



**House  
Legislative  
Analysis  
Section**

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## TELEPHONE USE TAX REFUNDS

House Bill 5027 as introduced  
First Analysis (10-14-93)

Sponsor: Rep. Dan Gustafson  
Committee: Taxation

### ***THE APPARENT PROBLEM:***

Long distance telephone companies pay access fees or charges to local telephone companies to get calls transmitted over their facilities. In 1989, the court of appeals (in GTE Sprint Communications Corp. v. Michigan Department of Treasury) held that such access purchases were not subject to the use tax, and a year later, the supreme court denied leave to appeal the decision. This ruling contradicted an earlier appeals court ruling that had said such access charges were subject to the tax. Reportedly, in 1991, after the supreme court's action, the Department of Treasury instructed local telephone companies to stop collecting the use tax. Since then AT&T, one of the long distance companies, and the treasury department have been negotiating how to refund use taxes, which AT&T had passed on to its customers as surcharges. An AT&T representative has said that from August 15, 1988, through December 31, 1990, the company paid nearly \$22 million in use taxes attributable to access charges, about \$17.5 million of which was directly surcharged to customers in Michigan. Determining who paid how much in surcharges over the time period has been described as "nearly impossible." Apparently, a refund method has been agreed to that would allow the company to put a "negative surcharge" on its customers' bills during 1994 based on current usage. Statutory authority is said to be required for this refunding of use taxes.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Use Tax Act to establish conditions for the payment of refunds due taxpayers as a result of the state appeals court ruling in GTE Sprint Communications Corp. v. Michigan Department of Treasury.

Under the bill, a claim for a refund would have to be filed no later than January 1, 1994, by the entity that paid the tax for interstate access telephone services (i.e., a telecommunications carrier). The refund would be for taxes paid from August 1, 1988,

through January 1, 1991. Refunds would be paid without interest in 12 monthly installments beginning in the month a carrier began applying the refunds to the billings of its Michigan interstate subscribers in a manner consistent with requirements of the Federal Communications Commission.

MCL 205.100

### ***FISCAL IMPLICATIONS:***

The bill implements a refunding of about \$17.5 million in use tax revenues to customers of AT&T. The refund has been anticipated by the Department of Treasury since state court decisions on the issue; the bill provides a method.

### ***ARGUMENTS:***

#### ***For:***

The bill provides a method for refunding use taxes paid by long distance telephone customers. The state courts have said access charges paid by a long distance telephone company to a local company are not subject to the use tax, contradicting earlier decisions on the subject. The bill is said to implement an agreement between AT&T and the Department of Treasury.

### ***POSITIONS:***

The Department of Treasury supports the bill. (10-13-93)

A representative of AT&T has indicated support for the bill. (10-13-93)

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