HOUSE BILL ANALYSIS
HB 2862

Title: An act relating to the taxation of aggregators as competitive telephone service providers.

Brief Description: Designating payphone service providers, or "aggregators," as competitive telephone service providers.

Sponsors: Representatives Delvin, Crouse, Reardon and Poulsen.

HOUSE COMMITTEE ON
TECHNOLOGY, TELECOMMUNICATIONS AND ENERGY

Meeting: January 28, 2000

Staff: Julia Harmatz (786-7135)

Background:

Aggregators: The term Aggregator– means the business of making telephones available to the public or to transient users of its premises (hotels, hospitals), for telephone calls. This can include operators of coin operated payphones.

Sales Taxes: Sales taxes are imposed on retail sales of most items of tangible personal property, and some services. The state sales tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total tax rate is between 7 percent and 8.6 percent, depending on location. Sales tax is paid by the purchaser and collected by the seller.

All telephone services are subject to sales tax, except charges for residential access to a telephone network and local calls paid by coins in coin-operated phones. Thus, sales tax applies to all local and long-distance services purchased by nonresidential customers, all long-distance services, and all local and long-distance services purchased by credit card at payphones.

The sales tax treatment of equipment *purchased* by telephone service providers depends on whether the service provider is providing *competitive* telephone service or *network* telephone service. *Competitive* telephone service is defined in statute as the provision of telephone equipment of a type that can be provided by persons not subject to state regulation as a telephone company. The definition of *network* telephone service includes services such as access to the local and long distance

telephone networks. Coin telephone services are expressly included in the definition of network telephone service.

Sales of equipment to *competitive* telephone service providers are defined as wholesales and are not subject to retail sales and use tax. *Network* telephone service providers, in contrast, are considered to be the consumers of equipment purchased to provide the service. Therefore, network telephone service providers must pay sales tax on equipment purchases.

City Business Taxes: Cities and towns may impose gross receipts taxes on a businesses. Rates for utility businesses are generally much higher than rates for other businesses such as retailers. Utility rates cannot exceed six percent without voter approval. Rates for retailers cannot exceed 0.2 percent without voter approval. Although network telephone services are classified as retailers for state tax purposes, for city gross receipt tax purposes they are subject to the higher utility tax rate.

Summary of Bill:

This bill adds telephone service aggregators– to the definition of competitive telephone service. As a result, aggregators will not pay sales tax on telecommunications equipment purchased to provide telephone service and will pay a lower rate for city gross receipts tax purposes.

The bill also deletes coin telephone services from the definition of network telephone services. As a result, coin telephone services will fall under the definition of competitive telephone services. Purchases of coin telephones will be exempt from sales tax and a lower rate will apply for city gross receipts tax purposes.

The sale tax treatment of telephone services provided to consumers is not changed.

(A proposed amendment to the bill also exempts services provided by aggregators from retail sales tax. Under this amendment, consumers would not pay sales tax on telephone services provided by aggregators.)

Appropriation: No.

Fiscal Note: Requested on January 24, 2000.

Effective Date of Bill: Ninety days after adjournment of session in which bill is passed.