LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 26, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB4201** by Villarreal (Relating to a credit or reimbursement of the motor vehicle sales tax paid on uncollectable payments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4201, As Introduced: a negative impact of ($26,000,000) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	($26,000,000)
2012	($45,500,000)
2013	($45,500,000)
2014	($45,500,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1
2010	$0
2011	($26,000,000)
2012	($45,500,000)
2013	($45,500,000)
2014	($45,500,000)

Fiscal Analysis

The bill would amend Section 152.047 of the Tax Code, providing a credit or reimbursement of the motor vehicle sales tax paid on certain uncollectible payments.

The bill would entitle an entity to which a seller had assigned the right to receive payments, and that was a member of an affiliated group (as defined by 26 U.S.C. Section 1504) that included an automobile manufacturer, to a credit or reimbursement for the tax paid by a seller on the taxable portion of uncollectible payments. An assignee would be entitled to a credit or reimbursement only if the seller held a dealer general distinguishing number and paid the tax for which the credit or reimbursement was sought. The bill would affect dealers using captive financing. Sales made by dealers that were purchased for cash or financed by a bank, credit union, finance company, or by home equity loan were not included.

Currently when a note is factored or sold by a financing dealer, the total amount of motor vehicle sales tax due, and not yet paid, becomes due and payable. The bill would require the full amount of motor vehicle sales tax be paid at the time of sale, so at the time of assignment no additional tax would accelerate or be due. The bill would affect those sales where a purchaser eventually defaulted on a loan and the vehicle was repossessed. Any tax already paid on the remaining portion of the loan in default would be refunded to the seller or the seller's assignee.

The bill would not affect a tax liability accruing before the effective date of the bill.

The bill would take effect September 1, 2009.

Methodology

Sales tax collected and remitted by dealers under a captive financing arrangement were estimated to be $1 billion for fiscal 2010, after deducting for cash sales and sales utilizing other financing methods. After excluding a percentage of financing firms assumed not to meet the 80 percent ownership test (26 U.S.C. Section 1504) and applying a default rate of 13 percent, the gross amount of tax associated with loans estimated to default is $65 million. For the purposes of this analysis, the $65 million would be expected to be related to defaults occurring half in year 3 of the loan period, half in year 2, and none in year 1. Therefore, the amounts to be credited or refunded were adjusted for the amount of taxes associated with payments made prior to default.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, KK