

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: 06/15/2001

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - utilities

Extra Copies:

Submit via email: NO

Requester's email:

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**Pre Topic:**

SDC:.....Keckhaver - CN1063,

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**Topic:**

Municipal tax on the gross revenues of telephone companies

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 06/16/2001	csicilia 06/16/2001	jfrantze 06/16/2001	_____	lrb_docadmin 06/16/2001		

FE Sent For:

<END>

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1/?	jkreye	1 jk 6/16 01	6/16	6/16			

FE Sent For:

<END>

Adopt a motion to authorize municipalities to impose, by ordinance, a tax on the gross revenues of telephone companies. "Gross Revenues" should be defined as it was under the state's telephone license fee law (s. 76.38(1)(b), 1991-1992 Statutes). The amount of the tax would be limited to 2% of the intrastate telephone call gross revenues of a telephone company derived from "service addresses" in the municipality for telecommunications originating or received in the municipality. "Service address" should be defined to mean "the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of telecommunications equipment as defined by location in Wisconsin where bills are sent. The municipal gross revenue tax should be remitted by telephone companies to the municipality imposing the tax on a quarterly basis according to the following schedule: January 15, April 15, July 15, October 15. The municipality imposing the municipal gross revenue tax shall collect, enforce and administer the fee. If a municipality enacts an ordinance imposing the gross receipts tax in 2001, the first payment should be made on January 15, 2002, based on gross receipts for the last quarter of 2001.

To: Doug Burnett  
From: Ed Huck, Executive Director, Wisconsin Alliance of Cities  
Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: June 6, 2001

Re: Proposed Local Option Gross Receipts Tax on Telephone Company Services

Thanks for sharing with us Rick Olin's memo on the proposal to authorize municipalities to impose a gross receipts tax on telephone company services. After reviewing Rick's memo and an Illinois law authorizing municipalities to impose a 2% of "gross charges" fee on telecommunications providers, we offer the following comments and suggestions regarding the proposal:

1. The proposal should authorize municipalities to impose, by ordinance, a tax on the gross revenues of telephone companies.
2. "Gross Revenues" should be defined as it was under the state's telephone license fee law that was recently phased out. See sec. 76.38(1)(b), 1991-92, Stats., copy attached.
3. The amount of the tax should be limited to 2% of the gross revenues of a telephone company derived from "service addresses" in the municipality for telecommunications originating or received in the municipality.
4. "Service address" should be defined to mean "the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by location in Wisconsin where bills are sent." See the Illinois Telecommunications Municipal Infrastructure Maintenance Fee Act, copy attached.
5. The municipal gross revenue tax should be remitted by telephone companies to the municipality imposing the tax on a quarterly basis according to the following schedule: January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup>.
6. The municipality imposing the municipal gross revenue tax shall collect, enforce and administer the fee. If a municipality enacts an ordinance imposing the gross receipts tax in 2001, the first payment should be made on January 15<sup>th</sup>, 2002 based on gross receipts for the last quarter of 2001.

If you have any questions or require additional information, please give us a call.



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

June 4, 2001

TO: Senator Charles Chvala  
Room 211 South, State Capitol

FROM: Rick Olin, Fiscal Analyst

SUBJECT: Proposed Fee on Telephone Company Service:

At your request, this memorandum provides an estimate of the potential revenue generated under a proposal to impose a fee on telephone company services.

The proposal would authorize municipalities to impose a fee on telephone company services provided in the municipality. Telephone company would be defined as a business that provides telecommunications services. Telecommunications services would be defined to mean the transmission of high-quality, two-way interactive switched voice or data communications or messages.

*intrastate only*

In general, telecommunications services are provided on a geographic basis. At the lowest level, basic local exchange services include telecommunications services provided to customers within a local calling area. Local exchanges are grouped together in areas of common social, economic or other purposes to form local access and transport areas, called LATAs. Wisconsin is comprised of four LATAs, although the number of LATAs within each state varies. In general, fees are charged for basic service within a local exchange. Services provided between exchanges, LATAs or states are billed as toll revenues. Telephone companies generate revenues from charges other than for directly providing telecommunications services. For example, local exchange companies impose access charges on subscribers or other telephone companies in return for linking a transmission to or from their exchange. Subscriber line charges are monthly fees paid by subscribers for part of the cost of installing and maintaining the telephone wires, poles, and other facilities that link the subscriber to the telephone network. Also, telecommunications providers sell packages or bundles of service to other providers who resell the service to end-users.

At one time, the aforementioned services could be distinguished by types of provider. Due to the deregulation of the telecommunications industry, distinctions between service providers and types of service have become blurred. For example, mobile wireless carriers offer both local service and interstate service. Currently, there are four general types of service providers. These include local exchange companies, commercial mobile companies, interexchange carriers and resellers. Two basic types of service categories are recognized: intrastate and interstate. However, within each category, several subcategories exist.

For 2002, telecommunications services revenue in Wisconsin is estimated at \$4,681.9 million. The following table reports the estimated revenue by type of carrier and by types of service. In addition, it reports the estimated proceeds from a 1% gross revenues based fee.

**Estimated Telecommunications Services Revenue and Fee**  
**By Type of Carrier and By Type of Service, 2002**  
(In Millions)

*table is up to 5% - will lose prop. fee, gross receipts tax, etc. 270 for minutes include countries @ 1%?*

<u>Type of Carrier</u>	<u>Revenues</u>	<u>Fee at 1%</u>
Local Exchange	\$2,288.9	\$22.9
Commercial Mobile	1,020.1	10.2
Interexchange	974.8	9.7
Resellers	<u>398.1</u>	<u>4.0</u>
<b>Total</b>	<b>\$4,681.9</b>	<b>\$46.8</b>

<u>Type of Service</u>	<u>Revenues</u>	<u>Fee at 1%</u>
<b>Intrastate</b>	<b>\$3,078.6</b>	<b>\$30.8</b>
Local Exchange	1,424.0	14.3
Mobile Wireless	913.9	9.1
Toll	740.7	7.4
<b>Interstate</b>	<b>\$1,603.3</b>	<b>\$16.0</b>
Local Exchange	42.7	0.4
Mobile Wireless	106.2	1.1
Toll	1,194.5	11.9
Access	34.2	0.3
Subscriber Line Charges	<u>225.7</u>	<u>2.3</u>
<b>Total</b>	<b>\$4,681.9</b>	<b>\$46.8</b>



In addition to deciding whether to impose the fee according to type of carrier or type of service, a number of other issues should be considered as this proposal is further developed.

Tax or Fee. Generally, fees are charged in relation to a particular service, and taxes are forced contributions by a government that are used to support the general services provided by the government. Depending on which is chosen, case law may impose limits on the rate that is imposed and the revenues that comprise the base. For purposes of this analysis, the proposal is called a "fee."

Imposition of the Fee. The fee could be imposed either on the end-user or on the carrier. This choice could impact how much of the revenues are subject to the fee. Some carriers may not have a physical presence in the municipality, or even in the state. Some revenues, such as from mobile transmissions, may be difficult to attribute to a specific municipality.

Administration. The fee could be administered by the municipality imposing it or by the state. Although the state administered a gross revenues-based license fee on telephone companies in the past, it does not do so now. Regardless of whether the fee is imposed on the end-user or the carrier, carriers would probably be required to remit the revenues from the fee to the administering body. Given the diversity of carriers, many of which bill for their services individually, it may be impractical for some municipalities to administer the fee.

If you have any questions on this information, please let me know.

Majority vote of governing body.  
\* Model on the cable franchise fee.  
RO/sas  
Include Intrastate only - <sup>Make the</sup> rate 2%.  
Prohibit listing on bill - ~~Revenue~~  
Impose fee on the carrier, w/  
Revenue remitted to the municipality  
based on ~~bill~~ address of the  
end-user - ~~is~~ 2% of end user bill remitted  
at residence of end user.

(4) **CHARGE FOR COSTS.** The department may charge for the reasonable cost of divulging information under this section.

(5) **DISTRICT ATTORNEYS.** District attorneys may examine information under sub. (1) as follows:

(a) Such information may be examined for use in preparation for any judicial proceeding or any investigation which may result in a judicial proceeding involving the taxes under this subchapter if any of the following applies:

1. The taxpayer is or may be a party to such proceeding.
2. The treatment of an item reflected in such information is or may be related to the resolution of an issue in the proceeding or investigation.
3. The information relates or may relate to a transactional relationship between the taxpayer and a person who is or may be a party to the proceeding which affects or may affect the resolution of an issue in such proceeding or investigation.

(b) When the department allows examination of information under par. (a):

1. If the department has referred the case to a district attorney, the department may make disclosure on its own motion.
2. If a district attorney requests examination of information relating to a person, the request must be in writing, clearly identify the requester and the person to whom the information relates and explain the need for the information. The department may then allow the examination of information so requested and the information may be examined and used solely for the proceeding or investigation for which it was requested.

(c) Such information may be examined for use in preparation for any administrative or judicial proceeding or an investigation which may result in such proceeding pertaining to the enforcement of a specifically designated state criminal statute not involving tax administration to which this state or a governmental subdivision thereof is a party. Such information may be used solely for the proceeding or investigation for which it is requested.

(d) The department may allow an examination of information under par. (c) only if a district attorney petitions a court of record in this state for an order allowing the examination and the court issues an order after finding all of the following:

1. There is reasonable cause to believe, based on information believed to be reliable, that a specific criminal act has been committed.
2. There is reason to believe that such information is probative evidence of a matter in issue related to the commission of the criminal act.
3. The information sought to be examined cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the information constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

(e) If the department determines that examination of information ordered under par. (d) would identify a confidential informant or seriously impair a civil or criminal tax investigation, the department may deny access and shall certify the reason therefor to the court.

History: 1991 a. 39.

## SUBCHAPTER II

### TELEPHONE COMPANIES LICENSE FEES; CAR LINE COMPANIES; ELECTRIC COOPERATIVE ASSOCIATIONS

76.38 Telephone license fees. (1) In this section:

(aa) "Access expense" means any charge paid by a telephone company to another telephone company for telecommunications services and facilities that permit subscriber origination or termination of telecommunications between a point or points in one telephone exchange and a point or points in another telephone exchange.

(ab) "Access revenues" means revenues of telephone companies resulting from charges to persons, including other telephone companies, for provision of telecommunications services or facilities that permits origination or termination of telecommunications between a point or points within one telephone exchange and a point or points within another telephone exchange and revenues of telephone companies resulting from customer access to the telecommunications services and facilities of a telephone exchange.

(ac) "Allocable share of approved reselling services" means actual costs incurred for services under par. (bkm) / actually utilized in providing the telecommunications services for which the gross revenues are received multiplied by the amount obtained by dividing the sum of the property factor and the originating revenues factor by 2, except that the department may determine the allocable share of approved reselling services based on other facts and circumstances if, in the department's judgment, the formula under this paragraph does not produce a substantially just and correct determination.

(ad) "Average value" means the average of the values at the beginning and end of the calendar year unless the secretary of revenue reasonably determines that averaging monthly values is required to reflect properly the average value.

(ae) "Customer premises equipment" means equipment employed on the premises of a person, other than a telephone company, to originate, route or terminate telecommunications but does not include equipment used to multiplex, maintain or terminate access lines.

(af) "Department" means the department of revenue.

(ag) "Gross revenues" includes all revenue derived from local and rural exchange service, all toll business gross revenue, and all other operating revenues from telecommunications business. It does not include excise taxes on telephone service or facilities nor uncollectible telecommunications revenues actually written off during the year. "Gross revenues" includes recoveries within the year of all telecommunications revenues written off in prior years as uncollectible. For a telephone company operating on any form of mutual basis, "gross revenues" includes all amounts assessed against the members for the operation and maintenance of the business. "Gross revenues" also includes access revenues and revenues from directory advertising. For qualifying telecommunications resellers, "gross revenues" does not include the allocable share of approved reselling services sold to the public. "Gross revenues" does not include any revenues collected from service users under s. 146.70 (3). For fees assessed on May 1, 1989, and thereafter, telecommunications companies may deduct 100% of access expenses that arise from services or facilities that permit origination or termination of telecommunications from a point or points in this state to a point or points in the same local access and transport area incurred during the previous year and 14.5% of all other access expenses incurred during the previous year.

(ah) "Local access and transport area" means a geographic area that encompasses one telephone exchange or 2 or more contiguous telephone exchanges that serve common social, economic and other purposes and that are established pursuant to the modification of final judgment in *United States v. Western Electric Company*, civil action no. 82-0192

in the U.S. district court for the District of Columbia and approved by that court as an exchange area within the meaning of section IV. G. of that modification of final judgment.

(bf) "Originating revenues factor" means a fraction the numerator of which is the revenues of the telephone company from toll business originated from customer premises equipment in this state, regardless of the location to which the billing notice is sent, and the denominator of which is the total revenues of the telephone company from toll business everywhere.

(bg) "Person" means any individual, partnership, firm, association, company or corporation.

(bk) "Property" does not include cash, evidences of indebtedness, special privileges, franchises, goodwill or property located in space.

(bkm) "Qualifying telecommunications reseller" means a company that provides local or rural exchange service and does not own, operate, manage or control transmission facilities for toll business outside the exchanges in which the public service commission has authorized them to provide local or rural services or a telephone company that fulfills all the following requirements:

1. Resells message telecommunications service, wide-area telecommunications services or other telecommunications services which have been approved for reselling by the public service commission or by the federal communications commission.

2. Does not own, operate, manage or control transmission facilities that have the technological capability to provide telecommunications service within this state.

3. Is not a person at least 50% of the voting stock of which is owned directly or indirectly by another person which directly or indirectly owns, operates, manages or controls transmission facilities that have the technological capability to provide telecommunications service within the state unless that latter person is a company that provides local or rural exchange service and does not own, operate, manage or control transmission facilities for toll business outside the exchanges in which the public service commission has authorized it to provide local or rural services or unless that latter person:

a. Owns at least 50% of the voting stock of a company that provides local or rural exchange service and that does not own, operate, manage or control transmission facilities for toll business outside the exchanges in which the public service commission has authorized it to provide local or rural services; and

b. Does not own directly or indirectly at least 50% of the voting stock of another company that owns, operates, manages or controls transmission facilities that have the technological capability to provide telecommunication services within this state.

(bL) "Property factor" means a fraction the numerator of which is the average value of the property owned or rented by the telephone company and used in operating its telecommunications business in this state and the denominator of which is the average value of the property owned or rented by the telephone company and used in operating its telecommunications business everywhere.

(bm) "Telecommunications facility" means telephone line, telegraph line, microwave, satellite, cellular radio, fiber optics, coaxial cable or any other transmission facility or any switching device used in the provision of telecommunications services.

(br) "Telecommunications services" means the transmissions of voice, video, facsimile or data messages, including

telegraph messages. "Telecommunications services" does not include cable television, broadcast television, radio, one-way radio paging and the transmission of messages incidental to transient occupancy in hotels, as defined in s. 50.50 (3).

(c) "Telephone company" means any person operating a telecommunications facility or providing telecommunications services to another person, including the resale of those services provided by another telephone company. "Telephone company" does not include any person who operates a private shared telecommunications system as defined in s. 196.201 (1) and who is not otherwise a telephone company. Beginning with the assessment on May 1, 1998, "telephone company" does not include a person described in s. 76.02 (9u).

(d) "Telephone exchange" means that portion of the area served by any telephone company which is included in the exchange rate as fixed by the public service commission.

(e) "Toll business gross revenues" means gross revenues from toll business originating and terminating in this state and toll business gross revenues attributable to this state.

(f) "Toll business gross revenues attributable to this state" means the telephone company's total gross revenues from interstate toll services everywhere multiplied by the amount obtained by dividing the sum of the property factor and the originating revenues factor by 2, except that the department may determine toll business gross revenues attributable to this state based on other facts and circumstances if, in the department's judgment, the formula under this paragraph does not produce a substantially just and correct determination.

(fm) "Transmission facilities" means facilities for the carriage of telecommunications services by wire, optics, radio signal or other means.

(g) "Value" means, for property owned by the telephone company, original cost and, for property rented by the telephone company, 8 times the amount obtained by subtracting from annual rent paid by the telephone company annual rent received by the telephone company for subletting that property.

(2) (a) Every telephone company shall on or before March 1 in each year make and return to the department in such form and upon such blanks as the department prescribes, a true statement of its access expenses and of the gross revenues from the operation of its business during the preceding calendar year, which statement shall be certified by the president and treasurer of such company so operating, or 2 of the principal officers thereof. For sufficient reason shown, the department may upon written request allow such further time for making and filing the report as it deems necessary but not to exceed 30 days.

(b) The report shall show the gross revenues attributable to this state from the service of local and rural exchange property of the telephone company. The report shall also show the toll business gross revenues.

(c) All other operating revenues attributable to this state which can be definitely assigned to a telephone exchange operated by that telephone company in this state shall be classified as exchange service revenue, but if assignment cannot reasonably be made, those other operating revenues shall be classified as toll business gross revenues. All access revenues are exchange service revenues.

(3) On or before May 1 the department shall compute and assess the license fees imposed by subs. (4), (5m) and (6), with respect to gross revenues of the preceding calendar year and on or before May 1 shall notify each person that was carrying on business as a telephone company on the preceding January 1 of the amount of the license fee assessed. Any person who

pays the May 1 assessment in full has a license to carry on business as a telephone company in this state for the 12-month period beginning on the preceding January 1. The fees assessed by the department shall become delinquent if not paid when due, and when delinquent shall be subject to interest at the rate of 1.5% per month until paid. The department shall transmit all funds received under this section to the state treasurer within 15 days after receipt. The payment dates provided for in sub. (3a) shall apply.

NOTE: Sub. (3) is repealed and recreated eff. 1-1-94 by 1991 Wis. Act 39 to read:

(3) On or before May 1 the department shall compute and assess the license fees imposed by subs. (4) and (6), with respect to gross revenues of the preceding calendar year and on or before May 1 shall notify each person that was carrying on business as a telephone company on the preceding January 1 of the amount of the license fee assessed. Any person who pays the May 1 assessment in full has a license to carry on business as a telephone company in this state for the 12-month period beginning on the preceding January 1. The fees assessed by the department shall become delinquent if not paid when due, and when delinquent shall be subject to interest at the rate of 1.5% per month until paid. The department shall transmit all funds received under this section to the state treasurer within 15 days after receipt. The payment dates provided for in sub. (3a) shall apply.

(3a) The license fees prescribed by this section shall be paid to the department on an estimated basis. Remittances of semiannual instalments of the total estimated payments for the then current calendar year shall be due on or before May 10, and November 10 of the current year. With respect to the license fee assessment by the department under sub. (3), each telephone company shall on each May 10 pay or be credited an amount which is equal to the difference between the May 1 assessment by the department and the sum of the semiannual instalment payments made in the preceding calendar year. The additional amount shall be added to the semiannual instalment due on May 10; if there has been an overpayment the amount of the overpayment shall be credited to the semiannual instalment due May 10. If any telephone company that has a liability for the current year fails to make semiannual payments of 60% of the liability assessed by the department for the current calendar year, any amounts not paid when due shall become delinquent and shall be subject to interest under sub. (3). If any company that has no liability for the current year fails to make semiannual payments of at least 50% of the liability assessed by the department for the subsequent calendar year or 100% of the liability in respect to revenue earned through April of the current year, any amounts not paid when due shall become delinquent and shall be subject to interest under sub. (3). Companies with a liability assessed by the department under this section of less than \$2,000 are not required to make semiannual payments but shall pay the full amount of license fees due on or before May 10 of the year of assessment.

(4) Every telephone company operating one or more telephone exchanges shall pay an annual license fee equal to the following percentages of the total gross revenues in this state from each exchange for local and rural exchange service:

(a) For fees assessed on May 1, 1990:

1. If the total of those gross revenues is less than \$10,000, 2.813%.
2. If the total of those gross revenues is at least \$10,000 but less than \$75,000, 3.375%.
3. If the total of those gross revenues is at least \$75,000 but less than \$150,000, 4.5%.
4. If the total of those gross revenues is at least \$150,000 but less than \$500,000, 5.625%.
5. If the total of those gross revenues is at least \$500,000, 5.75%.

(b) For fees assessed on May 1, 1991:

1. If the total of those gross revenues is less than \$10,000, 2.813%.

2. If the total of those gross revenues is at least \$10,000 but less than \$75,000, 3.375%.

3. If the total of those gross revenues is at least \$75,000 but less than \$150,000, 4.5%.

4. If the total of those gross revenues is at least \$150,000 but less than \$500,000, 5.625%.

5. If the total of those gross revenues is at least \$500,000, 5.65%.

(c) For fees assessed May 1, 1992, and thereafter:

1. If the total of those gross revenues is less than \$10,000, 2.813%.

2. If the total of those gross revenues is at least \$10,000 but less than \$75,000, 3.375%.

3. If the total of those gross revenues is at least \$75,000 but less than \$150,000, 4.5%.

4. If the total of those gross revenues is at least \$150,000, 5.6%.

NOTE: Sub. (4) is repealed and recreated eff. 1-1-94 by 1991 Wis. Act 39 to read:

(4) (a) Except as provided in sub. (6), every telephone company operating one or more telephone exchanges shall pay an annual license fee equal to the following percentages of its total gross revenues in this state for local and rural exchange service:

1. For fees assessed on May 1, 1994, 5.80%.

2. For fees assessed on May 1, 1995, 5.75%.

3. For fees assessed on May 1, 1996, 5.70%.

4. For fees assessed on May 1, 1997, and on each May 1 thereafter, 5.40%.

(b) Except as provided in sub. (6), every telephone company operating a toll line or toll lines or furnishing toll service shall pay an annual license fee equal to the following percentages of its total gross revenues in this state for toll business:

1. For fees assessed on May 1, 1994, 6.60%.

2. For fees assessed on May 1, 1995, 5.80%.

3. For fees assessed on May 1, 1996, 5.70%.

4. For fees assessed on May 1, 1997, and on each May 1 thereafter, 5.40%.

(5m) Every telephone company operating a toll line or toll lines or furnishing toll service shall pay an annual license fee to be computed upon toll business gross revenues as follows:

(a) For fees assessed on May 1, 1990:

1. If the total of those gross revenues is less than \$25,000, 2.813%.

2. If the total of those gross revenues is at least \$25,000 but less than \$50,000, 3.375%.

3. If the total of those gross revenues is at least \$50,000 but less than \$75,000, 3.938%.

4. If the total of those gross revenues is at least \$75,000 but less than \$100,000, 4.5%.

5. If the total of those gross revenues is at least \$100,000 but less than \$200,000, 5.063%.

6. If the total of those gross revenues is at least \$200,000 but less than \$300,000, 5.625%.

7. If the total of those gross revenues is at least \$300,000 but less than \$400,000, 6.188%.

8. If the total of those gross revenues is at least \$400,000 but less than \$500,000, 6.75%.

9. If the total of those gross revenues is at least \$500,000 but less than \$600,000, 7.313%.

10. If the total of those gross revenues is at least \$600,000 but less than \$700,000, 7.875%.

11. If the total of those gross revenues is at least \$700,000, 7.975%.

(b) For fees assessed on May 1, 1991:

1. If the total of those gross revenues is less than \$25,000, 2.813%.

2. If the total of those gross revenues is at least \$25,000 but less than \$50,000, 3.375%.

3. If the total of those gross revenues is at least \$50,000 but less than \$75,000, 3.938%.

4. If the total of those gross revenues is at least \$75,000 but less than \$100,000, 4.5%.

5. If the total of those gross revenues is at least \$100,000 but less than \$200,000, 5.063%.

6. If the total of those gross revenues is at least \$200,000 but less than \$300,000, 5.625%.

7. If the total of those gross revenues is at least \$300,000 but less than \$400,000, 6.188%.

8. If the total of those gross revenues is at least \$400,000 but less than \$500,000, 6.75%.

9. If the total of those gross revenues is at least \$500,000 but less than \$600,000, 7.313%.

10. If the total of those gross revenues is at least \$600,000 but less than \$700,000, 7.875%.

11. If the total of those gross revenues is at least \$700,000, 7.9%.

(c) For fees assessed on May 1, 1992, and thereafter:

1. If the total of those gross revenues is less than \$25,000, 2.813%.

2. If the total of those gross revenues is at least \$25,000 but less than \$50,000, 3.375%.

3. If the total of those gross revenues is at least \$50,000 but less than \$75,000, 3.938%.

4. If the total of those gross revenues is at least \$75,000 but less than \$100,000, 4.5%.

5. If the total of those gross revenues is at least \$100,000 but less than \$200,000, 5.063%.

6. If the total of those gross revenues is at least \$200,000 but less than \$300,000, 5.625%.

7. If the total of those gross revenues is at least \$300,000 but less than \$400,000, 6.188%.

8. If the total of those gross revenues is at least \$400,000 but less than \$500,000, 6.75%.

9. If the total of those gross revenues is at least \$500,000 but less than \$600,000, 7.313%.

10. If the total of those gross revenues is at least \$600,000, 7.8%.

NOTE: Sub. (5m) is repealed eff. 1-1-94 by 1991 Wis. Act 39.

(6) When the total gross revenue of any telephone company from exchange and toll service is less than \$300, such company shall pay a minimum license fee of \$5.

(7) Any net decrease in a telephone company's tax under this section because of changes to sub. (1) (b) under 1987 Wisconsin Act 27, section 1564cm, and sub. (4) (e) under 1987 Wisconsin Act 27, section 1567m, shall be reflected in rates charged to the company's customers, as determined by the appropriate regulatory agency.

(7m) The legislature intends that telecommunications companies pass on to their customers, in the form of rate reductions and surcharge reductions, the tax reductions created by the treatment of sub. (4) under 1989 Wisconsin Act 31, section 2138 and by the changes in the taxation of telecommunications companies made by 1991 Wisconsin Act 39.

(8) The license fees imposed by this section upon the gross revenues of telephone companies as defined in sub. (1) shall be in lieu of all other taxes on all property used and useful in the companies' operation as telephone companies in this state, except that the same shall be subject to special assessments for local improvements. If a general structure is used and useful in part in the operation of the business of those companies as telephone companies in this state and in part for nonoperating purposes, the license fees imposed by this section are in place of the percentage of all other taxes on the property that fairly measures and represents the extent of the use and usefulness in the operation of the business of those companies as telephone companies in this state, and the balance is subject to local assessment and taxation, except that the entire general structure is subject to special assessments for local improvements.

(9) The records, books, accounts and papers of any telephone company shall be subject to inspection and examination by the secretary of revenue or by such person as the secretary may designate for that purpose.

(10) If any telephone company required under this section to file a report fails to file a report within the time prescribed by law or as extended under sub. (2), unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, there shall be added to the amount required to be shown as license fees on the report 5% of the amount of such fees if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate.

(11) In case any telephone company fails to make a report as required by sub. (2) within the time required, the department may enter an assessment against such company in a sum representing the approximate amount of the license fees, together with penalties and interest, for which such company may be liable as estimated by the department. Notice of such assessment shall be given by registered mail, and unless a report conforming to the requirements of this section is filed within 15 days of such notice, such estimated assessment shall become final. Thereafter the telephone company assessed shall be forever barred from questioning the correctness of the same in any action or proceeding.

(12) (a) If after filing the reports specified in sub. (2) and after the department's computation and assessment of license fees under sub. (3) it is subsequently determined that the amount of gross revenues reported is in error, the department shall compute the additional license fee to be paid or the amount of the overpayment of license fee to be refunded, as the case may be. If an additional license fee is due, the department shall give notice to the telephone company against whom the license fee is to be levied. All such additional assessments and claims for refunds for excess license fees paid are subject to the same procedure for review and final determination as additional income or franchise tax assessments and claims for refunds under ch. 71 as far as the same may be applicable, except that appeals of denials of claims for refunds shall be made directly to the tax appeals commission and except that the additional license fees shall become delinquent 60 days after notice provided in this subsection or, if review proceedings are held, 60 days following final determination of the review proceedings. All additional license fees shall bear interest at the rate of 12% per year from the time they should have been paid to the date on which the additional fees shall become delinquent if unpaid.

(b) In the case of overpayments of license fees by any telephone company under par. (a), the department shall certify the overpayments to the department of administration, which shall audit the amount of the overpayments and the state treasurer shall pay the amounts determined by means of the audit. All refunds of license fees under this subsection shall bear interest at the annual rate of 9% from the date of the original payment to the date when the refund is made. The time for making additional levies of license fees or claims for refunds of excess license fees paid, in respect to any year, shall be limited to 4 years after the time the report for such year was filed.

(13) Delinquent license fees of any telephone company, together with penalties and interest, shall be a lien upon all the property of such company prior to all other liens, claims and demands, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such company within the state as an entirety. The remedies for nonpayment of taxes specified in s.

**Illinois Compiled Statutes**  
**Revenue**  
**Telecommunications Municipal Infrastructure Maintenance Fee Act**  
**35 ILCS 635/**

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(35 ILCS 635/)

(35 ILCS 635/1)

Sec. 1. Short title. This Act may be cited as the Telecommunications Municipal Infrastructure Maintenance Fee Act. (Source: P.A. 90-154, eff. 1-1-98.)

(35 ILCS 635/5)

Sec. 5. Legislative intent. The General Assembly imposed a tax on invested capital of utilities to partially replace the personal property tax that was abolished by the Illinois Constitution of 1970. Since that tax was imposed, telecommunications retailers have evolved from utility status into an increasingly competitive industry serving the public. This Act is intended to abolish the invested capital tax on telecommunications retailers (that is, persons engaged in the business of transmitting messages and acting as a retailer of telecommunications as defined in Section 2 of the Telecommunications Excise Tax Act). Cellular telecommunications retailers have already been excluded from application of the invested capital tax by earlier legislative action.

This Act is also intended to abolish municipal franchise fees with respect to telecommunications retailers, create a uniform system for the collection and distribution of fees associated with the privilege of use of the public right of way for telecommunications activity, and provide municipalities with a comprehensive method of compensation for telecommunications activity including the recovery of reasonable costs of regulating the use of the public rights-of-way for telecommunications activity.

(Source: P.A. 90-154, eff. 1-1-98; 91-533, eff. 8-13-99.)

(35 ILCS 635/10)

Sec. 10. Definitions.

(a) "Gross charges" means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications in this State or the municipality imposing the fee under this Act, as the context requires, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within this State or the municipality imposing the fee under this Act, charges for the channel mileage between each channel point within this State or the municipality imposing the fee under this Act, and charges for that portion of the interstate inter-office channel provided within Illinois or the municipality imposing the fee under this Act. However, "gross charges" shall not include:

(1) any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by this Section, (ii)

additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act, (iii) amounts collected under Section 8-11-17 of the Illinois Municipal Code, (iv) the tax imposed by the Telecommunications Excise Tax Act, (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;

(2) charges for a sent collect telecommunication received outside of this State or the municipality imposing the fee, as the context requires;

(3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement.

(4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

(5) charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs or by the municipality imposing the fee under the Act, as the context requires;

(6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;

(7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);

(8) charges paid by inserting coins in coin-operated telecommunication devices; or

(9) charges for telecommunications and all services and equipment provided to a municipality imposing the infrastructure maintenance fee.

(a-5) "Department" means the Illinois Department of Revenue.

(b) "Telecommunications" includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as hereinafter defined. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or

integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended. Beginning January 1, 2001, prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

(c) "Wireless telecommunications" includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1995 (Public Law No. 104-104) as now or hereafter amended, including all commercial mobile radio services, and paging services.

(d) "Telecommunications retailer" or "retailer" or "carrier" means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The Illinois Department of Revenue or the municipality imposing the fee, as the case may be, may, in its discretion, upon applications, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department or municipality, furnishes adequate security to insure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the State or municipality imposing the fee. ✱

(e) "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(f) "Sale of telecommunications at retail" means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, ~~when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.~~ ✓

(g) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97; 91-870, eff. 6-22-00.)

(35 ILCS 635/15)

Sec. 15. State telecommunications infrastructure maintenance fees.

(a) A State infrastructure maintenance fee is hereby imposed upon telecommunications retailers as a replacement for the personal property tax in an amount specified in subsection (b).

(b) The amount of the State infrastructure maintenance fee imposed upon a telecommunications retailer under this Section shall be equal to 0.5% of all gross charges charged by the telecommunications retailer to

service addresses in this State for telecommunications, other than wireless telecommunications, originating or received in this State. However, the State infrastructure maintenance fee is not imposed in any case in which the imposition of the fee would violate the Constitution or statutes of the United States.

(c) An optional infrastructure maintenance fee is hereby created. A telecommunications retailer may elect to pay the optional infrastructure maintenance fee with respect to the gross charges charged by the telecommunications retailer to service addresses in a particular municipality for telecommunications, other than wireless telecommunications, originating or received in the municipality if (1) the telecommunications retailer is not required to pay any compensation to the municipality under an existing franchise agreement and (2) the municipality has not imposed a municipal infrastructure maintenance fee as authorized in Section 20 of this Act. A telecommunications retailer electing to pay the optional infrastructure maintenance fee shall notify the Department of such election on the application for certificate of registration. If a telecommunications retailer elects to pay this fee with respect to the gross charges charged by the telecommunications retailer to service addresses in a particular municipality, such election shall remain in full force and effect until such time as the municipality imposes a municipal infrastructure maintenance fee.

(d) The amount of the optional infrastructure maintenance fee which a telecommunications retailer may elect to pay with respect to a particular municipality shall be equal to 25% of the maximum amount of the municipal infrastructure maintenance fee which the municipality could impose under Section 20 of this Act.

(e) The State infrastructure maintenance fee and the optional infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in subsection (b) of Section 25 of this Act.

(Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97.)

(35 ILCS 635/20)

Sec. 20. Municipal telecommunications infrastructure maintenance fee.

(a) A municipality may impose a municipal infrastructure maintenance fee upon telecommunications retailers in an amount specified in subsection (b). On and after the effective date of this amendatory Act of 1997, a certified copy of an ordinance or resolution imposing a fee under this Section shall be filed with the Department within 30 days after the effective date of this amendatory Act or the effective date of the ordinance or resolution imposing such fee, whichever is later. Failure to file a certified copy of the ordinance or resolution imposing a fee under this Section shall have no effect on the validity of the ordinance or resolution. The Department shall create and maintain a list of all ordinances and resolutions filed pursuant to this Section and make that list, as well as copies of the ordinances and resolutions, available to the public for a reasonable fee.

(b) The amount of the municipal infrastructure maintenance fee imposed upon a telecommunications retailer under this Section shall not exceed: (i) in a municipality with a population of more than 500,000, 2.0% of all gross charges charged by the telecommunications retailer to service addresses in the municipality for telecommunications originating or received in the municipality; and (ii) in a municipality with a population of 500,000 or less, 1.0% of all gross charges charged by the telecommunications retailer to service addresses in the municipality for telecommunications originating or received in the municipality. If imposed, the municipal telecommunications infrastructure fee must be in 1/4% increments. However, the fee shall not be imposed in any case in which the imposition of the fee would violate the Constitution or statutes of the United States.

(c) The municipal telecommunications infrastructure fee authorized by this Section shall be collected, enforced, and administered as set forth in subsection (c) of Section 25 of this Act.

(d) A municipality with a population of more than 500,000 that imposes a municipal infrastructure maintenance fee under this Section may, by ordinance, exempt from the fee all charges for the inbound toll-free telecommunications service commonly known as "800", "877", or "888" or for a similar service.  
(Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97; 91-870, eff. 6-22-00.)

(35 ILCS 635/22)

Sec. 22. Certificates. It shall be unlawful for any person to engage in business as a telecommunications retailer in this State within the meaning of this Act without first having obtained a certificate of registration to do so from the Department. Application for the certificate shall be made to the Department in a form prescribed and furnished by the Department. Each applicant for a certificate shall furnish to the Department on a form prescribed by the Department and signed by the applicant under penalties of perjury, the following information:

- (1) The name of the applicant.
- (2) The address of the location at which the applicant proposes to engage in business as a telecommunications retailer in this State.
- (3) Other information the Department may reasonably require.

The Department, upon receipt of an application in proper form, shall issue to the applicant a certificate, in a form prescribed by the Department, which shall permit the applicant to whom it is issued to engage in business as a telecommunications retailer at the place shown on his or her application. No certificate issued under this Act is transferable or assignable. No certificate shall be issued to any person who is in default to the State of Illinois for moneys due under this Act or any other tax Act administered by the Department. Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

The Department may, in its discretion, upon application, authorize the payment of the fees imposed under this Act by any telecommunications retailer not otherwise subject to the fees imposed under this Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the fees. The telecommunications retailer shall be issued, without charge, a certificate to remit the fees. When so authorized, it shall be the duty of the telecommunications retailer to remit the fees imposed upon the gross charges charged by the telecommunications retailer to service addresses in this State for telecommunications in the same manner and subject to the same requirements as a telecommunications retailer operating within this State.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/24)

Sec. 24. Certificate actions. The Department may, after notice and a hearing, revoke, cancel, or suspend the certificate of registration of any telecommunications retailer who violates any of the provisions of this Act or regulations promulgated thereunder. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is based.

The Department may, after notice and a hearing as provided herein, revoke the certificate of registration of any person who violates any of the provisions of this Act. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the

date designated shall conduct a hearing upon this matter. The lapse of such 90 day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary. Any hearing held under this Section shall be conducted by the Director of Revenue or by any officer or employee of the Department designated, in writing, by the Director of Revenue. Upon the hearing of any such proceeding, the Director of Revenue, or any officer or employee of the Department designated, in writing, by the Director of Revenue, may administer oaths and the Department may procure by its subpoena the attendance of witnesses and, by its subpoena duces tecum, the production of relevant books and papers. Any circuit court, upon application either of the accused or of the Department, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers, before the Department in any hearing relating to the revocation of certificates of registration. Upon refusal or neglect to obey the order of the court, the court may compel obedience thereof by proceedings for contempt. The Department may, by application to any circuit court, obtain an injunction restraining any person who engages in business as a telecommunications retailer without a certificate (either because his or her certificate has been revoked, canceled, or suspended or because of a failure to obtain a certificate in the first instance) from engaging in that business until that person, as if that person were a new applicant for a certificate, complies with all of the conditions, restrictions, and requirements of Section 22 of this Act and qualifies for and obtains a certificate. Refusal or neglect to obey the order of the court may result in punishment for contempt.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/25)

Sec. 25. Collection, enforcement, and administration of telecommunications infrastructure maintenance fees.

(a) A telecommunications retailer shall charge each customer an additional charge equal to the sum of (1) an amount equal to the State infrastructure maintenance fee attributable to that customer's service address and (2) an amount equal to the optional infrastructure maintenance fee, if any, attributable to that customer's service address and (3) an amount equal to the municipal infrastructure maintenance fee, if any, attributable to that customer's service address. Such additional charge shall be shown separately on the bill to each customer.

(b) The State infrastructure maintenance fee and the optional infrastructure maintenance fee shall be designated as a replacement for the personal property tax and shall be remitted by the telecommunications retailer to the Illinois Department of Revenue; provided, however, that the telecommunications retailer may retain an amount not to exceed 2% of the State infrastructure maintenance fee and the optional infrastructure maintenance fee, if any, paid to the Department, with a timely paid and timely filed return to reimburse itself for expenses incurred in collecting, accounting for, and remitting the fee. All amounts herein remitted to the Department shall be transferred to the Personal Property Tax Replacement Fund in the State Treasury.

(c) The municipal infrastructure maintenance fee shall be remitted by the telecommunications retailer to the municipality imposing the municipal infrastructure maintenance fee; provided, however, that the telecommunications retailer may retain an amount not to exceed 2% of the municipal infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee. The municipality imposing the municipal infrastructure maintenance fee shall collect, enforce, and administer the fee.

(d) Except as provided in subsection (e), during any period of time when a municipality receives any compensation other than the municipal infrastructure maintenance fee set forth in section 20, for a telecommunications retailer's use of the public right-of-way, no municipal infrastructure maintenance fee may be imposed by such

municipality pursuant to this Act.

(e) A municipality that, pursuant to a franchise agreement in existence on the effective date of this Act, receives compensation from a telecommunications retailer for the use of the public right of way, may impose a municipal infrastructure maintenance fee pursuant to this Act only on the condition that such municipality (1) waives its right to receive all fees, charges and other compensation under all existing franchise agreements or the like with telecommunications retailers during the time that the municipality imposes a municipal infrastructure maintenance fee and (2) imposes by ordinance (or other proper means) a municipal infrastructure maintenance fee which becomes effective no sooner than 90 days after such municipality has provided written notice by certified mail to each telecommunications retailer with whom the municipality has an existing franchise agreement, that the municipality waives all compensation under such existing franchise agreement.

(Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97; 90-655, eff. 7-30-98.)

(35 ILCS 635/27)

Sec. 27. Returns by telecommunications retailer; extensions. Except as provided hereinafter in this Section, on or before the 30th day of each month each telecommunications retailer maintaining a place of business in this State shall make a return and payment of fees to the Department for the preceding calendar month on a form prescribed and furnished by the Department. The return shall be signed by the telecommunications retailer under penalties of perjury and shall contain the following information:

1. His or her name;
2. The address of his or her principal place of business, and the address of the principal place of business (if that is a different address) from which he or she engages in the business of transmitting telecommunications;
3. The total amount of gross charges charged by him or her during the preceding calendar month for providing telecommunications during such calendar month;
4. The total amount received by him or her during the preceding calendar month on credit extended;
5. Deductions allowed by law;
6. Gross charges that were charged by him or her during the preceding calendar month and upon the basis of which the State infrastructure maintenance fee is imposed;
7. Gross charges that were charged by him or her during the preceding calendar month and upon the basis of which the optional infrastructure maintenance fee, if any, is imposed for each particular municipality;
8. Amounts of fees due;
9. Such other reasonable information as the Department may require.

If the telecommunications retailer's average monthly liability to the Department does not exceed \$100, the Department may authorize his or her returns to be filed on a quarter annual basis, with the return for January, February, and March of a given year being due by April 15 of such year; with the return for April, May, and June of a given year being due by July 15 of such year; with the return for July, August, and September of a given year being due by October 15 of such year; and with the return of October, November, and December of a given year being due by January 15 of the following year.

Notwithstanding any other provision of this Act concerning the time within which a telecommunications retailer may file his or her return, in the case of any telecommunications retailer who ceases to engage in a kind of business which makes him or her responsible for filing returns under this Act, such telecommunications retailer shall file a final return under this Act with the Department not more than one month after discontinuing such business.

In making such return, the telecommunications retailer shall

determine the value of any consideration other than money received by him or her and he or she shall include such value in his or her return. Such determination shall be subject to review and revision by the Department in the manner hereinafter provided for the correction of returns.

If any payment provided for in this Section exceeds the telecommunications retailer's liabilities under this Act, as shown on an original monthly return, the Department may authorize the telecommunications retailer to credit such excess payment against liability subsequently to be remitted to the Department under this Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the telecommunications retailer, the telecommunications retailer's 2% discount shall be reduced by 2% of the difference between the credit taken and that actually due, and that telecommunications retailer shall be liable for penalties and interest on such difference.

If the Director finds that the information required for the making of an accurate return cannot reasonably be compiled by a telecommunications retailer within 15 days after the close of the calendar month for which a return is to be made, he or she may grant an extension of time for the filing of such return for a period of not to exceed 31 calendar days. The granting of such an extension may be conditioned upon the deposit by the telecommunications retailer with the Department of an amount of money not exceeding the amount estimated by the Director to be due with the return so extended. All such deposits, including any heretofore made with the Department, shall be credited against the telecommunications retailer's liabilities under this Act. If any such deposit exceeds the telecommunications retailer's present and probable future liabilities under this Act, the Department shall issue to the telecommunications retailer a credit memorandum, which may be assigned by the telecommunications retailer to a similar telecommunications retailer under this Act, in accordance with reasonable rules and regulations to be prescribed by the Department.

Any telecommunications retailer required to make payments under this Section may make the payments by electronic funds transfer. The Department shall adopt rules necessary to effectuate a program of electronic funds transfer.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.5)

Sec. 27.5. Books and Records. Every telecommunications retailer under this Act shall keep books, records, papers, and other documents that are adequate to reflect the information which such telecommunications retailers are required by this Act to report to the Department by filing monthly returns with the Department. All books and records and other papers and documents required by this Act to be kept shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. Books and records reflecting gross charges received during any period with respect to which the Department is authorized to establish liability as provided by this Act shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal at an earlier date.

The Department may, upon written authorization of the Director, destroy any returns or any records, papers, or memoranda pertaining to such returns upon the expiration of any period covered by such returns with respect to which the Department is authorized to establish liability.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.10)

Sec. 27.10. Investigations and hearings. For the purpose of administering and enforcing the provisions of this Act, the Department

or any officer or employee of the Department designated, in writing, by the Director thereof, may hold investigations and hearings concerning any matters covered by this Act and may examine any books, papers, records, or memoranda bearing upon the business transacted by any such telecommunications retailer and may require the attendance of such telecommunications retailer or any officer or employee of such telecommunications retailer, or of any person having knowledge of such business, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the Department. The Director or any officer or employee thereof shall have power to administer oaths to any such persons. The books, papers, records, and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof under the certificate of the Director. Such reproduced copy shall without further proof, be admitted into evidence before the Department or in any legal proceeding.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.15)

Sec. 27.15. Incriminating evidence; immunity; perjury. No person shall be excused from testifying or from producing any books, papers, records, or memoranda in any investigation or upon any hearing, when ordered to do so by the Department or any officer or employee thereof, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or her or subject him or her to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he or she may testify or produce evidence, documentary or otherwise, before the Department or any officer or employee thereof; provided, that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.20)

Sec. 27.20. Subpoenas; witness fees; depositions. The Department or any officer or employee of the Department designated, in writing, by the Director thereof, shall at its or his or her own instance, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records, or memoranda. All subpoenas issued under this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit court of this State; such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any telecommunications retailer to any such proceeding the department may require that the cost of service of the subpoena and the fee of the witness be borne by the telecommunications retailer at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court.

Any circuit court of this State, upon the application of the Department or any officer or employee thereof may, in its discretion, compel the attendance of witnesses, the production of books, papers,

records, or memoranda and the giving of testimony before the Department or any officer or employee thereof conducting an investigation or holding a hearing authorized by this Act, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The Department or any officer or employee thereof, or any party in an investigation or hearing before the Department, may cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and, to that end, compel the attendance of witnesses and the production of books, papers, records, or memoranda. (Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.25)

Sec. 27.25. Confidential information; exceptions. All information received by the Department from returns filed under this Act, or from any investigations conducted under this Act, shall be confidential, except for official purposes, and any person who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided by law, shall be guilty of a Class B misdemeanor.

Provided, that nothing contained in this Act shall prevent the Director from publishing or making available to the public the names and addresses of telecommunications retailers filing returns under this Act, or from publishing or making available reasonable statistics concerning the operation of the fees wherein the contents of returns are grouped into aggregates in such a way that the information contained in any individual return shall not be disclosed.

And provided, that nothing contained in this Act shall prevent the Director from making available to the United States Government or any officer or agency thereof, for exclusively official purposes, information received by the Department in the administration of this Act.

The furnishing upon request of the Auditor General, or his or her authorized agents, for official use, of returns filed and information related thereto under this Act is deemed to be an official purpose within the meaning of this Section.

The Director may make available to any State agency, including the Illinois Supreme Court, which licenses persons to engage in any occupation, information that a person licensed by such agency has failed to file returns under this Act or pay the fees, penalty, and interest shown therein, or has failed to pay any final assessment of fees, penalty, or interest due under this Act. An assessment is final when all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted.

The Director shall make available for public inspection in the Department's principal office and for publication, at cost, administrative decisions issued on or after January 1, 1998. These decisions are to be made available in a manner so that the following taxpayer information is not disclosed:

(1) The names, addresses, and identification numbers of the taxpayer, related entities, and employees.

(2) At the sole discretion of the Director, trade secrets or other confidential information identified as such by the taxpayer, no later than 30 days after receipt of an administrative decision, by such means as the Department shall provide by rule.

The Director shall determine the appropriate extent of the deletions allowed in paragraph (2). In the event the taxpayer does not submit deletions, the Director shall make only the deletions specified in paragraph (1).

The Director shall make available for public inspection and publication an administrative decision within 180 days after the issuance of the administrative decision. The term "administrative decision" has the same meaning as defined in Section 3-101 of Article

III of the Code of Civil Procedure. Costs collected under this Section shall be paid into the Tax Compliance and Administration Fund.  
(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.30)

Sec. 27.30. Review under Administrative Review Law. The Circuit Court of the county wherein a hearing is held shall have power to review all final administrative decisions of the Department in administering the provisions of this Act: Provided that if the administrative proceeding that is to be reviewed judicially is a claim for refund proceeding commenced in accordance with this Act and Section 2a of the State Officers and Employees Money Disposition Act, the Circuit Court having jurisdiction of the action for judicial review under this Section and under the Administrative Review Law shall be the same court that entered the temporary restraining order or preliminary injunction that is provided for in Section 2a of the State Officers and Employees Money Disposition Act and that enables such claim proceeding to be processed and disposed of as a claim for refund proceeding rather than as a claim for credit proceeding.

The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Service upon the Director or Assistant Director of the Department of Revenue of summons issued in any action to review a final administrative decision shall be service upon the Department. The Department shall certify the record of its proceedings if the telecommunications retailer shall pay to it the sum of 75¢ per page of testimony taken before the Department and 25¢ per page of all other matters contained in such record, except that these charges may be waived where the Department is satisfied that the aggrieved party is a poor person who cannot afford to pay such charges.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.35)

Sec. 27.35. Rules and regulations; notice to telecommunications retailer; hearings. The Department may make, promulgate, and enforce such reasonable rules and regulations relating to the administration and enforcement of only the State infrastructure maintenance fee and the optional infrastructure maintenance fee authorized by this Act. Such rules and regulations shall not apply to the administration and enforcement of the municipal infrastructure maintenance fee authorized by this Act.

Whenever notice to a telecommunications retailer is required by this Act, such notice may be given by United States certified or registered mail, addressed to the telecommunications retailer concerned at his or her last known address, and proof of such mailing shall be sufficient for the purposes of this Act. In the case of a notice of hearing, such notice shall be mailed not less than 7 days prior to the day fixed for the hearing.

All hearings provided for in this Act with respect to a telecommunications retailer having his or her principal place of business other than in Cook County shall be held at the Department's office nearest to the location of the telecommunications retailer's principal place of business: Provided that if the telecommunications retailer has his or her principal place of business in Cook County, such hearing shall be held in Cook County; and provided further that if the telecommunications retailer does not have his principal place of business in this State, such hearings shall be held in Sangamon County.

Whenever any proceeding provided by this Act has been begun by the Department or by a person subject thereto and such person thereafter dies or becomes a person under legal disability before the proceeding has been concluded, the legal representative of the deceased person or a person under legal disability shall notify the Department of such death

or legal disability. The legal representative, as such, shall then be substituted by the Department in place of and for the person. Within 20 days after notice to the legal representative of the time fixed for that purpose, the proceeding may proceed in all respects and with like effect as though the person had not died or become a person under legal disability.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.40)

Sec. 27.40. Application of Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (i) paragraph (b) of Section 5-10 of the Administrative Procedure Act does not apply to final orders, decisions, and opinions of the Department, (ii) subparagraph (a)(ii) of Section 5-10 of the Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (iii) the provisions of Section 10-45 of the Administrative Procedure Act regarding proposals for decision are excluded and not applicable to the Department under this Act.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.45)

Sec. 27.45. Failure to make a return. Any telecommunications retailer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Act or any rule or regulation of the Department for the administration and enforcement of this Act, is guilty of a business offense and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$7,500.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.50)

Sec. 27.50. Additional fees. The fees herein imposed shall be in addition to all other occupation or privilege taxes or fees imposed by the State of Illinois or by any municipal corporation or political subdivision thereof.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/27.55)

Sec. 27.55. Applicability of Retailers' Occupation Tax Act and Uniform Penalty and Interest Act. All of the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, and 6c of the Retailers' Occupation Tax Act that are not inconsistent with this Act, and all provisions of the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein. References in the incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling tangible personal property mean persons engaged in the business of transmitting messages when used in this Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to purchasers of tangible personal property mean purchasers of the service of transmitting messages when used in this Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to sales of tangible personal property mean the transmitting of messages when used in this Act. References to "taxes" in these incorporated Sections shall be construed to apply to the administration, payment, and remittance of all fees under this Act.

(Source: P.A. 90-562, eff. 12-16-97.)

(35 ILCS 635/30)

Sec. 30. Validity of existing franchise fees and agreements.

(a) Upon the effective date of this Act, the municipal infrastructure maintenance fee authorized by this Act shall be the only fee or compensation for recovering the reasonable costs of regulating the use of the public rights-of-way and for the use of public

rights-of-way that may be levied by or otherwise required by ordinance, resolution, or contract to be paid to a municipality for the use of its public way by telecommunications retailers. No new fees shall be imposed upon or other charges required from telecommunications retailers by municipalities from and after the effective date of this Act. No telecommunications retailer paying either the applicable municipal infrastructure maintenance fee or the optional infrastructure maintenance fee authorized by this Act may be denied the use, directly or indirectly, of the public way of the municipality either imposing the municipal infrastructure maintenance fee or to which the optional infrastructure maintenance fee relates, as the case may be, as authorized under the Telephone Company Act. Nothing in this Act shall excuse any person or entity from obligations imposed under any law concerning generally applicable taxes or standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public way, nor shall any person or entity be excused from any liability imposed by any such law for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way.

(b) Agreements between telecommunications retailers and municipalities entered into before the effective date of this Act regarding use of the public ways shall remain valid according to and for their stated terms. If, following the effective date of this Act, such an agreement is renewed automatically or by agreement of the parties, the compensation or fee under the agreement shall be equal to the maximum amount of the municipal infrastructure maintenance fee which the municipality could impose under Section 20 of this Act.

(c) The regulation of the terms and conditions upon which poles, conduits, and other facilities located in the public way may be shared by or between telecommunications retailers shall be committed exclusively to the jurisdiction of the Illinois Commerce Commission and the Federal Communications Commission, and such regulation shall not be among the home rule powers and functions described in subsection (h) of Section 6 of Article VII of the Illinois Constitution. Moreover, no municipality may enter into any contract or agreement with a telecommunications retailer with respect to the terms and conditions upon which poles, conduits, and other facilities located in the public way may be shared by or between telecommunications retailers.

(Source: P.A. 90-154, eff. 1-1-98.)

(35 ILCS 635/35)

Sec. 35. Home rule. The authorization of infrastructure maintenance fees and other fees relating to the use of the public right-of-way for telecommunications activity imposed upon telecommunications retailers is an exclusive power and function of the State. A home rule municipality may not impose franchise or other fees upon or require other compensation from telecommunications retailers for use of the public way, other than the municipal infrastructure maintenance fee authorized by this Act. This Act is a denial and limitation of municipal home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 90-154, eff. 1-1-98.)

(35 ILCS 635/40)

Sec. 40. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of the provision or application does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application.

(Source: P.A. 90-154, eff. 1-1-98.)

(35 ILCS 635/905)

Sec. 905. The Messages Tax Act is amended by repealing Section

2a.1.

(Source: P.A. 90-154, eff. 1-1-98.)

(35 ILCS 635/910)

Sec. 910. (Amendatory provisions; text omitted).

(Source: P.A. 90-154, eff. 1-1-98; text omitted.)

(35 ILCS 635/915)

Sec. 915. (Amendatory provisions; text omitted.)

(Source: P.A. 90-154, eff. 1-1-98; text omitted.)

(35 ILCS 635/920)

Sec. 920. (Amendatory provisions; text omitted.)

(Source: P.A. 90-154, eff. 1-1-98; text omitted.)

[ TOP ]

## Kreye, Joseph

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**From:** Olin, Rick  
**Sent:** Thursday, June 14, 2001 7:19 PM  
**To:** Kreye, Joseph  
**Subject:** Municipal Telephone Tax

I talked to Doug about the telephone proposal and though I'd pass on his comments.

Due to the way that service is defined, I made the case that it does not make sense to use the 91-92 Wis Stats language that references directory advertising and resellers.

Directory advertising is fairly straightforward but I am not 100% sure that I understand resellers. I made the case that resellers should not receive the exclusion provided in the old law because they would not be taxed twice under the proposal. I think the proposal imposes a tax almost exclusively at the retail level or on the basis of the ultimate user. Resellers seem to operate at the wholesale level when buying, and at the retail level when selling. Only the latter transactions would be taxed under the proposal. Do you think I'm right?

Finally, DOug said to retain the access exclusion. I've made it on the basis of revenues rather than expenses. Do you think my interpretation is reasonable? It is in the last sentence in the third paragraph on the attachment.

The attachment is a first draft. I hope we have time to talk some more on this.



senateseven.doc

*forget to recall reduction*

*reference*

Funding Positions	
GPR	- \$

**1. GROSS REVENUES TAX ON TELEPHONE COMPANIES**

**Senate:** Authorize municipalities to impose a tax on telephone companies based on their gross revenues attributable to the municipality. Set the rate of taxation at 2%.

Define "gross revenues" as revenues attributable to intrastate telecommunications services that either originate from or are received by service addresses in the municipality. Specify that "gross revenues" includes revenue derived from local and rural exchange service, all toll business gross revenue, access revenues, and all other operating revenues from telecommunications business. Specify that if the telephone company is organized on a mutual basis that "gross revenues" includes all amounts assessed against the members for the operation and maintenance of the business.

Specify that "gross revenues" does not include excise taxes on telephone service or facilities. Specify that "gross revenues" does not include uncollectible telecommunications revenues actually written off during the year, but does include recoveries within the year of all telecommunications revenues written off in prior years as uncollectible. Specify that "gross revenues" does not include access revenues that arise from services that originate or terminate from a point or points in this state to a point or points in the same local access and transport area and 14.5% of all other access revenues generated from intrastate service. *- see 76.38(1)(b) 91-92*

Define "service address" as the location from which telecommunications services are originated or are received. Specify that in cases where the location is not fixed that the service address is the location of the customer's primary use of telecommunications equipment. Specify that the primary use of telecommunications equipment may be assumed to be the location in Wisconsin where the customer is billed.

Require telephone companies to pay the tax on the 15<sup>th</sup> day of January, April, July and October on the basis of revenues attributable to each municipality imposing the tax during the three-month period ending on the last day of the month preceding the payment date. Require telephone companies to file a return with each payment on a form prescribed by DOR that reports the gross revenues of the company attributable to the municipality imposing the fee. Require DOR to prescribe a form that provides the information necessary to administer the tax.

Authorize municipalities imposing the fee to examine the records, books, accounts and papers of any telephone company with revenues attributable to the municipality. Authorize municipalities to impose fees, penalties and interest on telephone companies for failure to file a report or make a payment.

Authorize municipalities to impose the fee on gross revenues received by telephone companies as of October 1, 2001.

## Kreye, Joseph

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**From:** Olin, Rick  
**Sent:** Friday, June 15, 2001 2:36 PM  
**To:** Kreye, Joseph  
**Subject:** Telephone Tax

I talked to Doug and confirmed the following:

*In 196 — see MDK*

1. The language should prohibit telephone companies from listing the tax separately on bills to consumers.
2. There is no discretion on the rate. It is 2% or nothing.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb0938/

JK:.....

gs PMR

SDC:.....Keckhaver – CN1063, Municipal tax on the gross revenues of telephone companies

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

*in 6-16-01*

*500N*

*substitute amended*

1 At the locations indicated, amend the ~~bill~~ as follows:

2 1. Page 843, line 5: after that line insert: **Insert A**

3 2. Page 1403, line 19: after that line insert: **Insert B**

4 (END)

insert A

*close  
bracket*

1 "SECTION 2243m. Subchapter VI of chapter 76 [precedes 76.94] of the statutes  
2 is created to read:

3 **CHAPTER 76**

4 **SUBCHAPTER VI**

5 **MUNICIPAL TELECOMMUNICATIONS TAX**

6 **76.94 Definitions.** In this subchapter:

7 (1) "Access revenues" mean revenues resulting from charges for  
8 telecommunications services and facilities, including charges to a telephone  
9 company, that permit subscriber telecommunications to originate or terminate  
10 between a point or points in one telephone exchange and a point or points in another  
11 telephone exchange.

12 (2) "Gross revenues" include revenues derived from local and rural exchange  
13 service; toll business gross revenues; access revenues, except access revenues  
14 derived from telecommunications services that originate or terminate from a point  
15 or points in this state to a point or points in the same local access and transport area  
16 and 14.5% of all other access revenues generated from intrastate service; all other  
17 operating revenues from providing telecommunications services; and any such  
18 revenues recovered in the year that were written off as not collectible in a previous  
19 year. "Gross revenues" do not include excise taxes on telephone service or facilities  
20 or revenues written off as not collectible in the year. ✓

21 (3) "Local access and transport area" means a geographic area encompassing  
22 one telephone exchange or 2 or more contiguous telephone exchanges. ✓

1 (3) "Mobile telecommunications services" means commercial mobile radio  
2 service, as defined in 47 CFR 20.3.

3 (4) "Municipality" means a city, village or town.

4 (5) "Service address" means the location from which telecommunications  
5 services originate or terminate, except that for mobile telecommunications services,  
6 "service address" means the customer's place of primary use of the mobile  
7 telecommunications services, as determined under P.L. 106-252.

8 (6) "Telecommunications services" mean transmitting high quality two-way  
9 interactive switched voice or data-communications or messages.

10 (7) "Telephone company" means a business that provides telecommunications  
11 services.

12 (8) "Telephone exchange" means the portion of an area served by a telephone  
13 company that is included in the exchange rate determined by the public service  
14 commission.

15 **76.95 Imposition.** Notwithstanding s. 66.0611, a municipality may, by  
16 ordinance, impose a tax on a telephone company at the rate of 2% of the telephone  
17 company's gross revenues in a calendar quarter attributable to intrastate  
18 telecommunications services that originate from or are received at a service address  
19 located in the municipality. The ordinance shall be effective on the first day of the  
20 calendar quarter beginning after the municipality enacts the ordinance.

21 **76.96 Returns and payments.** The tax imposed under this subchapter is due  
22 and payable to the municipality on January 15, April 15, July 15, and October 15,  
23 based on the telephone company's gross revenues from the most recent calendar  
24 quarter ending before such date. A telephone company that is subject to the tax  
25 imposed under this subchapter shall submit a return with each payment, as

1 prescribed by the department of revenue, that specifies the gross revenues that are  
2 subject to the tax imposed under this subchapter.

3 **76.97 Customer billing.** A telephone company may not identify any tax or  
4 any portion of the tax paid under this subchapter as a separate charge to a telephone  
5 company customer on the customer's bill.

6 **76.98 Administration.** A municipality that imposes the tax under this  
7 subchapter may examine the records, books, accounts, and other documents of a  
8 telephone company that is subject to the tax imposed under this subchapter; take any  
9 action and conduct any proceedings to administer the tax imposed under this  
10 subchapter; and impose interest and penalties for failure to submit a report or  
11 payment as provided under this subchapter." ←

**insert B**



12 → "5<sup>9</sup><sub>A</sub> MUNICIPAL TELECOMMUNICATIONS TAX. The treatment of sections 76.94,  
13 76.95, 76.96, 76.97, and 76.98 of the statutes first applies to gross revenues received  
14 by a telephone company after September 30, 2001." ←

NON STAT  
INIT APP

SDC:.....Keckhaver – CN1063, Municipal tax on the gross revenues of  
telephone companies

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT**

**TO SENATE SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

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7 or points in this state to a point or points in the same local access and transport area  
8 and 14.5% of all other access revenues generated from intrastate service; all other  
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21 telecommunications services, as determined under P.L. 106–252.

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23 interactive switched voice or data communications or messages.

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12 based on the telephone company’s gross revenues from the most recent calendar  
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19 company customer on the customer’s bill.

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21 subchapter may examine the records, books, accounts, and other documents of a  
22 telephone company that is subject to the tax imposed under this subchapter; take any  
23 action and conduct any proceedings to administer the tax imposed under this  
24 subchapter; and impose interest and penalties for failure to submit a report or  
25 payment as provided under this subchapter.”

