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## FISCAL IMPACT REPORT

SPONSOR: Rodella DATE TYPED: 02/14/01 HB 426  
 SHORT TITLE: Amend Motor Vehicle Sales Finance Act SB \_\_\_\_\_  
 ANALYST: Dotson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Attorney General

### SUMMARY

#### Synopsis of Bill

HB 426 requires the disclosure of “negative equity financing”. This means when the loan balance is less than the trade-in value of the trade-in vehicle, and the difference will be financed as part of the loan for the new vehicle, the contract must disclose and specify the amount financed to discharge that security interest in the trade-in vehicle.

#### Significant Issues

Perceived values of used cars vary significantly. Enforcement attempts would boil down to discussion over the trade-in value of used cars. Only in the most blatant cases would enforcement be possible.

According to the Attorney General, under the Truth In Lending Act, and Regulation Z thereof, the negative equity financed cannot be listed as a negative number. For example, if there was a loan balance of \$10,000 and the trade-in value is \$8000, the loan documents cannot show a negative down payment of -\$2000 meaning that the \$2000 will also be financed. Regulation Z requires that the amount of a down payment be zero or a positive number. This bill will require the actual disclosure of the amount financed including the “negative equity” as part of the contract documents.

### OTHER SUBSTANTIVE ISSUES

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According to the Attorney General, negative equity financing is ongoing. Failure to adopt this bill will result in continuing to finance this equity by and through legal fictions. In the example above, the value of the trade-in would be increased by \$2000 resulting in a zero down payment figure and the value of the new car would also be increased by said \$2000 to make the math correct on the financing.

### **POSSIBLE QUESTIONS**

1. How can the State reasonably enforce this provisions?
2. Can the State effectively argue in court the difference between a \$8,000 used car and a \$10,000 used car?

PD/ar