DEPARTMENT OF TAXATION
2007 Fiscal Impact Statement

1. Patron Robert J. Wittman

2. Bill Number HB 1854
House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

3. Committee House Finance

4. Title Communications Sales and Use Tax; Distributions to Localities

5. Summary/Purpose:

This bill would base each locality's monthly distribution of the net revenues from the new Communications Sales and Use Tax on the locality's share of total statewide revenues received by localities from local communications taxes and fees in Fiscal Year 2007, instead of Fiscal Year 2006.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would have no impact on state revenues. This bill would have an unknown impact on localities to the extent that each locality's percentage share of distributions from the Communications Sales and Use Tax Fund changes due to the change in the base year.

9. Specific agency or political subdivisions affected:

All localities
Department of Taxation
Auditor of Public Accounts

10. Technical amendment necessary:

If the intent of this bill is to require the Auditor of Public Accounts to survey localities to determine the revenues received by localities from the local communications taxes and fees in Fiscal Year 2007, as was required by 2006 House Bill 568 (Acts of Assembly 2006, Chapter 780) for Fiscal Year 2006, the following technical amendment is suggested:

Page 1, Line 44, After months.
Insert: 2. That the Auditor of Public Accounts (APA) shall determine the amount of revenues received by every county, city, and town for the fiscal year commencing July 1, 2006, and ending June 30, 2007, at rates adopted on or before January 1, 2007, for each of the following taxes and fees collected by the service providers: gross receipts tax in excess of 0.5%, local consumer utility tax, video program excise tax, cable franchise fee, and 911 taxes and fees, where they are collected. Based on each locality's percentage of the total Fiscal Year 2007 receipts from these sources, the APA shall calculate each locality's percentage share of future distributions from the Communications Sales and Use Tax Fund by the Department of Taxation. Local governments and service providers shall cooperate with the APA and provide information to him as requested. Every town with a population of less than 3,500, and any other county, city, or town whose annual audited financial statement cannot be completed by October 1, 2007, shall provide to the APA by that date a statement of its receipts during Fiscal Year 2007 from such telecommunications and cable sources, verified in writing by an independent certified public accountant. Any locality that fails to furnish the information required to make this calculation in a timely manner shall not be entitled to participate in the distribution of such tax, and its percentage share shall be disregarded in calculating the distribution to other localities. The APA or his agent shall not divulge any information acquired by him in the performances of his duties under this section that may identify specific service providers. The APA shall report his findings on a tax-by-tax basis to the chairmen of the House and Senate Finance Committees and the Department of Taxation no later than December 1, 2007.

3. That the provisions of the second enactment of this act shall be effective July 1, 2007 and the remaining provisions of this act shall be effective beginning on January 1, 2008.

11. Other comments:

<u>Background</u>

2006 House Bill 568 (Acts of Assembly 2006, Chapter 780) replaced many of the state and local communications taxes and fees with a centrally administered Communications Sales and Use Tax and a uniform statewide E-911 Tax on landline telephone service beginning January 1, 2007. Additionally, House Bill 568 imposed a public rights-of-way use fee on cable television providers beginning January 1, 2007.

Under House Bill 568, revenue from the Communications Sales and Use Tax, the Landline E-911 Tax and the Cable Television Rights-of-Way Fee (the "Communications Taxes") is collected and remitted monthly by communications services providers to TAX and deposited into a non-reverting fund known as the Communications Sales and Use Tax Trust Fund (the "Fund"). After transferring moneys from the Fund to TAX to pay for the direct costs of administering the Communications Taxes, the moneys in the Fund are allocated and distributed to localities after payment (1) to the Department of Deaf and Hard-of-Hearing to fund the telephone relay service center and (2) any franchise fee amount due to localities in accordance with any cable television franchise agreements in effect as of January 1, 2007. Each locality's share of the net revenue is distributed as soon as practicable after the end of the month based on the locality's share of total revenues received from the following taxes and fees in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006:

- Local consumer utility tax on landline and wireless telephone service;
- Local E-911 tax on landline telephone service;
- The portion of the local BPOL tax on public service companies exceeding .5% currently billed to customers in some grandfathered localities;
- Cable television franchise fees;
- Video programming excise tax on cable television services; and
- Consumer utility tax on cable television.

House Bill 568 required the Auditor of Public Accounts ("APA") to determine the amount of revenues received by every locality for Fiscal Year 2006, at rates adopted on or before January 1, 2006, for each of these taxes and fees. Local governments and service providers were required to cooperate with the APA and provide requested information.

Additionally, on an annual basis, the APA is required to collect from local governments and providers any data necessary to determine changes in (1) market area and number of customers served, (2) types of services available, (3) population, and (4) possible local reimbursement. The APA is required to make an annual report of his findings to the chairmen of the House and Senate Finance Committees no later than December 1 each year.

<u>Proposal</u>

This bill would base each locality's share of the net revenue from the Communications Taxes on the locality's share of total revenues received from cable franchise fees and other local communications taxes and fees in Fiscal Year 2007 from local tax rates adopted on or before January 1, 2007.

As a result of the change in base years, each locality's percentage share of distributions from the Communications Sales and Use Tax Fund may change due to any changes in local cable franchise agreements and local communications taxes and fees that took effect subsequent to June 30, 2006 and prior to January 1, 2007.

As this bill lacks a mechanism for TAX to determine each locality's share of total revenues received from cable franchise fees and other local communications taxes and fees in Fiscal Year 2007 from local tax rates adopted on or before January 1, 2007, TAX is proposing a technical amendment that would require the Auditor of Public Accounts to make this determination. The procedure set forth in this technical amendment is modeled after the procedure set forth in House Bill 568 by which the Auditor of Public Accounts made this determination regarding Fiscal Year 2006 revenues. In order to give the Auditor of Public Accounts sufficient time to survey localities and make his determination, the proposed amendment delays the effective date for the new base year to take effect until January 1, 2008.

cc : Secretary of Finance

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