

Fiscal Analysis

JUDICIARY REVENUE PACKAGE (FLOOR ANALYSIS)



Bill/Sponsor **HOUSE BILL 4732 as reported with amendment**, Rep. Jim Howell
HOUSE BILL 4733 (H-1), Rep. Paul Condino
HOUSE BILL 4735 as introduced, Rep. Daniel J. Acciavatti
HOUSE BILL 4736 (H-1), Rep. Andrew E. Meisner
HOUSE BILL 4741 as reported with amendment, Rep. Tupac A. Hunter
HOUSE BILL 4743 as reported with amendment, Rep. Lorence Wenke
HOUSE BILL 4745 as introduced, Rep. Stephen Adamini
HOUSE BILL 4746 as introduced, Rep. Kenneth R. Daniels
HOUSE BILL 4748 (H-1), Rep. Alexander C. Lipsey
HOUSE BILL 4749 as reported with amendment, Rep. Marc Shulman
HOUSE BILL 4750 (H-1), Rep. Joanne Voorhees
SENATE BILL 434 as passed by the Senate, Sen. Michael Switalski
SENATE BILL 435 as passed by the Senate, Sen. Hansen Clarke
SENATE BILL 439 (H-1), Sen. Alan Cropsey
SENATE BILL 442 as reported with amendment, Sen. Valde Garcia
SENATE BILL 444 as passed by the Senate, Sen. Cameron S. Brown
SENATE BILL 447 as passed by the Senate, Sen. Cameron S. Brown
SENATE BILL 448 as reported with amendment, Sen. Valde Garcia
SENATE BILL 449 as reported with amendment, Sen. Alan Cropsey

House Committee Judiciary

Analysis **Summary**

Generally, these bills would increase revenue for various judiciary- and criminal justice-related entities by increasing civil filing and motion fees and consolidating the assessments and state-level costs imposed on civil infractions and criminal offenses, with a net increase in the revenue generated by such assessments/costs. The processes for distributing revenue generated by both filing fees and assessments/costs would be revised to move the earmarking of revenue from the local level to the state level. The bills would all become effective October 1, 2003.

House Bill 4732 would amend the Code of Criminal Procedure to establish state minimum costs of \$60.00 for felony offenses, \$45.00 for serious or specified misdemeanor offenses (as defined by the Crimes Victim's Rights Act and the Crime Victim's Rights Services Act) and \$40.00 for other misdemeanor offenses.

House Bill 4733 would amend the Probate Code of 1939 to establish the same schedule of state minimum costs established in House Bill 4732, but for juveniles found responsible for felonies or misdemeanors.

House Bill 4735 would amend the Revised Judicature Act of 1961 (RJA) to create the Drug Treatment Court Fund. The State Court Administrative Office (SCAO) would be reimbursed annually from the fund for administrative costs. Grants would be awarded from the fund for drug treatment court programs throughout the state, subject to certain eligibility requirements.

(Each new fund created in this package would be credited with any investment income from the fund, with the balance remaining in the fund at the end of a fiscal year remaining in the fund, rather than reverting to the General Fund.)

House Bill 4736 would amend the Michigan Vehicle Code to eliminate existing assessments on traffic-related civil infractions totaling \$25.00, replacing them with a \$40.00 assessment.

(Throughout the package, any revenue collected beginning October 1, 2003 from currently existing assessments/costs would be deposited in the Justice System Fund created by House Bill 4734, with the exceptions of the portions of the DNA and Forensic Lab Fund assessments earmarked for local entities, which would continue to be earmarked for those entities.)

House Bill 4741 would amend the Probate Code of 1939 to establish state minimum costs as the first priority for payment, other than the crime victims rights payments, for juveniles found responsible for violating state law or local ordinance.

House Bill 4743 would amend the Corrections Code of 1953 to establish payment of state minimum costs as a condition of parole.

House Bill 4745 would amend the DNA Identification Profiling System Act to eliminate the \$60 assessment imposed on individuals convicted of crimes for which a DNA sample must be submitted for profiling and entry into the state's forensic DNA database.

House Bill 4746 would amend the Probate Code of 1939 to eliminate the \$60 assessment imposed on juveniles found responsible for crimes for which a DNA sample must be submitted for profiling and entry into the state's forensic DNA database.

House Bill 4748 would amend the RJA to increase certain civil filing and motion fees and to create the Civil Filing Fee Fund. Fees increased in the bill are as follows:

Fee	Current	HB 4748	Retained by County
Court of Appeals filing fee	\$250	\$375	NA
Court of Appeals motion fee*	\$75	\$100	NA
Court of Appeals immediate consideration motion fee*	\$150	\$200	NA
Circuit Court filing fee	\$100	\$150	\$31
Circuit Court guardianship proceeding filing fee	\$50	\$150	\$31
Circuit Court filing fee for appeal from lower court	\$100	\$150	\$31
Probate Court filing fee	\$100	\$150	\$0
Probate Court guardianship proceeding filing fee	\$50	\$150	\$0
Probate Court motion fee	\$15	\$20	\$0
District Court filing fee: Small claims (under \$600)	\$17	\$25	\$11

Fee	Current	HB 4748	Retained by County
District Court filing fee: Small claims (\$600-\$1,750)	\$32	\$45	\$17
District Court filing fee: Small claims (\$1,751-\$3,000)	\$32	\$65	\$23
District Court filing fee: General civil and summary disposition (under \$600)	\$17	\$25	\$11
District Court filing fee: General civil and summary disposition (\$600-\$1,750)	\$32	\$45	\$17
District Court filing fee: General civil and summary disposition (\$1,751-\$10,000)	\$52	\$65	\$23
District Court filing fee: General civil and summary disposition (\$10,001-\$25,000)	\$100	\$150	\$31
District/Municipal Court filing fee for recovery-of-possession-of-premises proceeding	\$32	\$45	\$17

*Fee increases would sunset on October 1, 2005.

The bill would establish filing, motion, and copying fees for the Supreme Court in the RJA. Currently, those fees are established only in Supreme Court rules. The only fee that would be increased from the current level is the filing fee (leave to appeal and original proceeding), which would increase from \$250 to \$375.

All filing and motion fees, except for the Supreme Court fees and the portions of the trial court fees earmarked for retention by counties, would be deposited in the new Civil Filing Fee Fund. Currently, the fees are individually earmarked for various specific funds and entities. The proceeds of the fund would be distributed monthly to the following entities:

Recipient	Percent of Fund Balance
State Court Fund	48.5
Court Equity Fund	8.2
Judicial Technology Improvement Fund	11.1
Community Dispute Resolution Fund	5.2
Judges Retirement System	24.0
Legislative Retirement System	1.5
State General Fund	1.5

The bill would also increase the monthly fee paid by individuals making child support payments collected by the Friend of Court from \$1.25 to \$1.50. The 25-cent increase would be deposited in a new Child Support Enforcement Fund, from which the Department of Attorney General would be directed to expend money for expenses incurred in collecting child support arrearages.

House Bill 4749 would amend the RJA to create the Judicial Technology Improvement Fund. SCAO would be reimbursed annually from the fund for administrative costs. Money from the fund would be expended for the development and ongoing support of a statewide judicial information system, in conjunction with various other state agencies and the prosecuting attorneys association, and other technology innovations. Revenue from the fund could not be used to develop, operate, or maintain the cyber court created in chapter 80 of the RJA.

House Bill 4750 would amend the Community Dispute Resolution Act to revise the provisions for distributing funds to community dispute resolution centers. Currently, the act provides that each center receive a grant at least equal to the share of the filing fee revenue generated in that center's county. Under the bill, 65% of the funds would be made available based on the pro rata share of the revenue generated in the counties served by a center. The remaining 35% percent would be made available on the basis of performance measures and threshold levels established by SCAO. (This would essentially apply budget bill provisions regarding existing GF/GP funds to the new restricted funds that would be used to offset those GF/GP funds.)

Senate Bill 434 would amend the RJA to eliminate the requirement that \$9.00 in costs be ordered for municipal or state civil infractions, which is earmarked for various state-level entities—instead creating a justice system assessment of \$10.00 for such offenses.

Senate Bill 435 would amend the RJA to establish state minimum costs of \$45.00 for a serious or specified misdemeanor and \$40.00 for other misdemeanors or criminal ordinance violations.

Senate Bill 439 would amend the RJA to create the Justice System Fund, which would receive funds from the various assessments and state minimum costs established in this package. The proceeds of the fund would be distributed monthly to various entities. The Secondary Road Patrol and Training Fund would receive a distribution equal to \$10.00 multiplied by the number of traffic-related civil infractions for which an assessment was collected. The remaining fund balance would be distributed as follows:

Recipient	Percent of Fund Balance	
	FY 2003-04	FY 2004-05 and Beyond
Highway Safety Fund	24.7	24.8
Jail Reimbursement Program Fund	13.0	12.4
Michigan Justice Training Fund	13.0	12.4
Legislative Retirement System	1.2	1.15
Drug Treatment Court Fund	2.35	2.85
Forensic Lab Fund	3.9	5.6
State Court Fund	14.3	13.3
Court Equity Fund	25.55	25.5
State Treasurer (administration)	1.0	1.0
State Court Administrative Office (administration)	1.0	1.0

Senate Bill 442 would amend the Crime Victim's Rights Act to establish state minimum costs as the first priority for payment, other than the crime victims rights payments, for individuals convicted of violating state law or local ordinance and for juveniles found responsible for such violations.

Senate Bill 444 would amend the Forensic Laboratory Funding Act to eliminate the \$150 assessment imposed on individuals convicted in criminal cases involving a forensic test or a criminal sexual conduct offense. Also, a portion of the funds available in Forensic Lab Fund would be removed from the existing statutory formula (which distributes funds to Department of State Police and local units of government operating forensic labs using a caseload-based formula) and earmarked for costs incurred by the Department of State Police in maintaining its forensic DNA database. The percentage earmarked for DNA database costs would be 19% in FY 2003-04 and 45% in FY 2004-05 and beyond.

Senate Bill 447 would amend the Michigan Penal Code to eliminate the \$60 assessment imposed on individuals convicted of or found responsible for crimes for which a DNA sample must be submitted for profiling and entry into the state's forensic DNA database.

Senate Bill 448 would amend the Code of Criminal Procedure to establish payment of state minimum costs as a condition of probation.

Senate Bill 449 would amend the Code of Criminal Procedure to establish state minimum costs as the first priority for payment, other than the crime victims rights payments, for individuals convicted of violating state law or local ordinance.

The tables below provide a summary of the overall assessment/costs consolidation proposal contained within this package:

CIVIL INFRACTIONS: TRAFFIC

Current		House Bill 4732 et al.	
Category	Amount	Category	Amount
Assessments		Justice System Assessment	\$40
Michigan Justice Training Fund	\$5		
Highway Safety Fund	\$5		
Secondary Road Patrol and Training Fund	\$10		
Jail Reimbursement Program Fund	\$5		
State Minimum Costs	<u>\$9</u>		
TOTAL	\$34		

CIVIL INFRACTIONS: NON-TRAFFIC

Current		House Bill 4732 et al.	
Category	Amount	Category	Amount
State Minimum Costs	\$9	Justice System Assessment	\$10

CRIMINAL OFFENSES

Current		House Bill 4732 et al.	
Category	Amount	Category	Amount
Forensic Laboratory Fund (Cases involving a criminal sexual conduct offense or forensic casework)	\$150	State Minimum Costs	
		Non-Crime Victim Rights Misdemeanor	\$40
		Crime Victims Rights Misdemeanor	\$45
DNA Assessment (Felonies/Specified Misdemeanors)	\$60	Felony	\$60
State Minimum Costs: Misdemeanors	\$9		

Current	
Category	Amount
MINIMUM TOTAL (Misdemeanor with no assessments)	\$9
MAXIMUM TOTAL (Felony with both assessments)	\$210

Background Information

The Executive Recommendation for the FY 2003-04 Judiciary budget incorporates \$15.0 million in new restricted revenue from filing fee increases and assessment/costs consolidation. Of this total, \$11.3 million would offset General Fund/General Purpose (GF/GP) reductions to various line items, with the remaining \$3.7 million utilized to increase funding for the Judicial Technology Improvement Fund and the Drug Court Grant Program. The Senate- and House-passed versions of the FY 2003-04 Judiciary budget (Senate Bill 281) concur with these revenue assumptions. Enactment of this legislative package would generate the revenue needed to satisfy those assumptions, as well as additional revenue for various other state and local purposes.

The Senate- and House-passed versions of the FY 2003-04 State Police budget (Senate Bill 277) incorporate \$6.3 million in increased revenue from the Highway Safety Fund to offset a GF/GP reduction to the At-Post Troopers line item of the same amount. Enactment of this package would also generate the revenue needed to satisfy that assumption.

The table below provides a summary of the statutory uses of revenue from the various existing funds affected by the package:

Fund	Use(s) of Revenue
State Court Fund	Indigent civil legal assistance and transfer to Court Equity Fund
Court Equity Fund	Payments to counties for trial court operations
Judges Retirement System	Retirement costs for judges
Legislative Retirement System	Retirement costs for legislators
Highway Safety Fund	State Police trooper costs
Jail Reimbursement Program Fund	Per diem payments to counties for the costs of housing certain felons
Secondary Road Patrol and Training Fund	Grants to counties for road patrol officers and grants to local/county police agencies for the training of new hires
Michigan Justice Training Fund	Formula and competitive grants to law enforcement agencies and other entities for in-service training of criminal justice personnel
Forensic Lab Fund	Formula grants to State Police Forensic Science Division and local units operating forensic laboratories
DNA Assessment Revenue	Costs for State Police Forensic Science Division to maintain database of DNA profiles from criminal offenders and crime scenes

Fiscal Impact

House Bill 4748 would increase the total amount of filing fee revenue generated in trial courts (Circuit, Probate, and District) by an estimated \$15.2 million per year. Of this total, \$9.9 million would be distributed to state-level recipients and \$5.4 million would be retained by counties/court funding units, as shown below:

Recipient	Baseline Revenue	HB 4748 Revenue	Increase
State General Fund	\$551,250	\$561,750	\$10,500
Community Dispute Resolution Program	1,210,000	1,947,400	737,400
Judicial Technology Improvement Fund	0	4,156,950	4,156,950
Court Equity Fund	0	3,070,900	3,070,900
State Court Fund	17,725,000	18,163,500	438,250
Judges Retirement System*	7,578,750	8,988,000	1,409,250
Legislative Retirement System	<u>525,000</u>	<u>561,750</u>	<u>36,750</u>
SUBTOTAL: State-Level Recipients	\$27,590,000	\$37,450,000	\$9,860,000
Counties/Court Funding Units	<u>\$7,720,000</u>	<u>\$13,100,000</u>	<u>\$5,380,000</u>
TOTAL	\$35,310,000	\$50,550,000	\$15,240,000

*Revenue increase would offset loss of revenue under assessment/costs consolidation portion of package.

(Revenue data presented in this analysis are based on information provided by the State Court Administrative Office.)

The increase in the Supreme Court filing fee would generate an estimated \$118,750 in additional revenue per year. Revenue from Supreme Court fees is, and would continue to be (since the bill does not earmark it for a specific fund), deposited in the state's General Fund.

The increase in the Court of Appeals filing and motion fees would increase revenue by an estimated \$524,500 per year for FYs 2003-04 and 2004-05. The sunset provisions for the motion fee increases decrease this figure to \$437,500 for FY 2005-06 and beyond. These funds would be retained by the Court of Appeals for operational costs.

The increase in the child support service fee would generate approximately \$700,000 in revenue for the new Child Support Enforcement Fund. Under the bills, these funds would be expended by the Attorney General for costs related to child support collection efforts.

The assessment/costs consolidation plan contained within this legislative package would generate an estimated \$14.3 million in increased revenue for FY 2003-04, which would be distributed to various state-level entities. This figure would increase to \$19.4 million in FY 2004-05 and \$24.0 million in FY 2005-06. The amount of revenue generated would increase over this time period as the changes to the assessment/costs structure for criminal offenses phased in. For a variety of reasons, there is often a lag between the time assessments/costs are imposed and the time payment is actually received from criminal offenders. (See page 9 for a complete breakdown of revenue impacts.)

The largest revenue increases in FY 2003-04 would be for the Highway Safety Fund (\$6.4 million), Court Equity Fund (\$5.8 million), and the new Drug Treatment Court Fund (\$1.3 million). Beginning in FY 2004-05, the Department of State Police would also receive significant revenue increases for DNA database costs (\$1.3 million in FY 2004-05).

Finally, the assessment/costs consolidation plan could result in increased revenue for court funding units. If trial courts chose to impose the same amount of court costs for civil and misdemeanor infractions as they currently do—despite the net increase of \$10 incorporated into the new assessment for traffic-related civil infractions and the creation of the \$10 assessment for non-traffic civil

infractions—those courts would retain an additional \$9 per violation. (That is, additional revenue would be generated if trial courts chose not to decrease court costs to offset the increased/new assessment.) According to SCAO, up to \$9.1 million could be realized by funding units in FY 2003-04. This figure would increase to \$13.3 million in FY 2004-05 and \$17.1 million in FY 2005-06.

Recipient	Revenue Under House Bill 4732 et al.						
	Baseline Revenue	FY 2003-04	Increase	FY 2004-05	Increase	FY 2005-06	Increase
Highway Safety Fund	\$7,000,000	\$13,402,834	\$6,402,834	\$14,757,956	\$7,757,956	\$15,907,960	\$8,907,960
Michigan Justice Training Fund	7,000,000	7,054,123	54,123	7,378,978	378,978	7,953,980	953,980
Secondary Road Patrol & Training Fund	14,000,000	14,000,000	0	14,000,000	0	14,000,000	0
Jail Reimbursement Program Fund	7,000,000	7,054,123	54,123	7,378,978	378,978	7,953,980	953,980
State Forensic Lab Fund	1,500,000	1,714,152	214,152	1,832,843	332,843	1,975,666	475,666
Dept. of State Police: DNA Database Costs	200,000	402,085	202,085	1,499,599	1,299,599	1,616,454	1,416,454
Courts/Police Agencies (DNA Costs)	100,000	40,000	(60,000)	20,000	(80,000)	0	(100,000)
Courts/Police Agencies/Prosecuting Attorneys (Forensic Lab Fund Admin.)	265,000	132,500	(132,500)	66,250	(198,750)	0	(265,000)
Legislative Retirement System	570,000	651,150	81,150	684,341	114,341	737,668	167,668
Judges Retirement System*	855,000	0	(855,000)	0	(855,000)	0	(855,000)
Drug Treatment Court Fund	0	1,275,168	1,275,168	1,695,975	1,695,975	1,828,133	1,828,133
State Court Fund	7,600,000	7,759,536	159,536	7,914,549	314,549	8,531,285	931,285
Court Equity Fund	8,075,000	13,864,066	5,789,066	15,174,512	7,099,512	16,356,975	8,281,975
Department of Treasury	0	542,625	542,625	595,079	595,079	641,450	641,450
State Court Administrative Office	0	542,625	542,625	595,079	595,079	641,450	641,450
TOTAL	\$54,165,000	\$68,434,987	\$14,269,987	\$73,594,139	\$19,429,139	\$78,145,001	\$23,980,001

*Revenue loss would be offset by increase under court filing fee portion of package.

Note: Figures do not reflect possible revenue increase to court funding units (see final paragraph of analysis).

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FLOOR ANALYSIS - 6/13/03

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