



State of Kansas

Supreme Court of Kansas
Office of Special Counsel
Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

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February 23, 2021

Senate Transportation

Neutral Testimony

SB 100—making changes to suspended drivers' license requirements

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Chairman Petersen and members of committee, thank you for the opportunity to appear today to testify concerning SB 100. The bill would alter the method by which the drivers' license reinstatement fee is assessed against those drivers who fail to comply with a traffic citation. The Judicial Branch anticipates that this change would reduce the total number of reinstatement fees that are assessed and significantly impact our budget.

Currently, the judicial branch assesses and collects the reinstatement fee imposed under K.S.A. 8-2110 and remits it to the state treasurer for deposit into the treasury. Once deposited, the state treasurer credits the first \$15.00 from each reinstatement fee, plus 41.17% of the remaining balance, into the judicial branch nonjudicial salary adjustment fund. The Judicial Branch Nonjudicial Salary Adjustment fund is used to compensate Judicial Branch employees, but it cannot be used to compensate judges or Supreme Court justices. In fiscal year 2019, \$1,201,649 in drivers' license reinstatement fees were deposited in this salary adjustment fund. Additionally, we estimate that \$502,471 in driver's license reinstatement fee surcharge revenue was deposited in the Judicial Branch Docket Fee Fund in fiscal year 2019.

SB 100 would strike existing language that describes how reinstatement fees are assessed prior to July 1, 2021. The bill adds language providing (1) for assessment of a reinstatement fee on those traffic citations issued on and after July 1, 2021 and (2) that the reinstatement fee be assessed on a per case basis instead of a per charge basis, as is currently the case.

By changing the driver's license reinstatement fee from \$100 per charge to \$100 per case, we estimate that revenue would decrease by approximately 44%, which equates to \$749,813, each fiscal year beginning fiscal year 2022.

Because the Judicial Branch anticipates that this measure would reduce the total number of reinstatement fees assessed in Kansas, it consequently anticipates a decrease in the amount of funding available in the Judicial Branch Nonjudicial Salary Adjustment Fund: a decrease that—if not replaced with a separate, equal amount of funding—would impact the Judicial Branch's ability to compensate its employees and threaten its ability to remain open to the public. While the judicial branch has no position on the policy underlying the bill, it draws the committee's attention to the fiscal impact this measure could have on the branch's operations.

As mentioned above, by striking existing language governing how reinstatement fees are assessed prior to July 1, 2021, SB 100 also raises some procedural questions that may impact Judicial Branch expenditures and revenues. It is unclear what legal affect the removal of this language may have on cases in which a suspension, and reinstatement fee, was imposed before July 1, 2021. It may be interpreted to eliminate the court's ability to assess a reinstatement fee for those cases, or may be interpreted to require application of the new formula for assessing a single reinstatement fee for each case, regardless of when the suspension occurred. Both scenarios would result in substantial fee loss and administrative complications for the court system and the state of Kansas.

The Judicial Branch contracts with debt collection vendors to assist in collecting fees assessed on behalf of the state. The bill, as offered, could impact those fees already assessed in a case. For example, a case involving a fee that has already been assessed and is currently being collected by a vendor may have to be reexamined by a court for a determination of what can be collected or, possibly, remitted to the defendant. This would require a substantial amount of time spent by trial court clerks and judges in recalculating the amounts owed in these cases and in recalling certain cases from collections vendors. To avoid any logistical issues that could arise from the implementation of these changes, we respectfully request the committee favorably consider our attached amendment, which would cause the changes contained in the bill to operate prospectively starting July 1, 2021 and clarify that suspensions imposed prior to that date would be handled in accordance with the law in place at the time the suspension occurred.

Thank you for your time. I am happy to stand for questions regarding the bill.

Attachments

Reinstate existing language in (c)(1).

1 counseling or any place the person is required to go by a court.
 2 ~~(c) (1) Prior to July 1, 2018, except as provided in subsection (d);~~
 3 ~~when the district or municipal court notifies the division of vehicles of a~~
 4 ~~failure to comply with a traffic citation pursuant to subsection (b), the~~
 5 ~~court shall assess a reinstatement fee of \$59 for each charge on which the~~
 6 ~~person failed to make satisfaction regardless of the disposition of the~~
 7 ~~charge for which such citation was originally issued and regardless of any~~
 8 ~~application for restricted driving privileges. Such reinstatement fee shall~~
 9 ~~be in addition to any fine, restricted driving privilege application fee,~~
 10 ~~district or municipal court costs and other penalties. The court shall remit~~
 11 ~~all reinstatement fees to the state treasurer in accordance with the~~
 12 ~~provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of~~
 13 ~~each such remittance, the state treasurer shall deposit the entire amount in~~
 14 ~~the state treasury and shall credit 42.37% of such moneys to the division of~~
 15 ~~vehicles operating fund, 31.78% to the community alcoholism and~~
 16 ~~intoxication programs fund created by K.S.A. 41-1126, and amendments~~
 17 ~~thereto, 10.59% to the juvenile alternatives to detention fund created by~~
 18 ~~K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial~~
 19 ~~branch nonjudicial salary adjustment fund created by K.S.A. 2020 Supp.~~
 20 ~~20-1a15, and amendments thereto.~~

Reinstate existing language in (c)(2), replacing "On and after July 1, 2018" with "Prior to July 1, 2021."

21 ~~(2) On and after July 1, 2018, Except as provided in subsection (d),~~
 22 ~~when the district or municipal court notifies the division of vehicles of a~~
 23 ~~failure to comply with a traffic citation *issued on and after July 1, 2021,*~~
 24 ~~pursuant to subsection (b), the court shall assess a reinstatement fee of~~
 25 ~~\$100 for each charge on which the person failed to make satisfaction~~
 26 ~~regardless of the disposition of the charge for which such citation was~~
 27 ~~originally issued and regardless of any application for restricted driving~~
 28 ~~privileges *for each case.* Such reinstatement fee shall be in addition to any~~
 29 ~~fine, restricted driving privilege application fee, district or municipal court~~
 30 ~~costs and other penalties *and shall only be collected after a person has*~~
 31 ~~*been determined to be eligible for reinstatement.* The court shall remit all~~
 32 ~~reinstatement fees to the state treasurer in accordance with the provisions~~
 33 ~~of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such~~
 34 ~~remittance, the state treasurer shall deposit the entire amount in the state~~
 35 ~~treasury and shall credit the first \$15 of such reinstatement fee to the~~
 36 ~~judicial branch nonjudicial salary adjustment fund and of the remaining~~
 37 ~~amount, 29.41% of such moneys to the division of vehicles operating fund,~~
 38 ~~22.06% to the community alcoholism and intoxication programs fund~~
 39 ~~created by K.S.A. 41-1126, and amendments thereto, 7.36% to the juvenile~~
 40 ~~alternatives to detention fund created by K.S.A. 79-4803, and amendments~~
 41 ~~thereto, and 41.17% to the judicial branch nonjudicial salary adjustment~~
 42 ~~fund created by K.S.A. 2020 Supp. 20-1a15, and amendments thereto.~~

Add new (c)(3): On and after July 1, 2021, except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$100 for each case [. . .].

43 (d) The district court or municipal court shall waive the reinstatement



State of Kansas

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February 4, 2021

SB 100

Bill Number: SB 100 Due Date: February 1, 2021
 Responding Agency: Judicial Branch
 Prepared by: Stephanie Buntten DOB Analyst: Leyton Gunn

Fiscal Impact

State—Would this bill have a fiscal effect on your agency? Yes No

Local—Would this bill have a fiscal effect on local government? Yes No

Tax Revenue—Would this bill affect State General Fund revenues? Yes No

Fee or Other Revenue—Would this bill affect revenues to other state funds? Yes No

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Expenditures			
State General Fund			
Fee Fund(s)			
Federal Fund			
Total Expenditures	See Below	See Below	See Below
Revenues			
State General Fund			
Fee Fund(s)			
Federal Fund			
Total Revenues	See Below	See Below	See Below
FTE Positions			

Bill Description

Under K.S.A. 8-262, when a person is convicted of driving while the person's driver's license is suspended, the period of the initial suspension is extended for an additional 90 days. SB 100 would amend that statute to eliminate the 90-day extension period if the person's license was suspended for failure to comply with a traffic citation under K.S.A. 8-2110.

The bill would also amend K.S.A. 8-2110 by eliminating the requirement that a person pay a \$25 application fee to the division of vehicles when applying for restricted driving privileges in lieu of driver's license suspension for failure to comply with a traffic citation. It would similarly remove the \$25 application fee currently required to apply for restricted driving privileges if a person's license expires during the period of time it is suspended for failure to comply with a traffic citation. The bill would also clarify that, in order to qualify for restricted driving privileges under K.S.A. 8-2110, the underlying suspension must be entirely based on a violation of K.S.A. 8-2110 (failure to comply with a traffic citation).

SB 100 would strike existing language authorizing the assessment of a driver's license reinstatement fee prior to July 1, 2018, and from July 1, 2018 to July 1, 2021. It would modify the statute to require the district or municipal court to assess a reinstatement fee when a driver's license is suspended for failure to comply with a traffic citation issued on and after July 1, 2021. The statute would further be modified to require payment of one reinstatement fee per case. At present, a reinstatement fee is paid for each charge in a case. The bill would also add new language requiring that a reinstatement fee only collected once a person is determined to be eligible for reinstatement.

Finally, the bill would make a conforming change to the language that authorizes the supreme court to impose a surcharge on each reinstatement fee paid to fund the costs of non-judicial personnel. The date change shown in the bill was authorized by the 2019 Legislature, but K.S.A. 8-2110 was amended twice that year, creating the need for the conforming change shown in 2020 SB 100.

Assumptions for Fiscal Effect Estimate

Expenditures: The passage of SB 100 could have a very significant fiscal effect on expenditures of the Judicial Branch. As written, it could be interpreted by prohibit the assessment of reinstatement fees on suspensions imposed prior to July 1, 2021. If this is the case, it appears this bill might create a group of citations where no reinstatement fee can be newly assessed, i.e., for tickets issued before July 1, 2021.

SB 100 also appears to cast doubt on the validity of reinstatement fees already assessed prior to July 1, 2021. If reinstatement fees already assessed for citations issued before July 1, 2021 are no longer valid, it will cause a significant increase in the amount of work for district court clerks for these cases. Clerks would have to recall these cases from the debt collection vendor and would then have to recalculate the debt owed without the reinstatement fee before re-sending the remaining debt back to the debt collection vendor for collection.

Assuming previously assessed reinstatement fees on citations issued before July 1, 2021 are valid, the bill is also unclear regarding when those reinstatement fees may be collected. As the bill is written, reinstatement fees shall only be collected after a person has been determined to be eligible for reinstatement. It is unclear if this prohibition applies only to fees assessed to citations issued after July 1, 2021 or would also apply to fees already assessed to citations issued before that date. If the prohibition applies to fees assessed before July 1, 2021, clerks would have to recall these cases from the debt collection vendor and would then have to recalculate the debt owed without the reinstatement fee before re-sending the remaining debt back to the debt collection vendor for collection.

Revenues: The passage of SB 100 would have a very significant fiscal effect on revenues to the Judicial Branch. Because the bill's provisions change the driver's license reinstatement fee from \$100 per charge to \$100 per case, this will create a substantial decrease in revenue to the Judicial Branch Nonjudicial Salary Adjustment Fund and the Judicial Branch Docket Fee Fund. Based on CY 2019 data for a sampling of district court driver's license reinstatements that included 28 counties, of which two were urban courts (Shawnee and Sedgwick Counties), it is estimated that revenue would decrease by approximately 44%.

The FY 2019 driver's license reinstatement fee revenue in the Judicial Branch Nonjudicial Salary Adjustment Fund was \$1,201,649. The estimated annual decrease in revenue due to the bill's provisions is approximately \$528,726 (\$1,201,649 x 44%).

In addition, there is a \$22 Judicial Branch surcharge on every reinstatement fee. This fee is deposited into the Judicial Branch Docket Fee Fund. The FY 2019 driver's license reinstatement fee surcharge revenue in the Judicial Branch Docket Fee Fund was \$502,471. The estimated annual decrease in surcharge revenue due to the bill's provisions is approximately \$221,087 (\$502,471 x 44%).

Therefore, the estimated total decrease to Judicial Branch revenue would be approximately \$749,813 annually.

Importantly, SB 100 appears to indicate that reinstatement fees can only be applied to citations issued on or after July 1, 2021. So, for tickets issued before that date but were not yet suspended, SB 100 infers that the Judicial Branch cannot assess the \$100 reinstatement fee or the additional \$22 surcharge. If this is what the bill provisions are intending, then the revenue decrease would be much greater than indicated above.

Note: Due to the COVID-19 pandemic, our estimates are based on FY 2019 revenue figures instead of FY 2020. FY 2019 is a more accurate representation of the actual revenue.

Long-Term Fiscal Considerations

The passage of SB 100 would have a significant long-term fiscal effect on the Judicial Branch as noted above.

Local Government Fiscal Effect

None.

References/Sources