

# Statement of Estimated State Revenue Impact

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**Date:** March 6, 2011  
**Bill Number:** H.B. 3488  
**Authors:** Bingham and Harrell

**Committee Requesting Impact:** House Way and Means Committee

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## Bill Summary

To amend Act 99 of 2007, relating to the addition of a sales tax exemption for durable medical equipment and the phase in of that exemption, so as to delete the phase in requirements; and to amend Sections 12-36-90, 12-36-910, 12-36-1310, and 12-36-2120, all as amended relating to the imposition of and exemptions from the sales and use tax, so as to provide further for those instances where sales and use tax applies in connection with warranties and service maintenance contracts sold in connection with the sale of tangible personal property.

## REVENUE IMPACT <sup>1/</sup>

Section 1 of this bill is expected to reduce sales and use tax revenue by an estimated \$2,240,324 in FY2011-12. Section 2 of this bill is expected to increase sales and use tax revenue by an estimated \$500,000 in FY2011-12. On net, this bill is expected to reduce sales and use tax revenue by an estimated \$1,749,324 in FY2011-12. Of this amount, General Fund sales and use tax revenue would be reduced by \$1,166,216, Education Improvement Act funds would be reduced by \$291,544, and the Homestead Exemption Fund would be reduced by \$291,544 in FY2011-12.

## Explanation

**Section 1.** This section would amend Act 99 of 2007 by repealing Section 1B and 1C which states that the sales tax rate for durable medical equipment paid directly by funds under the Medicare and Medicaid programs is five and one-half percent subject to further reduction based on General Fund revenue growth. The repeal of these sections would fully exempt durable medical equipment paid directly by funds under the Medicare and Medicaid programs from sales tax. Currently, the sales tax rate for durable medical equipment is five and one-half percent. Further incremental reduction of this rate has not occurred because forecasted General Fund revenues have not grown at the required five percent rate. This section of the bill would take effect July 1, 2011. Based upon collections of the five and one-half percent sales tax on durable medical equipment in FY09-10, we estimate that fully exempting the sales tax from sales of durable medical equipment is expected to reduce General Fund sales tax revenue by \$2,249,324 in FY2011-12.

**Section 2.** A warranty is given to the purchaser of a product by a manufacturer or provider of a service with the understanding that the manufacturer or provider will replace or repair a defective product or make good an ineffective service within a predetermined span of time. An extended warranty is similar to insurance for the purchased product and can be offered by the product's manufacturer, the retailer, or a third-party warranty provider. The most common products covered by extended warranties are automobiles, electronics, appliances,

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and homes. Currently, sales and use tax is charged on the sale of a warranty or extended warranty on a product sold at the time a product is purchased and also if an extended warranty is purchased at a later date after the product is first purchased. If a problem develops with the product and the product is sent back to the manufacturer for repair, the parts withdrawn from inventory and used to fix the defective product would not be subject to a sales tax. Under this bill, sales and use tax would still be charged on the sale of a warranty or extended warranty on a product at the time of purchase, however, there would be no sales tax charged on the warranty or extended warranty if it is purchased at a later date after the product is first sold. If a product becomes defective during the warranty period and is sent back to the manufacturer for repair, the parts withdrawn from inventory and used to fix the defective product would be subject to a sales tax.

This bill would amend Section 12-36-90(1)(c)(iii) – definition of gross proceeds of sales, Section 12-36-90(2)(l) – definition of gross proceeds of sales, Section 12-36-910(B) – sales tax, Section 12-36-1310(B) – use tax, and Section 12-36-2120(69) – sales and use tax exemption, to amend language to not levy sales tax on a warranty or extended warranty if the warranty is sold after the sale of the product. According to the latest data from the Federal Trade Commission and Warranty Week, a national trade newsletter for warranty management professionals, manufacturer's usually set aside funds to cover the costs to repair defective manufactured products each year. Based upon these data, we estimate that there will be net increase of sales and use tax revenue of an estimated \$500,000 in FY2011-12.

  
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<sup>1/</sup> This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.