Table of Contents

The Rising Costs of Road Repair
By Michael Siracuse, Fiscal Analyst and David Zin, Chief Economist

Sales and Use Tax Collection from Remote Sellers after Wayfair
By Ryan Bergan, Economist and Fiscal Analyst

Michigan Prison Closures and Prison Population Trends
By Abbey Frazier, Fiscal Analyst

An Overview of Michigan's Early Childhood Education Programs
By Cory Savino, Fiscal Analyst
The Rising Costs of Road Repair
By Michael Siracuse, Fiscal Analyst and David Zin, Chief Economist

Introduction

Despite the passage of a road funding package in 2015,\(^1\) designed to add $1.2 billion in new revenue to the Transportation budget annually, the condition of Michigan's trunkline and local road systems continues to decline. The cost associated with fixing any roadway depends upon the condition of that roadway; roads in poor condition are significantly more expensive to address than other roads. As more and more of Michigan's roads deteriorate into poor condition, the cost for fixing Michigan's roads will continue to rise sharply. Michigan's roads now require an additional $2 billion dollars annually to fix because there are 20% more roads in poor condition today than there were in 2015. This paper provides a background on the road funding legislation adopted in 2015, describes the quality of Michigan's road system and the dynamics of maintenance and repair costs, and discusses several approaches that could be considered to direct more funding to Michigan's road system.

Background

Michigan's system of State and local roads and bridges is composed of three parts, each its own line item in the annual Transportation budget: those under city or village jurisdiction, those under county or county road commission jurisdiction, and those under State jurisdiction (commonly referred to as the State trunkline). The State trunkline includes all limited access interstate roads as well as State and Federal highways. Throughout this document, references to Michigan's roadways are meant to include roads and bridges under jurisdictions of all three categories mentioned above.

Although the road funding package of 2015 generated, and will continue to generate, substantial revenue for roads, the delay in adding that revenue and the amount generated has contributed to an increase in roadways rated in poor condition. Michigan's trunkline and local roadways now need more funding than they did in 2015 to stop the deterioration in road quality. New estimates place the cost to fix Michigan's roadways at over $2.0 billion per year, and other factors may continue to drive the cost upwards, such as a potential shortfall in labor and the State's low unemployment rate.

In May 2015, Proposal 1, which would have provided almost $1.3 billion annually for roads by increasing sales and gas taxes, was defeated at the polls by a 60% margin. Six months later, the Michigan Legislature passed a road funding package to eventually add $1.2 billion to the transportation budget annually. While Proposal 1 would have added funding for the maintenance and construction of Michigan's roadways in 2016, the legislative package did not. The legislation delayed increases in fuel taxes and registration rates until 2017, and those initial 2017 increases were structured to provide approximately half of the $1.2 billion in additional revenue. The remaining revenue was to come from earmarking progressively greater amounts of individual income tax revenue to the Michigan Transportation Fund (MTF), beginning at $150.0 million in fiscal year (FY) 2018-19, and reaching $600 million per year by FY 2020-21. Since that new

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After New Funding in 2015, Road Conditions Still Need Improvement

Despite additional funding from the road funding package, Michigan's roads have continued to decline. The road funding package slowed the rate of decline, but remains less than what is needed to halt or reverse it. Road condition projections are shown in Figure 1, which illustrates that the additional revenue from the road funding package was able to slow the decline of Michigan's trunkline system, but not prevent it.

![Figure 1: MDOT Trunkline RSL* Pavement Condition Forecast](source: MDOT, BTP, SSMS, as of 9/11/2018)

*Based on remaining service life
The current forecast in Figure 2, derived from the Michigan Department of Transportation's "Pavement Forecast", indicates that without additional funding the percentage of trunkline and local roads in poor condition will nearly double within 10 years, and could possibly include two-thirds of the State’s entire roadway system by 2028.

Figure 2

Pavement Quality Forecast

This forecast, provided by the Department of Transportation's (MDOT's) Asset Management Council (TAMC), is supported by independent assessments. For example, in its 2018 Report Card for Michigan's Infrastructure, the American Society of Civil Engineers (ASCE) downgraded Michigan's roadways from a D in 2009 to a D- in 2018, largely because of the decline shown in Figure 3.

The cost of fixing a road depends on its condition. Spending $1 on capital preventative maintenance when a road is in fair condition can delay or prevent spending $6 to $14 on reconstruction of a road that has degraded to poor condition (see Figure 4).


For a clearer picture of the costs of letting a road fall into poor condition, consider the Lifecycle Comparison in Figure 5 and the Lane-Mile Costs in Table 1. The Lifecycle Comparison demonstrates how a roadway’s life can be extended beyond its original design life with the timely application of capital preventative maintenance (CPM) or rehabilitation. Capital preventative maintenance
treatments include crack sealing, thin asphalt overlays, and concrete patching. When applied at the right time, while a road is still in reasonably good condition, CPM can extend the life of that road by five years (in some cases, longer). Rehabilitation includes the application of structural enhancements, and can include several layers of resurfacing. Trunkline rehabilitation can extend road life by 10-15 years. Reconstruction requires the complete demolition and replacement of the existing roadway, including its foundation. All roadways eventually will require reconstruction, but the timely application of CPM or rehabilitation can delay that reconstruction and its associated costs. Table 1 illustrates how these costs differ, as well as how they have increased between 2013 and 2018.

### Table 1

<table>
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<th>2018 Lane-Mile Costs</th>
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</table>

Source: Michigan Department of Transportation.
As stated in the ASCE report, 2018 Report Card for Michigan's Infrastructure,

The percentage of Michigan roads in good condition is expected to increase in the coming years, however, at the same time, the percentage of roads rated in poor condition is also expected to increase. Even with recently enacted increases in transportation funding implemented at the State level over the next several years [the 2015 road funding package], funding levels will still not be sufficient to reverse the rate of deterioration of Michigan's roads.

While the additional revenue from the 2015 road funding package has slowed the decline of Michigan's roadways, the size and timing of that revenue did not prevent further declines. In 2015, the additional amount necessary to halt the decline in trunkline road conditions, as estimated by MDOT, was $1.2 billion per year. At its peak, the 2015 road funding package will generate $1.14 billion per year, but not until FY 2020-21. As a result, the cost to restore Michigan's roadways has increased.

Over the last several decades, the State has not had the opportunity to apply less expensive forms of maintenance to many roadways in fair condition. As a result, many roads have degraded into poor condition, where the application of CPM and rehabilitation is less effective or is no longer an option. As long as improvements are not made, the percentage of Michigan's roads in poor condition will continue to grow, and the overall cost to fix the roads will rise each year until the problem is addressed.

**How Much Additional Revenue is Needed?**

The 2015 road funding package is projected to add $750.0 million to the Transportation budget for FY 2018-19, of which $690.0 million will be dedicated to roads. Once the road funding package is fully implemented in FY 2020-21, it will commit, compared to the funding prior to the 2015 legislation, an additional $1.14 billion of ongoing funding to roads.

Based on estimates in a 2016 report issued by Governor Snyder's Infrastructure Commission, Michigan's road system currently needs an additional $2.2 billion annually. That estimate includes funding for Michigan's trunkline system as well as for roadways under local jurisdiction, and is up slightly from previous reports.

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In 2011, the Work Group on Transportation Funding of the House of Representatives Transportation Committee estimated the need for an additional $2.0 billion in funding in FY 2018-19. That estimate, however, included over a billion dollars in additional funding each fiscal year from FY 2011-12 leading up to FY 2018-19, a time period during which only $3.3 billion was added to the transportation budget, either in one-time supplemental appropriations from the General Fund ($1.3 billion), transfers from other restricted funds ($200.0 million), or increases in ongoing restricted funding under the 2015 road funding package ($1.8 billion). A 2014 follow-up report produced by members of the original work group also estimated the additional funding needed for FY 2018-19 to be $2.2 billion. Figure 6 charts the actual appropriations made against the backdrop of the estimated annual funding needed each year, as assessed by the work group, since 2012. The amounts indicated in Figure 6 represent funding levels that are in addition to roughly $2.0 billion in MTF revenue from gas and registration taxes, which have remained flat for nearly twenty years.

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Funding Options

Given that the Department of Transportation and other independent sources agree that more funding is required to improve Michigan's roadways, the next obvious question is: where will this funding come from?

Historically, the majority of funding for Michigan's roads has come from a combination of Federal aid and constitutionally-earmarked State revenue. Much of this State revenue is based on a "benefits received" principal in that the revenue come from sources such as motor fuel taxes and vehicle registration fees. Generally, the individuals most likely to use the roads are those who are most likely to be contributing to road funding. The 2015 road funding package broke with the "benefits received" concept somewhat by earmarking to the Michigan Transportation Fund a portion of individual income tax revenue that otherwise would have been directed to the General Fund. Also, between FY 2011-12 and FY 2018-19, the Legislature has supplemented earmarked revenue by appropriating approximately $1.3 billion in General Fund/General Purpose money to help with the roads.

A variety of potential sources of revenue for roads exists, ranging from new sources that require legislation or ballot proposals, to redirecting current revenue via cuts to discretionary spending. A number of potential sources of revenue were identified in the Governor's 21st Century Infrastructure Commission Report. Similarly, the Department of Treasury's Executive Budget Appendix on Tax Credits, Deductions, and Exemptions identifies a variety of circumstances where the tax base has been narrowed. Historically, expanding the tax base also has been a way to generate revenue for a variety of purposes.

The Relationship Between Road Expenditures and Road Quality

Across the State, road quality and funding varies substantially. For example, at the county level, the Transportation Asset Management Council reports average road quality in 2017 varied from 55.2% of roads under county road commission jurisdiction in Muskegon being in good shape, to 2.8% in Branch County, with the statewide average at 18.8%. Similarly, the percentage of roads in poor condition varied from 6.5% in Barry County, to 81.7% in Ingham County, with the statewide average at 47.9%.

On the funding side, there is no single measure that accommodates all factors. Based on data submitted to the Michigan Department of Treasury for the annual census of governments, expenditures per lane mile ranged from $998 in Otsego County, to $22,510 in Wayne County in 2017, with the statewide average totaling $6,104. However, while expenditures per lane mile do account for the need to have more lanes to accommodate more traffic, this information does not differentiate between a road that needs the capacity for morning and evening rush hours only from a road that needs to accommodate heavy traffic throughout the day. Expenditures per vehicle mile traveled can account for traffic demands, but does not account for things like road size or the number of bridges. Expenditure per vehicle mile travelled varies from $12 in Otsego County, to $229 in Baraga County, with a statewide average of $36.

It should be noted that the figures in the previous paragraph represent a one-year snapshot, not an average over time. As a result, the figures can be influenced heavily by how recently major construction projects have been completed. The figures also exclude roads maintained by the State, as well as by cities and villages. Despite these limitations, it is possible to analyze county road data and identify certain relationships. First, a greater percentage of roads in good condition
is positively correlated with higher expenditures per lane mile, and the percentage of roads in poor condition is negatively correlated with higher expenditures per lane, supporting the conclusion that devoting more revenue to roads will result in improvements to the system. Similarly, expenditure per lane mile is positively correlated with vehicle miles traveled. These correlations support the contention that despite differences between counties in efficiencies, weather conditions, population or population densities, two basic relationships dominate: heavier traffic requires more road spending, and better road quality requires more spending.

Conclusion

This paper describes the recent history of road funding efforts in Michigan, particularly in the context of Michigan’s current road quality. Road quality is a particularly important consideration because while drivers focus mainly on how unpleasant (and/or costly) it can be to drive on a poor road, the quality of the road has a significant impact on both the expected life of the road and the cost of any available road repair options.

While the 2015 road funding package provided a substantial amount of revenue, and the percentage of roads in good condition have improved, both the magnitude and the timing of the funding did not prevent many roads from degrading to poor condition. As a result, not only do the roads need more revenue but they will require more revenue than in 2015 to address the situation. The Governor's Infrastructure Commission estimated Michigan's roadways will require approximately $2.2 billion more each year, on top of the revenue generated by the 2015 legislation. Because that estimate was made in late 2016, and the underlying funding dynamic driving those costs higher has continued (not only because of the continued deterioration of many roads, but because economic factors such as the shortage of available construction workers--associated with Michigan's current 4.3% unemployment rate--have driven up labor costs), the actual cost for FY 2018-19 likely is higher.
Sales and Use Tax Collection from Remote Sellers after *Wayfair*
By Ryan M. Bergan, Economist and Fiscal Analyst

On June 21, 2018, the United States Supreme Court issued its ruling in the case of *South Dakota v. Wayfair, Inc.* The decision opened the door for states to require more out-of-state (or "remote") sellers to collect and remit sales or use tax on sales made to their residents. Many wonder why a state cannot require all remote sellers to collect and remit taxes and how the new standards are different from previous standards. This article will answer those questions as well as explain what action the State of Michigan has already taken, how much revenue is expected from the changes, what actions are being taken or considered by other states and the Federal government, the challenges Michigan could face related to these changes, and what action the Legislature could take in response to the *Wayfair* decision.

**Background**

All but five states (Alaska, Delaware, Montana, New Hampshire, and Oregon) assess a tax on the sale of selected goods and services. Sales tax rates vary by state, and many states also allow local units to levy a separate sales tax. Most states with a sales tax also assess a complementary use tax at the same rate that applies to items purchased in another state for use in the home state.

When the seller and the purchaser are located in different states, as is often the case with mail-order and e-commerce sales, there is a question of who is responsible for remitting the tax owed. In many cases, the seller is responsible for remitting sales or use tax to the purchaser's home state. In cases where the seller is not required to - and does not - remit the tax, the purchaser generally is responsible for remitting use tax on the sale. However, individuals tend to underreport untaxed sales and compliance rates are low. This gives states an incentive to require remote sellers to remit sales or use tax on purchases.

In the absence of Federal legislation governing the interstate collection of sales and use tax, the U.S. Supreme Court has attempted to balance the interests of remote sellers with the interests of states to efficiently collect taxes owed. In prior cases, the Court has held that in order for a state to impose a tax collection requirement on an out-of-state seller, the law must satisfy the Due Process Clause and the "dormant" Commerce Clause. Both require there to be some type of connection, or "nexus", between the state and the remote seller before the states can require the seller to collect and remit taxes.

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2. While Alaska has no statewide sales tax, it does allow local units to assess a sales tax.
4. The Due Process Clause is found in Section 1 of the 14th Amendment, and the "dormant" Commerce Clause is the implicit prohibition against states' passing legislation that discriminates against or excessively burdens interstate commerce.
state can impose obligations on the seller. The Due Process Clause requires a sufficient nexus so that the state has provided some benefit for which it may ask something in return, and so that the seller has fair warning that its activities may be subject to the state's jurisdiction. The dormant Commerce Clause requires a nexus to ensure that the tax collection requirement does not impermissibly burden interstate commerce. Sellers have argued that the collection requirement can be burdensome, as there are thousands of different sales and use tax jurisdictions with different rates and even different definitions of what is to be taxed or not taxed. Over time, however, computer software has made it less burdensome to calculate and remit the tax to the proper jurisdictions.

History

The U.S. Supreme Court explained the currently-accepted framework for state taxation in Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977). A state can require a remote seller to collect a tax so long as that tax (1) applies to an activity with a substantial nexus with the taxing state, (2) is fairly apportioned, (3) does not discriminate against interstate commerce, and (4) is fairly related to the services the state provides. Requirements (2) through (4) generally are satisfied when reviewing attempts by states to require remote sellers to collect sales or use taxes. The question at issue in the relevant cases has been what constitutes a "substantial nexus" with the taxing state?

For decades, the Supreme Court held that in order to establish nexus, the seller must have a physical presence in the state. This requirement is most obviously met when a seller owns property - like stores, warehouses, or office space - in the state. In 1999, the Michigan Department of Treasury addressed use tax nexus standards with Revenue Administrative Bulletin (RAB) 1999-1. The bulletin laid out the requirements for determining whether an out-of-state seller had physical presence in Michigan. The requirements included having an employee reside or be present in Michigan for at least two days, or owning, renting, leasing, or maintaining real or tangible personal property in Michigan, among other things. The RAB also established that these activities could be conducted by agents, representatives, independent contractors, brokers, or others, acting on the behalf of the remote seller, when the property was used in the representation of the remote seller or for activities to establish or maintain a market in Michigan.

In an effort to collect taxes from more sellers, Michigan and other states enacted "click-through nexus" statutes, which established that online firms had nexus with the state if they allowed a state-based seller to refer potential purchasers to their websites. A Senate Fiscal Agency analysis of the bills, published in 2015, estimated the change would increase total sales and use tax collections by $60 million per year. Prior to establishing "click-through nexus", Michigan also adopted conforming legislation as part of the Streamlined Sales and Use Tax Agreement.

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6 Michigan passed this law in 2014 with Public Acts 553 and 554 of 2014 (together often called the Michigan Main Street Fairness Act), and the Department of Treasury implemented the changes with RAB 2015-22.
(SSUTA), which was designed to make it easier for remote sellers to calculate and remit sales and use tax to participating states. The agreement primarily created standardized definitions of items, which each state could then choose to either tax or exempt. Sellers can voluntarily agree to participate and take advantage of a number of processes and rules that simplify tax collection. Sellers also have access to certified sales tax administration software that may be subsidized by the states, the simplicity of having one identification number to file and pay taxes in all member states, and a central location to update registration information with all 24 member states at once.\footnote{For more information on sales and use tax collection from remote sellers, see Bergan, Ryan, "Sales and Use Tax Collection on Internet Purchases", Senate Fiscal Agency, \textit{State Notes}, Spring 2015.}

Despite the efforts to collect sales tax from remote sellers, the Michigan Department of Treasury's Office of Revenue and Tax Analysis estimated that under current law (before the \textit{Wayfair} decision), the revenue loss under e-commerce and mail-order sales would be approximately $389.1 million in fiscal year (FY) 2017-18.

\textit{South Dakota v. Wayfair, Inc.} and Michigan's Response

In 2016, South Dakota enacted a law requiring out-of-state sellers that, on an annual basis, delivered more than $100,000 in goods or services into the state or had more than 200 transactions with residents of the state, to collect and remit sales tax. The Act was not retroactive and included provisions to be stayed until the constitutionality of the law had been clearly established. The law was challenged by Wayfair, Inc., Overstock.com, Inc., and Newegg, Inc., all of which were companies that met the minimum requirements of the Act to collect and remit sales tax, but had no employees or real estate in South Dakota and did not collect sales tax from South Dakota residents. South Dakota conceded that the law could not survive under the standard set under \textit{Bellas Hess} and \textit{Quill}, but asked the court to review those earlier decisions. The case made its way to the United States Supreme Court and, on June 21, 2018, the Court ruled in favor of South Dakota. The Court held that the physical presence rule was unsound and incorrect, and overruled \textit{Bellas Hess} and \textit{Quill}. In the absence of those decisions, it stated the only consideration was whether the tax applied to an activity with a substantial nexus with the taxing state, referred to as "economic presence nexus" or "economic nexus". The Court held that since the Act only applies to sellers who engage in a significant quantity of business in the state, those sellers had sufficient nexus with South Dakota to allow the imposition of the tax collection requirement.

In response to the \textit{Wayfair} decision, the Michigan Department of Treasury began requiring remote sellers with sales exceeding $100,000 to, or 200 or more transactions with, Michigan purchasers in the previous calendar year to remit sales tax beginning October 1, 2018 (RAB 2018-16). In a notice to remote sellers, the Department stated it would waive failure to file and deficiency penalties for returns and payments due before December 31, 2018, for sellers that only have nexus with the State because of this change, but interest would not be waived. The requirements are in line with the South Dakota law and, as mentioned earlier, Michigan also is a party to the Streamlined Sales and Use Tax Agreement.
The Department of Treasury estimates that changes under the new rules will increase sales tax collections by approximately $203 million in FY 2018-19, $236 million in FY 2019-20, and $248 million in FY 2020-21. These estimates represent 55% of estimated lost revenue. The remaining 45% is expected to remain uncollected because of the small seller exemption. To put these estimates in context, the May 2018 Consensus Revenue Estimating Conference projected the total sales and use tax collections for FY 2018-19 to be $8,994.7 million, so this would represent approximately a 2.3% increase in collections.

Other State Actions and Possible Challenges

According to information compiled by the Sales Tax Institute, thirty states, including Michigan, have implemented economic nexus-based remote sales tax requirements. Eleven of those states, including Michigan, relied on existing statutes instead of passing new economic nexus laws. These states patterned their remote seller nexus requirements after the South Dakota law by setting comparable minimum sales requirements and making collection requirements nonretroactive. Nearly every state that actually passed legislation regarding its economic nexus sales tax requirements did so before the Wayfair decision. Some states had legislation go into effect before the ruling, but most were contingent on the Supreme Court’s overturning the physical presence requirement.

Not all states welcomed the Wayfair decision, however. Members of the New Hampshire General Court (the state's legislature) introduced a bill in July that would have required any jurisdiction that wished to require a New Hampshire-based business to collect sales or use tax to register with the New Hampshire Department of Justice. The jurisdiction would need to pay a fee to cover the costs of implementation, and would have to submit the registration 120 days before attempting to collect the tax. The bill also would have required each jurisdiction to send a letter to the Department of Justice - for each transaction - before it could demand a New Hampshire business to collect a tax. The letters also would have to be sent 120 days before the jurisdiction could attempt to collect the tax for that transaction. The bill passed the state Senate unanimously before being defeated in its House of Representatives.

In Wayfair, the Court noted several features of the South Dakota law that helped limit its burden on interstate commerce by giving small merchants a reasonable degree of protection. The law only requires a merchant to collect sales tax if it did a considerable amount of business in South Dakota, the law was not retroactive, and South Dakota is a party to the Streamlined Sales and Use Tax Agreement. Michigan's economic nexus-based requirement meets all of these standards. Meeting the standards does not prevent the new nexus requirements from being challenged, but a state that did not meet them would be more likely to have new economic nexus-based requirements overturned by a court.

Federal Legislation

The United States Congress has the constitutional authority to regulate commerce between the states, and has taken up the issue of sales and use tax collection by remote sellers on multiple occasions since 2000. Six bills were introduced during the 115th Congress (2017-2018), although none received a vote. Versions of many of these bills have been introduced in
the past. Table 1 lists each bill sorted by date of introduction, and includes the bill sponsor and last action taken. Each of the bills is discussed in more detail below.

<table>
<thead>
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<th>Bill</th>
<th>Bill Name</th>
<th>Sponsor</th>
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<th>Last Action</th>
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<td>H.R. 2887</td>
<td>No Regulation Without Representation Act of 2017</td>
<td>Rep. James Sensenbrenner (R-Wisconsin)</td>
<td>6/12/2017</td>
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<tr>
<td>H.R. 6824</td>
<td>Online Sales Simplicity and Small Business Relief Act of 2018</td>
<td>Rep. James Sensenbrenner (R-Wisconsin)</td>
<td>9/13/2018</td>
<td>Referred to the House Judiciary Committee</td>
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The "Marketplace Fairness Act" would have allowed any SSUTA member state to collect sales and use taxes from remote sellers, and allowed other states to collect sales and use taxes from remote sellers if they took certain steps to simplify their tax regimes. States also would have had to provide free of charge software to be used by remote sellers that could properly calculate sales and use tax due on transactions and file sales and use tax returns. The bill would have allowed a small remote seller exemption for sellers with less than $1 million in U.S. sales in the preceding calendar year.

The "Remote Transactions Parity Act" was similar to the "Marketplace Fairness Act" in that it would have allowed SSUTA member states (and other states with simplification) to collect sales and use taxes from remote sellers. Some key differences between the bills concern the small remote seller exemption and limitations on audits. This bill would have phased in the small remote seller exemption over three years. In the first year, sellers with less than $10 million in U.S. sales in the preceding calendar year would have been exempt, with the threshold declining to $5 million in the second year, and $1 million in the third and subsequent years. Under the bill, sellers that utilized an electronic marketplace (e.g. Amazon Marketplace) would not have been exempt under the small remote seller exemption. A state also would have been prohibited from auditing a remote seller that had properly registered to collect and remit sales and use tax if the seller had less than $5 million in U.S. sales in the preceding calendar year, unless there was reasonable suspicion that the remote seller had engaged in intentional misrepresentation or fraud.
The "No Regulation Without Representation Act of 2017" essentially would have codified the physical presence standard of Quill, while providing a standard definition of physical presence. It would have prohibited a state from mandating a remote seller to collect and remit sales or use tax or from requiring a seller to report any information related to the collection of sales or use tax, unless that seller had a physical presence in the state. It also would have prohibited a state from regulating the production, manufacture, or post-sale disposal of any product sold in the state that was manufactured in another state.

Three bills were introduced after the Wayfair decision. The "Stop Taxing Our Potential Act" would have reinstated the physical presence standard from Quill. Unlike the "No Regulation Without Representation Act", the bill would have only prohibited a state from requiring a remote seller to collect and remit sales or use taxes, or to report information relating to those taxes. It would not have prohibited a state from regulating products sold in the state that were manufactured in another state.

The "Protecting Businesses from Burdensome Compliance Costs Act" would have prohibited a state from imposing a tax collection or reporting requirement on remote sellers until January 1, 2019. It also would have required states that wanted to collect tax from remote sellers to provide a statewide uniform tax rate that could not be higher than the highest combined rate of all state and local tax rates, allow remote sellers to remit tax to one location, and provide a statewide uniform provision for which items were taxable.

Finally, the "Online Sales Simplicity and Small Business Relief Act" would have prohibited states from forcing remote sellers to remit sales tax from sales prior to June 21, 2018, or from imposing a sales tax collection duty on remote sellers for purchases made before January 1, 2019. It also would have prohibited a state from imposing a collection requirement on a remote seller with less than $10 million in U.S. sales in the preceding calendar year, until the states developed an interstate compact simplifying their sales tax collection that was approved by Congress.

It is not known whether any of these bills will be reintroduced or eventually become law, but the impact of each would be different for Michigan. The "Marketplace Fairness Act" and the "Remote Transactions Parity Act" would have been the least disruptive, since each basically codified the current legal landscape. It would not be possible to compare the small seller exceptions in those bills to the standards currently used by the Department of Treasury, since the bills refer to total U.S. sales and the Michigan standards refer only to sales to Michigan purchasers.

The "Protecting Businesses from Burdensome Compliance Costs Act" would have been slightly more disruptive, since it would have prevented Michigan from implementing the new nexus standards until January 1, 2019. However, because the State already has a single tax rate and set of definitions for taxable goods, the other requirements in the bill would have been satisfied.

The "Online Sales Simplicity and Small Business Relief Act" also would have prevented Michigan from implementing the new nexus standards until January 1, 2019. The small seller
exception of $10 million in U.S. sales would have been likely to exempt businesses that otherwise would have to remit sales tax under the State-level $100,000 exception. Also, the physical presence standard in the bill was stricter than current Michigan standards, meaning more businesses would have been classified as remote sellers for purposes of the law.

Of the bills offered, the most disruptive to Michigan sales and use tax collection would have been the "No Regulation Without Representation Act" and the "Stop Taxing Our Potential Act". Both bills would have reinstated Quill's physical presence standard. Both bills defined physical presence similarly to the standard set in RAB 1999-1, but both bills explicitly rejected the Michigan Main Street Fairness Act’s click-through nexus standard. If either bill had become law, Michigan would have not only failed to realize the potential revenue from the economic presence nexus expansion (estimated to be $200 to $250 million per year), but it also would have lost the increased revenue from the click-through nexus standard (estimated to be approximately $60 million per year).

Concerns for Lawmakers

While Michigan legislators may not need to pass a new law to implement expanded economic nexus standards, there may be reasons to do it anyway. Unless the proposed bills were drastically different than the standards currently being implemented by The Department of Treasury, the laws likely would not cause a conflict. The click-through nexus standard was implemented by the Legislature in 2015, although there is nothing in statute that would have prevented the Department from implementing the standards via a Revenue Administrative Bulletin. The advantage to lawmakers of passing a law would be that they would be able to choose what level to set the small seller exception, and by codifying that level in statute, it would prevent a future administration from rescinding what currently exists as guidance.

Conclusion

The Supreme Court decision in South Dakota v. Wayfair, Inc. will affect Michigan sales and use tax collection in coming years. The Michigan Department of Treasury began requiring remote sellers with sales exceeding $100,000 to, or 200 or more transactions with, Michigan purchasers in the previous calendar year to remit sales tax, beginning October 1, 2018. This change is expected to increase sales tax revenue by $203 million in FY 2018-19, $236 million in FY 2019-20, and $248 million in FY 2020-21. While it is not necessary for the Michigan Legislature to codify the requirement in statute, there may be reasons to do so anyway.

Although the imposition of economic nexus on remote sellers by the Department mirrors the statute in question in Wayfair, the standards may still be challenged in court. Even if a challenge failed, there could still be a cost to the State to defend it. There have been mixed reactions to the Wayfair decision by the states, with some states that do not impose a sales tax objecting to the requirement that businesses from other states be required to collect sales tax for other states. As a result, the Federal government could intervene with legislation. Recent Federal proposals either would have solidified the Wayfair decision or codified the physical presence standard from the previous Court decisions. It is unknown if or when any action will be taken at the Federal level, given the number of proposals introduced since 2000 that have not become law.
Introduction

The fiscal year (FY) 2018-19 budget included $38,033,800 in General Fund savings for the closure of two State prisons: the West Shoreline Correctional Facility in Muskegon and the Ojibway Correctional Facility in Marenisco. In addition to these facilities, the Michigan Department of Corrections (MDOC) has closed or consolidated over 20 prisons since 2005, with the Ojibway Correctional Facility being the most recent in December 2018. After years of increasing capital investment to accommodate a growing inmate population throughout the 1980s, 1990s, and the early 2000s, Michigan's prison population has reached a 20-year low, reducing the need for bed space and allowing for the closure of correctional facilities across the State.

After reaching an historical peak in 2007 with a population of 51,544, the 2017 year-end prison population shrank 23.0% to 39,666, the lowest level seen since the mid-1990s. Between 2010 and 2018, the year-end population declined by roughly 1,000 inmates per year, on average, representing a marked reversal from the previous decade, when the population grew over 12.0% between 2001 and the 2007 peak. This State Notes article provides a brief historical overview of prison population trends since the 1980s, major policy initiatives in the State's corrections system, and prison facility closures and consolidations by fiscal year.

A Brief History on Prisoner Population Trends

Before the surge in Michigan's prison population growth that began in the late 1980s, inmate population trends mostly followed changes in the State's adult civilian population. Thus, the prison population hovered between 10,000 to 15,000 prisoners. A national shift in criminal justice policy towards a "tough on crime" approach, as well as legislative and voter-approved initiatives affecting the Michigan corrections system, led to the creation of 20 new prisons, roughly $1 billion in new corrections expenditures, and the addition of over 25,000 new prisoners to the corrections system over the course of the 1980s.

The elimination of "good time" credits by voter-approved referendum in 1978 and the repeal of the Prison Overcrowding Emergency Powers Act in the late 1980s, which allowed a 90-day minimum sentence reduction when population exceeded capacity, preceded rapid growth and overcrowding in the State's prison system that occurred in the latter part of the 1990s.

The period from 1984 to 1989 saw the largest growth in inmate population in the State's history; which increased from 14,658 in 1984, to 31,834 by the end of 1989. Parole approval rates dropped by 10 percentage points from 1984 to 1985, in part due to several high-profile crimes committed by parolees released under the Prison Overcrowding Emergency Powers Act. A 482% increase in drug-related prison commitments helped contribute to growing felony dispositions and new prison admissions.\(^1\)

Despite the adoption of a double-bunking policy by the MDOC in 1989, which required some prisoners to share prison cells, growth in the prison population throughout the 1990s continually outpaced capacity. From 1990 to 1996, Michigan had the largest prison, parole, and probation population among the Great Lakes states. During those years, the State incarcerated 411 citizens per 100,000 each year,

on average. The State's prison population grew another 24% over this period, from 34,267 inmates to 42,349, and Michigan’s incarceration rate ranked the fifth highest in the nation.2

Truth in Sentencing legislation in 1998 eliminated all disciplinary credits by requiring offenders to serve their entire minimum sentence in prison before being considered for parole. The law applied to assaultive crimes committed on or after December 15, 1998, and all other crimes committed on or after December 15, 2000. “Disciplinary time” replaced disciplinary credits, allowing inmates to accumulate 'bad time’ for misconduct violations.

Growth in the prison population began to slow by the early 2000s. In 2001, the slowdown in population growth was used to offset lower-than-expected revenues across the State's budget through facility reorganizations, staff reductions, and by postponing the opening of new housing units. By 2003, the prison population declined on a full-year basis for the first time since 1983 to 49,357 inmates. Trends in prison population growth between the 1980s and early 2000s in Michigan generally followed national trends, as shown in Figure 1.

Figure 1

In the early 2000s, the implementation of the Michigan Prisoner Reentry Initiative (MPRI) in select pilot sites and the Michigan Department of Corrections' Five Year Plan to Control Prison Growth represented a formal shift in priorities and approach to criminal justice policy in Michigan. The MPRI emphasized the importance of lowering recidivism rates through successful reintegration of offenders back into their communities. The program offers transitional assistance to help connect offenders with housing, employment, family supports, and other services as they exit correctional facilities and reenter the community.

The MDOC’s Five Year Plan used alternative incarceration strategies and community sanctions for low-level offenders and parolee technical violators across the State. The initiative aimed to expand the use of drug courts, improve parole and sentencing guidelines, and reform policies pertaining to mental health and substance abuse throughout the corrections system.

After two consecutive years of decline in the prison population, the number of inmates in State prisons again increased in 2005, and in 2006 it grew by over 2,000 prisoners. By March 2007, the inmate population reached its historic peak of 51,554 prisoners.

After reaching peak levels, the prisoner population began a steady decline that resulted in over 6,000 fewer inmates by 2009. The shrinking prison population, which reached 45,478 at the end of 2009, combined with severe budget constraints resulting from the 2009 economic downturn, led to the closure and consolidation of several correctional facilities throughout Michigan. The Michigan Prisoner Reentry Initiative was expanded statewide during this time, and parole approval rates increased to 62.5%, and recidivism fell to 30%.

After several years of consistent declines in the inmate population, the first full-year increase since the 2007 peak occurred in 2013 with an overall increase of 690 inmates. In 2014, the inmate population increased by 110 inmates, bringing the total population to 43,704. Prison population growth during this period was driven primarily by fewer moves to parole, more parole technical violations, and new prison admissions.

The steady decreases in the inmate population that began in 2007 continued over the next decade. By 2017, the prison population fell below 40,000 inmates, 12,000 fewer than the peak population. With the exception of two years of modest growth in 2013 and 2014, all other years from the end of 2007 until 2017 saw overall declines in the number of inmates under State supervision. Much of the drop in the inmate population from 2015 to 2018 was driven by fewer felony court dispositions and fewer probation and parole violations. By December 2018, the prison population stood at 38,789, and the recidivism rate fell to 28%.

The shrinking prison population has allowed the MDOC to consolidate and close over 20 correctional facilities between 2005 and 2018, generating hundreds of millions in General Fund savings. All prison closures and consolidations by fiscal year are described below.

Prison Closures and Consolidations by Fiscal Year

FY 2004-05

The Western Wayne Correctional Facility in Plymouth, a minimum-security women's prison, was closed in FY 2004-05 with $20,472,200 budgeted in General Fund savings. An additional $2,898,500 in efficiencies were estimated to be saved from the facility's closure. The Huron Valley Correctional Facility, originally constructed as a women's prison but operated as a psychiatric hospital for convicted felons until 2004, was converted back into a women's facility to allow for the closure of Western Wayne Correctional Facility because of an aging structure and environmental problems.

FY 2005-06

The FY 2005-06 budget included $18,840,700 in General Fund savings from the closure of the privately-operated Michigan Youth Correctional Facility in Baldwin. Funding for the facility was included in the budget passed by the Legislature, but later was eliminated by Governor Granholm's veto.

Camp Tuscola in Caro and Camp Sauble in Free Soil were closed under Executive Order 2005-7. The closure of these low-level security facilities resulted in a combined savings of $3,141,800.

FY 2007-08

The FY 2007-08 budget included $50,272,200 in General Fund savings through the closure of several correctional facilities. Camp Manistique was closed for savings of $4,641,300 and a reduction of 47.0 full-time equated positions (FTEs) and 264 beds. The Southern Michigan Correctional Facility and Egeler Reception and Guidance Center Annex, both located in Jackson, closed for a savings of $36,693,800 and $9,322,900, respectively. The Southern Michigan Correctional Facility held 1,481 beds and 434.8 FTEs, and the Egeler Reception and Guidance Center Annex held 483 beds and 100.0 FTEs.

FY 2008-09

The FY 2008-09 budget closed the Scott Correctional Facility in Plymouth for $14,566,700 in General Fund savings and a reduction of 880 beds and 369.7 FTEs. The Scott Correctional Facility closure allowed a consolidation with the Huron Valley Complex, and all female inmates at Scott were paroled or transferred to the Huron Valley Complex. The FY 2008-09 budget also removed remaining funding from the Southern Michigan Correctional Facility line item, which amounted to savings of $3,064,500 General Fund.

FY 2009-10

The FY 2009-10 budget closed several correctional facilities and prison camps for General Fund savings totaling $116,898,900. The closure of the remaining prison camps, Cusino, Kitwen, Lehman, Ottawa, and White Lake, eliminated 1,638 beds. Hiawatha, Standish, and Muskegon Correctional Facilities also were closed with a reduction of 3,061 beds, though Muskegon Correctional Facility later reopened in 2012 after housing Pennsylvania inmates under an interstate compact from 2010 to 2012. The 2009-10 facility closures eliminated 1,077.0 FTEs.

The FY 2009-10 budget also reflected $40,543,800 in General Fund savings from the previous year's closure of the Scott Correctional Facility, Deerfield Correctional Facility, and Camp Branch. Deerfield Correctional Facility and Camp Branch were closed as part of Executive Order 2008-21, which reduced FTEs by 218.4 and 121.9, respectively.
**FY 2011-12**

The FY 2011-12 budget reflected $26,090,700 in General Fund savings from the closure of Florence Crane Correctional Facility. The closure eliminated 229.0 FTEs and 1,062 beds.

**FY 2012-13**

The FY 2012-13 budget included the closure of the Mound Correctional Facility, which eliminated 1,320 beds and 238.0 FTEs for a savings of $23,427,800 General Fund.

The FY 2012-13 budget also reflected the closure of the Ryan Correctional Facility for repurposing into the Detroit Reentry Center for soon-to-be paroled inmates and parole violators. Consequently, the Muskegon Correctional Facility was reopened to compensate for the loss of beds with the Ryan closure, and the Tuscola County Reentry Center was closed. This facility restructuring resulted in a net increase of $10,800,000 in General Fund and an additional 84.0 FTEs.

**FY 2016-17**

After several years without a facility closure, the FY 2016-17 budget included $26,991,000 in General Fund savings from the closure of the Pugsley Correctional Facility in Kingsley. The Pugsley closure resulted in a reduction of 232.7 FTEs and 1,342 beds.

**FY 2018-19**

The FY 2018-19 budget reflected $18,821,700 in General Fund savings from the closure of the West Shoreline Correctional Facility and an additional $19,201,100 in savings from a mid-year closure at another facility, later identified as the Ojibway Correctional Facility in Marenisco. The West Shoreline Facility closure resulted in a reduction 212.7 of FTEs, and the elimination of 1,280 beds. The Ojibway Correctional Facility, closed in December 2018, employed 202.0 FTEs and housed 1,180 inmates.

**Future Outlook**

Michigan's prison population is expected to continue on a downward trend over the next several years; however, it is anticipated that the rate of decline will slow from rates seen in the past. The MDOC projects a decline of around 500 inmates per year through 2022, reaching a low of 36,776 inmates by December 2022. The possibility for any future prison closures will depend upon when and how the inmate population stabilizes, and if new initiatives or reforms are undertaken that affect the rate of growth in the prison population.
Figure 3: Michigan Prison Closures, 2005 - 2018

### Table 1

**Michigan Prison Closures, 2005 - 2018**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Facility</th>
<th>Bed Reduction</th>
<th>FTE Reduction</th>
<th>Budgeted Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-05</td>
<td>Western Wayne Correctional Facility</td>
<td>778</td>
<td>299.2</td>
<td>$20,472,200</td>
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<td>2005-06</td>
<td>Camp Sauble</td>
<td>156</td>
<td>36.0</td>
<td>$3,141,800</td>
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<td>2005-06</td>
<td>Camp Tuscola</td>
<td>260</td>
<td>61.0</td>
<td>$3,141,800</td>
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<tr>
<td>2005-06</td>
<td>Michigan Youth Correctional Facility</td>
<td>450</td>
<td>-</td>
<td>$18,840,700</td>
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<tr>
<td>2006-07</td>
<td>Camp Brighton</td>
<td>404</td>
<td>103.2</td>
<td>-</td>
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<tr>
<td>2007-08</td>
<td>Camp Manistique</td>
<td>264</td>
<td>47.0</td>
<td>$4,641,300</td>
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<td>2007-08</td>
<td>Southern Michigan Correctional Facility</td>
<td>1,481</td>
<td>434.8</td>
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<td>2007-08</td>
<td>Egeler Reception and Guidance Center Annex</td>
<td>483</td>
<td>100.0</td>
<td>$9,322,900</td>
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<td>2007-08</td>
<td>Riverside Correctional Facility</td>
<td>(127)</td>
<td>26.1</td>
<td>$1,794,400</td>
</tr>
<tr>
<td>2008-09</td>
<td>Camp Branch</td>
<td>710</td>
<td>121.9</td>
<td>$6,773,900</td>
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<tr>
<td>2008-09</td>
<td>Deerfield Correctional Facility</td>
<td>1,200</td>
<td>218.4</td>
<td>$14,219,100</td>
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<td>2008-09</td>
<td>Scott Correctional Facility</td>
<td>880</td>
<td>369.7</td>
<td>$19,341,100</td>
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<td>2009-10</td>
<td>Camp Cusino</td>
<td>320</td>
<td>60.0</td>
<td>$6,768,000</td>
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<td>2009-10</td>
<td>Camp Kitwen</td>
<td>288</td>
<td>56.0</td>
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<td>2009-10</td>
<td>Camp White Lake</td>
<td>160</td>
<td>42.0</td>
<td>$4,084,300</td>
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<td>2009-10</td>
<td>Hiawatha Correctional Facility</td>
<td>1,120</td>
<td>194.8</td>
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<td>2009-10</td>
<td>Camp Ottawa</td>
<td>288</td>
<td>51.0</td>
<td>$5,227,500</td>
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<td>2009-10</td>
<td>Standish Maximum Facility</td>
<td>620</td>
<td>281.0</td>
<td>$33,200,400</td>
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<td>2009-10</td>
<td>Camp Lehman</td>
<td>582</td>
<td>110.0</td>
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<tr>
<td>2011-12</td>
<td>Florence Crane Correctional Facility</td>
<td>1,062</td>
<td>229.0</td>
<td>$26,090,700</td>
</tr>
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<td>2012-13</td>
<td>Mound Correctional Facility</td>
<td>1,320</td>
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<tr>
<td>2012-13</td>
<td>Ryan Correctional Facility</td>
<td>-</td>
<td>198.0</td>
<td>$28,807,100</td>
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<tr>
<td>2016-17</td>
<td>Pugsley Correctional Facility</td>
<td>1,342</td>
<td>232.7</td>
<td>$26,991,000</td>
</tr>
<tr>
<td>2018-19</td>
<td>West Shoreline Correctional Facility</td>
<td>1,280</td>
<td>212.7</td>
<td>$18,832,700</td>
</tr>
<tr>
<td>2018-19</td>
<td>Ojibway Correctional Facility</td>
<td>1,090</td>
<td>203.0</td>
<td>$19,201,100</td>
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</table>
An Overview of Michigan's Early Childhood Education Programs
Cory Savino, Fiscal Analyst

Introduction

Michigan has multiple early childhood education programs that support low-income children. In recent years, these programs have grown in scope, accountability, and quality standards. Three early childhood education programs are discussed in this article: the Child Development and Care Program, Great Start Readiness Program (GSRP), and Head Start. Governor Snyder consolidated these programs into the Office of Great Start (within the Michigan Department of Education (MDE)), in June 2011, under Executive Order 2011-8. This article will provide an overview of the history, funding structure, and accountability for each program.

Child Development and Care Program

History and Description

The Federal Child Care and Development Block Grant was authorized in 1996 under the Personal Responsibility and Work Opportunity Reconciliation Act and was reauthorized in November 2014. The program is housed in the Administration for Children and Families within the United States Department of Health and Human Services and provides block grants to states that meet various requirements. These requirements include the following: a) establishing a lead agency in the state to administer the program, b) meeting matching and maintenance of effort (MOE) requirements, c) using the funds to help families with income levels below 85% of the state median income level, d) establishing health and safety standards, e) establishing reimbursement rates, f) using 4% of the funds to improve child care quality, and e) ensuring that children in the program have access to child care that is comparable to that received by children who are not in the Program. The Administration for Children and Families also provides a number of recommendations for the states. A States must submit plans every three years on how funds will be used, specifically on how the State will improve accessibility and quality of the program.

In Michigan, the Child Development and Care Program originally was created in what was previously the Department of Human Services. Under Executive Order 2011-8, most of the Program was moved to the MDE. Currently, the MDE operates policy and programming, and the Michigan Department of Health and Human Services determines child eligibility. The Department of Licensing and Regulatory Affairs (LARA) also licenses child care providers to ensure that those entities meet health and safety standards and report caseloads and costs.

Originally, Michigan established the income eligibility limit at 39% of the State median income or below 121% of the Federal poverty rate ($23,880 for a family of three). There are a number of other ways for children to be eligible for the Program, including foster care and protective services, but the majority of participants in the program are families that meet the income eligibility criterion. In addition, a parent must perform an approved activity, such as working, attending class, or receiving counseling and/or rehabilitation.

1 See U.S. Department of Health and Human Services, Office of Child Care, “Policy Interpretation Questions about the Use of CCDF for Program Integrity Efforts”, June 27, 2012.
The State reimburses parents or guardians based on the number of hours that the child is in child care (up to 90 hours for two weeks), the age of the child, the provider type, and the star rating of the program. The Program’s funding level is based on caseloads and the cost per case, which are estimated at the May Consensus Revenue Estimating Conference. Funding for the entire program in fiscal year (FY) 2018-19 is $254.2 million, which includes public assistance, administration, oversight, and external support, including child care licensure. The Program assistance total is $202.0 million, with Federal funds making up $162.6 million and the General Fund making up $39.4 million. Matching and MOE requirements for the State total $52.4 million, $13.0 million of which is supported by funds in the GSRP within the School Aid budget. Funding for administration and oversight of the Program is from a portion of the Great Start operations line item, as well as the Child Development and Care External Support, TEACH Scholarship program, and the Child Development and Care Contract Services line items. A total of $52.2 million Gross and Federal funds is used for administration, oversight, support, and operations of the Child Development and Care Program.

The figure below shows the trend for the average monthly caseload and cost per case for each year from FY 2008-09 through FY 2018-19 (estimated). The trend shows a 71.9% drop in caseloads over the past 10 years while the cost per case has increased roughly 26.6%. There are multiple variables that may contribute to the decline in caseloads, including declining birth rates, fewer children living in families below the income entry threshold, attendance reporting changes, reimbursement rates that are insufficient to cover child care costs, or the exclusion of parents who no longer working enough to require child care. A combination of these variables and others that are currently unknown may explain the dramatic decline in the number of children who are in the Child Development and Care Program.

Source: Actual average caseloads and cost provided by the Michigan Department of Health and Human Services, and projections from the May 2018 Consensus Revenue Estimating Conference
Oversight

In 2011, Michigan launched the Great Start to Quality system, which was intended to increase child care quality not just for programs that support children in the Child Development and Care Program, but for all licensed and registered child care programs, including the Great Start Readiness Program and Head Start. It created a five-star system to identify the quality of the licensed and registered child care programs. Great Start to Quality is voluntary; however, programs that care for children who participate in the Child Development and Care Program must be approved by the Department of Education before care can be reimbursed. The Department has an agreement with the Early Childhood Investment Corporation (ECIC) to implement the Great Start to Quality, which has 10 regional resource centers that provide assistance with all levels of the rating system. The ECIC also contracts with HighScope Educational Resource Foundation to certify inspectors for the program quality assessments for programs eligible for a four- or five-star rating.

The categories that make up the rating are staff qualification and professional development, family and community partnerships, administration and management, environment, and curriculum and instruction. For a program to get a star rating, it first must complete a self-assessment, which is then validated by an ECIC certified inspector. Programs that choose not to complete validation receive an empty star. In June 2013, Great Start to Quality was launched to create a star quality rating system. There are currently 3,978 systems that have a rating, out of 7,841 programs throughout the State. A rating is valid for two years, after which the program is rerated. Beginning in FY 2013-14, the Child Development and Care Program began reimbursing programs based on the star rating in order to give them an incentive to achieve the higher ratings and to give children access to higher-quality programs.

The Department of Licensing and Regulatory Affairs also provides oversight. The Department provides the licenses and registration for child care providers. The licensing process is focused on health and safety, and a provider must meet minimum requirements for licensure. (The Great Start to Quality, on the other hand, focuses on the quality of the program and is more in-depth.) The current ratio of LARA’s licensing inspectors and programs is 1 to 96, while the current national average is 1 to 98. The licensing process is supported by Federal funds and licensing fees.

Program Enhancements

House Bill (HB) 4112 (Public Act 6 of 2015) made supplemental appropriations for FY 2014-15. As requested by Governor Snyder, HB 4112 included supplemental Federal funds to support expansion of the Child Care and Development Program for the remaining six months of FY 2014-15. There were three areas of program expansion. The first was to increase the "exit threshold" for a subsidy to 250% of poverty. This means that the entry threshold for eligibility is 130% of the Federal poverty level and the exit is 250% of the Federal poverty level, which is below 85% of median State income. The exit threshold was intended to prevent a "drop off" in child care for families whose income increases above 130% and who otherwise would lose all child care benefits and risk being unable to find child care because of its costs.
The second program expansion was to create a 12-month period of child care. This was intended to reduce the risk of drop off further, by allowing children to remain in the Program for 12 months without being removed from it because of changes in income eligibility or approved activity. Both of these enhancements contributed to turning around the steep decreases in caseloads/children in the program that have occurred annually over the past 10 years (which decreased from a high of 64,881 caseload in FY 2004-05 to 16,733 caseloads in FY 2014-15).

The final program expansion increased the star-based reimbursement rate for providers. The reimbursement rate to providers based on tier/star quality was increased again in FY 2017-18. Table 1 shows the current hourly reimbursement rate. The increase was intended to give further incentives for providers to seek higher ratings. This program enhancement contributed to increases in the cost per case, while maintaining the level of caseloads/children in the Program.

| Table 1 |
|------------------|------------------|------------------|------------------|------------------|
| **Recommended Tiered Reimbursement Rates per Hour** | **Child Care Centers** | **Family & Group Child Care Homes** |
| | Birth to Age 2½ | Over Age 2½ | Birth to Age 2½ | Over Age 2½ |
| Base Rate (Empty Star and 1 Star) | $4.00 | $2.75 | $3.15 | $2.65 |
| 2 Star Rate | $4.25 | $3.00 | $3.40 | $2.90 |
| 3 Star Rate | $4.75 | $3.50 | $3.90 | $3.40 |
| 4 Star Rate | $5.00 | $3.75 | $4.15 | $3.65 |
| 5 Star Rate | $5.50 | $4.25 | $4.65 | $4.15 |

Source: State Budget Office

In FY 2015-16, the budget maintained the program enhancement from the half-year expansion under HB 4112 to the full fiscal year. The budget also included a Federal increase of $9.1 million for external support, which increased the number of licensing inspectors in LARA. This increase lowered the inspector to provider ratio from 1 to 150 to 1 to 96.

In FY 2016-17, the budget included increased the income entry threshold from 121% to 125% of the Federal poverty level, which was the first time the entry threshold had been increased since the program's creation. At that time, Michigan was one of three states that had the entry threshold at the minimum amount allowable for the program. In FY 2017-18, the budget increased the income entry threshold again, from 125% to 130% of the Federal poverty level, which is the current income entry threshold for the program. The increases contributed to steady increases in caseloads/children in the program.

In FY 2017-18, the budget included increased appropriations to the TEACH scholarship program by $1.0 million Federal, which provided education grants to child care employees to complete education requirements. Before this increase, the program was funded with approximately $3.0 million Federal child care and development funds and Race-To-The-Top funding. The FY 2018-19 budget included an additional $2.5 million to increase the program further and to replace expiring Race-To-The-Top funding. [The program line item was unrolled from the operations line item that fiscal year at $5.0 million.] The increases to the TEACH
scholar program were intended to increase the star quality of child care providers throughout the State. A provider's staff qualification greatly contributes to its final star quality score.

Fiscal year 2018-19 included a $63.1 million increase to the Federal discretionary block grant. Of the total, $36.5 million was appropriated to implement a biweekly block reimbursement system on March 1, 2019, for child care centers, group homes, and registered families. Unlicensed programs will continue to be reimbursed under the biweekly-hourly reimbursement system. The block system distributes cases into four biweekly blocks based on the number of hours used by the child. The blocks include: 1) those children who use 1-30 hours in a biweekly period, reimbursed on the number of hours used; 2) those children who use between 31-60 hours in a biweekly period, reimbursed at 60 hours; 3) those children who use between 61-80 hours in a biweekly period, reimbursed at 80 hours; and 4) those children who use between 81-90 hours in a biweekly period, reimbursed at 90 hours. This new system is intended to align the reimbursement process and operations with current business practices of providers. Most providers bill parents based on the number of days or half/full weeks their children use and not on an hourly basis, and schedule employees accordingly. This system also is intended to encourage providers to accept children into the Child Development and Care Program.

Various program expansions could continue to raise the cost per case and caseloads in the program. The enhancements also are intended to increase the number and quality of providers in the Great Start to Quality system. The most recent report on quality improvement showed a 5% increase in the number of providers in the Great Start to Quality system from FY 2016-17 to FY 2017-18, and a 29.3% increase in the quality of providers in the system during the same period of time. At this time, it is not anticipated that the State will need to provide additional funds to support matching or MOE requirements. With the implementation of the block-reimbursement system moved from December 1 to March 1, there should be sufficient appropriations in the program to cover any increases in the number of cases and costs per case that may be greater than current projections for the current fiscal year. There also is sufficient Federal funding remaining from the block grant increase to cover additional increases within the program, without requiring additional State dollars. However, if additional enhancement were undertaken or caseloads or costs per cases increased greatly in the future, it may be necessary for the State to support the program with additional State dollars.

Great Start Readiness Program

History and Description

In 1985, the GSRP began providing preschool for "at risk" four-year-old children. The program is funded in the School Aid budget and is overseen by the Office of Great Start within the MDE. The GSRP is unique because the intermediate school districts (ISDs) oversee the various providers and determine child eligibility while the MDE determines the grant amount and audits the ISDs to ensure that they are following statute and policy. The Department gives money to ISDs based on their needs and the amount of funding available; then, the ISDs make payments to the individual program providers. Many ISDs, schools, and academies have GSRPs on-site.

Since FY 2014-15, Section 32d of School Aid budget has required that ISDs take reasonable steps to allocate a minimum of 30% of their slots to community-based organizations, to allow other private program providers to compete locally within an ISD for funding grants from the
GSRP. Previously, Section 32l (which was repealed in 2013) allowed private program providers to participate in the grant program run by the Department. Head Start programs do not count toward the 30% requirement. Providers are paid based on the number of children they have in the program.

The School Aid Act requires programs to ensure that 90% of participation is by children at or below 250% of poverty before accepting children with family income between 250% and 300% of poverty. Children between 250% and 300% of poverty may be accepted only if all eligible children under 250% are being served. Up to 10% of the programs slots may be used for children over income eligibility guidelines; however, they must have other risk factors to qualify.

Currently, the program is funded at $243.6 million, of which $300,000 GF/GP is dedicated to ongoing program evaluation, $10.0 million is dedicated for transportation, and $1.0 million is for professional development. The $232.6 million available for programming equates to more than 63,000 half-days of programming that is available to be filled, at $3,625 per half-day. In addition to supporting the program, the funds are used for matching and meeting MOE requirements for Federal funds in the Child Development and Care Program ($13.0 million) and Federal Temporary Assistance for Needy Families (TANF) funds ($212.2 million).

Oversight

In 1994, the GSRP began a longitudinal study conducted by HighScope Educational Research Foundation to look at the impact of the program by tracking student outcomes. This study followed students who were in the program in order to measure differences between them and students who were not in the program but had similar family backgrounds. HighScope measured both academic and social outcomes through high school graduation plus two years. The study concluded in 2011, and a formal report was issued in 2012. The study found an increase in the on-time, high school graduation rate for participants in the GSRP program compared to non-participants of similar backgrounds, a decrease in the percentage of GSRP participants that repeated a grade compared to non-participants, and an increase in the percentage of GSRP participants that were found proficient in math and language arts on the Michigan Merit Examination compared to non-participants. A new longitudinal study began in 2011, and the ongoing evaluation costs $300,000 annually.

In addition to the State-level evaluation, the ISDs oversee the program providers using the same star ratings that is used for other child care programs. In order to receive funds to fill slots, GSRPs must have at least a three-star rating and must meet all the GSRP rules and policies. Unlike other child care providers, the ECIC does not audit or support of the program's providers. The ISDs use the three-star rating requirement, as well as information from development screening, ongoing observational assessments, program quality evaluations,

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2 According to the Department of Education listing of Federal matching and MOE requirements for all Federal funds received by the Department.
3 According to the Department of Health and Human Services listing of line-item amounts that are used to support TANF matching and MOE requirements.
insight from staff and parents on providers, information pertaining to the efficient use of resources, and responses to the needs of children. These factors are intended to provide local data that can be used to improve program performance.

Each ISD is required to have at least one early childhood coordinator/specialist to provide monitoring, professional development, and support to the various program providers within the ISD. The ISD is responsible for monitoring its providers for compliance with policies and guidelines for fiscal and programmatic issues. The MDE monitors ISDs for their administration and implementation of the program. An MDE auditor, GSRP consultant, or combined team will conduct on-site monitoring visits to the ISD to ensure compliance with State policies and program requirements as they relate to fiscal and programmatic management of the grant. Intermediate school districts, may use up to 4% of the grant amount for administrative services. Beginning in FY 2018-19, $1.0 million was earmarked for payments for professional development for educators in programs implementing new curricula in FY 2019-20 in coordination with the Department of Education.

Section 32p

In addition to the GSRP grants to providers based on the number of income-eligible children, there also is $13.4 million appropriated to fund various early childhood block grants. Of the total, $10.9 million is allocated toward coordinating great start collaboratives with parent coalitions to expand local early childhood infrastructure. This funding is determined based on a formula established by the Office of Great Start. Each ISD is required to provide an application detailing the purpose of using the funds and must submit reports at the end of each fiscal year indicating the program's actual use of the funds. The remaining $2.5 million is allocated to provide home visits to at-risk children and their families. The purpose of the home visits is to improve school readiness, reduce grade retention, reduce the number of pupils requiring special education services, and focus on developmentally-appropriate outcomes for early literacy.

Head Start

History and Description

President Lyndon B. Johnson initially created Head Start as an eight-week pilot project for low-income youths in 1965. It is currently administered by the U.S. Department of Health and Human Services and has expanded to allow full-day, full-year and [home-based provider programming] child care options. In 1995, the Clinton administration awarded the first Early Head Start grants, which provide for services to pregnant women, infants, and children up to age three, while Head Start serves children ages three to kindergarten-entry. Head Start and Early Head Start provide education, health, and social services to low-income children from birth to five years old. The American Reinvestment and Recovery Act included increases to the number of slots in the program.

Head Start and Early Head Start are different from the Child Development and Care Program, because the administration and oversight of the Head Start programs go from the Federal level to the agency level, with very little State involvement. In 2007, the Head Start Act was reauthorized to include initiatives to increase quality; these included increased qualifications for Head Start teachers, increased monitoring, inclusion of a five-year competitive grant system
for increased accountability, and regional and state coordination that provided training and technical support. Through a process called "designation renewal", grantees must demonstrate high service quality, as well as compliance with programmatic and financial standards. Failure to meet Office of Head Start standards results in a competitive application process in which grantees must reapply for their funding. This competition allows other programs in the community to apply for Head Start funding. Grantees also can go through recompetition if they fall in the bottom 10% in any of the three evaluation domains (emotional support, instructional support, and classroom organization) during their Office of Head Start monitoring visit. Since the grantees in the bottom 10% are subject to the competitive process, they are removed when the Office of Head Start establishes the minimum requirements in the three domains, which results in higher standards.

The Federal program appropriated $9.2 billion in FY 2017-18 in grants and quality services and served 915,603 children in the same year. In Michigan, Early Head Start and Head Start programs received approximately $293.6 million from the Federal government. The Head Start Collaboration Office, in the Office of Great Start in the MDE, is funded at a level of $313,700 in FY 2018-19. Of the total, $250,700 is support from Federal funds and $63,000 is matched with GF/GP. In the Collaboration Office, one staff member facilitates partnerships between Head Start agencies and other State entities that provide services to benefit low-income children and their families, such as health and education.

Oversight

Programs in Michigan are administered by the Office of Head Start regional office, which is located in Chicago, and are subject to a monitoring system that is aligned with a comprehensive, five-year oversight plan. Many providers voluntarily participate in Great Start to Quality and must do so if the Head Start program wishes to partner with the GSRP. The GSRP requires a minimum of three stars. Head Start partners with the GSRP as a direct operator of GSRP programming and through blended agreements. In blended classrooms, one GSRP half-day slot and one Head Start half-day slot are combined to allow for a full-day of instruction. These partnerships allow more at-risk four-year-olds to attend a full day of preschool. In these blended settings, the program requirements for both Head Start and the GSRP must be followed, which can maximize program quality.

Conclusion

Michigan has a number of early childhood education programs that serve low-income children. The Child Development and Care Program, the Great Start Readiness Program, and Head Start differ in how they are administered and structured. Since these programs were reorganized within the same office and the Great Start to Quality system was launched, the programs' interactions with each other and the general child care system have increased. All of these programs have changed recently in order to try to increase quality and reduce education gaps in schools. The Child Development and Care Program worked with the Great Start to Quality system to create a five-star rating that is used to calculate reimbursement rates, which gives programs an incentive to improve quality and to accept children who are in the Child Development and Care Program. The GSRP has increased quality goals and ISD

5 According to the United States Department of Health and Human Services, Office of Head Start.
oversight, and tracks children who participate in the program in order to further improve it. Head Start has increased the Federal standards and oversight, and opened up the Federal grants to a competitive process in order to increase quality. The goal of more oversight, increased quality standards, and competition is to have low-income children ready for school and to reduce the achievement gap. Table 2 summarizes the FY 2018-19 State appropriations for the early childhood education programs that serve low-income children.

Table 2

<table>
<thead>
<tr>
<th>Program</th>
<th>Gross</th>
<th>Federal</th>
<th>Private</th>
<th>Restricted</th>
<th>GF/GP</th>
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<tr>
<td>Child Dev'l and Care (Admin.)</td>
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<td>$52,249,600</td>
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<td>$0</td>
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<td>Great Start Readiness (Admin.)</td>
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<td>Great Start Readiness Grants</td>
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<td>0</td>
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<td>Head Start Collaboration Office</td>
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<td>63,000</td>
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<td><strong>Total</strong></td>
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<td><strong>$250,000</strong></td>
<td><strong>$257,064,600</strong></td>
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**Note:** Initial appropriations for FY 2018-19, PA 207 & 265 of 2018.