

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 14, 2007 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Richard Cram, Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Shirley Palmer
Secretary Joan Wagnon
Kevin Fowler, Frieden & Forbes
Madison Traster, Grant County Commissioner
Gary Baker, Steven County Commissioner
Karla Dimitt, Stanton County Economic Development
Neal Gillespie, Steven County Economic Development
Mark Beshears, Sprint
Jim Gartner, AT & T
David White, AT & T (written testimony only)

Others attending:

See attached list.

The Chairman called for bill introductions.

Representative Shirley Palmer requested a bill introduction pertaining to the establishment of a Fort Scott Bourbon County River-front Authority for development of the Marmaton River in Fort Scott. Representative Menghini moved the introduction, seconded by Representative Holland. The motion carried.

HB 2434 - Authorizing certain interlocal agreements which allow the sharing of revenue based on growth in assessed valuation of real and person property.

Chris Courtwright, Legislative Research Department, explained that the board of county commissioners of any two or more counties may enter into an interlocal cooperation agreement to jointly promote economic development at any location within the geographical boundaries of such counties. He said the bill clarifies existing law and reduces interpretative uncertainty.

The Chairman opened the public hearing.

Kevin Fowler, Frieden & Forbes, testified that the bill is intended to strengthen the ability of Kansas counties to use joint action under the "Interlocal Cooperation Act, and the "County Economic Development Programs Act". He explained the bill simply provides clarification of the current law. He was involved in drafting the bill and would be happy to answer any question (Attachment 1).

Secretary Joan Wagnon, testified in support of the bill, on behalf on the Department of Revenue and as the Chair of Kansas Advisory Council Intergovernmental Relations (KACIR). She spoke of previous experience using this type of process in Shawnee County. She concluded by saying there are no down sides to this legislation and urged passage of **HB 2434** (Attachment 2).

Madison Traster, Grant County Commissioner, said that counties should have the ability, when appropriate, to work in a collaborative fashion and join forces to bring combined strength to retain existing jobs, encourage business growth and encourage new business to locate in our counties is important. **HB 2434** makes that possible and supports counties as they face challenging financial times (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 14, 2007 in Room 519-S of the Capitol.

Gary Baker, Steven County Commissioner, rose in support of the legislation. He said the bill would provide an important and useful economic development tool for counties. He spoke about the aggressive competition from Texas and Oklahoma, where local and state governments have joining together to provide attractive financial incentives to attract new agricultural related business and industry. **HB 2434** strengthens existing Kansas law, and he asked for the Committee's support (Attachment 4).

Karla Dimitt, Stanton County Economic Development, said that counties compete with neighboring counties when attempting to bring industry into their area. **HB 2434** provides a way to develop a mutual support system to enhance economic growth resulting in financial benefits to our counties as a whole (Attachment 5).

It was noted that written testimony had been received and distributed from Neal Gillespie, a member of the Steven County Economic Development Board (Attachment 6)

The Chairman closed the public hearing on **HB 2434**.

HB 2288 - Refund of retailers' sales tax paid on certain purchases of telecommunications machinery and equipment.

Chris Courtwright, Legislative Research Department, said that **HB 2288** would provide for a refund mechanism under which all sales taxes paid on telecommunications machinery and equipment would be refunded to the tax payers on July 1, 2007. He explained why it is a refund and not an exemption. The Department's fiscal note is \$40 million for 2008.

The Chairman opened the public hearing.

Mark Beshears, Vice President, Sprint, appeared in support of **HB 2288**. He spoke of a recent meeting with Governor Sebelius who shared her vision for an improved environment, where government works to help Kansas businesses with issues of taxation and competitiveness. The elimination of this tax on investment in telecommunications network assets would significantly benefit Kansas businesses and constitute sound tax policy. He outlined four features of the bill (Attachment 7). He questioned the accuracy of the \$40 million fiscal note, and stated that there were several categories included in the note that would not be refunded. Based on **HB 2288** as written, the economists at Sprint, project the fiscal note to be between \$10 -\$12 million.

Jim Gartner, AT & T, rose in support of **HB 2288**. He called attention to the written testimony of David White, Director of Tax Policy - AT&T (Attachment 8). He expressed concern over the fiscal note, and stated that their economists project a note between \$4 and 5 million.

Secretary Wagnon testified in opposition to **HB 2288** (Attachment 9). She stated the fiscal impact for 2008 would be \$40 million.

Discussion followed regarding possible ramifications of the passage of **HB 2288**.

The Chairman closed the public hearing on **HB 2288**.

The meeting was adjourned at 10:25 a.m. The next meeting is February 15, 2007.

TAXATION COMMITTEE

DATE: FEBRUARY 14

NAME	REPRESENTING
JUDY GARD	EMBARQ
Sue Donoho	EMBARQ
Wade Haggood	Embarq
Nelson Krueger	Century Tel
DINA FISK	VERIZON
Mark Burghart	Sprint
NANCY HISTER	Public Strategies Inc
Jim Gackler	AT&T
Shirley Palmer	State Rep.
Katie Zubauf	Kearney & Associates
Shirley Allen	Kirkland Ind Tel Cos
David R. Corbin	KDOR
Frank Dur	Sprint
Ron deBono	Monte Co Comm
John D. Smith	Stanton Co. Comm
Ann Jagan	Grant Co.
Thomas Johnson	GRANT COUNTY
Patricia S. Traster	Grant County
Larry S. Baker	Stevens County

Michael White

Harriet Lange

Senate President's Office

Ks Assn of Broadcasters

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B. LANE HEMSLEY**

**555 SOUTH KANSAS AVENUE, SUITE 303
P. O. Box 639
TOPEKA, KANSAS 66601-0639**

**TELEPHONE: (785) 232-7266
FAX: (785) 232-5841
EMAIL: fowler@friedenforbes.com**

* ADMITTED IN KANSAS & MISSOURI
ALL OTHERS ADMITTED IN KANSAS

**Testimony Before the House Committee on Taxation
Supporting House Bill No. 2434**

**Kevin M. Fowler of Frieden & Forbes
on Behalf of the
Western Kansas Development Organization
February 14, 2007**

Chairperson Wilk and members of the Committee, my name is Kevin Fowler. I am a partner in the Topeka law firm of Frieden & Forbes and I have practiced law in Kansas for nearly 25 years. I am appearing before the Committee on behalf of the Western Kansas Development Organization to request your favorable consideration of House Bill No. 2434.

This bill is intended to strengthen the ability of Kansas counties to use joint action under the "Interlocal Cooperation Act" (K.S.A. 12-2901 *et seq.* and amendments thereto) and the "County Economic Development Programs Act" (K.S.A. 19-4101 *et seq.* and amendments thereto) as means sanctioned by the Legislature for promoting and conducting regional economic development activities in accordance with the localized needs of counties which choose to participate in such undertakings. House Bill No. 2434 largely clarifies existing law by making explicit that two or more counties may agree to jointly identify, finance and pursue economic development activities on a prioritized basis at one or more discrete locations within their geographical limits and to share the costs and benefits of such collective action. By clarifying the scope and application of these enabling statutes, this bill reduces interpretative uncertainty that may discourage counties from pursuing joint economic development activities or encourage opponents to initiate legal action challenging the legality of such initiatives.

The Western Kansas Development Organization supports House Bill No. 2434 and requests that the Committee give this bill favorable consideration. I will be happy to answer any questions you may have regarding this proposed legislation.

**HS TAXATION COMMITTEE
2-14-2007
ATTACHMENT 1**

February 14, 2007

To: House Taxation Committee

Re: Testimony on **HB 2434** - *Authorizing certain interlocal agreements which allow the sharing of revenue based on growth in assessed valuation of real and personal property.*

I appear here today in support of HB 2434, both as Chair of the Kansas Advisory Council on Intergovernmental Relations and for the Department of Revenue.

Local governments have long enjoyed the ability to work together through interlocal agreements. In fact, I have some personal experience with creating the Joint Economic Development Organization (JEDO) in Shawnee County to facilitate city and county coming together to promote economic development and to oversee the utilization of the ½ cent sales tax dedicated to that effort.

When several counties became interested in combining their resources for undertaking economic development projects, questions were raised as to whether the current statutory language was explicit enough. That was the point where our department became involved. The suggestion was made to clarify the provisions of 12-2901 which the department supports. Particularly, if bond financing could be used, the clarifying language in this bill will be very important.

KACIR supports this bill because it is another way that counties can come together to solve local problems. Our council has consistently supported removing legislative barriers to consolidation, cooperation and collaboration. This innovative legislation will be useful, not only to counties that want to work together and believe they cannot at this time, but also as a stimulus to other county groups to show ways they can collaborate on large economic development projects.

**Testimony Before the House Committee on Taxation
Supporting House Bill No. 2434
Madison Traster
Board of County Commission
Grant County, Kansas
February 14, 2007**

Chairperson Wilk, and members of the House Committee on Taxation, my name is Madison Traster. I have been a resident of Southwest Kansas for over 53 years. I am currently serving in my 10th year as a member of the Grant County Commission.

It's been my observation county government is fortunate to have talented individuals who give of their time to serve in elected positions. We each have our own unique educational and professional experiences. Often the result is a practical solution to governing challenges.

Not unlike you, counties face challenging financial times. Financial resources are precious and we have a fiduciary responsibility to be good stewards of the public purse. Several years ago, the Boards of County Commissioners in Hamilton, Grant, Morton, Stanton and Stevens counties began meeting on a quarterly basis, informally to discuss matters of common interest and concern and to learn from one another about efficient ways in which the needs of our citizens could be met in a responsible manner. Collectively, we've accomplished good things.

Out of these meetings, the catalyst is to have the ability, when appropriate, to work in a collaborative fashion and join forces to bring combined strength to retain

existing jobs, encourage businesses growth and encourage new business to locate in our counties.

House Bill No. 2434 strengthens the ability of Kansas counties to work together under the “Interlocal Cooperation Act” and the proposed legislation makes it clear two or more counties may agree to work collectively to pursue economic development activities and share in the new revenue generated from those efforts.

Thank you for allowing me to speak in favor of House Bill No. 2434 and I am pleased to answer any questions.

**Testimony Before the House Committee on Taxation
Supporting House Bill No. 2434
Gary Baker
Board of County Commission
Stevens County, Kansas
February 14, 2007**

Chairperson Wilk, and members of the House committee on Taxation, my name is Gary Baker. I am a third generation resident of southwest Kansas, currently residing in Hugoton, Kansas. I serve as a member of the Steven County Board of Commissioners.

In an effort to be judicious of the Committee's time and to avoid redundancy, I have been asked by fellow County Commissioners of Morton, Stanton and Stevens counties to express our collective and unanimous support for House Bill 2434. This legislation would be an important and useful economic development tool for our counties.

Previous proponents have presented the rationale for support of HB 2434. I'd like to add, our region is predominantly well suited to attracting agricultural related businesses. There is aggressive competition from our neighbors to the South, in Oklahoma and Texas, where local and state governments have joined together to provide attractive financial incentives to attract new agricultural related business and industry.

House Bill No. 2434 simply strengthens existing Kansas law, makes specific provisions for counties to work together on economic development initiatives and stipulates the benefits derived from those efforts can be shared by mutual agreement.

Thank you for your consideration.

SUPPORT FOR HB 2434

Government functions best when it functions as a mutual support system. Our ability to function successfully within such a system is directly related to our ability to recognize and accept that mutual support.

In recent years, economic development groups have discussed, encouraged and urged regional cooperation to achieve our financial goals. In the competitive system we operate under, our reality has been somewhat different. We found ourselves still competing with neighboring counties when attempting to bring industry into our area.

I believe that Grant, Stanton, Stevens and Morton Counties have found a way to develop a mutual support system to enhance our economic growth. HB 2434 has been brought about by the efforts of these four counties, working together, to bring financial benefits to our counties as a whole.

We believe that by combining our resources, by working for a common goal, we can achieve a brighter financial future for our area. Although each county is proud of their individual achievements, we believe we can achieve even more as a dedicated group, thus the reason for this bill.

Gentlemen, I would urge you to look favorably upon HB 2434. Thank you.

Karla Dimitt, Director
Stanton County Economic Development

HS TAXATION COMMITTEE
2-14-2007
ATTACHMENT 5

**Testimony in favor of HB2434-The Regional Economic
Development Initiative**

Good (Morning/Afternoon),

My name is Neal R. Gillespie. I have come here today, serving as the Director of the Stevens County Economic Development Board, to express my support for HB2434. I believe this is groundbreaking legislation that could open the door to true regional economic development initiatives.

Stevens County is a member of the Western Kansas Rural Economic Development Alliance, which you probably know as wKREDA. A number of us have worked out-of-state trade shows where we try to recruit businesses, such as dairies, to consider Western Kansas for relocation or expansion. If we are fortunate enough to entice a business to visit our area, we all do our best to get them to locate within our own county borders, because we want the jobs, the tax base and so on. In other words, we shift gears from regional development to individual county development.

If this new law allowed for the sharing of the tax revenues generated by a new enterprise, a major obstacle to regional development would be removed. We could then honestly determine the best location for the proposed enterprise on a regional basis, rather than just a countywide basis. We could also combine our resources to attract new enterprises that none of us would be able to attract on our own. If we are going to compete with the surrounding states for businesses, we must work together.

In summary, I believe this legislation could open the door to true regional development with endless possibilities. I urge you to support HB2434.

Thank you for your time and consideration.

MEMORANDUM

TO: The Honorable Kenny Wilk, Chairperson
House Committee of Taxation

FROM: Sprint/Nextel, Embarq, T-Mobile, Rural Independent Telephone Companies,
Verizon Wireless, Verizon, Cingular, Alltel, U.S. Cellular, Century Telephone,
Cox Communications and Kansas Cable Telecommunications Association

DATE: February 14, 2007

RE: House Bill No. 2288

Thank you for the opportunity to appear in support of H.B. 2288. The bill creates the right to a refund for sales tax paid on telecommunications machinery and equipment purchased on and after July 1, 2007. The State of Kansas has made significant strides in the past few years in creating a favorable tax environment for businesses which has had the effect of stabilizing the job market and increasing tax receipts. Kansas still imposes a sales tax on the purchases of equipment used to expand and upgrade a telecommunications network. Superior telecommunications networks improve business productivity and remain a high priority for local economic development officials. The elimination of this tax on investment in telecommunications network assets would significantly benefit Kansas businesses and constitute sound tax policy:

- New network investment will occur in Kansas
- Jobs will be created and retained in the market that include positions that go beyond those directly related to the installation of such network equipment.
- Tax experts universally agree that the sales tax should be imposed exclusively on the retail consumption of a final product, and not also on the inputs used to produce the product. Kansas currently endorses this same tax policy rationale by not taxing the purchases of machinery and equipment used by Kansas manufacturers in producing taxable goods.
- 22 states and the District of Columbia have an exemption from sales tax for the purchases of telecommunications equipment. Since 2004, Iowa, Utah and Pennsylvania have eliminated such taxes. In addition, the Missouri Supreme Court

has determined that such equipment is exempt as manufacturing machinery and equipment.

The telecommunications industry invested an estimated \$36 billion in telecommunications networks nationwide in 2006. This investment includes the installation of fiber optic cable which allows a significant increase in network speeds. In addition, wireless providers are expected to invest an additional \$20 billion to provide better coverage in rural areas and to upgrade existing coverage to provide seamless high speed Internet access and other new services.

The proposed legislation contains the following salient features:

- A refund mechanism would be established for all purchases of telecommunications machinery and equipment occurring on and after July 1, 2007.
- Only the state tax (currently 5.3%) would be subject to the refund provision.
- Any refund claim would be subject to the standard three year statute of limitations.
- Under the Streamlined Sales Tax System (SST), sales tax exemptions are required to be uniform for state and local sales tax purposes. Since the relief sought by this legislation applies only to the state tax imposition, a refund mechanism must be utilized, as opposed to an exemption for any qualifying purchases.

Thank you for the opportunity to appear in support of the bill. On behalf of the telecommunications industry, I encourage the Legislature to take this necessary step to further enhance telecommunications service provided to the citizens of Kansas.



**Testimony of David White, Director of Tax Policy – AT&T
Regarding HB 2288
Before the House Taxation Committee
February 14, 2007**

Chairman Wilk and members of the Committee, good morning. My name is David White and I am the Director of Tax Policy for AT&T Kansas. We appreciate the opportunity to provide written testimony to you today in support of HB 2288.

AT&T and its affiliates have been doing business in Kansas for over 125 years. As the result of AT&T's commitment to Kansas, we are a large employer with over \$150 million in Kansas payroll. AT&T is also among the state's largest taxpayers, remitting in excess of \$130 million annually in taxes/fees to state and local governments. AT&T's experience with the tax system in Kansas, and 49 other states, has given us a unique perspective on tax policy.

Over the past few years, there has been a consistent increase in consumer demand for more advanced, accessible, and affordable communication services – a trend that will undoubtedly continue in a high-tech global economy. In order to satisfy this demand and to maintain growth, it is imperative that the state of Kansas encourage investment in the equipment necessary to provide these services. HB 2288 will do just that – attract new investment to Kansas.

The good news is that the combination of increased investment and growing demand for communication services equates to growing state and local tax revenues. This may explain why a large number of states and the District of Columbia do not tax telecommunication equipment purchases. Additionally, states that implement policies to stimulate the deployment of advanced communications infrastructure will be at the forefront of attracting industry and jobs to their states. Again, this growth expands the tax base and helps ensure a steady revenue stream from taxes/fees levied on these services and on other general activities in these expanding economies.

On the other hand, ill conceived tax policy can be devastating to the economy. It is no coincidence that high-tax states in the northeast have seen significant population outflows, as investment capital and associated job growth had fled for more business friendly areas. Unfortunately, according to a study conducted by the National Committee on State Taxation (COST), the average combined state and local tax/fee rate on communications services in Kansas is in excess of 22% – more than three times as much as general businesses pay on the sale of their goods and services. This Committee should carefully consider the negative effect these high taxes may have on the Kansas economy. However, HB 2288 would send the right signal to businesses that invest in the Kansas communications infrastructure.

Mr. Chairman, AT&T thanks you and your Committee for considering HB 2288. AT&T supports HB 2288 and we look forward to working with the Committee to encourage investment in the Kansas communications infrastructure.

Testimony to the House Taxation Committee

Joan Wagnon

February 14, 2007

Opposition to House Bill 2288

Representative Wilk, Chair, and Members of the Committee:

House Bill 2288 provides a sales tax rebate for purchases on or after July 1, 2007 of "telecommunications machinery and equipment," defined as equipment used for sending, receiving or storing voice or data communications and all equipment that is used to enable, facilitate, maintain or monitor such equipment and software. The bill includes a non-exclusive list of items considered to fall within that definition. In 2004, the legislature exempted custom software purchases from sales tax, effective January 1, 2005. It is not clear why software is included here. Great uncertainty exists as to what businesses and types of equipment purchases fall within this bill's scope.

What types of businesses can (or will attempt to) claim the rebate besides land line and cellular companies? Cable companies providing telephone service? VOIP? Businesses providing various types of data communication services? And what equipment is included? House Bill 2288 is an open invitation to litigate who gets the rebate and what purchases qualify.

The proponents indicate that the rebate is only for state sales taxes paid. However, local sales tax is not clearly excluded from the rebate language. Our fiscal note is attached. The uncertainty as to which businesses and what items fall within the rebate provisions makes it difficult to provide a definite fiscal estimate. Rebated state sales tax revenue for FY 2008 is estimated to be \$40 million. Rebated local sales tax revenue for FY 2008 is estimated to be \$10 million. The telecommunications industry economists have provided a fiscal estimate of tax expenditures attributable to this bill in the range of \$12 million, based on their projections of telecommunications industry equipment purchases in Kansas. However, we are not certain that the industry estimate includes all of the types of businesses and equipment purchases that may fall within the scope of the bill.

To encourage growth in the manufacturing sector in the 90's, the legislature provided a manufacturing machinery and equipment sales tax exemption. Exemptions for equipment purchases are also available through the HPIP and Enterprise Zone programs when businesses are expanding their capacity or newly locating in Kansas.

Unlike the above incentives, this rebate concerns items necessary for providing telecommunication services. The rebate is not tied to any expansion or new capacity. There is no tangible product, as in the case of the manufacturers.

From a policy perspective, you can ask, "Why should manufacturers get this exemption and not this group of service providers?" Manufacturers have choices where to manufacture their products— China, Micronesia, etc. Their exemption is intended to provide an incentive to retain and attract investment/jobs in Kansas. Telecommunication services locate where there are people. They don't need an incentive to locate in Kansas, any more than retail, banks, grocery stores.

The telecommunications industry unsuccessfully litigated whether their purchases qualify for the manufacturing machinery and equipment exemption. See *In re Sprint Communications Co., L.P.*, 278 Kan. 690, 101 P.3d 1239 (2004) (holding that telecommunications is a service, and a telecommunications company is not eligible to claim the manufacturing machinery and equipment sales tax exemption at K.S.A. 79-3606(kk) on equipment purchases). Having failed in the courts, they now seek a legislative remedy.

Besides the fiscal impact, the largest concern raised by the bill is the precedent it would set. "If we grant this exemption what other industry groups will be asking for the same treatment?" Paging companies? Cable companies? Satellite TV companies providing Internet access and other communication services? Private network providers (you see their towers and antennas on the top of buildings)? Private radio communications providers? Other types of utilities, such as natural gas and electric public utilities? The list could grow much longer.

The rebate provisions are confusing and impractical. The bill allows refunds for taxes paid on equipment purchases, but it does not provide that such purchases are not taxable. What reason is there to refund tax lawfully due? A company is given 3 years from the date of purchase to apply to the Department for the rebate. Depending on the timing of the refund claims, there could be large hits against on the state treasury if 3 years of claims are filed at once and interest is due.

House Bill 2288 sets a dangerous precedent, significantly shrinks the sales tax base, lowers the taxes of one industry group, and creates disparities among the others, without any sound policy reason.

2007 House Bill 2288b Fiscal Note

Introduced as a House Bill

Brief of Bill

HB 2288, as Introduced, provides for a sales tax exclusion on the purchase of telecommunications machinery and equipment by persons providing services taxable pursuant to K.S.A 79-3606 (b) effective with purchases made on or after July 1, 2007. The proposal would require the purchaser to pay the sales tax and then seek a refund of tax from the department of revenue. Telecommunication machinery and equipment is defined as machinery, equipment and software that is used for the purpose of sending, receiving or storing voice or data communications and all equipment that is used to enable, facilitate, maintain or monitor such machinery, equipment and software.

The Act would be effective July 1, 2007.

Fiscal Impact

The proposal is estimated to result in the loss of \$40 million in fiscal year 2008. The loss to the state general fund would be \$35 million and \$5 million to the state highway fund. Loss of local sales tax revenues is estimated at \$10 million. The table below shows the fiscal impact for the next five (5) years.

The uncertainty of the companies and machinery and equipment that would be exempt by the proposal makes estimating the impact of this proposal difficult. In reviewing sales and use tax data for fiscal year 2006, the department can identify over \$40 million in sales and use tax collections that are the result of purchases made by the telecommunications industry. It is realized that some of this tax would be for labor services or other purchases that would not be refundable under this proposal. However, due to the uncertainty of the proposal any reduction in the tax paid is assumed to be offset by machinery and equipment not included in this data.

	All Funds	SGF	Highway	Local
2008	\$ 40.00	\$ 35.08	\$ 4.92	\$ 10.00
2009	\$ 41.41	\$ 36.32	\$ 5.09	\$ 10.35
2010	\$ 42.87	\$ 37.60	\$ 5.27	\$ 10.72
2011	\$ 44.39	\$ 38.93	\$ 5.46	\$ 11.10
2012	\$ 45.95	\$ 40.30	\$ 5.65	\$ 11.49

Administrative Impact

Sales tax publications will require revision at a cost of \$18,500.

Administrative Problems and Comments

The wording of the proposal has raised some issues. There is a question whether local sales tax would be refunded under this proposal based on the wording that it is tax paid pursuant to K.S.A 79-3603. It is the department's position that local sales tax would be refunded. If the intent of the proposal is to only request the refunding of state sales tax, it should be so noted.

The proposal states "on and after July 1, 2007, all sales tax paid on the sale of telecommunications machinery and equipment..... shall be refunded." It is the department interpretation of this sentence that the refund provision only applies to those items purchased and paid for on or after July 1, 2007. The refunding of sales tax would not apply to purchases made prior to July 1, 2007 that are in litigation, in audit or appeal processes or another administrative process and the tax has not been paid.

It is respectively suggested that the proposal be amended to remove these refund requests from the general requirement of paying interest on refunds not processed within 60 days of receipt of the request. Refund applications for telecommunication machinery and equipment are complicated and with the potential administrative issues that will arise from the refunds, there is a real likelihood that the refunds may not be paid within 60 days of receipts and require the payment of interest on the refund requests.

It is also suggested the proposal be amended to require the initial application for refund be submitted within 180 days date of purchase and tax paid. This suggestion is made to ensure the timely processing of the refund claims and to prevent a large refund request for multiple years being processed and paid in one fiscal year.

The department anticipates there will be administrative issues and potentially litigation over what companies and what machinery and equipment qualify for the exemption. For example, cellular and land line telephone companies would be exempt but what about cable and satellite television companies providing VOIP (voice over internal protocol).

If telecommunication companies are exempt on their purchases of machinery and equipment, it would be anticipated that other industries (such as utility companies) would request the same exemption or refund on their machinery and equipment purchases.

Taxpayer/Customer Impact

Refunding of sales tax on machinery and equipment purchases to telecommunication and related companies.

Legal Impact