# Appendix C: MOE Waiver Request

This form must be used for the submission of a request for a waiver of the requirements noted below. For assistance, please contact your State mailbox, which is [State].oese@ed.gov .

**State Michigan**

On behalf of my State, I request a waiver of the following State maintenance of effort (MOE) requirements for the following fiscal years:

*Please check all that apply:*

- ☐ FY 2020 MOE requirement for elementary and secondary education under section 18008 of the CARES Act.
- ✓ FY 2020 MOE requirement for higher education under section 18008 of the CARES Act.
- ☐ FY 2021 MOE requirement for elementary and secondary education under section 18008 of the CARES Act.
- ☐ FY 2021 MOE requirement for higher education under section 18008 of the CARES Act.
- ☐ FY 2022 MOE requirement for elementary and secondary education under section 317(a) of the CRRSA Act and section 2004(a) of the ARP Act.
- ☐ FY 2022 MOE requirement for higher education under section 317(a) of the CRRSA Act and section 2004(a) of the ARP Act.
- ☐ FY 2023 MOE requirement for elementary and secondary education under section 2004(a) of the ARP Act.
- ☐ FY 2023 MOE requirement for higher education under section 2004(a) of the ARP Act.

**Data for State support and overall State spending**

A State must resubmit the baseline data for FYs 2017, 2018, and 2019 (baseline years) as part of this MOE waiver request. If these baseline data differ from a State's previously submitted data, please provide a description of the reason for the change. Additionally, a State must submit MOE data for the years in which it is requesting this waiver.

| | State support for elementary and secondary education | State support for higher education | Overall State spending * | State support for elementary and secondary education per pupil | State support for higher education per pupil |
|---|---|---|---|---|---|
| **FY 2017 – Actual** | $12,252,931,700 | $1,782,689,693 | $22,019,951,965 | $8,217 | $4,635 |
| **FY 2018 – Actual** | $12,699,998,000 | $1,820,194,859 | $23,091,411,582 | $8,557 | $4,812 |
| **FY 2019 – Actual** | $12,852,237,200 | $1,857,931,985 | $23,522,685,146 | $8,738 | $4,989 |
| **FY 2020 – Actual** | $12,873,627,700 | $1,681,811,963 | N/A | $8,811 | $4,627 |
| **FY 2021** | TBD | TBD | N/A | TBD | TBD |
| **FY 2022** | TBD | TBD | TBD | N/A | N/A |
| **FY 2023** | TBD | TBD | TBD | N/A | N/A |

*For overall State spending, a State may request a waiver based on final allocations or appropriations. For more information, see FAQ 10.

**Additional submission requirements**

In an attachment, please provide:

1. A description of the extent to which the State experienced fiscal burdens in preventing, preparing for, and responding to the coronavirus and an explanation of how those fiscal burdens affected the State's ability to maintain fiscal effort (e.g., the status of and any changes to the State's rainy day fund, whether the State experienced a decline in revenues, or an increase in other emergency expenses resulting from the pandemic, such as expenses related to health care, unemployment insurance, or support for small

businesses); and

2. Documentation and data supporting the description of the State's fiscal burdens (e.g., revenue data, appropriation tables, unemployment statistics, etc.) including any State action that impacted State revenue (e.g., tax increases or decreases).
3. In addition, in its waiver request, a State should submit information on the relevant factors listed below to support its request. The Secretary may ask States for additional information after States submit the MOE waiver request form.

In determining whether to grant a State an MOE waiver, the Secretary may consider factors such as:

**Has the State increased support for education?**

The Department understands that it is possible that a State has maintained or increased overall funding for education and the proportion of the State budget for education has still declined because of increases in other areas of the budget (e.g., public health). In these cases, the Secretary may consider:

- Has total State funding for K-12 education and for higher education (calculated separately) increased from the prior fiscal year?
- Has total State funding for K-12 education and for higher education (calculated separately) increased over time (e.g., since baseline years)?
- Has per-pupil State funding for K-12 education and for higher education (calculated separately) increased from the prior fiscal year?
- Has per-pupil State funding for K-12 education and for higher education (calculated separately) increased over time (e.g., since baseline years)?
- Has the State appropriated an increase in State funding for K-12 education and for higher education for future fiscal years?

**Are there exceptional circumstances that caused the State to be unable to maintain support for education?**

If a State's support for education declined, the Secretary may consider:

- Are there specific severe effects of the COVID-19 pandemic on the State's economy that necessitated reductions in support for elementary and secondary education and for higher education?
- What steps did the State take to avoid and/or minimize such reductions?
- Did the State use Coronavirus State and Local Fiscal Recovery Funds awarded by the U.S. Department of the Treasury under section 9901 of the ARP Act to support elementary and secondary education and higher education?
- How did reductions in support for elementary and secondary education and for higher education compare to other budget categories?
- Did the State take steps that reduced or will it take steps to proactively reduce its financial resources in a way that impacted or will impact its ability to meet MOE requirements (e.g., tax changes (and in what context), additional contributions to rainy day funds)? If so, what was the impact of the reduction (e.g., to what extent were its resources reduced or will its resources be reduced)?

**Has the State used or will it use ESSER, GEER, or Higher Education Emergency Relief (HEER) funding to replace State funding for education?**

It is important for the Department to understand the State's use of pandemic-related Federal funds when reviewing a request for a waiver. The Secretary may therefore consider:

- Will all unallocated ESSER or GEER funds relevant to the waiver be used to provide net new resources to K-12 schools and to higher education and <u>not</u> be used to replace existing State commitments to K-12 education and to higher education?
- Will all unallocated HEER funds be used to provide net new resources to higher education and <u>not</u> be used to replace existing State commitments to higher education?
- Has the State previously used any ESSER, GEER, or HEER funds to replace State funding for education?

To the best of my knowledge and belief, all of the information in this MOE data submission are true and correct and the failure to submit accurate data may result in liability under the False Claims Act, 31 U.S.C. § 3729 et seq.; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and 18 USC § 1001, as appropriate, and other enforcement actions.

| Ann Richmond | 9-29-2021 |
|---|---|
| Governor or Chief State School Officer or Authorized Representative (Typed or Printed Name) | Telephone |

| (b) (6) [redacted] | 9-29-2021 |
|---|---|
| Signature of Governor or Chief State School Officer or Authorized Representative | Date |

**Public Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0745. Public reporting burden for this collection of information is estimated to average 2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain benefit under section 18008 of the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, Division M, Section 317 of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA) Act, and Section 2004(a) of the American Rescue Plan Act of 2021 (ARP Act) If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application or survey, please contact Britt Jung, Office of State and Grantee Relations, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-6450, email: SGR@ed.gov directly.

1. ***A description of the extent to which the State experienced fiscal burdens in preventing, preparing for, and responding to the coronavirus and an explanation of how those fiscal burdens affected the State's ability to maintain fiscal effort (e.g., the status of and any changes to the State's rainy day fund, whether the State experienced a decline in revenues, or an increase in other emergency expenses resulting from the pandemic, such as expenses related to health care, unemployment insurance, or support for small businesses);***

- **May 15, 2020:** The State held its semiannual Consensus Revenue Estimating Conference (CREC) to report on anticipated revenues for fiscal years 2020, 2021, and 2022. The CREC projected a **decline in combined general fund and school aid fund revenues of $3.2 billion with less than 5 months remaining in fiscal year 2020 and an estimated revenue reduction of another $3.1 billion for FY 2021.** This decline in revenue was coupled with an expected wage and salary employment decrease of between 9.1% and 11.7%. The State's rainy day fund had a balance of about $1.2 billion.

- **August 6, 2020:** Public Act 146 of 2020 is signed into law to balance the fiscal year 2020 budget. Virtually all areas of state spending are reduced on top of a withdrawal from the rainy day fund of $350 million and increased reliance on pandemic related federal funding like enhanced federal Medicaid match funding Reductions. This included an 11% ($200m) reduction to community college and university operations. A like amount of federal CRF funds are appropriated to assist universities and community colleges with pandemic response expenses.

- **August 24, 2020:** A rare August CREC is held to assist fiscal year 2021 budget development. Due to a combination of factors, including higher than anticipated tax revenues, the fiscal year 2020 projected budget shortfall of $3.2 billion was reduced to a shortfall of $936 million and the outlook for fiscal year 2021 improved but with an estimated revenue decline of $2.5 billion remaining. As a result of these new projections and having now oversolved fiscal year 2020, significant one-time revenues are available for the next fiscal year.

- **September 30, 2020:** Governor signs the fiscal year 2021 budget. Funding for universities and community colleges is restored to pre-reduction levels thanks to the smaller than expected shortfall and carry forward balance from solving fiscal year 2020 both revealed in August.

- **January 15, 2021:** The January CREC is held which shows fiscal year 2020 revenues ended the year just $200 million shy of original pre-pandemic projections and projects fiscal year 2021 revenues improved again by $1.3 billion, leaving them just a billion below pre-pandemic estimates . With the budget shortfall resolved, significant one-time funding is available but since the books have closed on fiscal year 2020, this funding may only be applied to fiscal years 2021 and 2022.

- **February 11, 2021:** The Governor releases her fiscal year 2022 budget and along with it proposes a fiscal year 2021 supplemental appropriation of $70 million to provide additional support to community colleges and universities to belatedly satisfy the shortfall in fiscal year 2020 ESSER maintenance of effort requirements.

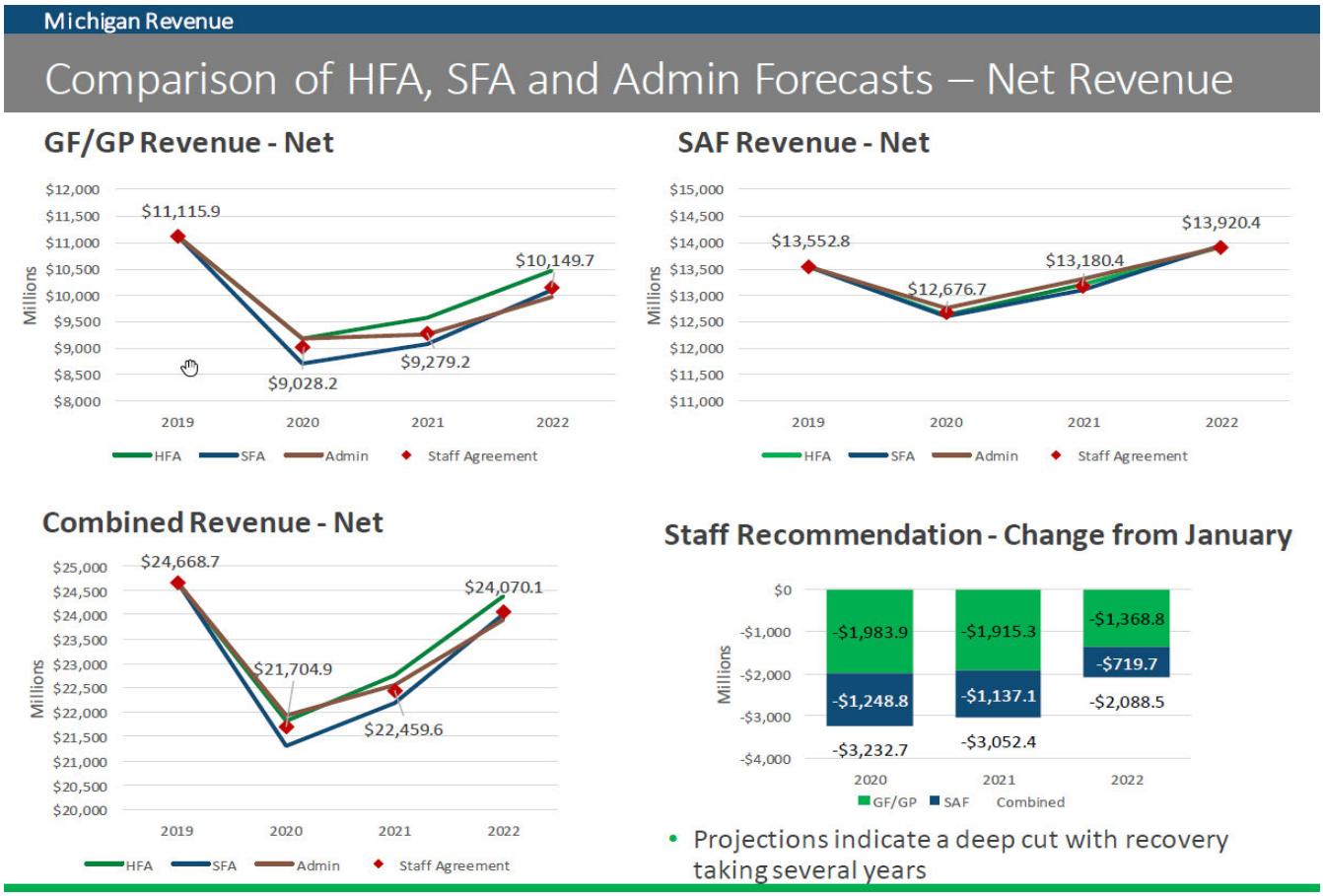
- **September 22, 2021:** The fiscal year 2022 budget is passed. The budget includes additional investment in higher education and including the additional $70 million proposed by the Governor for community colleges and universities in fiscal year 2021 supplemental appropriations.

Due to the timing of the revenue events above, Michigan could not meet its fiscal year 2020 maintenance-of-effort. Since Michigan has demonstrated its MOE on a per-pupil basis for both k-12 and higher education, we determined that an additional $70 million in state support for community colleges and universities would put us above our baseline per-pupil MOE level. Unfortunately, since the State had closed its books on fiscal year 2020 it was too late to appropriate those additional funds. **The Governor therefore requested a fiscal year 2021 supplemental appropriation of $70 million to provide additional support to community colleges and universities. This requested supplemental appropriation was**

**passed by the Legislature on September 22, 2021 and will be signed by the Governor into law on September 29, 2021.**

2. ***Documentation and data supporting the description of the State's fiscal burdens (e.g., revenue data, appropriation tables, unemployment statistics, etc.) including any State action that impacted State revenue (e.g., tax increases or decreases).***

The graphs below illustrate the forecasted revenues for the State's two main accounts. As you can see, projected revenues took a major downturn in May 2020 and these were the projections used to make decisions on balancing the fiscal year 2020 budget.

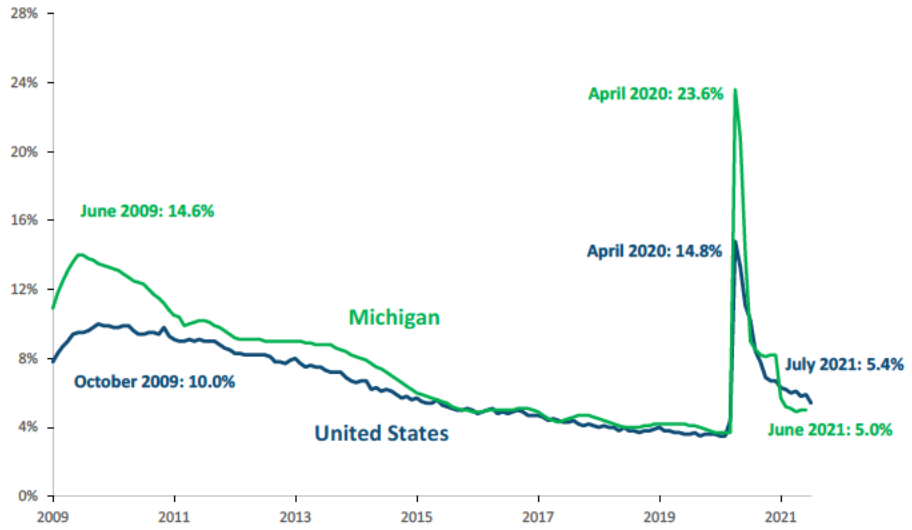



As illustrated below, at the start of the COVID-19 pandemic, U.S. and Michigan employment experienced a dramatic decline that occurred rapidly. In the lead up to Michigan's Consensus Revenue Estimating Conference held in May 2020, Michigan's unemployment rate rose from 3.7 percent in March to 23.6 percent in April 2020. April 2020 was the highest unemployment rate for the state since comparable data began being recorded. Michigan's nonfarm payroll employment declined by 1.06 million jobs in March and April 2020, far surpassing the gains made in the previous ten years. Additionally, information on initial unemployment claims confirmed the rapidly rising level of unemployment in the state and nation. This unprecedented decline in employment in Michigan and across the U.S. contributed to a forecasted revenue decline for fiscal year 2020 at the May 2020 Consensus Revenue Estimating Conference.

At the May 2020 Consensus Revenue Estimating Conference the House Fiscal Agency, Senate Fiscal Agency, and the Administration forecasts predicted that Michigan would experience somewhere between a 9.1 percent to 11.7 percent decline in wage and salary employment in 2020. The actual decline for 2020 was 9.2 percent for Michigan, in line with expectations.

Michigan Economy

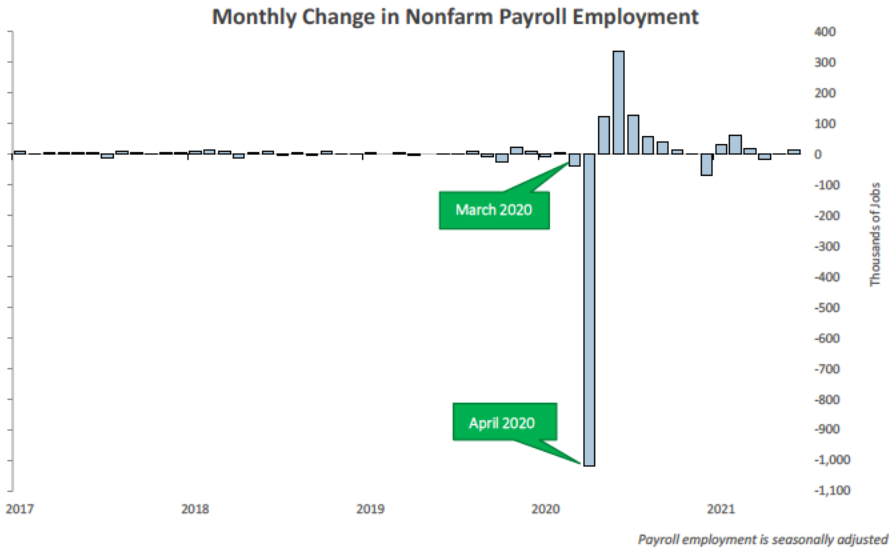
## Michigan Unemployment Rate




*Source: MI Bureau of Labor Market Information and U.S. Bureau of Labor Statistics, 8/6/2021.* 1

Michigan Economy

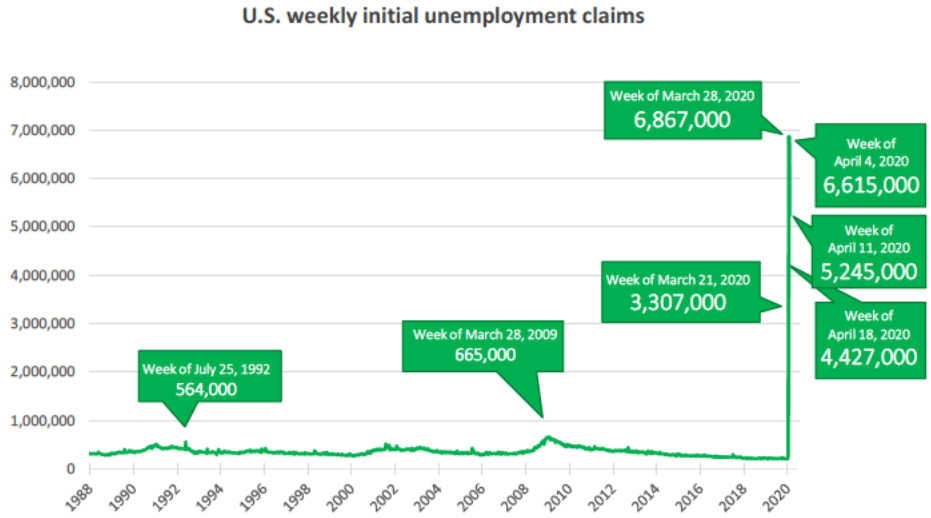
## Michigan Payroll Employment




*Source: MI Bureau of Labor Market Information and U.S. Bureau of Labor Statistics, 8/5/2021; Office of Revenue and Tax Analysis, 8/5/2021.* 2

U.S. Economy

## Initial Unemployment Claims

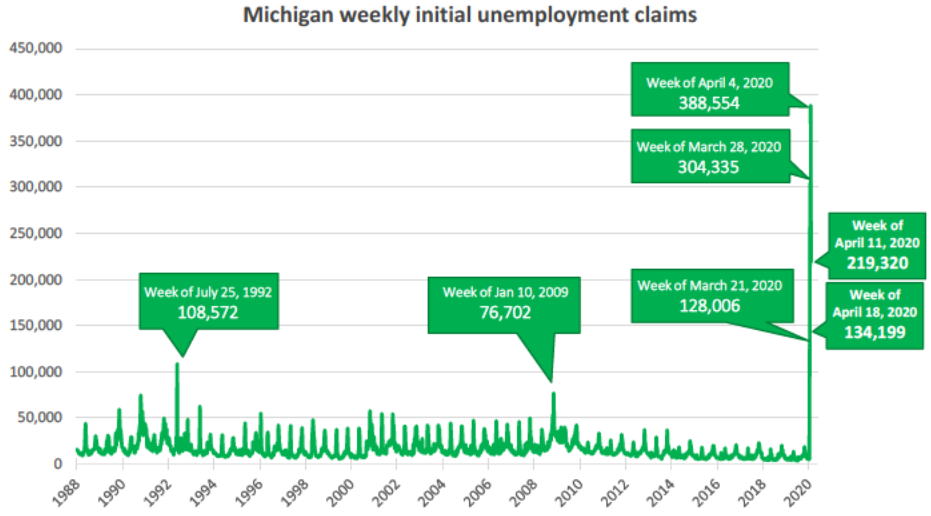



*Sources: U.S. Employment and Training Administration, seasonally adjusted, 4/17/2020.*

3

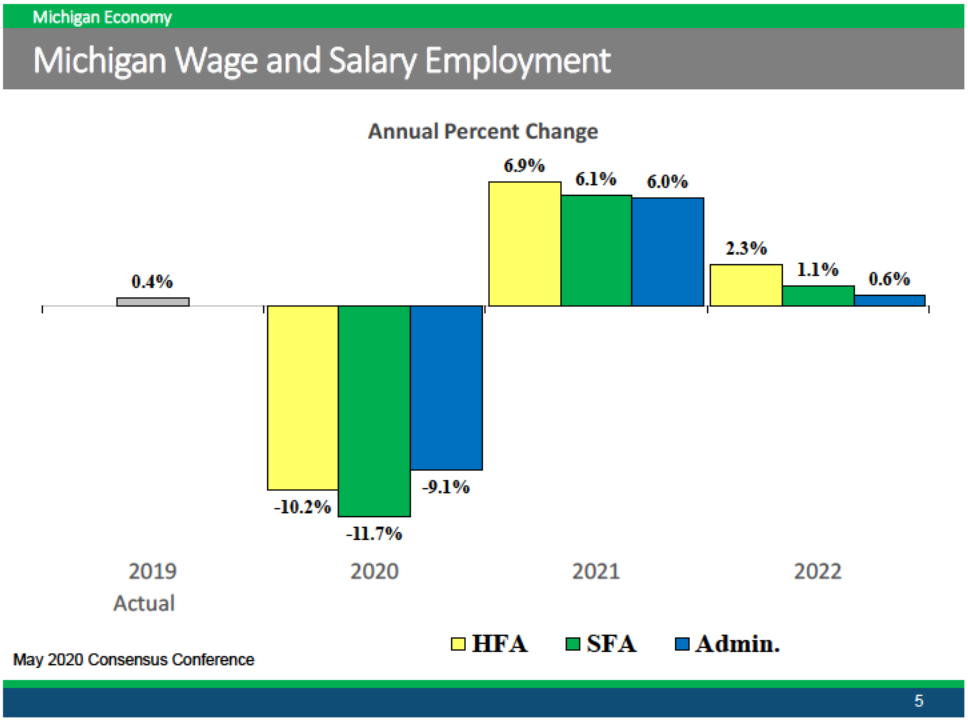
Michigan Economy

## Initial Unemployment Claims




*Sources: U.S. Employment and Training Administration, 4/10/2020; Michigan UIA, 4/17/2020.*

4




Lastly, here is a link to additional detail on the State's budget solutions. This provides an overview of the Executive Order to reduce general funding spending for State departments, and supplemental appropriation legislation to further reduce general fund appropriations for other areas of the State as well as the school aid fund.

3. ***In addition, in its waiver request, a State should submit information on the relevant factors listed below to support its request. The Secretary may ask States for additional information after States submit the MOE waiver request form.***

As demonstrated in the chart below, Michigan initially increased State support for higher education. The sudden and significant decline in projected revenues necessitated the $200 million reductions though those reductions were fully restored the following fiscal year. In addition, the State has invested in two new student financial aid programs, the Michigan Reconnect program and Futures for Frontliners program, both of which aim to make community college more accessible and degrees more attainable. The recently passed fiscal year 2022 budget includes a 1% increase in operations support for community colleges and universities, significant investment in student financial aid programs, and additional support for university retirement costs. The budget also includes a 4% increase in operations support for community colleges and universities in fiscal year 2021.

| Fiscal Year | Gross Appropriations for Higher Education from State Sources | % Change from Prior Year |
|---|---|---|
| 2017 | $1,877,039,600 | |
| 2018 | $1,917,024,500 | 2% |
| 2019 | $1,954,421,700 | 2% |
| 2020 | $1,972,088,100 | 1% |
| Revised 2020 | $1,808,361,000 | -7% |
| 2021 | $1,999,566,600 | 11% |
| Revised 2021 | $2,069,566,600 | 14% |
| 2022 | $2,111,641,800 | 6% |

On a per-pupil basis, State support for higher education has steadily increased with the exception of fiscal year 2020. Based on preliminary estimates, we expect these annual increases in per-pupil support to continue. Please note, the estimated per-pupil support for fiscal year 2021 includes the $70 million increased to support Michigan's MOE for fiscal year 2020.

| Fiscal Year | State Support for Higher Education per-pupil |
|---|---|
| 2017 | $4,635 |
| 2018 | $4,812 |
| 2019 | $4,989 |
| 2020 | $4,627 |
| 2021 - Est. | $5,498 |
| 2022 - Est. | $5,421 |

Apart from reductions to higher education, virtually all areas of the budget were impacted. The State was able to leverage federal Coronavirus Relief Funds (CRF) to assist local school districts and institutions of higher education with pandemic-related expenses. As a result of the actions taken to eliminate the deficit, the State did not utilize ESSER, GEER, or HEER funds as a replacement for State resources. Michigan utilized CARES Act resources to provide direct support for local schools, institutions of higher education, student scholarships, and other educational support.