Legislative Analysis

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DRIVER RESPONSIBILITY FEES

House Bill 5040 (S-1) as enrolled
Sponsor: Rep. Lee Chatfield

House Bill 5041 (S-1) as enrolled
Sponsor: Rep. Sylvia A. Santana

House Bill 5043 (S-2) as enrolled
Sponsor: Rep. Roger Hauck

House Bill 5044 (H-1) as enrolled
Sponsor: Rep. Joseph N. Bellino, Jr.

House Bill 5046 (S-1) as enrolled
Sponsor: Rep. Steve Marino

House Bill 5079 (S-1) as enrolled
Sponsor: Rep. Daire Rendon

Senate Bill 613 (S-1) as enrolled
Sponsor: Sen. Rick Jones

Senate Bill 625 (H-1) as enrolled
Sponsor: Sen. Kenneth Horn

House Committee: Michigan Competitiveness
Senate Committee: Michigan Competitiveness

Complete to 2-26-18

BRIEF SUMMARY:

Currently under the Motor Vehicle Code, Michigan drivers are assessed "Driver Responsibility Fees" after accumulating a certain number of points on their licenses or committing certain specific offenses. These fees are in addition to the standard penalties for committing the offenses. The fees were created by Public Act 165 of 2003, but some were reduced or eliminated by Public Act 255 of 2011, and the remainder are being phased out by Public Act 250 of 2014.

Under the 2014 legislation, a driver who is assessed a driver responsibility fee as of October 1, 2016 is assessed at 50% of the fee level, and beginning October 1, 2018, will be assessed at 25% of the fee. Finally, beginning October 1, 2019, no new assessments can be charged; however, delinquent assessments may still be collected.

Taken together, House Bills 5040, 5041, 5043, 5044, and 5046 and Senate Bill 613 would end the collection of delinquent driver responsibility fees beginning September 30, 2018 (for individuals on a payment plan, collection would end for plans entered into on or before February 1, 2018), remove references to the program in existing statute, and provide for the accommodation of certain individuals currently participating in the driver responsibility fee program.

House Bill 5079 and Senate Bill 625 would require the Department of Treasury to implement a workforce training payment program and offer it as an alternative to payment of certain assessed driver responsibility fees. HB 5079 would also waive payment of a fee to reinstate one's license until January 1, 2019.

FISCAL IMPACT:

Relative to current law, the bills would reduce General Fund revenue by an estimated $18.8 million in fiscal year (FY) 2017-18. Beginning in FY 2018-19 all revenue from Driver Responsibility Fees (DRFs) would be eliminated which would reduce future General Fund revenues by approximately $37.5 million between FY 2018-19 and FY 2020-21; eliminate Fire Protection Grant funding of $8.5 million annually beginning in FY 2018-19; and eliminate $1.0 million appropriated annually to the Secretary of State for the Ignition Interlock Program beginning in FY 2018-19.

Revenue from license reinstatement fees would decrease by an estimated $551,000 in FY 2017-18, and $735,000 in FY 2018-19 due to the forgiveness of DRF payment plans with license reinstatement fees rolled. There would be an additional indeterminate decrease in revenue from the waiver of license reinstatement fees included with the amnesty.

(See ***Fiscal Information***, below, for a more detailed discussion.)

THE APPARENT PROBLEM:

House Bills 5040, 5041, 5043, 5044, 5046, and Senate Bill 613 would accelerate the phase-out of driver responsibility fees in Michigan, which the Legal Aid Justice Center recently rated as one of the five harshest programs in the country. According to that report,[1] Michigan currently has restrictions on multiple levels:

- In Michigan and 18 other states, suspending driver's licenses of those who owe courts is mandatory instead of discretionary.
- Suspensions are indefinite instead of time-limited (along with 38 other states).
- Michigan is one of five states that employ mandatory indefinite suspension without regard to ability to pay.
- Suspensions apply to traffic infractions and to criminal court debt that has nothing to do with driving.

One of the bill sponsors has stated that driver responsibility fees trap people in a cycle of poverty, in which they are assessed new fees for nonpayment of existing debts. As stated above, 2014 legislation phased out the assessments, leading to their elimination in 2019. This legislation would instead end the program beginning September 30, 2018, and forgive outstanding fines owed by reportedly more than 300,000 Michigan drivers.

House Bill 5079 and Senate Bill 625 would offer participation in a workforce training payment program as an alternative to payment of the fees.

[1] "Driven by Dollars: A State-by-State Analysis of Driver's License Suspension Laws for Failure to Pay Court Debt" https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf

THE CONTENT OF THE BILLS:

House Bill 5040 would amend the Michigan Vehicle Code (MCL 257.732a) to require that beginning September 30, 2018, no outstanding driver responsibility fees shall be collected. Further, the bill would state that an individual is not responsible for any outstanding driver responsibilities fees or the requirement to complete community service in their place. Additionally, an individual whose driving privileges were suspended due to nonpayment of fees would be eligible for a reinstatement of his or her operator's license, if otherwise compliant with the Code. The bill would also remove assessments that are no longer being assessed.

Finally, the Code currently credits the first $8.5 million from DRF fees to the Fire Protection Fund and the next $1.0 million to the Department of State (DOS) for implementation of the Ignition Interlock Program. The bill would provide that, for fiscal year 2018 only, the next $250,000 would be credited to the Department of Treasury (Treasury) to implement and administer the workforce training program under SB 625.

House Bill 5041 would amend the Code (proposed MCL 257.732d) to require Treasury, with input from the Departments of State, Corrections, and Health and Human Services, the Unemployment Insurance Agency, and Michigan Works Agencies, to educate individuals affected by the changes proposed in HB 5040. The education would include informational materials and effective outreach.

House Bill 5043 would amend the Code (MCL 257.732a) to provide that no outstanding responsibility fees shall be collected from individuals with payment plans entered into on or before February 1, 2018. Those individuals would have no liability for outstanding fees and, as above, would be eligible to seek a reinstatement of their operator's licenses.

House Bill 5044 would amend the Code (MCL 257.732a) to move the deadline to assess fees under the program from October 1, 2019 to October 1, 2018.

House Bill 5046 would amend the Code (MCL 257.304) to provide that if an individual participated in a DWI or sobriety court program that ends on or after October 1, 2018, the fees would be waived.

Senate Bill 613 would amend the Enhanced Driver License and Enhanced Official State Personal Identification Card Act (MCL 28.304) to match the timeline included in the other proposed bills. Currently under the act, the holder of an enhanced driver license is subject to every "licensing sanction" provided under the Michigan Vehicle Code. One such "licensing sanction" is the assessment of a driver responsibility fee, which under the bill would end as of October 1, 2018.

Senate Bill 625 would add a section to the Code (proposed MCL 257.732c) that would require the Department of Treasury to create and administer a workforce training payment program. The bill would allow Treasury to work to develop the program with a local workforce development board, a Michigan Works one-stop service center, or a training program offered by the Department of Corrections.

House Bill 5079 would amend the Code (MCL 257.732a, 257.732b, and 257.904) to provide that, beginning when the bill takes effect, no fee could be assessed for the following:

- Operating a vehicle with a suspended or revoked license, or other specified offenses related to that act, under section 904 of the Code.
- Committing various offenses under the Insurance Code (failure to maintain auto insurance; failure to maintain certain insurance requirements for nonresidents; or failure to maintain insurance by the owner or registrant of a motorcycle).

However, if an individual was assessed a fee for either of those offenses, the bill would allow the individual to participate in 10 hours of a workforce training payment program (which would be instituted by SB 625) as an alternative to payment of the fee as is currently allowed under statute. Likewise, participation in the workforce training payment program would be allowed if the individual had been assessed a fee for not having a valid operator's or chauffer's license or failing to produce insurance upon request of a police officer; these fees have not been assessed since September 30, 2012.

The bill would replace references in statute to the 10-hour community service option with the workforce training option regarding: notice that the program is an option, completion of the application form by the individual, completion of the program, waiving of the fee upon verification of completion, and penalties for violation.

Finally, the bill would provide that, from the time the bill is enacted until December 31, 2018, individuals could reinstate their driving privileges without paying a fee. Beginning January 1, 2019, the DOS could once again require a fee for reinstatement.

House Bill 5079 and Senate Bill 625 would take effect 30 days after enactment.

FISCAL INFORMATION:

Relative to current law, the bills would reduce General Fund revenue by an estimated $18.8 million in fiscal year (FY) 2017-18. Beginning in FY 2018-19, all revenue from Driver Responsibility Fees (DRFs) would be eliminated which would reduce future General Fund revenues by approximately $37.5 million combined between FY 2018-19 and FY 2020-21; eliminate Fire Protection Grant funding of $8.5 million annually beginning in FY 2018-19; and eliminate $1.0 million appropriated to the Secretary of State for the Ignition Interlock Program annually beginning in FY 2018-19.

Revenue from license reinstatement fees would decrease by an estimated $551,000 in FY 2017-18, and $735,000 in FY 2018-19 due to the forgiveness of DRF payment plans with license reinstatement fees rolled in. There would be an additional indeterminate decrease in revenue from the waiver of license reinstatement fees included with the amnesty.

Current Law Revenue Estimates
The January 2018 Consensus Revenue Estimating Conference provided the following estimates for DRF revenue under current law:

Table 1
Driver Responsibility Fee Revenue Estimates – Current Law

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
General Fund	$65,500,000	$44,800,000	$26,000,000	$10,000,000	$1,500,000
Fire Protection Grants	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000
TOTAL	**$74,000,000**	**$53,300,000**	**$34,500,000**	**$18,500,000**	**$10,000,000**

Note: FYs 2019-20 and 2020-21 are Department of Treasury estimates.

As of August 2017, there were approximately $637.1 million in outstanding DRFs. Collection rates for DRFs have never been above 60%, so the delinquent balance has steadily increased since their introduction in 2003. Annually, approximately $19.0 to $20.0 million of the outstanding delinquent fund balance is collected through Treasury collection methods (income tax offsets, calls, mailings, etc.). It is estimated that approximately $19.0 million of the delinquent balance still would be collected in FY 2017-18. This estimate is highly sensitive to assumptions on DRF avoidance, Treasury's remaining collection activity through the end of FY 2017-18, and estimates of current law collections.

DRF Revenue Impact
The provisions of HBs 5040, 5043, and 5079 would reduce revenues to the General Fund in FY 2017-18 by approximately $18.8 million relative to current law. Fire Protection Grants would realize no impact due to revenues still exceeding the required distribution amounts in FY 2017-18. This estimate assumes the earliest possible effective date under the provisions of HBs 5040 and 5079, March 2018. The revenue impact would be $1.8 to $2.2 million less for each month the effective date is delayed beyond March 2018.

House Bill 5040 also would reduce future General Fund revenues by approximately $37.5 million combined between FY 2018-19 and FY 2020-21 and would eliminate Fire Protection Grant funding of $8.5 million annually beginning in FY 2018-19. Table 2 provides a summary of the DRF revenue impact relative to current law revenue estimates in Table 1 above.

Table 2
Summary of DRF Revenue Impact Under Proposed Changes

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
HBs 5040, 5043 & 5079	($18,800,000)	($34,500,000)	($18,500,000)	($10,000,000)
HB 5079	(300,000)	0	0	0
HB 5046	(100,000)	0	0	0
TOTAL	**($19,200,000)**	**($34,500,000)**	**($18,500,000)**	**($10,000,000)**

It should be noted that all of the estimates are sensitive to individual actions regarding DRF avoidance, the effectiveness of Treasury collections, and the accuracy of current law revenue estimates.

All together, the bills' proposed changes to DRF revenues would result in the following revenue projections shown in Table 3:

Table 3
Revenue Projections Under Proposed Changes

	FY 2017-18	FY 2018-19	FY 2019-20
General Fund	$25,600,000	$0	$0
Fire Protection Grants	8,500,000	0	0
TOTAL	**$34,100,000**	**$0**	**$0**

Full Amnesty and DRF Elimination Impact

Under HB 5043, all persons in an installment plan would have the remainder of their DRF balance forgiven upon the effective date of the bill. New assessments between the effective date and October 1, 2018 (full amnesty) would continue to generate revenue, but at a much lower rate. HB 5079 would prohibit the $500 assessments for *driving while license suspended/revoked/denied* and *no insurance under the insurance code* from being levied beginning on the effective date of the bill.

The full amnesty provisions of HB 5040 would provide an incentive for individuals receiving a new assessment to enter into a 24-month installment plan to minimize overall payments. An individual who would otherwise have paid the entire amount up front, or have paid over a shorter time frame, would have no incentive to do so knowing that any remainder of his or her DRF would be forgiven beginning October 1, 2018. It should be noted that an individual wishing to keep his or her driver's license valid would need to enter into an installment plan, at a minimum, to prevent the license from being suspended.

Workforce Training Alternative Payment Programs

Including participation in a workforce training program as an alternative to payment for *no proof of insurance* and *driving while license expired* DRFs would further reduce revenues in FY 2017-18 by approximately $200,000. Originally, the community service alternative payment program was offered in calendar year 2015. Over that time approximately 4,700 accounts were adjusted and $2.5 million in outstanding fees were waived. DRFs for *no proof of insurance* and *driving while license expired* were last levied on September 30, 2012. The most recent of the delinquent fees would be 5 years old. With the full amnesty offered on October 1, 2018, it is unlikely that this program would be significantly used.

The provisions of HB 5079 would expand the alternative payment program (workforce training) from the original community service offenses to individuals with an outstanding DRF assessment for *driving while license suspended/revoked/denied* and *no insurance under the insurance code*. Any fiscal impact would be directly related to the number of individuals who participate in this alternative payment option. Any outstanding fees that were eliminated would reduce the outstanding delinquent balance and thereby reduce the pool of funds from which Treasury would be implementing income tax offsets in FY 2017-18. Presumably, the offering of amnesty on October 1, 2018 would minimize the number of people who would take advantage of this option. It is estimated that this would reduce revenues by $100,000 in FY 2017-18.

DWI/sobriety court DRF

Individuals who enter a DWI/sobriety court program are assessed a DRF after completion of the program. Under HB 5046, if a person's participation in the DWI/sobriety court program is completed after the amnesty date of October 1, 2018, they would no longer be required to pay a DRF. This provision would further reduce expected revenues from DRFs in FY 2017-18 by approximately $100,000.

License Reinstatement Fees

House Bills 5043, 5044, and 5079 would decrease revenue for the Department of State, the Department of Transportation, the Judiciary, and the Michigan State Police through the elimination of anticipated revenue from $125 license reinstatement fees. Drivers with a suspended driver license are required to pay $125 to the Secretary of State in order to reinstate their license. Revenue from each fee is distributed to four separate departments and funds as described in Table 4 below.

Table 4
Distribution of $125 License Reinstatement Fee Revenue

Department	**Amount**	**Fund**	**Description**
Secretary of State (SOS), State	$50	Reinstatement Fees	Supports various operations within the Secretary of State.
Transportation (MDOT)	$35	Economic Development Fund	Funds highway, road, and street projects that support economic growth.
Judiciary	$30	Drunk Driving Fund	Funds the drunk driving case-flow program which assists trial courts with timely disposition of drunk driving offense cases.
State Police (MSP)	$10	Drunk Driving Prevention and Training Fund	Supports the purchase and maintenance of breath-alcohol testing equipment and training to law enforcement officers on using the equipment.

Established Payment Plans Forgiveness

HB 5043 provides full amnesty for those who have established payment plans prior to the bill's effective date. Individuals who have had their license suspended and then established a payment plan are given the option of including the license reinstatement fee in the total amount that is paid down with each installment. This allows an individual to reinstate his or her license while paying a small portion of the license reinstatement fee each month. Under the amnesty provision of HB 5043, any remaining unpaid portion of a license reinstatement fee at the time of amnesty would also be forgiven. This would result in decreased license reinstatement fee revenue for both FYs 2017-18 and 2018-19. There is approximately $2.9 million in license reinstatement fees rolled into existing payment plans. The FY 2018-19 loss will be more due to the forgiveness of a full year of payment plan. The estimated reductions in fee revenue from HB 4053 are incorporated in Table 5 below.

Table 5
Estimated License Reinstatement Fee Revenue Loss from Payment Plan Forgiveness

Dept.	FY 2018	FY 2019
SOS	($220,500)	($294,000)
MDOT	(154,500)	(206,000)
Judiciary	(132,000)	(176,000)
MSP	(44,250)	(59,000)
Total	**($551,250)**	**($735,000)**

License Reinstatement Fee Waiver Period
HB 5079 provides a temporary waiver of license reinstatement fees for all drivers with a suspended license due to delinquent payments of Driver Responsibility Fees. The grace period begins on the effective date of the act and ends on December 31, 2018. The decrease in revenue from fees depends on the number of individuals with license suspensions due to delinquent DRFs who would have been reasonably expected to reinstate their licenses and pay the fees prior to the amnesty provisions in the bill package. DOS does not record reinstatement revenue by the cause of the license suspension. Therefore, the annual anticipated amount of reinstatement revenue from DRFs, and the corresponding expected loss of revenue, cannot be determined.

Full Amnesty and DRF Elimination Impact
License reinstatement fee revenues would steadily decrease through FY 2020-21 as future expected suspensions and license reinstatements would be precluded by HBs 5040 and 5044. The decreases from payment plans are estimated to be $151,000 in FY 2018-19, $72,500 in FY 2019-20, and $43,500 in FY 2020-21. An additional unknown decrease would come from precluded license reinstatement fees not paid through payment plans.

Customer Delivery Administration Costs
Recent data suggest that there are 317,000 individuals with delinquent DRF payments and suspended licenses. It is estimated that 25% to 50% of these individuals will reinstate their licenses following the enactment of the bill package. The anticipated influx of SOS branch office customers may result in unknown administrative costs to process reinstatement requests and to determine individuals' eligibility to reinstate according to the provision in HB 5079 in Section 732b(11)(c).

Department of Treasury DRF Outreach Program
House Bill 5041 would impose certain costs on Treasury associated with the creation and implementation of a DRF outreach program that would inform and educate individuals with outstanding DRF obligations affected by legislative changes associated with this bill package. The bill would appropriate $160,000 GF/GP for programmatic costs.

Departments of State and Treasury Workforce Training Payment Program
Senate Bill 625 would require the Department of Treasury to create and administer a workforce training payment program, increasing its administrative costs. House Bill 5040 includes an appropriation of $250,000 from the DRF revenues to accommodate any increased costs incurred by the Department of Treasury associated with administering the workforce training program payment program.

Secretary of State Breath Alcohol Ignition Interlock Device Program

The Department of State (DOS) is authorized to use $1.0 million of DRFs for costs incurred implementing and administering duties associated with the Breath Alcohol Ignition Interlock Device (BAIID) program. DOS regularly collects and expends amounts close to the full $1.0 million authorization. These funds would no longer be available starting in FY 2018-19 as required under HBs 5040 and 5044. DOS reports that expenses associated with administering BAIID will be lower in the coming years, but it is not yet known if its costs could be accommodated within its budget without revenue from DRFs.

ARGUMENTS:

For:

Proponents argue that the burden of DRFs falls disproportionately on poor people, who become trapped in a de facto debtor's prison—unable to pay the fees necessary to have their licenses reinstated and unable to drive to their jobs to earn money to pay the debt. Moreover, the burden may be felt most by people living in rural areas and small towns without public transit where driving is necessary to travel to work.

Supporters argue that the state's accounting for these fees as a collectible asset is misleading, as many of the people affected will never be able to pay them. In fact, according to committee testimony, over half of the assessments have been delinquent for more than six years.

Other supporters argue that repealing DRFs would have a positive impact on employment in Michigan. Members of the business community testified that low unemployment has led to a smaller talent pool for employers, and that pool is made smaller still when DRF drivers are eliminated from the job force. Over 300,000 Michiganders currently owe DRFs, and—as they would incur additional fees if they drive, including to work—are effectively eliminated from the job force. According to committee testimony, 10% of would-be entry-level workers have DRF problems. Even if those affected by DRFs are able to get transportation to jobs, proponents argue, they may be unable to be promoted to positions that require driving.

Against:

Elimination of driver responsibility fees could have a significant negative fiscal effect, as described above in ***Fiscal Impact*** and ***Fiscal Information***. In addition to other effects, the bills would reduce General Fund revenue by an estimated $18.8 million in FY 2017-18 and future General Fund revenues by approximately $37.5 million between FY 2018-19 and FY 2020-21. Opponents argue that these expected revenues are built into the budget and that their elimination would affect necessary programs funded by the state.

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