LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 486** HLS 11RS 869
Bill Text Version: **REENGROSSED**
Opp. Chamb. Action: **w/ SEN COMM AMD**
Proposed Amd.:
Sub. Bill For.:

Date: June 8, 2011 10:19 AM **Author:** GREENE
Dept./Agy.: Revenue
Subject: Exemption from sales tax of pay-per-view and on-demand **Analyst:** Deborah Vivien

TAX/SALES-USE-EXEMPT RE1 SEE FISC NOTE GF RV See Note

Clarifies that video-on-demand and pay-per-view services shall be exempt from state and local sales and use tax

Current law exempts regular cable service, as well as installation and repairs from state and local sales tax. Per a rule published in the Register in February, 2003, and reaffirmed in Revenue Information Bulletin (RIB) No. 10-015 from June 25, 2010, the Department of Revenue has considered purchases of pay-per-view and on-demand services as taxable. However, the implementation of that bulletin was temporarily suspended on November 15, 2010, with RIB No. 10-028. On May 13, 2011, the Department issued RIB No. 11-009 which repeals RIB No. 10-015.

Proposed law explicitly adds pay-per-view and on-demand services and "other services" sold by cable providers to the state and local sales tax exemption for cable installation, repairs and regular service. Proposed law also includes satellite and internet protocol television in the exemption. Certain local taxing authorities are specifically excluded from the provisions of this bill. Effective July 1, 2011

EXPENDITURES	2011-12	2012-13	2013-14	2014-15	2015-16	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	2011-12	2012-13	2013-14	2014-15	2015-16	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

REVENUE EXPLANATION

Pay-per-view and on-demand video sales were deemed subject to taxation in a rule promulgated in February, 2003. However, service providers failed to collect the tax. The tax status of these services was reaffirmed in a Revenue Information Bulletin in June, 2010, which was subsequently suspended in November, 2010 and repealed on May 13, 2011.

As drafted, this proposed exemption will apply to pay-per-view and on-demand sales by cable operators, satellite companies and internet protocol television services for state sales tax and local sales tax for all but the city of New Orleans, Jefferson Parish and St. Bernard Parish. Other similar movie sales, such as Redbox rentals and Netflix streaming video are still subject to sales tax. In its initial assessment, LDR estimated that about $2 million in total state sales tax liability has been generated annually by 15 cable companies based on audits of four companies and assuming 25% of sales income is derived from pay-per-view or on-demand sales for others (pay-per-view and on-demand sales appear to be a rapidly growing component of industry total revenue). The Louisiana Cable and Telecommunications Association reports that none of these cable companies were collecting or remitting the sales tax on sales of pay-per-view and on-demand services, even though their tax status was known from early 2003. While the LDR has repealed a Revenue Information Bulletin, the formal rule establishing the taxable nature of these services is still in effect. The LDR cannot confirm whether actual remittances have been made since pay-per-view and on-demand sales are not identified separately from gross sales reported on sales tax forms. In all relevant audits performed to date, the sales tax had not been collected. To the extent that sales tax was not remitted, there is no explicit impact to the existing state general fund revenue base because these collections are not part of that existing base. Thus, since the rule establishing these transaction as taxable is still in effect and LDR would still be required to pursue these tax liabilities in the absence of this bill, the effect of this bill is to forego approximately $2 million per year of potential revenue collections from the growth and development of the sales tax base. This amount will be greater considering satellite and internet protocol companies, though data relevant to these providers are not currently available.

The local impact is expected to be about the same magnitude as the state impact subject to the sales tax rate in the relevant area. However, the city of New Orleans, Jefferson Parish and St. Bernard Parish are not subject to the bill's provisions.

Senate | Dual Referral Rules | House

☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}
☐ 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}

☐ 6.8(F)1 >= $500,000 Annual Fiscal Cost {S}
6.8(F)2 >= $100,000 Annual SGF Cost {H&S}
☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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