qualifying child (those age 16 and under). The rebates will be disbursed directly to eligible recipients by the US Treasury, with no action necessary from the State. There is no limit to the number of children for eligibility, but they must be listed as dependents on the eligible individual's 2019 Federal income tax return. As with the Economic Impact Payments, individual taxpayers must have an adjusted gross income (AGI) of no more than \$75,000 to be eligible for the full payment. The eligibility limit is \$112,500 for a head of household and \$150,000 for a joint return. The credit is reduced by 5.0% of the amount the taxpayer's AGI exceeds the income limit. As an example, a single taxpayer with no qualifying children would see his or her eligibility disappear at an AGI above \$87,000.

Title III: Continuing the Paycheck Protection Program (PPP) and Other Small Business Support

The legislation extended and modified the PPP in several ways. The PPP allows eligible business and nonprofit entities to secure loans to cover payroll and operating expenses. Loans are made by lenders certified by the Small Business Administration and guaranteed by the Federal government. The PPP originally allowed most businesses to borrow up to 250% of their average monthly payroll expense, up to \$10.0 million. If a business used the funds to pay for eligible expenses and maintained certain payroll requirements, the loans will be forgiven. Most of the provisions of the program remain unchanged from previous legislation (please see the Senate Fiscal Agency's previous memoranda regarding Federal Stimulus Acts in Response to the Coronavirus Pandemic dated March 31 and April 30, 2020).

The legislation increased the covered period for eligible expenses, from eight weeks to 24 weeks, after the loan is disbursed. Several categories were added to the list of eligible expenses as well. Loan recipients may now count cloud computing services expenses (e.g., teleconferencing software), worker protection expenditures (e.g., personal protective equipment (PPE) and barriers), and property damage costs related to vandalism or looting that occurred during public disturbances in 2020, among other costs specified. Loan forgiveness also has been simplified for loan amounts up to \$150,000, requiring less paperwork for smaller loan recipients.

Certain businesses will be allowed to draw a second PPP loan. To qualify, a business must have no more than 300 employees (500 if the business has more than one physical location) and have suffered a loss of at least 25% of gross receipts for at least one quarter in 2020 compared to the same quarter in 2019. Specific categories of companies (e.g., lobbying firms and publicly traded companies) are excluded from eligibility. The second loan is limited to the lesser of 250% of that business's average total monthly payroll expenses or \$2.0 million. If the business is in the food service or accommodation industry, the limit is the lesser of 350% of average total monthly payroll or \$2.0 million.

Finally, the tax treatment of forgiven PPP loans is specified in the legislation. Any amounts that are forgiven will not be treated as taxable income for the business, and any business expenses paid for using PPP funds may be deducted from taxable income. Generally, under the Internal Revenue Code, loan amounts that are forgiven are treated as income. If a forgiven business loan is treated as income, it can be offset by deductions if the funds were used to pay business expenses that otherwise would be deductible. The treatment provided in the legislation allows a business's AGI not to be increased by the amount of the loan forgiveness, and also allows for a reduction in tax liability by the amount of deductible expenses paid for using the funds. This change in tax treatment will reduce a business's (and its owner's) Federal and state tax liability. The Michigan Office of Revenue and Tax Analysis has estimated that this change will reduce State revenue by \$344.3 million in FY 2020-21, \$231.0 million in FY 2021-22, and \$157.0 million in FY 2022-23. Of the total \$732.3 million in reduced revenue, approximately \$663.9 million is expected to be General Fund/General Purpose and the remaining \$68.4 million reduction to the School Aid Fund.

Title IV, Subtitle A: Transportation – Airline Worker Support Extension

Payroll Relief for Airline and Transportation Services Providers. The Act provides \$15.0 billion in direct aid to passenger air carriers for the continuation of employee wages, salaries, and benefits. Another \$1.0 billion is provided for contractors of passenger air carriers, again to preserve employee wages, salaries, and benefits. Any grants that benefit Michigan companies will be paid directly to those companies and will not flow through MDOT.

For the providers of other transportation services, such as intercity trains, buses, school buses, and small passenger watercraft, the Act provides \$2.0 billion in grant aid. The grants must be used for payroll, equipment, PPE, rent, insurance, and some debt. Any grants that benefit Michigan companies will be paid directly to those companies and will not flow through MDOT.

Title V: Banking

Emergency Rental Assistance – Rental Assistance. Section 501 of Division N appropriates \$25.0 billion for Emergency Rental Assistance using the same modified formula used under the CARES Act. Of the total amount, Michigan is expected to receive an allotment of \$664.8 million

for rental assistance. The payments must be made to qualified lessors or utility providers when applicable or directly to households. Each household may receive up to 12 months of assistance without having to reapply. After those 12 months, households then must reapply for assistance every three months. A qualified household must be under 80% of the median income of the locality, pay rent, qualify for unemployment or provide documentation that the household has experienced financial hardships because of the COVID-19 pandemic, and its members be at risk of being homeless.

The Michigan State Housing Development Authority may use up to 10% of the allotted amount for case management and administrative costs, which would equal up to \$66.4 million. State and local governments that receive the funds have until September 31, 2021, to use them before any unobligated funds are reclaimed and redistributed to other grantees. Funding then remains available through December 31, 2021. State and local governments that receive funds must meet quarterly reporting requirements.

Conclusion

If you have any questions regarding these Federal Stimulus Acts, please do not hesitate to contact us.

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