



Senate Fiscal Agency  
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## BILL ANALYSIS

Telephone: (517) 373-5383  
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House Joint Resolution UU (as adopted)  
House Bill 4251 (as enacted)  
House Bill 4539 (as enacted)  
House Bill 4630 (as enacted)  
House Bill 5167 (as enacted)  
House Bill 5460 (as enacted)  
House Bill 5477 (as enacted)  
House Bill 5492 (as enacted)  
House Bill 5493 (as enacted)

**PUBLIC ACT 472 of 2014**  
**PUBLIC ACT 467 of 2014**  
**PUBLIC ACT 470 of 2014**  
**PUBLIC ACT 471 of 2014**  
**PUBLIC ACT 473 of 2014**  
**PUBLIC ACT 468 of 2014**  
**PUBLIC ACT 474 of 2014**  
**PUBLIC ACT 475 of 2014**

Sponsor: Representative Joe Haveman (H.J.R. UU)  
Representative Kevin Cotter (H.B. 4251)  
Representative Wayne Schmidt (H.B. 4539 & 5167)  
Representative Michael McCready (H.B. 4630 & 5460)  
Representative John Walsh (H.B. 5477)  
Representative Earl Poleski (H.B. 5492)  
Representative Rob VerHuelen (H.B. 5493)

House Committee: Transportation and Infrastructure (except H.B. 5492 & H.J.R. UU)  
Tax Policy (H.B. 5492)

Senate Committee: Infrastructure Modernization (except H.B. 4539 & H.J.R. UU)

Date Completed: 4-15-15

**CONTENT**

The joint resolution would amend the State Constitution, and the bills would amend various statutes, to make three principal changes with regard to the motor fuel tax and the sales and use taxes. First, the legislation would increase the motor fuel tax, resulting in an increase in road funding. Second, the legislation would exempt motor fuel from the sales and use taxes, which are directed to the General Fund, the State School Aid Fund, and revenue sharing. Third, the legislation would increase the maximum rate of the sales and use taxes from 6.0% to 7.0%, and allocate a portion of the use tax revenue to the School Aid Fund. This rate increase and the use tax allocation would result in a net gain in the General Fund, the School Aid Fund, and revenue sharing.

Other changes would prevent the School Aid Fund from being used for university funding; modify registration taxes for trucks; eliminate the discount in registration fees for the first few years of a vehicle's registration; impose excise taxes on alternative fuels; expand competitive bidding requirements for road projects; expand warranty requirements for road work; and establish requirements for performance-based maintenance systems.

Although the House bills have been signed by the Governor, they will not take effect unless the voters approve House Joint Resolution UU, which will be on the statewide ballot on May 5, 2015.

Below is an overview of each proposal, followed by a detailed explanation and fiscal analysis.

**House Joint Resolution UU** would amend the State Constitution to do the following:

- Prohibit the sales or use tax from being charged or collected on the sale or use of gasoline or diesel fuel used to operate motor vehicles, beginning October 1, 2015.
- Increase the maximum rate of the sales and use taxes from 6.0% to 7.0%.
- Dedicate to the School Aid Fund (SAF) 60.0% of the first 5.0% of the sales and use taxes (rather than the first 4.0%, as currently provided).
- Dedicate to the SAF an amount equal to 12.3% of the first 5.0% of the use tax.
- Require the SAF to be used exclusively for aid to school districts, school employees' retirement systems, public community colleges, public career and technical education programs, and scholarships for students attending such colleges or programs.
- Require 15.0% of the first 5.0% of the sales tax (rather than the first 4.0%) to be used for assistance to cities, townships, and villages (revenue sharing).

**House Bill 4251** would amend Public Act 283 of 1909 (which pertains to county roads and county road commissions) to do the following:

- Specify that if a township, or townships, contributed 50% or more to the cost of a road project and met other conditions, the township board, or boards, could require the county road commission to use competitive bidding to contract for the work on that project.
- Require a county road commission, if required to bid a project, to use the responsive and reasonable best value bidder process, and award the contract to a responsive and reasonable best value bidder.
- Specify that if a township, or townships, contributed 50% or more to the cost of a "very low-volume local road project", the work would have to comply with the standards adopted by the American Association of State Highway and Transportation Officials for very low-volume local road projects.

**House Bill 4539** would amend the General Sales Tax Act to increase the maximum rate of the sales tax from 6.0% to 7.0%, and exempt the sale of gasoline or diesel fuel from the tax beginning October 1, 2015.

**House Bill 4630** would amend the Michigan Vehicle Code to do the following:

- Modify the registration tax schedule for trucks that weigh less than 8,000 pounds towing a trailer or other combination of vehicles and for trucks weighing 8,001 pounds or more, road tractors, and truck tractors.
- Establish a sunset on the discount of registration fees for vehicles of the model year 1984 or later.
- Increase the registration fees for vehicles powered partially, predominately, or solely by electricity.

**House Bill 5167** would amend Public Act 51 of 1951, the Michigan Transportation Fund (MTF) law, to do the following:

- Make local road agencies subject to competitive bidding requirements similar to those that apply to the Michigan Department of Transportation (MDOT).

- Require MDOT, and a local road agency that received at least \$20.0 million from the MTF in 2013, to develop and implement a performance-based maintenance system and a performance rating system for maintenance services.
- Require at least 20.0% of all new or renewed maintenance contracts entered into by MDOT, or by a local road agency that received at least \$20.0 million from the MTF in 2013, to provide for payment based on performance outputs or outcomes.
- Require MDOT and local road agencies to report to the Legislature annually regarding maintenance services, the contracting process, and contract performance.

**House Bill 5460** would amend Public Act 51 of 1951 to do the following:

- Specify that the State Treasurer could receive money or other assets from any source for deposit into the Michigan Transportation Fund; and delete language that identifies specific sources of money that may be deposited in the MTF.
- Require MDOT, county road commissions, cities, and villages to secure warranties for full replacement or appropriate repair for projects exceeding \$1.0 million and construction projects undertaken after the bill took effect.
- Require county road commissions, cities, and villages to submit a proposed warranty program to the Department for approval by September 30, 2015.
- Require MDOT, county road commissions, cities, and villages, to generate, and make available to the public, an annual report listing all warranties secured and pavement projects whose costs exceeded \$1.0 million for which warranties were not secured, as applicable.
- Permit MDOT to contract with private sector companies, as well as local road agencies, to perform road work, and include maintenance in the work that may be the subject of a contract.
- Establish the Grade Crossing Surface Account within the State Trunkline Fund and specify criteria for use of funds deposited into the Account.
- Require MDOT to establish technical assistance programs, assist in creating incentives and sources of capital, and increase information programs for small business and disadvantaged business enterprises regarding contracts to construct, repair, or maintain roads or bridges.
- Allow a city to use up to 20% of the money it receives for public transit purposes if more than 10.0 million passengers used public transit in the city in the previous fiscal year.

**House Bill 5477** would amend the Motor Fuel Tax Act to provide for an annually adjusted excise tax rate of 14.9% of the wholesale price of gasoline and diesel fuel; provide for excise taxes on alternative fuels; and appropriate approximately \$1.2 billion in MTF revenue toward debt service by fiscal year 2016-17.

**House Bill 5492** would amend the Use Tax Act to increase the maximum rate of the use tax from 6.0% to 7.0%; exempt from the use tax the purchase of fuel used to operate a motor vehicle; and require an amount equal to 12.3% of use tax collections (excluding the 2.0% dedicated to the SAF) to be deposited in the School Aid Fund from the State share of the use tax, after other distributions.

**House Bill 5493** would amend the Motor Carrier Fuel Tax Act to make the fuel tax rate under the Act consistent with provisions contained House Bill 5477.

In conjunction with these bills, the Legislature passed and the Governor signed a number of Senate bills, including two that will not take effect unless the voters approve House Joint Resolution UU. The additional bills are shown in Table 1.<sup>1</sup>

**Table 1**  
**Additional Legislation**

| <b>Bill</b>  | <b>Act Amended</b>   | <b>Overview of Bill</b>  |
|--|--|--|
| 80 <sup>a)</sup>   | State School Aid Act   | Appropriates \$40.0 million from the School Aid Fund for the At Risk program; requires districts to make expense reimbursement information available to public |
| 81   | Revised School Code  | Includes charter schools and the Education Achievement Authority in provisions governing district expenses   |
| 269  | Michigan Trust Fund Act  | Delays sunset on the deposit of tobacco settlement revenue into the 21 <sup>st</sup> Century Jobs Trust Fund   |
| 270  | Michigan Strategic Fund Act  | Makes changes regarding money appropriated to the Michigan Strategic Fund  |
| 271  | Michigan Strategic Fund Act  | Makes changes concerning the Community Revitalization Program & the Business Development Program   |
| 272  | Michigan Strategic Fund Act  | Includes port facilities as economic development projects; makes other changes   |
| 423  | Revised School Code  | Requires the Department of Technology, Management, and Budget to contract for a statewide cost study of sufficient resources per pupil                         |
| 658 & 659  | General Sales Tax Act & Use Tax Act  | Create presumption of nexus with Michigan for purposes of tax collection, e.g., by online retailers (commonly called "main street fairness bills")             |
| 695  | Nonprofit Street Railway Act   | Includes a nonprofit corporation formed by a street railway in definition of "street railway"  |
| 696  | Nonprofit Street Railway Act   | Exempts property, income, and operations of a street railway from taxation; makes changes regarding operating license agreements; makes other changes          |
| 697  | General Property Tax Act   | Exempts property of street railway from taxation   |
| 786  | General Property Tax Act   | Exempts the real property of eligible hydroponics and aquaculture production facilities from taxation  |
| 787  | Eligible Hydroponics and Eligible Aquaculture Production Facilities Specific Tax Act (new) | Imposes a specific tax on eligible hydroponics and aquaculture production facilities exempt from the property tax  |
| 847 <sup>b)</sup>  | Income Tax Act   | Increases the earned income tax credit; increases the homestead property tax credit for some low-income taxpayers  |
| <sup>a)</sup> The section of Senate Bill 80 making an appropriation will not take effect unless H.J.R. UU is approved by the voters.<br><sup>b)</sup> Senate Bill 847 will not take effect unless H.J.R. UU is approved by the voters. |  |  |

**House Joint Resolution UU**

**Rate Increase**

Article IX, Section 8 of the State Constitution limits the sales tax rate to a maximum of 4.0% of retailers' gross taxable sales of tangible personal property, plus an additional 2.0% that is dedicated to the State School Aid Fund (SAF). The use tax also is imposed at a 4.0% rate plus an additional 2.0% rate that is constitutionally dedicated to the School Aid Fund.

<sup>1</sup> A Senate Fiscal Agency summary and fiscal analysis of the enrolled or enacted version of each of these bills is available on the Michigan Legislature website: <http://www.legislature.mi.gov>

Under the joint resolution (and House Bills 4539 and 5492), the sales tax would be imposed on retailers at a maximum rate of 5.0% of their gross taxable sales of tangible personal property, plus an additional 2.0% dedicated to the SAF, and the use tax would be imposed a rate of 5.0% plus an additional 2.0% dedicated to the SAF.

#### Fuel Exemption

The joint resolution would prohibit sales tax or use tax from being charged or collected from and after October 1, 2015, on the sale or use of gasoline or diesel fuel used to operate a motor vehicle on the public roads or highways of the State.

#### Amounts Dedicated to the SAF

Currently, 60.0% of all sales tax imposed at a rate of 4.0% is dedicated to the School Aid Fund, and 100.0% of the proceeds of the sales and use taxes imposed at the additional rate of 2.0% are dedicated to the SAF. Under the joint resolution, 60.0% of all sales tax imposed at a maximum rate of 5.0%, as well as 100.0% of the proceeds of the sales and use taxes imposed at the additional 2.0% rate, would be dedicated to the SAF.

In addition, the joint resolution would dedicate to the SAF an amount equal to 12.3% of the use tax imposed at a maximum rate of 5.0%, as provided by law.

#### Use of the School Aid Fund

The Constitution requires the School Aid Fund to be used exclusively for aid to school districts, school employees' retirement systems, and higher education. The joint resolution would delete the reference to "higher education", and require the SAF to be used exclusively for aid to school districts, school employees' retirement systems, public community colleges, public career and technical education programs, and scholarships for students attending either public community colleges or public career and technical education programs.

#### Revenue Sharing

Currently, 15.0% of all sales taxes imposed at a maximum rate of 4.0% must be used exclusively for assistance to cities, townships, and villages, on a population basis as provided by law. Under the joint resolution, 15.0% of all sales taxes imposed at a maximum rate of 5.0% would have to be used exclusively for this purpose.

### **House Bill 4251**

#### Competitive Bidding for Single-Township Projects

The following provisions of the bill would apply only to a road project involving unpaved roads with an estimated cost of more than \$25,000, or a road project involving paved roads with an estimated cost of more than \$50,000.

If a township contributed 50% or more to the cost of a road project that was located entirely within the jurisdiction of the township, and the road project did not disturb any multiple-township contract, the township board, by resolution, could require the county road commission to use competitive bidding to contract for the work on that road project. A county road commission would not be precluded from submitting a competitive bid.

If a township board required a county road commission to contract for work on a road project through competitive bidding, the county road commission would have to use the

responsive and reasonable best value bidder process to bid the project contract, and would have to award the contract to a responsive and reasonable best value bidder.

Within 15 days after the deadline for accepting bids, the county road commission would have to do all of the following:

- Determine which bids submitted were qualified and which bids were not qualified based on the responsive and reasonable best value bidder process.
- Clearly mark the bids to indicate which bids were qualified and which were not qualified.
- Transmit all of the bids received to the township board at least 30 days before awarding the contract to a qualified bidder.

As used in these provisions, "responsive and reasonable best value bidder" would mean a bidder who meets one of the following: 1) complies with all bid specifications and requirements, and is listed by the Michigan Department of Transportation as a qualified bidder for the particular type of road project involved, or 2) complies with all bid specifications and requirements, and is determined by MDOT or the county road commission to be responsible using all of the following criteria: a) the bidder's financial resources, b) the bidder's technical capabilities, c) the bidder's professional experience, d) the bidder's past performance, and e) the bidder's insurance and bonding capacity.

#### Very Low-Volume Local Road Projects

The bill specifies that if a township contributed 50% or more to the cost of a very low-volume local road project that was located entirely within the jurisdiction of the township, and the road project did not disturb any multiple-township contract, the work on that project, at a minimum, would have to comply with the standards adopted by the American Association of State Highway and Transportation Officials (AASHTO) for very low-volume local road projects. A county road commission could not impose construction and design standards on a very low-volume local road project that exceeded AASHTO construction and design standards for such projects unless the township board approved those standards.

These provisions also would apply to instances in which two or more townships contributed 50% or more to the cost of a very low-volume local road project.

As used in these provisions, "very low-volume local road" would mean that term as defined by AASHTO in *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)*. (As defined by AASHTO, "very low-volume local road" means a road that is functionally classified as a local road and has a design average daily traffic volume (or ADT) of 400 vehicles per day.)

#### Multiple-Township Projects & Competitive Bidding

The following provisions of the bill would apply only to a road project involving unpaved roads with an estimated cost of more than \$25,000, or a road project involving paved roads with an estimated cost of more than \$50,000.

If two or more townships in combination with one another contributed 50% or more to the cost of a road project that was located entirely within the jurisdiction of those townships, and the road project did not disturb any multiple-township contract, the township board of each of those townships, by resolution, could require the county road commission to use competitive bidding for that road project. Competitive bidding by the county road commission would be required for such a project only if each township board passed a resolution requiring the work to be awarded through competitive bidding. A county road commission would not be precluded from submitting a competitive bid.

The bill would extend the responsive and reasonable best value bidder process requirements to multiple-township road projects. The bill also would extend qualified bid determination requirements to multiple-township projects, except that the county road commission would have to transmit all of the bids received to each township board at least 30 days before awarding the contract to a qualified bidder.

#### Effective Date

The bill would take effect on February 1, 2016.

### **House Bill 4539**

The General Sales Tax Act prescribes a total tax of 6.0% on the sale of tangible personal property at retail. Of the total tax, 2% must be deposited in the School Aid Fund and 4% must be distributed as follows:

- 15% to cities, villages, and townships under the State Revenue Sharing Act.
- 60% to the SAF.

As a rule, the balance of the revenue from the 4% tax must be deposited in the State's General Fund; however, the Act allocates a portion of the tax collected on sales of motor fuel, motor vehicles, and motor vehicle parts and accessories to the Comprehensive Transportation Fund, and a portion of the tax collected on retail sales of computer software to the Michigan Health Initiative Fund.

The bill would increase the total sales tax from 6.0% to 7.0%. In the provisions that allocate various portions of the tax imposed at a 4.0% rate, the bill would refer to the tax imposed at a 5.0% rate.

The bill also would make that change in provisions that allow taxpayers to deduct a portion of the tax imposed at a 4.0% rate before remitting it to the Department of Treasury.

Beginning October 1, 2015, the sales tax would not apply to the sale of gasoline or diesel fuel used to operate a motor vehicle on the public roads or highways of the State.

Currently, at the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of gasoline or diesel fuel must prepay a portion of the sales tax to the refiner or terminal operator, or directly to the Department of Treasury in some cases. Under the bill, the prepayment requirement would not apply after October 1, 2015.

The bill would take effect on October 1, 2015. In addition to House Joint Resolution UU, the bill is tie-barred to House Bills 5477 and 5492, and Senate Bills 80, 423, and 847.

### **House Bill 4630**

#### Truck, Road Tractor, & Truck Tractor Registration

The Michigan Vehicle Code requires the Secretary of State to collect various taxes at the time a vehicle is registered. This exempts the vehicle from further taxation, except for fees and taxes that some carriers operating vehicle and trailers are required to pay and taxes imposed by the Motor Carrier Fuel Tax Act.

Except as otherwise provided, for each truck weighing 8,000 pounds or less towing a trailer or any other combination of vehicles and for each truck weighing 8,001 pounds or more, road tractor, or truck tractor, the current registration tax, based on elected gross weight,

ranges from \$491 for a truck weighing up to 24,000 pounds, to \$2,894 for a truck between 145,001 and 160,000 pounds, and \$3,117 for a truck over 160,000 pounds.

The bill would amend the registration tax for these vehicles, as shown in Table 2. These registration taxes would not apply to trucks weighing 8,000 pounds or less not used to tow a vehicle, privately owned trucks used to tow a trailer for recreational purposes and not involved in a profit-making venture, or vehicles designed and used to tow a mobile home or a trailer coach.

**Table 2**

| Elected Gross Weight<br>(lbs.) | Proposed Truck Registration Tax |                |            |
|--------------------------------|---------------------------------|----------------|------------|
|                                | 3/1/16-2/28/17                  | 3/1/17-2/28/18 | 3/1/18-on  |
|                                | Tax                             | Tax            | Tax        |
| 0-24,000                       | \$491.00                        | \$491.00       | \$491.00   |
| 24,001-26,000                  | \$558.00                        | \$558.00       | \$558.00   |
| 26,001-28,000                  | \$608.00                        | \$658.00       | \$708.00   |
| 28,001-32,000                  | \$715.67                        | \$782.33       | \$849.00   |
| 32,001-36,000                  | \$827.33                        | \$910.67       | \$994.00   |
| 36,001-42,000                  | \$974.00                        | \$1,074.00     | \$1,174.00 |
| 42,001-48,000                  | \$1,121.67                      | \$1,238.33     | \$1,355.00 |
| 48,001-54,000                  | \$1,268.33                      | \$1,401.67     | \$1,535.00 |
| 54,001-60,000                  | \$1,418.00                      | \$1,568.00     | \$1,718.00 |
| 60,001-66,000                  | \$1,564.67                      | \$1,731.33     | \$1,898.00 |
| 66,001-72,000                  | \$1,712.33                      | \$1,895.67     | \$2,079.00 |
| 72,001-80,000                  | \$1,860.00                      | \$2,060.00     | \$2,260.00 |
| 80,001-90,000                  | \$2,009.67                      | \$2,226.33     | \$2,443.00 |
| 90,001-100,000                 | \$2,235.33                      | \$2,468.67     | \$2,702.00 |
| 100,001-115,000                | \$2,473.00                      | \$2,723.00     | \$2,973.00 |
| 115,001-130,000                | \$2,714.67                      | \$2,981.33     | \$3,248.00 |
| 130,001-145,000                | \$2,970.00                      | \$3,270.00     | \$3,570.00 |
| 145,001-160,000                | \$3,227.33                      | \$3,560.67     | \$3,894.00 |
| over 160,000                   | \$3,450.33                      | \$3,783.67     | \$4,117.00 |

Discount Registration Sunset

The Code includes a schedule of registration taxes based on the list price of motor vehicles of the 1984 model year or later, and for low-speed vehicles. For the first registration, and the first registration that follows a transfer registration, the tax is assessed based on the list price of the vehicle; for each subsequent registration, the tax is reduced to 90% of the tax assessed until the fourth and subsequent registrations.

Under the bill, until January 1, 2016, for model year 2015 vehicles, the tax would be 90% of the tax assessed based on the list price of the vehicle. For model year 2014 and 2013 vehicles, the tax would be reduced to 90% of the previous tax assessed, until January 1, 2016. The registration tax for a model year 2013 through model 1984 vehicle that had a valid registration on January 1, 2016, would be the same as the most recently paid registration tax for that vehicle.

## Electric Vehicle Registration

Under the bill, the registration fee imposed under the Code for an electric vehicle would be increased as described below.

As classified by the Secretary of State, if the vehicle were of a brand or had been modified to be powered solely or predominately by electricity under normal operating class conditions, the fee would be increased by \$75 for a vehicle with an empty weight of 8,000 pounds or less, and \$200 for a vehicle with an empty weight of more than 8,000 pounds.

As classified by the Secretary of State, if the vehicle were of a brand or had been modified to be partially, but not predominately, powered by electricity under normal operating class conditions, the fee would be increased by \$25 for a vehicle with an empty weight of 8,000 pounds or less, and \$100 for a vehicle with an empty weight of more than 8,000 pounds.

## Implementation

The Department of State would have to implement the bill's amendments by January 1, 2016.

## **House Bill 5167**

### Competitive Bidding

Section 11c of the Public Act 51 of 1951 requires all Federal aid construction projects, and all other projects of the Michigan Department of Transportation concerning highways, streets, roads, and bridges, whose cost exceeds \$100,000 for construction or preservation, to be performed by contract awarded by competitive bidding. Local road agencies that decide not to perform construction or preservation projects exceeding \$100,000 also must contract for the work through competitive bidding. The bill would require all construction projects of MDOT costing more than \$100,000 to be performed by contract awarded by competitive bidding. The bill would extend this requirement to all construction projects of a local road agency whose costs exceeded \$100,000 for construction or preservation, excluding maintenance. The installation or upgrade of advanced traffic management and signals would not be subject to this requirement.

("Local road agency" would be defined as that term is defined in Section 9a: a county road commission, designated county road agency, city, or village that is responsible for the construction or maintenance of public roads within the State under the Act.)

Currently, the competitive bidding requirement does not apply if MDOT affirmatively finds that some other method is in the public interest. The bill would extend this exception to a local road agency.

The Act requires MDOT's findings to be reported to the State Transportation Commission 90 days before the work is begun, and reported promptly to the Senate and House of Representatives Appropriations Committees. The bill would require a county road commission to report its findings to the county board of commissioners, and would require a city or village to report to its governing elected body, in writing, before the work was begun.

### Performance-Based Maintenance & Rating Systems

The bill would include in Section 11c requirements for performance-based maintenance systems. Specifically, MDOT would have to develop and implement a performance-based maintenance system to improve efficiencies and outcomes in the performance of maintenance services on State Trunkline highways. A local road agency that received at

least \$20.0 million in funding from the Michigan Transportation Fund in calendar year 2013 would have to develop, in conjunction with the Transportation Asset Management Council and MDOT, and implement, a performance-based preventative maintenance system concerning the highways, streets, and roads under its jurisdiction.

The Department, and a local road agency that received at least \$20.0 million from the MTF in 2013, also would have to develop and implement a performance rating system for the maintenance services (or preventative maintenance, for a local road agency) performed on all highways, streets, and roads under its jurisdiction. The deadline for compliance would be February 1, 2016, for MDOT, and February 1, 2017, for a local road agency. In either case, the performance rating system would have to provide for the collection of data on all maintenance activities, including the quantities and locations of activities performed, and the costs associated with those activities.

Beginning October 1, 2016, a minimum of 20.0% of all money spent by MDOT for maintenance services would have to be based on performance outputs or outcomes associated with the performance rating system. Beginning October 1, 2017, this requirement would apply to a local road agency that received at least \$20.0 million from the MTF in 2013.

The bill would define "maintenance services" as routine and reactive maintenance activities undertaken to ensure the normal and safe operation of a highway, street, or road, including activities performed on an appurtenance or roadside feature associated with a highway, street, or road that are necessary for the safe operation of the appurtenance or roadside feature. Maintenance activities would not include a construction activity intended to significantly repair, resurface, rehabilitate, or reconstruct a highway, street, or road, or an appurtenance or roadside feature associated with a highway, street, or road.

#### Reporting Requirements

The bill would require the MDOT Director, by June 1, 2017, and on June 1 of each subsequent year, to report results and findings on the outcomes of State Trunkline highway maintenance services, the contracting process, and contract performance for all contracts entered into under Section 11c, to the Senate and House Appropriations Committees. The chief executive of each local road agency required to competitively bid also would have to report similar information, by June 1, 2018, and on June 1 of each subsequent year, to the MDOT Director and the Appropriations Committees.

### **House Bill 5460**

#### Michigan Transportation Fund

Public Act 51 of 1951 establishes the Michigan Transportation Fund as a separate fund within the State Treasury and specifies, among other things, the sources from which money may be deposited into the MTF. Except as otherwise provided in the Act, no other money from any source may be deposited into the Fund.

Specifically, money collected under the Motor Fuel Tax Act (except the license fee provided in that Act), taxes, fees, and licenses from registration plates under Sections 801 through 810 of the Michigan Vehicle Code, and money received under the Motor Carrier Act, as well as income or profit derived from the investment of money in the MTF, may be deposited into the Fund. The bill would delete this language.

The bill specifies that the State Treasurer could receive money or other assets from any source for deposit into the Fund. The State Treasurer would have to direct the investment of the MTF, and would have to credit to the MTF interest and earnings from Fund investments.

## State Pavement Project Warranties & Reporting

Public Act 51 governs the distribution of revenue collected from various transportation-related taxes and fees. The revenue is directed to several State transportation funds, including the State Trunkline Fund; transportation programs; and local units of governments. Money deposited in the State Trunkline Fund must be appropriated to MDOT to be used for certain purposes in a particular order of priority.

The Act also requires MDOT to spend at least 90% of State revenue appropriated annually to the State Trunkline Fund, less the amounts for the specified priorities, for the preservation of highways, roads, streets, and bridges and for debt service payments on bonds, notes, and other obligations. Of the amount appropriated for State Trunkline projects, the Act requires MDOT, where possible, to secure warranties of not less than five-year full replacement guarantee for contracted construction work. The bill, instead, would require MDOT, where possible, to secure pavement warranties for full replacement or appropriate repair for contracted pavement projects that would exceed \$1.0 million in cost and projects for new construction or reconstruction that would begin after the bill's effective date.

The bill would require MDOT to compile an annual report listing all warranties secured and all pavement projects costing more than \$1.0 million where a warranty was not secured, and indicating whether any of the warranties were redeemed. The Department would have to make the report available to the public upon request and publish the report on its website. The report would have to include at least all of the following information:

- The type of project.
- The cost or estimated cost of the project.
- The expected lifespan of the project.

## County, City & Village Warranties & Reporting

The bill would extend the proposed warranty requirement to county road commissions and to cities and villages for amounts appropriated for a county primary or local road system, or a city or village major or local street system, if allowed by the Federal Highway Administration and MDOT.

A county road commission or a city or village would have to submit a proposed warranty program to the Department for approval by February 1, 2016. If the proposed warranty program were approved, the county road commission or the city or village would have to implement the program within one year after the approval.

The Act requires county road commissions and cities and villages to submit to MDOT an annual report on the receipt and distribution of road and street funds. The bill would require the report to include the same information about warranties as MDOT would have to report. Also, if the county road commission, city, or village had a website, the report would have to be posted on the website.

## MDOT Contracts for Road Work

The Act authorizes MDOT to enter into agreements with county road commissions and with cities and villages ("local road agencies", under the bill) to perform work on a highway, road, or street. An agreement may provide for any of the contracting parties to perform any of the work contemplated by the contract, including engineering services and the acquisition of rights-of-way, and for joint participation in the costs.

Under the bill, MDOT could enter into these agreements with a local road agency or a private sector company, and the work contemplated by a contract could include maintenance.

As used in these provisions, "local road agency" would be defined as that term is defined in Section 9a: a county road commission, designated county road agency, city, or village that is responsible for the construction or maintenance of public roads within the State under the Act.

#### Grade Crossing Surface Account

Currently, all money in the Michigan Transportation Fund is apportioned and appropriated as specified by Public Act 51. Under the bill, this would apply except as provided in Section 143 of the Motor Fuel Tax Act. (Under that section, all money collected under that Act, except license fees and expenses of enforcement, and money deposited in the Motor Fuel Tax Evasion Prevention Fund, must be deposited in the MTF.)

In addition to the current allocations, the bill would allow up to \$3.0 million annually to be appropriated to the State Trunkline Fund for subsequent deposit in the Grade Crossing Surface Account for rail grade crossing surface improvement purposes at rail grade crossings on public roads and streets under the jurisdiction of counties, cities, or villages.

Once the money was deposited into the Account, projects would have to be selected for funding as follows: a) in prioritizing projects, the Department would have to consider vehicular traffic volumes, relative crossing surface condition, the ability of the railroad and local road authority to make coordinated improvements, and the availability of funding, b) the Account would have to fund 60% of the project cost, with the remaining 40% funded by the railroad company, and c) funding under the Account would have to be limited to items of work that were normally the responsibility of the railroad under Section 309 of the Railroad Code. Maintenance of the roadway approaches to the crossing would continue to be the responsibility of the party with jurisdiction over that roadway.

(Section 309 of the Railroad Code generally requires a railroad owning tracks across a public street or highway to construct and maintain, at its expense, all railroad roadbed, track, and railroad culverts within the confines of the street or highway, as well as the streets or sidewalks lying between the rails and for a distance outside the rails of one foot beyond the end of the ties.)

#### Small Business & Disadvantaged Business Enterprises

Public Act 51 requires MDOT to establish technical assistance programs, assist in creating incentives and sources of capital, and increase information programs for minority business enterprises regarding contracts to construct, repair, or maintain roads or bridges.

The bill would require MDOT instead to establish technical assistance programs to prepare small business enterprises to compete for contracts on projects that use only State funds, and to prepare disadvantaged business enterprises to compete on projects that include Federal aid funds. These programs could include the use of small business enterprise or disadvantaged business enterprise technical assistants, best value contracting procurement, and training for competing for work under a contract.

("Disadvantaged business enterprise" would mean as that term as defined in 49 CFR part 26: a for-profit small business concern: 1) that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and 2) whose management and daily business operations are controlled by one or more of the

socially and economically disadvantaged individuals who own it. The bill specifies that "small business enterprise" would be defined as that term is defined in 13 CFR part 121.)

The bill also would require the Department to assist in creating and developing sources of nontraditional capital to assist small business enterprises and disadvantaged business enterprises to compete for contracts. In conjunction with the Michigan Economic Development Corporation (MEDC), MDOT would have to investigate the creation of a State revolving loan fund within the MEDC to provide necessary capital. The Department and the MEDC would have to report the results of the investigation to the Senate and the House Appropriations Committees within one year after the bill's effective date.

In addition, the Department would have to assist in creating and developing incentives for firms to mentor small business enterprises and disadvantaged business enterprises to assist those enterprises in gaining the experience and resources necessary to compete for contracts. The incentives could include programs for the training and placement of skilled workers for infrastructure trades and related occupations, independently or cooperatively with other State agencies. The Department would have to investigate the potential of incorporating a five-year skilled worker projection into its current five-year plans, and would have to report the results of the investigation to the Senate and the House Appropriations Committees within one year after the bill's effective date.

The Department also would have increase information programs to inform small business and disadvantaged business enterprises of opportunities to compete for contracts.

Except as otherwise provided, when practical, MDOT would have to develop small business or disadvantaged business enterprise utilization plans for larger and more complex projects. The Department would have to use the plans for projects in which the final cost was anticipated to exceed \$8.0 million unless the project specifications or current best practices would not justify the use of such a plan. The Department would have to include a list of projects in which the final cost was anticipated to exceed \$8.0 million for which project specifications or current best practices would not justify the use of utilization plan in the required report. This provision would not preclude the use of a utilization plan for a project with a final anticipated cost of less than \$8.0 million when the use of such a plan would be appropriate for the project, or when a disadvantaged business utilization goal had been established consistent with Federal requirements. The project threshold of \$8.0 million could be adjusted annually to reflect research-based or national best practices.

Currently, MDOT must notify the majority and minority chairpersons of the House and Senate Appropriations Committees and the majority and minority chairpersons of the House and Senate committees that consider transportation matters of each contract awarded to minority small businesses. Under the bill, this would apply to small business and disadvantaged business enterprises. The Department also would have to provide a list of contracts that used small business or disadvantaged business enterprise utilization plans, and provide a recommendation as to whether the benchmark figure of \$8.0 million should be increased or decreased based on MDOT's experience and national best practices.

In addition, MDOT would have to conduct a disparity study on the use of small business and disadvantaged business enterprises in State contracts. The study would have to use standards developed by the Transportation Research Board's National Cooperative Highway Research Program as of the bill's effective date. The Department would have to report the results of the study and its recommendations for process improvements that would address disparities to the Senate and House Appropriations Committees within one year after the bill's effective date.

Public Act 51 requires MDOT to consult with the Michigan State Chamber of Commerce and the Michigan Minority Business Development Council on requests for proposals and

quotations to ensure competitive and inclusive strategies. Under the bill, the Department also would have to consult the Michigan Infrastructure and Transportation Association, the Black Caucus Foundation of Michigan excluding any currently serving legislators, and the Michigan Hispanic Chamber of Commerce. The Department would have to review current contract processes to determine whether small business or disadvantaged business enterprises were adequately informed of the process for appealing contract decisions or learning how to improve bids for future contracts.

The bill would eliminate a requirement that MDOT appoint at least one representative from Minority Business Development Council and the DBE division of the Department to all requests for proposal and quote review panels, and a requirement for the Department to establish a surety division.

#### City Funds for Public Transit Purposes

After revenue from transportation-related taxes and fees is directed to State transportation funds and programs, the remainder of the money is distributed between the State Trunkline Fund, the county road commissions, and cities and villages. Money distributed to cities and villages must be used for certain purposes in a particular order of priority. The bill would allow a city, with the approval of the Director of MDOT, to use up to 20.0% of the amount it received from the Michigan Transportation Fund for public transit purposes if more than 10.0 million passengers used public transit within that city during the previous fiscal year.

### **House Bill 5477**

#### Gasoline & Diesel Tax Rates

The bill would require the Department of Treasury, on October 1 of each year, beginning in 2015, to determine the tax rates of gasoline and diesel fuel. The Department would determine these rates by multiplying the average wholesale price of the respective fuel by 14.9%, and rounding up to the nearest 1/10 of one cent.

The tax rates would be subject to a rate floor and ceiling, as well as limitations on annual adjustments. Beginning with the rate in effect on October 1, 2015, the rate floor would be 41.7 cents per gallon. Beginning October 1, 2016, the rate floor would be the prior year's rate floor multiplied by 1 plus the lesser of .05 or the inflation rate. The bill would set the rate ceiling at five cents per gallon above the rate floor.

("Average wholesale gasoline price" or "average wholesale diesel fuel price" would mean the statewide average wholesale price of that fuel as determined by the Department based upon a 12-month rolling average of the wholesale price. For the rates effective October 1, 2015, the 12-month period would be from July 1, 2013, through June 30, 2014. For the rates in effect for subsequent years, the 12-month rolling average period would end on the last day of the month that was three months before the effective date of the most recently set tax rate.

"Wholesale gasoline price" and "wholesale diesel fuel price" would mean the price per gallon of self-serve unleaded regular gasoline, or a gallon of self-serve undyed number two ultra-low sulfur diesel fuel, respectively, charged by a licensed supplier to a purchaser at the time of removal from a terminal across the rack, as determined by the Department, based on available pricing data that best reflect or approximate Michigan rack prices as reported by the U.S. Energy Information Administration, the Oil Price Information Service, or a similar nationally recognized source for such pricing data, whether publicly available or available only by subscription. The term would not include the tax imposed under the bill, prepaid State sales tax, Federal excise tax, any other Federal motor fuel tax, or an environmental

protection regulatory fee pursuant to the Natural Resources and Environmental Protection Act.

"Inflation rate" would mean the percentage change between the index for the period beginning on July 1, 2013, and ending on June 30, 2014, and the most recent index for the period beginning on July 1 and ending on June 30, converted to decimals and reduced by the total percentage change between 41.7 cents and the rate floor in effect on October 1 of the year immediately preceding the year in which the current rate is in effect, converted to decimals. If that number were negative, the inflation rate would be zero. "Index" would mean the Detroit Consumer Price Index (DCPI) for all urban consumers published by the U.S. Bureau of Labor Statistics, or, if that index ceases to be published, the published index that most closely reflects the measure of inflation previously reported by the DCPI for all urban consumers, as determined by the Department.)

The Department would have to publish notice of gasoline and diesel fuel tax rates at least 30 days before the effective date of the new rate. The Department's determinations regarding wholesale fuel prices, average wholesale fuel prices, the inflation rate, the rate ceiling, the rate floor, or the tax rates under these provisions would be presumed to be correct and could not be set aside unless an administrative tribunal or court found the Department's determination to be clearly erroneous.

#### Alternative Fuel Tax Rates

The Motor Fuel Tax Act provides for a 15-cent-per-gallon tax on liquefied petroleum gas (LPG), specifies the manner in which the tax is to be collected, and designates LPG dealers as responsible for collecting and remitting the tax. Various provisions also deal with reimbursement of LPG taxes.

Under the bill, these provisions would refer to alternative fuel instead of LPG. The bill generally would set the tax rate for the following alternative fuels equal to the diesel base rate per diesel gallon equivalent or fractional part thereof rounded to the nearest 1/10 of one gallon: compressed natural gas, hydrogen, hydrogen compressed natural gas, and liquefied natural gas.

The tax rate would be effective for alternative fuel commercial users beginning January 1, 2016, and for a person other than an alternative fuel commercial user or alternative fuel dealer beginning July 1, 2016.

("Alternative fuel" would mean a gas, liquid, or other fuel that, with or without adjustment or manipulation such as adjustment or manipulation of pressure or temperature, is capable of being used for the generation of power to propel a motor vehicle, including, but not limited to, natural gas, compressed natural gas, liquefied natural gas, LPG, hydrogen, hydrogen compressed natural gas, and hythane. The term would not include motor fuel, electricity, leaded racing fuel, or an excluded liquid.

"Diesel base rate" would mean the rate per gallon on diesel fuel in effect for a given period. "Diesel gallon equivalent" generally would mean the following: 1) for compressed natural gas, 6.380 pounds; 2) for hydrogen, 480.11 standard cubic feet; 3) for hydrogen compressed natural gas, 162.44 standard cubic feet; and 4) for liquefied natural gas, 6.060 pounds.)

For licensure as an alternative fuel dealer or alternative fuel commercial user, an applicant would have to file an application with the Department of Treasury. An alternative fuel dealer license would cost \$500, and an alternative fuel commercial user license would cost \$50.

An alternative fuel dealer would have to file with the Department a report indicating the number of gallons or gallon equivalents, if any, of alternative fuel used by the dealer, and submit to the Department payment of any taxes owed. The report and payment would have to be submitted by the 20<sup>th</sup> calendar day of each month. Beginning January 1, 2016, an alternative fuel commercial user would be required to meet these requirements, and beginning July 1, 2016, a person other than an alternative fuel dealer or commercial user would have to meet these requirements. A person who did not pay the tax would be required to do so, along with any applicable penalties or interest.

An alternative fuel dealer would have to clearly list in plain view of the customer the price of the alternative fuel in diesel gallon equivalents, as well as any other information required by law.

The bill generally would exempt government and schools from the tax. Currently, government and schools are exempt from taxation for LPG use.

"Alternative fuel commercial user" would mean a commercial or other business enterprise or entity that is a consumer or end user of alternative fuel to propel a motor vehicle on the public roads and highways of this State. The term would not include a person licensed as an alternative fuel dealer. "Alternative fuel dealer" would mean a person that is licensed or required to be licensed as such, that is in the business of selling alternative fuel at retail, and that uses alternative fuel.

"Use", "used", or "uses" are currently defined as: 1) selling or delivering LPG by placing it into an attached fuel supply tank of a motor vehicle; 2) delivering LPG into storage for use in motor vehicles; and 3) withdrawing LPG from a cargo tank for use in motor vehicles. The bill would refer to alternative fuel rather than LPG. The bill also would add the following to the terms' definition: placing or delivering alternative fuel into the fuel supply tank of a motor vehicle by or through the operation of an alternative fuel filling station or by any other means not involving the delivery, receipt, or purchase of alternative fuel from an alternative fuel dealer or any other means not described in the three current definitions of "use", "used", or "uses".

"Alternative fuel filling station" would mean a machine or other device that is supplied with alternative fuel and that is designed or used for placing or delivering alternative fuel into the fuel supply tank of a motor vehicle.

#### Payment of Debt Service

The bill would appropriate Michigan Transportation Fund revenue toward debt service for past projects. In FY 2015-16, the first \$400,000 of revenue that resulted from the fuel tax increase would be appropriated toward the MTF, with the remainder allocated to MDOT debt service. In FY 2016-17, the first \$800,000 of revenue that resulted from the fuel tax increase would be appropriated toward the MTF, with the remainder allocated to MDOT debt service.

The funds appropriated toward debt service under these provisions would have to be spent by September 30, 2017.

(It is important to note that although these calculations were generally understood to apply to increases in revenue, the language in the bill does not make this distinction. This analysis assumes that subsequent legislation would be adopted. Please see the fiscal impact statement below for more details.)

### Dyed Diesel Penalty

The bill would increase civil penalties for operators, owners, or drivers of vehicles using dyed diesel fuel. Dyed diesel fuel generally is restricted to non-roadway use. Currently, the penalties are \$200 for each of the first two violations within one year, and \$5,000 for each third and subsequent violation within one year. The bill would require a civil penalty of \$1,000 for the first violation and \$5,000 for each subsequent violation.

### Tie-Bar & Effective Date

The bill is tie-barred to House Bill 4539, in addition to House Joint Resolution UU, and would take effect on October 1, 2015.

### **House Bill 5492**

The Use Tax Act levies a tax on a person purchasing nonexempt personal property or services. The use tax consists of a local tax, the "local community stabilization share tax", and a State tax, the "state share tax". The total combined rate of the tax is 6.0%. The bill would increase the total combined rate to 7.0%.

The rate of the local share tax is based on the amount of revenue that it may generate, according to amounts specified in the Act for fiscal years 2015-16 through 2027-28 (after which the rate will be adjusted annually based on a personal property growth factor). The rate of the State share tax is determined by subtracting the local rate from 6.0%. Under the bill, the rate of the State share tax would be determined by subtracting the local rate from 7.0%.

The Act requires use tax revenue to be deposited in the State's General Fund, except for the following:

- The money collected from the tax imposed at the rate of 2.0% that is dedicated to the School Aid Fund.
- An amount that must be deposited into the SAF to compensate for revenue lost due to exemptions of industrial and manufacturing personal property.
- Money collected for the local share tax.

Under the bill, beginning October 1, 2015, after the required distributions to the SAF, an amount equal to 12.3% of use tax collections would have to be deposited in the School Aid Fund from the State share, excluding the amount collected from the rate of 2.0% that is dedicated to the SAF.

The bill would exempt from the use tax, beginning October 1, 2015, the transfer or purchase of gasoline or diesel fuel used to operate a motor vehicle on the public roads or highways of the State.

The bill would take effect on October 1, 2015. It is tie-barred to House Bills 4539 and 5477, in addition to House Joint Resolution UU.

### **House Bill 5493**

Under the Motor Carrier Fuel Tax Act, a licensed motor carrier must pay a road tax based on the amount of motor fuel consumed in qualified vehicles on roads within the State. The tax rate is currently 15 cents per gallon.

The bill would set the fuel tax rate for motor carriers as prescribed in Section 8(1)(b) of the Motor Fuel Tax Act, which pertains to diesel fuel, and as prescribed in Section 152, which

pertains to alternative fuel. Those sections are included in House Bill 5477 (which, as described above, would amend the Motor Fuel Tax Act to provide for excise taxes on fuels that would be adjusted annually based on the average wholesale price of motor fuels, subject to certain limitations.)

The Motor Carrier Fuel Tax Act defines "motor fuel" as diesel fuel. Under House Bill 5493, beginning October 1, 2015, the term would include gasoline. (This means that motor carriers would be subject to the tax rate for diesel fuel under Section 8(1)(b) for both gasoline and diesel fuel.)

(For details on alternative fuel taxation requirements, please see the description of House Bill 5477. House Bill 5493 would incorporate that bill's definitions regarding alternative fuel and associated terms.)

House Bill 5493 also would delete provisions that impose a tax of 12 cents per gallon on diesel fuel that contains at least 5% biodiesel.

In addition, the bill would bar refund claims filed more than 18 months after the purchase of motor fuel.

The bill would take effect on October 1, 2015.

MCL 224.19c (H.B. 4251)  
205.52 et al. (H.B. 4539)  
257.801 (H.B. 4630)  
247.661c (H.B. 5167)  
247.659b et al. (H.B. 5460)  
207.1002 et al. (H.B. 5477)  
205.93 & 205.111 (H.B. 5492)  
207.111 et al. (H.B. 5493)

Legislative Analyst: Suzanne Lowe  
Jeff Mann

### **FISCAL IMPACT**

Please see the table attached to this document for the estimated fiscal impact of the tax and vehicle registration fee changes in the package.

### **House Joint Resolution UU**

House Joint Resolution UU would result in a net increase in State and local revenue of approximately \$650.3 million in fiscal year (FY) 2015-16. The impact in future years would depend on the relative growth rates of the prices of both motor fuel and other goods, as well as consumption patterns for both motor fuel and other goods.

Relative to current law, it is expected that exempting sales of gasoline and diesel fuel from the sales tax would reduce State revenue by \$699.5 million in FY 2015-16, including a \$567.1 million reduction in School Aid Fund revenue, a \$35.7 million reduction in revenue to the Comprehensive Transportation Fund, and a \$96.7 million reduction in General Fund revenue. The exemption also would reduce local unit revenue, through reduced constitutional revenue sharing payments, by approximately \$76.7 million.

Increasing the sales and use tax rates on taxable sales of goods and services other than gasoline or diesel fuel would increase State revenue by approximately \$1.2 billion in FY 2015-16, including a \$708.6 million increase in School Aid Fund revenue, a \$16.5 million increase in revenue to the Comprehensive Transportation Fund, and a \$524.4 million increase in General Fund revenue. The proposed changes regarding constitutional revenue sharing would increase local unit revenue by approximately \$177.1 million in FY 2015-16.

The changes that would earmark a portion of use tax revenue to the School Aid Fund would increase School Aid Fund revenue, and reduce General Fund revenue, by approximately \$151.1 million in FY 2015-16.

As a result, the net impact of the resolution in FY 2015-16, if approved by the voters, would be to increase School Aid Fund revenue by approximately \$292.5 million, increase General Fund revenue by approximately \$276.6 million, reduce Comprehensive Transportation Fund revenue by approximately \$19.2 million, and increase local unit revenue through constitutional revenue sharing by approximately \$100.4 million.

### **House Bill 4251**

The bill would have no fiscal impact at the State level, and would have an indeterminate impact on counties and townships. While township-mandated competitive bidding could result in savings on some road projects, it also could result in increased administrative costs.

### **House Bill 4539**

The bill would reduce State and local revenue in FY 2015-16 by approximately \$776.2 million. School Aid Fund revenue would decline by approximately \$567.1 million, while General Fund revenue would be reduced by approximately \$96.7 million. A portion of the sales tax on motor fuels is also directed to the Comprehensive Transportation Fund (CTF), so the bill would reduce CTF revenue by approximately \$35.7 million. Local unit revenue would decline because the bill would reduce revenue received under constitutional revenue sharing provisions by approximately \$76.7 million. The revenue reductions in future years would vary depending on changes in both motor fuel prices and motor fuel consumption.

### **House Bill 4630**

#### **Increased Registration Fees for Commercial Trucks**

According to the Michigan Department of Transportation, the increase in elected gross weight registration fees would generate approximately \$50.0 million for the Michigan Transportation Fund based on current commercial vehicle registration levels. However, it is unknown how the increase would affect behavior. The \$50.0 million estimate does not account for the possibility that registrants would relocate to other states for lower registration rates. To the extent that this occurred, revenue would be affected accordingly.

#### **Sunset on Registration Rate Discount Provisions**

The bill would establish a sunset date of January 1, 2016, on discount registration rates currently found in Section 801(1)(p). The discount rate, when fully realized, currently amounts to a total of 72.9% of a vehicle's original registration rate.

The discount applies to a vehicle, not a vehicle's owner, and therefore transfers with a vehicle. The rate for a vehicle as of January 1, 2016, would become permanent, regardless of any subsequent title transfers.

The sunset would create varying rates for vehicle registrations that would depend on the vehicle model year, as shown in [Table 3](#).

**Table 3**

| <b>Proposed Elimination of Registration Rate Discount</b> |  |
|---|--|
| <b>Model Year</b>   | <b>Registration Rate as of 1-1-16 under H.B. 4630 ("Locked in" Rate for Life of Vehicle)</b> |
| 2013  | 72.9% (Three Years of Discount)  |
| 2014  | 81% (Two Years of Discount: 2014 and 2015)   |
| 2015  | 90% (One Year of Discount: 2015)   |
| 2016 and Later  | 100% (No Discount for Vehicles with Model Year of 2016 or Later)                             |

Assuming 500,000 new vehicle sales per year, at an average listing price of \$30,000 per vehicle, an average base registration rate of \$153, and a fleet turnover rate of 10 years, it is estimated that revenue increases as a result of this sunset would stabilize in 2026 at approximately \$150.0 million. Table 4 indicates estimated MTF revenue increases through FY 2019-20 as a result of the bill's sunset provision.

**Table 4**

| <b>Effect of Eliminating Discount</b> |                                    |
|---------------------------------------|------------------------------------|
| <b>Fiscal Year</b>                    | <b>Expected Additional Revenue</b> |
| 2015-16                               | \$10.9 Million                     |
| 2016-17                               | \$41.5 Million                     |
| 2017-18                               | \$62.2 Million                     |
| 2018-19                               | \$82.9 Million                     |
| 2019-20                               | \$103.7 Million                    |

Electric & Hybrid Vehicle Registration Fees

The bill's provisions imposing additional registration fees for electric and hybrid vehicles would generate approximately \$1.0 million to \$2.0 million. This estimate is based on national statistics for hybrid and electric vehicles, as there are insufficient data available to determine the exact number of these vehicles in the State.

**House Bill 5167**

The bill's requirements for MDOT and certain local road agencies (those that received \$20.0 million or more in Michigan Transportation Fund revenue in 2013) to develop a performance-based maintenance system to improve efficiencies and outcomes would have an indeterminate impact at the State and local levels. There are no available data on the effects of such a statutory mandate. (Based on 2013 distributions, road authorities for the following municipalities would be subject to these requirements: Detroit, Kent County, Macomb County, Oakland County, and Wayne County. It is unclear whether Genesee County would be affected.)

Currently, all local road agencies must competitively bid out contracts for all construction or preservation projects that cost more than \$100,000. The bill would apply this requirement to all projects that cost more than \$100,000 except those for maintenance.

The bill's requirements for MDOT and certain road agencies to award at least 20% of all funds through contracts for payment based on performance outputs or outcomes would have an indeterminate impact at the State and local levels.

The performance measurement and contract reporting requirements would result in a negative but indeterminate impact at the State and local levels by increasing administrative burdens.

### **House Bill 5460**

The bill's provisions regarding warranties would have a negative but indeterminate fiscal impact at the State and local levels in the short term in terms of additional costs, and an indeterminate fiscal impact in the long term in terms of additional costs or savings. The provisions that would create a \$3.0 million rail grade crossing surface account subsidy would reduce annual funding for State roads by \$1.06 million, local road agencies by \$1.64 million, and the Comprehensive Transportation Fund (public transit) by \$300,000.

The State and local road agencies would face increased costs in the short term due to the bill's warranty mandate. Since obtaining a full replacement guarantee or appropriate repair warranty product typically requires a contractor to obtain a warranty bond, and the immediate cost of such a product usually is passed on to the consumer, it is likely that associated costs would be included in a contractor's bid or price.

It is impossible to determine whether mandated warranties would result in overall savings in the long term and offset initial warranty costs. Future maintenance and reconstruction costs could decrease, since these tasks would be covered under a secured warranty. However, the up-front cost of obtaining a warranty could exceed any potential long-term savings and cost more than future repairs. Whether a warranty ultimately served to generate savings or additional costs in the long term would vary from project to project.

The provisions regarding project warranty reporting requirements would result in increased administrative costs at the State and local levels.

### **House Bill 5477**

The bill would increase net revenue to the State by approximately \$1.2 billion in FY 2015-16. The increase in revenue in future years would depend on the magnitude of motor fuel price increases and/or motor fuel consumption.

Revenue generated under the bill would be distributed to the Michigan Transportation Fund (MTF), the Comprehensive Transportation Fund, and the Recreation Improvement Account of the Michigan Conservation and Recreation Legacy Fund. Distributions are made from the MTF to the State Trunkline Fund, county road agencies, and cities and villages.

For FY 2015-16 and FY 2016-17, the bill also would direct a portion of the MTF to be allocated to indebtedness related to various transportation-related bonds, after a constitutional earmark to the Recreation Improvement Account and a new statutory earmark in the bill for rail crossings. The reported intent of the language directing MTF revenue to indebtedness was that, of the additional revenue generated by the bill, only \$400.0 million in FY 2015-16 and \$800.0 million in FY 2016-17 would be available for distribution to the State Trunkline Fund and local units. However, the language in the bill does not earmark a portion of the additional revenue resulting from the bill, but a portion of the total revenue generated by the Act. As a result, the language would result in a 56.6%, or \$522.2 million, decline in MTF revenue available for roads. The fiscal impact discussed here, and illustrated in the attached table, assumes that subsequent legislation is enacted to ensure that the reported intent of the bill is implemented.

The bill would replace the current fixed per gallon tax on motor fuels with a new per-gallon tax that would vary based on the wholesale price of motor fuel. Eliminating the current tax would reduce MTF revenue by approximately \$927.6 million per year, and revenue to the Recreation Improvement Account by approximately \$18.9 million. The amount of revenue generated by the replacement tax would depend on the wholesale price of motor fuel, subject to certain limitations on how much the price used to compute the tax rate could change each year. Assuming that the drop in motor fuel prices experienced over the last

three months of 2014 largely continues into the near future, the actual tax levied would equal the rate floor specified in the bill.

The fiscal impact assumes that corollary changes to those in the bill would be made to taxes assessed under the Motor Carrier Fuel Tax Act. The bill is not tie-barred to House Bill 5493, which would make such changes.

The fiscal impact of applying the diesel fuel tax rate to LPG and other alternative fuels would be nominal.

The fiscal impact of increasing civil fines for using dyed diesel in vehicles on roadways is indeterminate. Currently, fines are assessed according to a 12-month time period, after which the penalty "resets" to the original amount of \$200 for the first two offenses. Since the bill would provide for set fines regardless of the time frame in which multiple offenses occurred, based solely on the offense being either a first or subsequent offense, it is unclear what effect the bill's provisions for these penalties would have on revenue. Additionally, as the bill would substantially change the nature of these fines, in some cases resulting in a \$5,000 fine instead of a \$200 fine, it is unclear what effect the bill would have on motorist behavior.

### **House Bill 5492**

The bill would reduce General Fund revenue, and increase School Aid Fund revenue, by approximately \$151.1 million in FY 2015-16. While exempting motor fuels from the use tax would decrease both General Fund and School Aid Fund revenue, that impact is included in the analysis of House Bill 4539. The primary impact of House Bill 5492 would be to earmark to the School Aid Fund revenue that the General Fund otherwise would receive. As use tax revenue increases in future years, the shift of revenue from the General Fund to the School Aid Fund would increase, with the bill shifting approximately \$155.6 million in FY 2016-17 and approximately \$160.3 million in FY 2017-18.

### **House Bill 5493**

Please see the fiscal analysis of House Bill 5477, which assumes that House Bill 5493 would be enacted.

Fiscal Analyst: Glenn Steffens  
David Zin

**Table 3**  
**Estimated Impact of Transportation Package as Passed by Legislature**  
**Tax and Vehicle Registration Changes**  
(dollars in millions)

| <b>Tax/Registration Change</b>   | <b>FY 2015-16</b> | <b>FY 2016-17</b> | <b>FY 2017-18</b> |
|--|-------------------|-------------------|-------------------|
| <b>Increase Tax Credits (SB 847)</b>                                       |                   |                   |                   |
| Increase Earned Income Tax Credit  | \$0.0             | (\$260.8)         | (\$267.4)         |
| Increase Homestead Prop. Tax Credit for Low Income Seniors                 | <u>\$0.0</u>      | <u>(\$0.3)</u>    | <u>(\$0.3)</u>    |
| Total  | \$0.0             | (\$261.1)         | (\$267.7)         |
| General Fund   | \$0.0             | (\$261.1)         | (\$267.7)         |
| <b>Exempt Gas from Sales/Use Tax (HB 4539/HB 5492)</b>                     |                   |                   |                   |
| School Aid Fund  | (\$567.1)         | (\$557.5)         | (\$568.0)         |
| Comprehensive Transportation Fund  | (\$35.7)          | (\$35.1)          | (\$35.7)          |
| Constitutional Revenue Sharing   | (\$76.7)          | (\$75.4)          | (\$76.8)          |
| General Fund   | <u>(\$96.7)</u>   | <u>(\$95.2)</u>   | <u>(\$97.1)</u>   |
| Total  | (\$776.2)         | (\$763.2)         | (\$777.7)         |
| <b>Increase Sales Tax (Sales other than gasoline/diesel fuel) (HJR UU)</b> |                   |                   |                   |
| School Aid Fund  | \$708.6           | \$732.6           | \$754.7           |
| Comprehensive Transportation Fund  | \$16.5            | \$17.0            | \$17.5            |
| Constitutional Revenue Sharing   | \$177.1           | \$183.2           | \$188.7           |
| General Fund   | <u>\$524.4</u>    | <u>\$541.2</u>    | <u>\$557.5</u>    |
| Total  | \$1,426.6         | \$1,474.1         | \$1,518.4         |
| <b>Use Tax Earmark to School Aid Fund (HB 5492/HJR UU)</b>                 |                   |                   |                   |
| General Fund   | \$151.1           | \$155.6           | \$160.3           |
|  | (\$151.1)         | (\$155.6)         | (\$160.3)         |
| <b>Establish Affiliate Nexus (SB 658/SB 659)</b>                           |                   |                   |                   |
| School Aid Fund  | \$44.0            | \$45.5            | \$46.8            |
| Constitutional Revenue Sharing   | \$6.0             | \$6.2             | \$6.4             |
| General Fund   | <u>\$10.0</u>     | <u>\$10.3</u>     | <u>\$10.6</u>     |
| Total  | \$60.0            | \$62.0            | \$63.9            |
| <b>Restructure Motor Fuel Tax (HB 5477/HB 5493)</b>                        |                   |                   |                   |
| Michigan Transportation Fund   | \$400.0           | \$800.0           | \$1,352.3         |
| Comprehensive Transportation Fund  | \$40.0            | \$80.0            | \$135.2           |
| MDOT Debt Service  | \$814.7           | \$456.2           | \$0.0             |
| Recreation Account (Legacy Fund)   | <u>\$24.8</u>     | <u>\$25.6</u>     | <u>\$27.6</u>     |
| Total  | \$1,239.5         | \$1,281.8         | \$1,379.9         |
| <b>Vehicle Registration (HB 4630)</b>                                      |                   |                   |                   |
| Truck Registrations  | \$50.0            | \$50.0            | \$50.0            |
| Depreciation/Discount Elimination  | <u>\$10.9</u>     | <u>\$41.0</u>     | <u>\$62.0</u>     |
| Total  | \$60.9            | \$91.0            | \$112.0           |
| Michigan Transportation Fund   | \$60.9            | \$91.0            | \$112.0           |
| Comprehensive Transportation Fund  | \$6.1             | \$9.1             | \$11.2            |
| <b>Net Impact of Changes</b>   |                   |                   |                   |
| Michigan Transportation Fund   | \$460.9           | \$891.0           | \$1,464.3         |
| Comprehensive Transportation Fund  | \$26.9            | \$71.1            | \$128.3           |
| MDOT Debt Service  | \$814.7           | \$456.2           | \$0.0             |
| Recreation Account (Legacy Fund)   | \$24.8            | \$25.6            | \$27.6            |
| School Aid Fund  | \$336.5           | \$376.2           | \$393.8           |
| Constitutional Revenue Sharing   | \$106.4           | \$114.0           | \$118.3           |
| General Fund   | <u>\$286.6</u>    | <u>\$39.6</u>     | <u>\$43.1</u>     |
| Total  | \$2,029.9         | \$1,902.6         | \$2,047.0         |