

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Transportation
Hearing Date: *May 6, 2025, Tuesday at 1:00 P.M.*

LD 1809 – “*An Act to Further Stabilize Highway Fund Revenue*”

Senator Nangle, Representative Crafts, and members of the Transportation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Neither For Nor Against LD 1809, “*An Act to Further Stabilize Highway Fund Revenue.*”

My testimony today is limited to Section 3 of the bill, which would impose – on the purchaser and collected by the seller at the time of sale – a “delivery fee of 50¢ per delivery” for sales of at least \$100 of tangible personal property that is subject to sales tax.

This proposal would require substantial amendments to be administrable. In structural terms, the delivery fee should not be enacted under Title 36, Part 3 (“Sales and Use Tax Law”), but instead enacted under Part 7 (“Special Taxes”), using language modeled on the Recycling Assistance Fee, which is “considered as imposed under” the Sales and Use Tax Law and reported on the Sales Tax Return (See Title 36, chapter 719). With respect to statutory language, the bill should be amended to use language consistent with the Sales and Use Tax Law, including terms such as “retailer,” “retail sale,” and “sale price.” Similarly, the bill should define the term “delivery,” which is not currently defined in the Sales and Use Tax Law. States with similar fees, Colorado and Minnesota, have generally defined

“retail delivery” to mean the delivery of tangible personal property to a person in that State when part of a retail sale. Without definition or further refinement of “delivery,” the fee could also be imposed on a curbside delivery, a delivery of leased or rented tangible personal property, and a digital product transferred electronically.

Further, as written, this bill meshes together the separate events of the sale and the delivery, creating potential uncertainty for the not unusual situation of a single “retail sale” that involves multiple, separate deliveries. Retailers may find it difficult to determine at the time of sale – when they would collect the fee – how many separate deliveries the retail sale requires.

Finally, although enactment of a delivery fee may be a reasonable source of additional transportation funds, the proposal requires careful review and should not be done this late in the legislative session. This bill should be carried over for more study next session.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee’s questions.