Legislative Analysis

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DRIVER RESPONSIBILITY FEES

Senate Bill 609 (H-1) as reported from committee
Sponsor: Sen. Dave Hildenbrand

Senate Bill 610 (H-1) as reported
Sponsor: Sen. Curtis Hertel

Senate Bill 611 (H-1) as reported
Sponsor: Sen. Wayne Schmidt

Senate Bill 612 (H-1) as reported
Sponsor: Sen. Judy K. Emmons

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

Senate Bill 614 (S-1) as reported
Sponsor: Sen. Margaret E. O'Brien

Senate Bill 615 (H-1) as reported
Sponsor: Sen. David Knezek

Senate Bills 624 (H-1) & 625 (H-1) as reported
Sponsor: Sen. Ken Horn

House Committee: Michigan Competitiveness
Senate Committee: Michigan Competitiveness

Complete to 2-5-18

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, Senate Bills 609 to 615 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 up to the effective date of SB 615); remove references to the program in existing statute; and provide for the accommodation of certain individuals currently participating in the driver responsibility fee program.

Senate Bills 624 and 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.

FISCAL IMPACT:

Relative to current law, the bills would reduce General Fund revenue by an estimated $20.8 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 $735,000 in FY 2017-18, but increase by $16.3 million in FY 2018-19 due to newly eligible individuals reinstating their driver's licenses after their DRF debt is discharged on October 1, 2018. (See ***Fiscal Information***, below, for a more detailed discussion.)

THE APPARENT PROBLEM:

Senate Bills 609 to 615 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 October 1, 2018, and forgive outstanding fines owed by reportedly more than 300,000 Michigan drivers.

Senate Bills 624 and 625 would offer participation in a workforce training payment program as an alternative to payment of the fees.

THE CONTENT OF THE BILLS:

Senate Bill 609 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. Finally, 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.

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

Senate Bill 610 would amend the Code (proposed MCL 257.732d) to require the Department of 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 SB 609. The education would include informational materials and effective outreach.

The bill would appropriate $160,000 for FY 2018-19 for Treasury to educate affected individuals

Senate Bill 611 would amend the Code (MCL 257.732b) to reinstate community service as an alternative payment option and to stipulate that, after September 30, 2018, an individual would not be liable for any community service required of the driver responsibility program.

Senate Bill 612 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.

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 614 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 615 would amend the Code (MCL 257.732a) to provide that no outstanding responsibility fees shall be collected from individuals with payment plans entered into up to the effective date of the bill. Those individuals would have no liability for outstanding fees and, as above, would be eligible to seek a reinstatement of their operator's licenses.

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.

Senate Bill 624 would amend the Code (MCL 257.732a and 257.732b) 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 or 10 hours of community service, 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 mirror the provisions in statute for the 10-hour community service 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.

Senate Bills 615 and 624 would take effect 90 days after enactment. Senate Bill 625 would take effect 30 days after enactment.

HOUSE COMMITTEE ACTION:

The House Michigan Competitiveness committee adopted H-1 substitutes to seven of the nine bills. As reported from House committee, the Senate bills are virtually identical to the versions of House Bills 5040 through 5046 and 5079 and 5080 as passed by the House. The sole difference is that SB 614 provides that a person's participation in a DWI/sobriety court program that is "successfully" completed on or after October 1, 2018 would allow DRF fees to be waived; HB 5046 (H-2) lacked the word "successfully."

FISCAL INFORMATION:

Relative to current law, the bills would reduce General Fund revenue by an estimated $20.8 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 $735,000 in FY 2017-18, but increase by an estimated $16.3 million in FY 2018-19 due to newly eligible individuals reinstating their driver's licenses after their DRF debt is discharged on October 1, 2018.

Current Law Revenue Estimates

The January 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.

DRF Revenue Impact

The provisions of SBs 609, 615, and 624 would reduce revenues to the General Fund in FY 2017-18 by approximately $20.8 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 SB 609, February 2018. The revenue impact would be $1.8 to $2.2 million less for each month the effective date is delayed beyond February 2018.

Senate Bill 609 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
SBs 609, 615 & 624	($20,800,000)	($34,500,000)	($18,500,000)	($10,000,000)
SBs 611 & 624	(500,000)	0	0	0
SB 614	(100,000)	0	0	0
TOTAL	**($21,400,000)**	**($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	$23,400,000	$0	$0
Fire Protection Grants	8,500,000	0	0
TOTAL	**$31,900,000**	**$0**	**$0**

Full Amnesty and DRF Elimination Impact

Under SB 615, 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. SB 624 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 SB 609 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.

Community Service/Workforce Training Alternative Payment Programs
Reinstating the community service program and adding 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 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 SB 624 would expand the alternative payment program (community service and workforce training) 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 $300,000 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 SB 614, 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
Senate Bills 609, 611, 612, 614, and 615 would greatly increase the number of individuals who are eligible to reinstate their suspended driver's licenses. Each individual who reinstates his or her license is required to pay a $125 license reinstatement fee. Revenue from each fee is distributed to four separate departments and funds as described in Table 4 below.

<u>Table 4</u>
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.

Significant changes in driver license reinstatements would be expected in both FYs 2017-18 and 2018-19, with a large increase expected in FY 2018-19. The actual number of individuals who would reinstate as a result of the bills and the amount of expected revenue would depend highly on two main factors: (1) the number of individuals with suspended driver's licenses who have no other sanctions, restrictions, or circumstances prohibiting them from reinstating their licenses and (2) the level of awareness of the bills' provisions among the individuals eligible to reinstate their driver's licenses.

Recent data suggest that there are approximately 317,000 individuals delinquent on paying their DRFs. Individuals with delinquent DRFs are required by law to have their licenses suspended until their fees are paid entirely, at which time they may reinstate. Certain individuals who have entered delinquency may establish an installment plan and have their licenses reinstated prior to paying off their delinquent account if they haven't been delinquent before. There are currently no data available that would allow for an estimate on the number of individuals who have no other sanctions, restrictions, or circumstances prohibiting a reinstatement of their licenses and who would ultimately choose to reinstate their licenses. There is also no amnesty precedent from which to base a comparison.

Therefore, for the purpose of estimating new license reinstatement revenue as a result of the bills, estimates in <u>Table 5</u> are calculated according to a range of possible participation rates showing the number of reinstatements assuming 25%, 50%, and 75% of individuals with delinquent DRFs and license suspensions choose to reinstate their licenses.

The total estimated revenue impact from changes to license reinstatement fees is summarized in <u>Table 5</u> below. Estimated increases in license reinstatements for FY 2017-18 are offset by the expected decrease in collected fees associated with the waived payment plans. This decrease will continue into FY 2018-19 but is significantly smaller than the anticipated increase, resulting in a net increase.

Table 5
Estimated License Reinstatement Fee Revenue at Different Individual Participation Rates

	25% Participation 79,250 individuals		**50% Participation** 158,500 individuals		**75% Participation** 237,750 individuals	
Dept.	**FY 2018**	**FY 2019**	**FY 2018**	**FY 2019**	**FY 2018**	**FY 2019**
SOS	($294,000)	$2,541,000	($294,000)	$6,503,000	($294,000)	$10,466,000
MDOT	(206,000)	1,778,000	(206,000)	4,552,000	(206,000)	7,326,000
Judiciary	(176,000)	1,524,000	(176,000)	3,902,000	(176,000)	6,279,000
MSP	(59,000)	508,100	(59,000)	1,300,600	(59,000)	2,093,000
Total	**($735,000)**	**$6,351,100**	**($735,000)**	**$16,257,600**	**($735,000)**	**$26,164,000**

Community Service/Workforce Training Alternative Payment Programs

Furthermore, license reinstatement revenue collected in FY 2017-18 would depend on how many individuals with suspended licenses due to delinquent DRFs take advantage of the community service/workforce training and payment plan provisions in SBs 611, 615, and 625. To estimate the impact of these contingencies, assumptions were applied to estimate the number of individuals who would take advantage of the provisions. Actual license reinstatements could differ greatly and would depend on the level of awareness individuals have regarding these opportunities and the level of demand for them.

As noted previously, the Community Service Program offered in 2015 had minimal participation. Considering that the current pool of eligible individuals is smaller than before, that it includes the same individuals as in 2015, and that the incentive to participate in the program under the proposed amnesty provisions would be less appealing than before, the number of participants is estimated to be less than in 2015 even with the inclusion of workforce training as an alternative under SB 624. With these considerations, it is estimated that SB 611 would result in an estimated $320,000 in license reinstatement revenue in FY 2017-18.

SB 624 would expand the alternative payment program (community service and workforce training) to individuals with an outstanding DRF assessment for additional offenses. Considering that the fees are higher and the eligible individuals have never been offered an alternative payment option before, it is estimated that participation would be slightly higher than for those individuals offered the community service alternative payment option in 2015. Full amnesty on October 1, 2018 would diminish the incentive to participate. The resulting impact is an estimated $375,000 in license reinstatement revenue in FY 2017-18.

Established Payment Plans Forgiveness – License Reinstatements

SB 615 provides full amnesty for those who have established payment plans prior to the bill's effective date. Individuals who have had their licenses 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 SB 615, 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.

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 SBs 609 and 612. 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.

Department of Treasury DRF Outreach Program
Senate Bill 610 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 Treasury to create and administer a workforce training payment program, increasing its administrative costs. Based on costs associated with the previously offered community service alternative payment program, Treasury could incur costs upwards of $500,000 to administer the program. The bill includes no provision that would appropriate funds.

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 in 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 SBs 609 and 612. 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 $20.8 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.

POSITIONS:

The following organizations support the bill package:

- Goodwill Association of Michigan (1-31-18)
- Reading Works (1-31-18)
- Kinexus Group of Benton Harbor (1-31-18)
- Michigan League for Public Policy (1-31-18)

The following organizations indicated positions on the House DRF package, which was essentially identical to the Senate package as reported from House committee (as described in ***House Committee Action***):

Representatives of the following organizations testified in support of the bills:

- Michigan Secretary of State (10-11-17)
- Kinexus Group of Benton Harbor (10-11-17)
- Kroger Plastics (10-11-17)
- National Motorists Association (10-11-17)
- Office of Workforce Development for the City of Detroit (10-11-17)
- Michigan District Judges Association (10-11-17)
- Mackinac Center for Public Policy

The following organizations support the bills:

- Michigan League for Public Policy (10-11-17)
- City of Grand Rapids (10-11-17)
- Criminal Defense Attorneys of Michigan (10-18-17)
- National Association of Social Workers of Michigan (10-18-17)
- Michigan Community Action Agency (10-18-17)

A representative of the Michigan Townships Association testified and took no position on the bills. (10-11-17)

A representative of the Michigan Department of Treasury testified in opposition to the bills as introduced. (10-11-17)

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