LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 6808
BILL NUMBER: SB 353

NOTE PREPARED: Jan 12, 2012
BILL AMENDED:

SUBJECT: Sales Tax on Gasoline.

FIRST AUTHOR: Sen. Walker
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State and Local

Summary of Legislation: This bill provides that gross retail taxes imposed on gasoline shall be imposed on a per gallon basis. It requires the Department of State Revenue to determine a prepayment tax rate per gallon using a quarterly statewide average price provided by the Attorney General and the 7% gross retail tax rate.

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures: *Attorney General (AG)*: This bill requires the AG's Office to provide the DOR with the statewide average retail price of gasoline for each completed calender quarter. The AG's Office will be able to do this within their current level of resources.

Department of State Revenue (DOR): DOR will have to revise tax forms to accommodate this change, but overall this bill could decrease administrative costs for the DOR. The DOR reports that this new procedure will reduce the number of taxpayers remitting sales tax on gasoline to approximately 360 distributors, versus approximately 3,600 retailers who currently sell gasoline.

Explanation of State Revenues: *Summary*: This bill would have an indeterminable impact on Sales Tax collected on gasoline each fiscal year. The bill changes the method of calculating the Sales Tax on gasoline from the price of gas sold to a tax on the number of gallons sold. It is estimated that this bill could potentially have a negative fiscal impact when gasoline prices are increasing and a positive fiscal impact when gasoline prices are decreasing.

Sales Tax on Gasoline under Current Statute: Retailers are required to prepay the Sales Tax on gasoline. The prepayment rate is determined by the following formula: 80% * Sales Tax rate * average retail price (as determined by the DOR). The prepayment rate is determined semiannually (in June and December) by the DOR and is limited to 125% of the previous prepayment rate. Retail merchants are then required to file their returns monthly to reconcile the amount of Sales Tax collected at the pump to the amount of Sales Tax prepaid. Retailers remit the difference between the prepaid Sales Tax and the total Sales Tax collected at the pump to the DOR. After reconciliation, the total Sales Tax on gasoline that gets remitted each month is based on actual pump prices for that month.

Sales Tax on Gasoline under this Bill: Sales Tax would be remitted based on the average retail price of gasoline for the most recently completed quarter and the number of gallons sold. The bill requires 100% of the Sales Tax on gasoline to be prepaid by the distributors based on a rate published by the DOR. Under this bill, the prepayment rate is determined by this formula: Sales Tax rate * average retail price. At the end of the month immediately following each calender quarter, the AG must provide the DOR with the statewide average price of gasoline for the most recently completed quarter. As an example, by the end of April, the AG's office would provide the DOR with the first quarter statewide average retail price of gasoline and the DOR would publish this price as the prepayment rate in June. The prepayment rate published in June would be applicable to gasoline sales in July, August, and September. Therefore, the amount of Sales Tax remitted would be based on a historical price and not be reconciled with the current sales price. The change in applying sales tax to the number of gallons sold applied by the average price versus the current price would have an indeterminable impact on revenue collections. This could have a negative fiscal impact on revenue collections in a fiscal year when gasoline prices are increasing and a positive fiscal impact in a fiscal year when gasoline prices are decreasing.

Reconciliation Provision: This bill provides that each retail merchant shall, for sales made before July 1, 2012, take an inventory of the gasoline in storage on the commencement of business on July 1, 2012, and reconcile the amount of Sales Taxes owed on sales of gasoline through June 30, 2012. The bill provides that the reconciliation must be filed with the DOR before September 1, 2012, and must be accompanied by a payment for any gross retail taxes owed on gasoline sold through June 30, 2012, or by a claim for a credit, if the retail merchant's reconciliation indicates the retail merchant has overpaid Sales Taxes on gasoline sold through June 30, 2012. This provision allows for the collection of Sales Tax which was due under the original formula that had not been remitted before the effective date of the new formula. Retailers must remit Sales Tax before the 20^{th} day after the end of month.

Background information: Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Explanation of Local Expenditures: Local revenues will be impacted to the extent that a local unit receives funds from the Commuter Rail Service Fund or the Industrial Rail Service Fund.

Explanation of Local Revenues:

State Agencies Affected: DOR, Attorney General.

Local Agencies Affected:

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