

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1862-02
Bill No.: SCS for SB 363
Subject: Revenue Department; Taxation and Revenue - Sales and Use; Motor Vehicles;
Type: Original
Date: March 19, 2009

Bill Summary: Allows the Department of Revenue to appoint motor vehicle dealers to serve as agents for the purpose of collecting and remitting motor vehicle sales and use taxes

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	\$0	\$0	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	(More than \$100,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Highway	\$0	\$0	(More than \$100,000)
Road Bond	\$0	\$0	More than \$100,000
Transportation	\$0	\$0	Unknown
Road	\$0	\$0	More than \$100,000
School District Trust	\$0	\$0	More than \$100,000
Conservation Commission	\$0	\$0	More than \$100,000
Parks, and Soils and Water	\$0	\$0	More than \$100,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	More than \$100,000

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on FTE	Unknown	Unknown	Unknown

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$0	\$0	(More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation** defer to the Department of Revenue for estimates of fiscal impact on Highway funds.

Officials from the **State Tax Commission** state this proposal will not have a fiscal impact on their agency.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations

ASSUMPTION (continued)

related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume there would be no added cost to their organization as a result of this proposal. BAP officials stated that this proposal would allow for the collection of sales and use taxes at the point of sale by certain motor vehicle dealers, and sets up related procedures. This proposal would have no direct impact on general and total state revenues, but may increase general and total state revenues if these provisions prevent some levels of sales tax evasion.

BAP officials also stated that current law provides for the sales tax on a newly purchased vehicle to be calculated on the purchase price less the value of any trade-in or other credit on which sales tax has already been paid. This proposal would impose sales tax on no less than 80% of the value of the newly purchased vehicle, despite the trade-in value. This proposal may increase sales tax collections, but BAP has no data to estimate the impact.

Officials from the **Department of Revenue** (DOR) assume this proposal would allow but not require dealers to collect sales tax on their sales. It is unknown how many dealers would choose to collect and remit sales tax. DOR bases their calculations on 50% of all dealers choosing to do so.

In FY 2007 there were approximately 58,776 individuals who purchased vehicles from a dealer and didn't pay their sales tax or apply for title. Assuming 50% of the dealers will collect sales tax, this figure will decrease by 50% to 29,388. With this proposal those individuals would have to pay sales tax (an average state sales tax of \$480 and an average of \$340 local sales tax each) directly to the dealer at the time of sale. This proposal would result in an increase in motor vehicle sales tax collected by DOR.

ASSUMPTION (continued)

The following is the allocation to each fund:

Sales Tax	FY 2012 (6 months)	FY 2013	FY 2014
State Road Bond Fund	\$2,504,069	\$5,008,138	\$5,008,138
State Transportation Fund	\$66,793	\$133,586	\$133,586
State Road Fund	\$2,437,276	\$4,874,552	\$4,874,552
School District Trust Fund	\$834,666	\$1,669,332	\$1,669,332
Conservation Commission Trust Fund	\$208,702	\$417,404	\$417,404
Parks, and Soils and Water Funds	\$166,877	\$333,754	\$333,754
Cities	\$3,004,908	\$6,009,817	\$6,009,817
Counties	\$2,837,961	\$5,675,922	\$5,675,922
Total State Revenue	\$6,218,383	\$12,436,766	\$12,436,766
Total Local Revenue	\$5,842,869	\$11,685,739	\$11,685,739
Total:	\$12,061,252	\$24,122,505	\$24,122,505
Less 2% collection fee:	\$241,225	\$482,450	\$482,450
Net total:	\$11,820,027	\$23,640,055	\$23,640,055

Motor Vehicle Use Tax Increase:

DOR assumes there would be an unknown increase in vehicle use tax on sales between individuals since vehicle purchasers would have to pay use tax on no less than 80% of the trade-in value of the vehicle, regardless of any 180-day tax credit that would otherwise be allowed.

ASSUMPTION (continued)

Motor Vehicle Title Fee Increase:

There would be a corresponding increase in title fees from the 29,388 vehicle purchasers who now apply for title at \$8.50 as shown below. The \$8.50 title fee is distributed: \$1 to Highway Fund; and the remaining \$7.50 is distributed as follows: 75% Highway Fund, 15% Cities, and 10% Counties.

Motor Vehicle Title Fee Increase	FY 2012 (6mnths)	FY 2013	FY 2014
Highway Fund - \$1 each	\$14,694	\$29,388	\$29,388
Highway Fund - 75% of Balance	\$82,654	\$165,308	\$165,308
Cities - 15% of Balance	\$16,531	\$33,062	\$33,062
Counties - 10% of Balance	\$11,021	\$22,041	\$22,041
Total	\$124,899	\$249,798	\$249,798

Dealer Penalty for Failure to Pay Promptly

DOR assumes there would also be an unknown increase in penalties assessed to dealers who fail to remit sales tax in a timely manner.

Reduction in Penalties for Failure to Apply for Title Promptly

DOR assumes that because buyers would be paying sales tax up front, there would no longer be a reason to delay applying for title so there would be a projected decrease in title penalties each year of \$4,580,650 to the Highway Fund for vehicle transactions.

DOR officials assume their agency would need to revise policies and procedures, the DOR website, and sales tax charts and notify motor vehicle dealers, leasing companies and salvage dealers regarding this legislation and revise related tax procedures. DOR assumes that \$4,130 would be required for the Motor Vehicle Commission Fund for the cost of these notifications.

Oversight assumes there are sufficient funds in the Motor Vehicle Commission Fund to cover these expenses related to the proposed legislation.

ASSUMPTION (continued)

Based on their assumption that fifty percent of dealers would collect and remit sales taxes, DOR officials assume they would process 29,388 additional transactions per year which would require funding of \$6,817 in FY 2012, \$14,045 in FY 2013, and \$14,467 in FY 2014 for printing the titles and envelopes, and postage to mail them to the owner.

DOR officials assume there would be a decrease in the number of delinquent fee letters issued. In FY 2007, there were a total of 29,388 delinquent fee letters generated due to unpaid motor vehicle dealer sales transactions. DOR assumes this proposal would eliminate fifty percent of the delinquent fee letters, which would result in cost savings for letters, postage, and envelopes in the amount of \$6,802 in FY 2012, \$13,607 in FY 2013 and FY 2014.

DOR officials assume that an unknown additional inventory of additional plates and tabs would be distributed to dealers across the state who are designated as DOR agents, and there would be additional UPS costs associated with shipping those plates to the dealers. DOR will also require an unknown amount of additional funding for Revenue Licensing Technicians and supporting equipment to review the title transactions submitted by dealers designated as agents to ensure all requirements are met before the titles are issued.

DOR will require funding in the amount of \$85,491 for two Revenue Licensing Clerk II's and supporting equipment to process the letters sent to dealers regarding tax discrepancies between what the dealer collected and what was reported on the title application as well as receiving phone calls and any required research. DOR will also require an unknown amount of funding for paper, envelopes and postage to issue these letters.

DOR officials assume that Collections and Tax Assistance would need the following:

- One FTE Revenue Processing Technician I for every 8,300 registrations/maintenance to business tax accounts;
- One FTE Tax Collection Technician I for every 15,000 calls a year to the delinquency phone line;
- One FTE Revenue Processing Technician I for every additional 4,800 contacts in the field offices;
- One FTE Revenue Processing Technician I for every additional 3,000 revocations annually

ASSUMPTION (continued)

In addition, DOR officials assume that Cashiering and Processing would require:

- One FTE Revenue Processing Technician I for every additional 50,000 data-entry returns;
- One FTE Revenue Processing Technician I for every additional 17,000 returns to be verified,;
- One FTE Revenue Processing Technician I for every additional 25,000 pre-edited returns.

The **Office of Administration Information Technology (ITSD DOR)** estimates that this legislation could be implemented utilizing 3 existing CIT III's for 8 months and an additional 4 CIT III's for 4 months at a rate of \$4,441/mo for a total cost of \$177,640. ITSD DOR estimates the IT portion of this request can be accomplished within existing resources; however; if priorities shift, additional FTE/overtime would be needed to implement.

DOR officials included an estimate of the net cost to implement this proposal including at least 9 additional employees and the related equipment and expenditures totaling \$350,285 for FY 2012, \$370,284 for FY 2013, and \$381,801 for FY 2014.

Oversight assumes this proposal would require considerably less revision of current DOR procedures than is included in the DOR cost estimate. Many sales would likely be trade-in transactions in which the buyer would retain their current license plate. **Oversight** assumes that title application forms completed by dealers would be sent to DOR by those dealers; the dealers would issue temporary license plates as they currently do, and DOR would mail plates or tabs to buyers. Alternatively, the title application forms could be completed on a web-based system developed by DOR to allow for editing and verification before the transaction is entered into the TRIPS system. **Oversight** will include an unknown cost for DOR administration of the proposal.

Oversight also notes that the DOR estimates of additional revenues and reduced penalties appear to be based on the collection of a historical average amount of sales and use taxes for all of the current non-filers; DOR has also assumed that fifty percent of dealers would collect and remit sales taxes. **Oversight** assumes that collection from fifty percent of current non-filers is a more realistic estimate although this proposal could result in collection from significantly more or less than fifty percent of current nonfilers.

Oversight will indicate an unknown increase in administrative cost to implement this proposal, an unknown increase in sales tax collections, and an unknown decrease in penalties for the applicable funds and local governments. For fiscal note purposes, **Oversight** assumes that for all years the cost to the General Revenue Fund to administer this proposal would exceed the

ASSUMPTION (continued)

additional revenue for the General Revenue Fund. **Oversight** also assumes that the loss of title penalties would significantly exceed the revenues from additional title fee collections. Finally, **Oversight** assumes that additional revenues would exceed \$100,000 except for the Transportation Fund.

Officials from **Centralia, Kansas City, and West Plains** do not estimate fiscal impact to their respective cities as a result of this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2010	FY 2011	FY 2012 (6 Mo)
GENERAL REVENUE FUND			
<u>Revenue increase</u> - Sales and use tax	\$0	\$0	More than \$100,000
<u>Revenue increase</u> - Marine title fees	\$0	\$0	Less than \$100,000
<u>Revenue increase</u> - Administrative sanctions	\$0	\$0	Unknown
<u>Revenue reduction</u> - Title penalties	\$0	\$0	(More than \$100,000)
<u>Cost</u> - Department of Revenue	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
Estimated Net Effect on FTE for General Revenue	Unknown	Unknown	Unknown
HIGHWAY FUND			
<u>Revenue increase</u> - Title fees	\$0	\$0	More than \$100,000
<u>Revenue reduction</u> - Title penalties	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>\$0</u>	<u>\$0</u>	<u>(More than \$100,000)</u>

<u>FISCAL IMPACT</u> - State Government	FY 2010	FY 2011	FY 2012 (6 Mo)
STATE ROAD BOND FUND			
<u>Revenue increase</u> - sales and use tax	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON ROAD BOND FUND	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
STATE TRANSPORTATION FUND			
<u>Revenue increase</u> - Sales and use tax	<u>\$0</u>	<u>\$0</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON STATE TRANSPORTATION	<u>\$0</u>	<u>\$0</u>	<u>Unknown</u>
STATE ROAD FUND			
<u>Revenue increase</u> - Sales and use tax	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON STATE ROAD FUND	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue increase</u> - Sales and use tax	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>

<u>FISCAL IMPACT</u> - State Government	FY 2010	FY 2011	FY 2012 (6 Mo)
CONSERVATION COMMISSION FUND			
<u>Revenue increase</u> - Sales and use tax	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
PARKS, AND SOILS and WATER FUNDS			
<u>Revenue increase</u> - Sales and use tax	<u>\$0</u>	<u>\$0</u>	More than \$100,000
ESTIMATED NET EFFECT ON PARKS, AND SOILS AND WATER FUNDS	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
 <u>FISCAL IMPACT</u> - Local Government	 FY 2010	 FY 2011	 FY 2012
	(10 Mo.)		
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue increase</u> - Cities and counties - Sales and use tax	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>More than \$100,000</u>

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses which buy or sell vehicles or watercraft, and small businesses which operate Department of Revenue contract offices would expect reduced operating revenues as a result of this proposal.

FISCAL DESCRIPTION

This proposed legislation allows the Department of Revenue (DOR) to appoint motor vehicle dealers to act as agents for purpose of registering and licensing motor vehicles and collecting motor vehicle sales and use tax on motor vehicles. Beginning January 1, 2012, any motor vehicle dealer may collect and remit sales and use tax on the motor vehicles it sells at the time of sale. The motor vehicle dealer may retain 2% of the sales tax (Section 144.145).

Under current law, a person who sells a motor vehicle may deduct the sales price of such vehicle from the sales price of a subsequently purchased vehicle for purposes of paying motor vehicle sales tax provided the vehicle is purchased within six months of the date of sale. This proposal modifies this particular trade-in credit rule by requiring the director to impose a tax on the sales price of the subsequent vehicle of no less than 80% of the vehicle's value (Section 144.025).

The proposal explicitly provides that for purposes of paying sales taxes on motor vehicles, trailers, and boats, in nonretail transactions, the purchase prices shall mean not less than 80% of the vehicle's value. For retail transactions, the purchase price of a vehicle shall mean the total amount of the contract price agreed upon between the seller and buyer (Section 144.070).

The proposed legislation also creates new penalties (monetary and suspension of business licenses) for failing to remit sales taxes to DOR in a timely manner (Section 144.080).

The proposal requires DOR to issue a credit on the next quarterly tax remittance to any seller for any amounts remitted for satisfying and returning any tax obligation on behalf of a purchaser causing a credit card reversal or presenting insufficient monetary instruments for tax imposed (Section 144.080).

Under current law, refunds made to purchasers who return items to sellers may be deducted from the seller's gross receipts return that it files with the DOR provided the seller has returned to the purchaser all tax previously paid. Under this act, sellers who are motor vehicle dealers or financial institutions that finance sales, and the personal property or motor vehicle is repossessed, do not have to return tax previously paid by the purchaser in order to obtain the gross receipts deduction (Section 144.130).

FISCAL DESCRIPTION (continued)

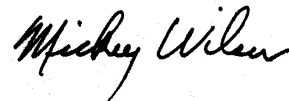
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
 Administrative Rules Division
Office of Administration
 Division of Budget and Planning
Department of Revenue
Department of Transportation
State Tax Commission

Cities

 West Plains
 Centralia
 Kansas City



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Director
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