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Deposit Sales and Use Tax Revenue Generated from Sales of Motor Vehicles and Motor Vehicle Parts and Accessories into the Transportation Fund (General Fund Taxes -- Sales and Excise Taxes and DOT -- Transportation Finance)

[LFB 2011-13 Budget Summary: Page 195, #1 and Page 429, #4]

CURRENT LAW

Under current law, Wisconsin generally imposes a sales and use tax at a rate of 5% on sales of tangible personal property and selectively imposes the tax on certain enumerated services. All revenues generated from the tax accrue to the general fund. Motor vehicles and motor vehicle parts and accessories are generally subject to the tax. Sales and use tax revenues are currently estimated at $4,350 million in 2011-12 and $4,485 million in 2012-13.

GOVERNOR

Deposit a specified percentage of sales and use tax revenues generated from sales of motor vehicles and motor vehicle parts and accessories into the transportation fund. Under the Governor's proposal, beginning July 1, 2012, the Department of Revenue (DOR) would have to annually estimate the amount of sales tax revenue generated from the sale, lease, or use of motor vehicles and motor vehicle parts and accessories. The proposed percentage of sales tax generated by such sales to be deposited into the transportation fund would increase over a ten-year period, from 7.5% to 50% of such revenues, in the following manner:

a. 7.5% of revenues for 2012-13, but not more than $35,127,000;
b. 10% of revenues for 2013-14;
c. 15% of revenues for 2014-15;
d. 20% of revenues for 2015-16;
e. 25% of revenues for 2016-17;
f. 30% of revenues for 2017-18;
g. 35% of revenues for 2018-19;
h. 40% of revenues for 2019-20;
i. 45% of revenues for 2020-21; and
j. 50% of revenues for 2021-22 and for each year thereafter.

DOR estimates total sales tax revenues generated from sales and leases of motor vehicles and motor vehicle parts and accessories for 2012-13 at $584 million. The Department estimates that the proposal would deposit $35,127,000 GPR into the transportation fund in 2012-13. In 2012-13 dollars, it is estimated that sales tax revenues would be deposited into the transportation fund in the amounts of $58 million in 2013-14 and $88 million in 2014-15, and would increase to $292 million in 2021-22.

DISCUSSION POINTS

1. Under current law, all revenues generated by the state sales and use tax, as well as the individual income, corporate income, excise, public utility, insurance company, and miscellaneous taxes, accrue to the general fund. General fund tax revenues are estimated at $13,164.3 million in 2011-12 and at $13,690.2 million in 2012-13. The Governor's proposal to deposit a portion of sales tax revenue to the transportation fund would represent the only earmarking of any general fund tax for a specific purpose.

2. The Governor's proposal specifies that DOR would be responsible for estimating the amount of revenue generated by the sales tax on motor vehicles and motor vehicle parts and accessories. Sales and use tax returns filed by taxpayers do not identify the type of taxable good or service for which the tax is paid. Therefore, sales tax revenues from specific types of tangible personal property and services must be estimated. The proposal does not provide a definition for motor vehicles or motor vehicle parts and accessories, nor does it specify how the Department must estimate revenue generated from such sales.

According to DOR, the Department's estimate would reflect the amount of taxable sales reported by Wisconsin sales tax filers who have identified themselves as primarily engaged in businesses related to selling motor vehicles and motor vehicle parts and accessories.

DOR's estimate would not reflect product specific sales and leases of motor vehicle parts and accessories. Consequently, the estimate would include sales of taxable items and services other than motor vehicles and motor vehicle parts and accessories if the items were sold by businesses that identify themselves as primarily engaged in such retail activities. An example of this would be repair services performed by motor vehicle dealerships. Conversely, if a business did not identify itself as primarily engaged in selling or leasing motor vehicles or motor vehicle parts and accessories, such sales would be omitted from the estimate. For example, sales of motor vehicle parts and accessories by department stores, hardware stores, and automotive repair and maintenance shops would not be included in the estimate.

3. Wisconsin sales tax filers are categorized by their primary retail activity according to categories defined in the U.S. Census Bureau's North American Industry Classification System (NAICS). According to DOR, data compiled through sales tax returns from these filers represents the best available indication of the amount of taxable retail sales by each type of business in Wisconsin, but the reliability is limited. DOR determines the business classifications based on a brief description of the seller's principal business and merchandise that is part of their application for a seller's permit. In the case of a business with a variety of areas or with products that have changed over a period of time, the coding may not accurately reflect the extent and nature of sales by the business. According to DOR, the estimate would include the types of business classifications shown in Table 1.

TABLE 1

NAICS Classification Codes for DOR's Estimate

NAICS	Establishment's Primary Retail Activity
4411	New and used automobiles, light trucks, sport utility vehicles, passenger vans, and cargo vans, as well as sales of such new vehicles in combination with repair services and selling replacement parts and services.
441210	New and used recreational vehicles (RVs), as well as new RV sales in combination with repair services and selling replacement parts and accessories.
441221	New and used motorcycles, motor scooters, motorbikes, mopeds, off-road all-terrain vehicles, and personal watercraft, as well as sales of such new vehicles in combination with repair services and selling replacement parts and accessories.
4413	Automotive parts, accessories, and tire stores.
5321	Renting or leasing, without drivers, passenger cars, trucks, truck tractors, buses, semitrailers, utility trailers, or RVs.
N/A	Occasional sales of automobiles (generally private party transactions), for which the sales tax is paid to the Department of Transportation when registering a vehicle with the state, and subsequently remitted to DOR

4. As noted, the proposal does not require DOR to use this methodology; however, the Department has indicated that this would be its method of estimation. An amendment requiring DOR to estimate sales tax revenues generated from sales and leases of motor vehicles and motor vehicle parts and accessories using this methodology would remove uncertainty about how the Department would generate the estimates. Altering methods of estimation can produce significantly different estimates. For example, when the budget bill was introduced, the Department of Administration (DOA) estimated that this provision would transfer $47.2 million to the transportation fund in 2013-14, implying an underlying sales tax base of $472 million. In the estimate generated by DOR, the sales tax base for 2013-14 was estimated at $607 million, almost 30% higher than DOA's estimate. Given the uncertain outcome that differing methods of estimation may produce, an amendment requiring that DOR use this specific method for estimating

revenues to be deposited in the transportation fund would mitigate the uncertainty in how the estimate would be derived [Alternative #2].

5. The proposal does not specify when DOR would estimate the amount of sales and use tax revenue generated by sales of motor vehicles and motor vehicle parts and accessories. According to DOR, the Department would project the amount of sales tax revenue generated on sales of motor vehicles and motor vehicle parts and accessories on November of each even-numbered year for that current fiscal year and for each year in the upcoming biennium. On June 30th of each fiscal year, DOR would reestimate the amount of sales tax revenues collected during that fiscal year based on sales tax returns received by the Department.

6. Based on DOR's anticipated schedule for estimating these revenues, estimates would be available at the beginning of the budget process and could be included in the general fund condition statement delivered to the Legislature. It should be noted that sales of new and used motor vehicles, leases of motor vehicles, and sales of motor vehicle parts and accessories experience significant volatility. Table 2 below shows U.S. personal consumption expenditures for these items since 2000.

TABLE 2

Consumer Expenditures for Motor Vehicles, Parts, and Leases

Year	Expenditures ($ in Billions)	Percent Change
2000	$404.3	
2001	423.2	4.7%
2002	435.1	2.8
2003	430.4	-1.1
2004	432.5	0.5
2005	439.1	1.5
2006	431.3	-1.8
2007	438.6	1.7
2008	379.4	-13.5
2009	351.5	-7.3
2010	375.5	6.8

Source: IHS Global Insight, Inc.

As shown in Table 2, national consumer expenditures for these items declined from a peak of $439.1 billion in 2005 to a low of $351.5 billion in 2009, a decrease of nearly 20%. Year-over-year growth rates ranged from a low of -13.5% in 2008 to a high of 6.8% in 2010. Data from the 1980s and 1990s also show significant volatility in such auto-related expenditures, although the peak to trough declines during the recession years in those decades were not as extreme as the 20% drop in the more recent downturn. In comparison, total sales tax collections show considerably less volatility. Since the tax was first imposed in 1962, there have been only two years when revenues decreased from the prior year (fiscal years 2008-09 and 2009-10). In the past decade, annual growth rates for total sales tax collections ranged from a low of -4.3% in

2008-09 to a high of 4.3% in 2003-04. In the 1980s and 1990s, the annual growth rates generally ranged from 4% to 8%. The only year with lower growth was 1990-91, when the increase was 2.2%. Significantly higher growth rates were seen after the tax rate was increased to 5% in 1982.

Volatility in the amount that would be deposited from sales of these items and services would create an additional level of uncertainty in budgeting for general fund and transportation fund expenditures. If the final amount deposited into the transportation fund is higher than originally estimated, there may be an unanticipated shortfall in the general fund. Conversely, if the amount deposited into the transportation fund at the end of each year is lower than originally estimated, this may create a shortfall in the transportation fund. Other states have dedicated a portion of estimated motor vehicle related sales tax revenues for transportation purposes in a manner that mitigates volatility and uncertainty.

7. For example, Utah dedicates a portion of sales and use tax revenue generated from motor vehicle-related sales for transportation purposes as a percentage of total sales tax revenue. Utah declares in statute that approximately 17% of sales and use tax revenues in that state are generated from vehicle and vehicle-related products. Of this amount, their Legislature earmarks 8.3% (temporarily reduced to 1.93% for 2010-11) of all sales and use tax revenues to Utah's Transportation Investment Fund, which represents approximately half of that state's estimated sales tax revenues generated from sales of vehicles and vehicle-related products. If Wisconsin were to dedicate a specific percentage of all sales and use tax revenue to the transportation fund, the earmarked sales tax revenue would grow over time at a less volatile rate than under the proposal [Alternative #3]. The amount of revenues deposited into the transportation fund would still vary and create uncertainty in budgeting, but should generally be less volatile than as provided under the Governor's proposal.

8. According to the administration's testimony to the Joint Committee on Finance, general fund revenues have been proposed for use in support of transportation expenditures to, in part, reimburse the transportation fund for monies that were transferred to the general fund in prior biennia. The Legislature could accomplish the Governor's intent to reimburse the transportation fund with general fund revenues by, instead, depositing $35,127,000 (or some other amount) into the fund in 2012-13 and eliminating the requirement that DOR estimate in each year the amount of sales tax revenue generated by sales of motor vehicles and motor vehicle parts and accessories [Alternative #4]. DOR estimates that such sales represent approximately 13% of sales and use tax revenues, which equates to approximately $584 million in 2012-13. In subsequent budgets, the Legislature could choose to increase or decrease the amount of these sales tax revenues deposited in the transportation fund and specify that the funds deposited into the transportation fund are generated from the sales and use tax on sales and leases of motor vehicles and motor vehicle parts and accessories.

9. The amounts and percentages of sales and use tax revenues dedicated to the transportation fund used in the alternatives below are based on the numbers included in the Governor's proposal. The Committee could dedicate some other percentage or a specific amount of revenues to the transportation fund. The Committee could also choose to change the rate of growth over time by altering either the percentage of motor vehicle-related revenues dedicated to the fund, or by specifying a growth rate for an amount of revenue dedicated to the fund.

ALTERNATIVES

1. Approve the Governor's proposal.

2. Modify the Governor's proposal to specify that the Department of Revenue must estimate sales and use tax revenues generated from Wisconsin sales tax filers whose primary retail activity is defined under NAICS 4411, 441210, 441221, 4413, 5321, and use tax revenues from the occasional sales of automobiles paid to the Department of Transportation when registering a vehicle in the state. Specify that the share of this estimate deposited into the transportation fund would progressively increase over ten years in the same manner as provided under the bill.

3. Modify the Governor's proposal to declare that the Legislature finds that an estimated 13% of state sales and use tax revenues are generated from sales and leases of motor vehicles and sales of motor vehicle parts and accessories. Deposit a percentage of sales tax revenues generated by such sales into the transportation fund, increasing from 7.5% to 50% over a ten-year period, in the following manner:

a. 7.5% of revenues for 2012-13, but not more than $35,127,000;
b. 10% of revenues for 2013-14;
c. 15% of revenues for 2014-15;
d. 20% of revenues for 2015-16;
e. 25% of revenues for 2016-17;
f. 30% of revenues for 2017-18;
g. 35% of revenues for 2018-19;
h. 40% of revenues for 2019-20;
i. 45% of revenues for 2020-21; and
j. 50% of revenues for 2021-22 and for each year thereafter.

4. Delete the Governor's proposal and instead transfer $35,127,000 from the general fund into the transportation fund in 2012-13. Specify that funding for this transfer is from sales and use tax revenues generated from sales and leases of motor vehicles and sales of motor vehicle parts and accessories.

5. Delete the Governor's proposal.

ALT 5	**Change to Bill** Revenue
GPR	$35,127,000
SEG	-35,127,000
Total	$0

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