



Rep. Robyn Gabel

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1 AMENDMENT TO HOUSE BILL 813

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 813 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Motor Fuel Tax Law is amended by changing  
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in subsection (a-1) of this  
8 Section, Section 8a, subdivision (h)(1) of Section 12a,  
9 Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all  
10 money received by the Department under this Act, including  
11 payments made to the Department by member jurisdictions  
12 participating in the International Fuel Tax Agreement, shall  
13 be deposited in a special fund in the State treasury, to be  
14 known as the "Motor Fuel Tax Fund", and shall be used as  
15 follows:

16 (a) 2 1/2 cents per gallon of the tax collected on special

1 fuel under paragraph (b) of Section 2 and Section 13a of this  
2 Act shall be transferred to the State Construction Account  
3 Fund in the State Treasury; the remainder of the tax collected  
4 on special fuel under paragraph (b) of Section 2 and Section  
5 13a of this Act shall be deposited into the Road Fund;

6 (a-1) Beginning on July 1, 2019, an amount equal to the  
7 amount of tax collected under subsection (a) of Section 2 as a  
8 result of the increase in the tax rate under Public Act 101-32  
9 ~~this amendatory Act of the 101st General Assembly~~ shall be  
10 transferred each month into the Transportation Renewal Fund;;

11 (b) \$420,000 shall be transferred each month to the State  
12 Boating Act Fund to be used by the Department of Natural  
13 Resources for the purposes specified in Article X of the Boat  
14 Registration and Safety Act;

15 (c) \$3,500,000 shall be transferred each month to the  
16 Grade Crossing Protection Fund to be used as follows: not less  
17 than \$12,000,000 each fiscal year shall be used for the  
18 construction or reconstruction of rail highway grade  
19 separation structures; \$2,250,000 in fiscal years 2004 through  
20 2009 and \$3,000,000 in fiscal year 2010 and each fiscal year  
21 thereafter shall be transferred to the Transportation  
22 Regulatory Fund and shall be accounted for as part of the rail  
23 carrier portion of such funds and shall be used to pay the cost  
24 of administration of the Illinois Commerce Commission's  
25 railroad safety program in connection with its duties under  
26 subsection (3) of Section 18c-7401 of the Illinois Vehicle

1 Code, with the remainder to be used by the Department of  
2 Transportation upon order of the Illinois Commerce Commission,  
3 to pay that part of the cost apportioned by such Commission to  
4 the State to cover the interest of the public in the use of  
5 highways, roads, streets, or pedestrian walkways in the county  
6 highway system, township and district road system, or  
7 municipal street system as defined in the Illinois Highway  
8 Code, as the same may from time to time be amended, for  
9 separation of grades, for installation, construction or  
10 reconstruction of crossing protection or reconstruction,  
11 alteration, relocation including construction or improvement  
12 of any existing highway necessary for access to property or  
13 improvement of any grade crossing and grade crossing surface  
14 including the necessary highway approaches thereto of any  
15 railroad across the highway or public road, or for the  
16 installation, construction, reconstruction, or maintenance of  
17 safety treatments to deter trespassing or a pedestrian walkway  
18 over or under a railroad right-of-way, as provided for in and  
19 in accordance with Section 18c-7401 of the Illinois Vehicle  
20 Code. The Commission may order up to \$2,000,000 per year in  
21 Grade Crossing Protection Fund moneys for the improvement of  
22 grade crossing surfaces and up to \$300,000 per year for the  
23 maintenance and renewal of 4-quadrant gate vehicle detection  
24 systems located at non-high speed rail grade crossings. ~~The~~  
25 ~~Commission shall not order more than \$2,000,000 per year in~~  
26 ~~Grade Crossing Protection Fund moneys for pedestrian walkways.~~

1 In entering orders for projects for which payments from the  
2 Grade Crossing Protection Fund will be made, the Commission  
3 shall account for expenditures authorized by the orders on a  
4 cash rather than an accrual basis. For purposes of this  
5 requirement an "accrual basis" assumes that the total cost of  
6 the project is expended in the fiscal year in which the order  
7 is entered, while a "cash basis" allocates the cost of the  
8 project among fiscal years as expenditures are actually made.  
9 To meet the requirements of this subsection, the Illinois  
10 Commerce Commission shall develop annual and 5-year project  
11 plans of rail crossing capital improvements that will be paid  
12 for with moneys from the Grade Crossing Protection Fund. The  
13 annual project plan shall identify projects for the succeeding  
14 fiscal year and the 5-year project plan shall identify  
15 projects for the 5 directly succeeding fiscal years. The  
16 Commission shall submit the annual and 5-year project plans  
17 for this Fund to the Governor, the President of the Senate, the  
18 Senate Minority Leader, the Speaker of the House of  
19 Representatives, and the Minority Leader of the House of  
20 Representatives on the first Wednesday in April of each year;

21 (d) of the amount remaining after allocations provided for  
22 in subsections (a), (a-1), (b)1 and (c), a sufficient amount  
23 shall be reserved to pay all of the following:

24 (1) the costs of the Department of Revenue in  
25 administering this Act;

26 (2) the costs of the Department of Transportation in

1 performing its duties imposed by the Illinois Highway Code  
2 for supervising the use of motor fuel tax funds  
3 apportioned to municipalities, counties and road  
4 districts;

5 (3) refunds provided for in Section 13, refunds for  
6 overpayment of decal fees paid under Section 13a.4 of this  
7 Act, and refunds provided for under the terms of the  
8 International Fuel Tax Agreement referenced in Section  
9 14a;

10 (4) from October 1, 1985 until June 30, 1994, the  
11 administration of the Vehicle Emissions Inspection Law,  
12 which amount shall be certified monthly by the  
13 Environmental Protection Agency to the State Comptroller  
14 and shall promptly be transferred by the State Comptroller  
15 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
16 Inspection Fund, and for the period July 1, 1994 through  
17 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
18 the period July 1, 2000 through June 30, 2003, one-twelfth  
19 of \$30,000,000 each month, and \$15,000,000 on July 1,  
20 2003, and \$15,000,000 on January 1, 2004, and \$15,000,000  
21 on each July 1 and October 1, or as soon thereafter as may  
22 be practical, during the period July 1, 2004 through June  
23 30, 2012, and \$30,000,000 on June 1, 2013, or as soon  
24 thereafter as may be practical, and \$15,000,000 on July 1  
25 and October 1, or as soon thereafter as may be practical,  
26 during the period of July 1, 2013 through June 30, 2015,

1 for the administration of the Vehicle Emissions Inspection  
2 Law of 2005, to be transferred by the State Comptroller  
3 and Treasurer from the Motor Fuel Tax Fund into the  
4 Vehicle Inspection Fund;

5 (4.5) beginning on July 1, 2019, the costs of the  
6 Environmental Protection Agency for the administration of  
7 the Vehicle Emissions Inspection Law of 2005 shall be  
8 paid, subject to appropriation, from the Motor Fuel Tax  
9 Fund into the Vehicle Inspection Fund; beginning in 2019,  
10 no later than December 31 of each year, or as soon  
11 thereafter as practical, the State Comptroller shall  
12 direct and the State Treasurer shall transfer from the  
13 Vehicle Inspection Fund to the Motor Fuel Tax Fund any  
14 balance remaining in the Vehicle Inspection Fund in excess  
15 of \$2,000,000;

16 (5) amounts ordered paid by the Court of Claims; and

17 (6) payment of motor fuel use taxes due to member  
18 jurisdictions under the terms of the International Fuel  
19 Tax Agreement. The Department shall certify these amounts  
20 to the Comptroller by the 15th day of each month; the  
21 Comptroller shall cause orders to be drawn for such  
22 amounts, and the Treasurer shall administer those amounts  
23 on or before the last day of each month;

24 (e) after allocations for the purposes set forth in  
25 subsections (a), (a-1), (b), (c), and (d), the remaining  
26 amount shall be apportioned as follows:

1           (1) Until January 1, 2000, 58.4%, and beginning  
2 January 1, 2000, 45.6% shall be deposited as follows:

3           (A) 37% into the State Construction Account Fund,  
4 and

5           (B) 63% into the Road Fund, \$1,250,000 of which  
6 shall be reserved each month for the Department of  
7 Transportation to be used in accordance with the  
8 provisions of Sections 6-901 through 6-906 of the  
9 Illinois Highway Code;

10          (2) Until January 1, 2000, 41.6%, and beginning  
11 January 1, 2000, 54.4% shall be transferred to the  
12 Department of Transportation to be distributed as follows:

13           (A) 49.10% to the municipalities of the State,

14           (B) 16.74% to the counties of the State having  
15 1,000,000 or more inhabitants,

16           (C) 18.27% to the counties of the State having  
17 less than 1,000,000 inhabitants,

18           (D) 15.89% to the road districts of the State.

19          If a township is dissolved under Article 24 of the  
20 Township Code, McHenry County shall receive any moneys  
21 that would have been distributed to the township under  
22 this subparagraph, except that a municipality that assumes  
23 the powers and responsibilities of a road district under  
24 paragraph (6) of Section 24-35 of the Township Code shall  
25 receive any moneys that would have been distributed to the  
26 township in a percent equal to the area of the dissolved

1 road district or portion of the dissolved road district  
2 over which the municipality assumed the powers and  
3 responsibilities compared to the total area of the  
4 dissolved township. The moneys received under this  
5 subparagraph shall be used in the geographic area of the  
6 dissolved township. If a township is reconstituted as  
7 provided under Section 24-45 of the Township Code, McHenry  
8 County or a municipality shall no longer be distributed  
9 moneys under this subparagraph.

10 As soon as may be after the first day of each month, the  
11 Department of Transportation shall allot to each municipality  
12 its share of the amount apportioned to the several  
13 municipalities which shall be in proportion to the population  
14 of such municipalities as determined by the last preceding  
15 municipal census if conducted by the Federal Government or  
16 Federal census. If territory is annexed to any municipality  
17 subsequent to the time of the last preceding census the  
18 corporate authorities of such municipality may cause a census  
19 to be taken of such annexed territory and the population so  
20 ascertained for such territory shall be added to the  
21 population of the municipality as determined by the last  
22 preceding census for the purpose of determining the allotment  
23 for that municipality. If the population of any municipality  
24 was not determined by the last Federal census preceding any  
25 apportionment, the apportionment to such municipality shall be  
26 in accordance with any census taken by such municipality. Any

1 municipal census used in accordance with this Section shall be  
2 certified to the Department of Transportation by the clerk of  
3 such municipality, and the accuracy thereof shall be subject  
4 to approval of the Department which may make such corrections  
5 as it ascertains to be necessary.

6 As soon as may be after the first day of each month, the  
7 Department of Transportation shall allot to each county its  
8 share of the amount apportioned to the several counties of the  
9 State as herein provided. Each allotment to the several  
10 counties having less than 1,000,000 inhabitants shall be in  
11 proportion to the amount of motor vehicle license fees  
12 received from the residents of such counties, respectively,  
13 during the preceding calendar year. The Secretary of State  
14 shall, on or before April 15 of each year, transmit to the  
15 Department of Transportation a full and complete report  
16 showing the amount of motor vehicle license fees received from  
17 the residents of each county, respectively, during the  
18 preceding calendar year. The Department of Transportation  
19 shall, each month, use for allotment purposes the last such  
20 report received from the Secretary of State.

21 As soon as may be after the first day of each month, the  
22 Department of Transportation shall allot to the several  
23 counties their share of the amount apportioned for the use of  
24 road districts. The allotment shall be apportioned among the  
25 several counties in the State in the proportion which the  
26 total mileage of township or district roads in the respective

1 counties bears to the total mileage of all township and  
2 district roads in the State. Funds allotted to the respective  
3 counties for the use of road districts therein shall be  
4 allocated to the several road districts in the county in the  
5 proportion which the total mileage of such township or  
6 district roads in the respective road districts bears to the  
7 total mileage of all such township or district roads in the  
8 county. After July 1 of any year prior to 2011, no allocation  
9 shall be made for any road district unless it levied a tax for  
10 road and bridge purposes in an amount which will require the  
11 extension of such tax against the taxable property in any such  
12 road district at a rate of not less than either .08% of the  
13 value thereof, based upon the assessment for the year  
14 immediately prior to the year in which such tax was levied and  
15 as equalized by the Department of Revenue or, in DuPage  
16 County, an amount equal to or greater than \$12,000 per mile of  
17 road under the jurisdiction of the road district, whichever is  
18 less. Beginning July 1, 2011 and each July 1 thereafter, an  
19 allocation shall be made for any road district if it levied a  
20 tax for road and bridge purposes. In counties other than  
21 DuPage County, if the amount of the tax levy requires the  
22 extension of the tax against the taxable property in the road  
23 district at a rate that is less than 0.08% of the value  
24 thereof, based upon the assessment for the year immediately  
25 prior to the year in which the tax was levied and as equalized  
26 by the Department of Revenue, then the amount of the

1 allocation for that road district shall be a percentage of the  
2 maximum allocation equal to the percentage obtained by  
3 dividing the rate extended by the district by 0.08%. In DuPage  
4 County, if the amount of the tax levy requires the extension of  
5 the tax against the taxable property in the road district at a  
6 rate that is less than the lesser of (i) 0.08% of the value of  
7 the taxable property in the road district, based upon the  
8 assessment for the year immediately prior to the year in which  
9 such tax was levied and as equalized by the Department of  
10 Revenue, or (ii) a rate that will yield an amount equal to  
11 \$12,000 per mile of road under the jurisdiction of the road  
12 district, then the amount of the allocation for the road  
13 district shall be a percentage of the maximum allocation equal  
14 to the percentage obtained by dividing the rate extended by  
15 the district by the lesser of (i) 0.08% or (ii) the rate that  
16 will yield an amount equal to \$12,000 per mile of road under  
17 the jurisdiction of the road district.

18 Prior to 2011, if any road district has levied a special  
19 tax for road purposes pursuant to Sections 6-601, 6-602, and  
20 6-603 of the Illinois Highway Code, and such tax was levied in  
21 an amount which would require extension at a rate of not less  
22 than .08% of the value of the taxable property thereof, as  
23 equalized or assessed by the Department of Revenue, or, in  
24 DuPage County, an amount equal to or greater than \$12,000 per  
25 mile of road under the jurisdiction of the road district,  
26 whichever is less, such levy shall, however, be deemed a

1 proper compliance with this Section and shall qualify such  
2 road district for an allotment under this Section. Beginning  
3 in 2011 and thereafter, if any road district has levied a  
4 special tax for road purposes under Sections 6-601, 6-602, and  
5 6-603 of the Illinois Highway Code, and the tax was levied in  
6 an amount that would require extension at a rate of not less  
7 than 0.08% of the value of the taxable property of that road  
8 district, as equalized or assessed by the Department of  
9 Revenue or, in DuPage County, an amount equal to or greater  
10 than \$12,000 per mile of road under the jurisdiction of the  
11 road district, whichever is less, that levy shall be deemed a  
12 proper compliance with this Section and shall qualify such  
13 road district for a full, rather than proportionate, allotment  
14 under this Section. If the levy for the special tax is less  
15 than 0.08% of the value of the taxable property, or, in DuPage  
16 County if the levy for the special tax is less than the lesser  
17 of (i) 0.08% or (ii) \$12,000 per mile of road under the  
18 jurisdiction of the road district, and if the levy for the  
19 special tax is more than any other levy for road and bridge  
20 purposes, then the levy for the special tax qualifies the road  
21 district for a proportionate, rather than full, allotment  
22 under this Section. If the levy for the special tax is equal to  
23 or less than any other levy for road and bridge purposes, then  
24 any allotment under this Section shall be determined by the  
25 other levy for road and bridge purposes.

26 Prior to 2011, if a township has transferred to the road

1 and bridge fund money which, when added to the amount of any  
2 tax levy of the road district would be the equivalent of a tax  
3 levy requiring extension at a rate of at least .08%, or, in  
4 DuPage County, an amount equal to or greater than \$12,000 per  
5 mile of road under the jurisdiction of the road district,  
6 whichever is less, such transfer, together with any such tax  
7 levy, shall be deemed a proper compliance with this Section  
8 and shall qualify the road district for an allotment under  
9 this Section.

10 In counties in which a property tax extension limitation  
11 is imposed under the Property Tax Extension Limitation Law,  
12 road districts may retain their entitlement to a motor fuel  
13 tax allotment or, beginning in 2011, their entitlement to a  
14 full allotment if, at the time the property tax extension  
15 limitation was imposed, the road district was levying a road  
16 and bridge tax at a rate sufficient to entitle it to a motor  
17 fuel tax allotment and continues to levy the maximum allowable  
18 amount after the imposition of the property tax extension  
19 limitation. Any road district may in all circumstances retain  
20 its entitlement to a motor fuel tax allotment or, beginning in  
21 2011, its entitlement to a full allotment if it levied a road  
22 and bridge tax in an amount that will require the extension of  
23 the tax against the taxable property in the road district at a  
24 rate of not less than 0.08% of the assessed value of the  
25 property, based upon the assessment for the year immediately  
26 preceding the year in which the tax was levied and as equalized

1 by the Department of Revenue or, in DuPage County, an amount  
2 equal to or greater than \$12,000 per mile of road under the  
3 jurisdiction of the road district, whichever is less.

4 As used in this Section, the term "road district" means  
5 any road district, including a county unit road district,  
6 provided for by the Illinois Highway Code; and the term  
7 "township or district road" means any road in the township and  
8 district road system as defined in the Illinois Highway Code.  
9 For the purposes of this Section, "township or district road"  
10 also includes such roads as are maintained by park districts,  
11 forest preserve districts and conservation districts. The  
12 Department of Transportation shall determine the mileage of  
13 all township and district roads for the purposes of making  
14 allotments and allocations of motor fuel tax funds for use in  
15 road districts.

16 Payment of motor fuel tax moneys to municipalities and  
17 counties shall be made as soon as possible after the allotment  
18 is made. The treasurer of the municipality or county may  
19 invest these funds until their use is required and the  
20 interest earned by these investments shall be limited to the  
21 same uses as the principal funds.

22 (Source: P.A. 101-32, eff. 6-28-19; 101-230, eff. 8-9-19;  
23 101-493, eff. 8-23-19; revised 9-24-19.)

24 Section 10. The Illinois Vehicle Code is amended by  
25 changing Section 18c-7401 as follows:

1           (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)  
2           Sec. 18c-7401. Safety Requirements for Track, Facilities,  
3 and Equipment.

4           (1) General Requirements. Each rail carrier shall,  
5 consistent with rules, orders, and regulations of the Federal  
6 Railroad Administration, construct, maintain, and operate all  
7 of its equipment, track, and other property in this State in  
8 such a manner as to pose no undue risk to its employees or the  
9 person or property of any member of the public.

10          (2) Adoption of Federal Standards. The track safety  
11 standards and accident/incident standards promulgated by the  
12 Federal Railroad Administration shall be safety standards of  
13 the Commission. The Commission may, in addition, adopt by  
14 reference in its regulations other federal railroad safety  
15 standards, whether contained in federal statutes or in  
16 regulations adopted pursuant to such statutes.

17          (3) Railroad Crossings. No public road, highway, or street  
18 shall hereafter be constructed across the track of any rail  
19 carrier at grade, nor shall the track of any rail carrier be  
20 constructed across a public road, highway or street at grade,  
21 without having first secured the permission of the Commission;  
22 provided, that this Section shall not apply to the replacement  
23 of lawfully existing roads, highways, and tracks. No public  
24 pedestrian bridge or subway shall be constructed across the  
25 track of any rail carrier without having first secured the

1 permission of the Commission. The Commission shall have the  
2 right to refuse its permission or to grant it upon such terms  
3 and conditions as it may prescribe. The Commission shall have  
4 power to determine and prescribe the manner, including the  
5 particular point of crossing, and the terms of installation,  
6 operation, maintenance, use, and protection of each such  
7 crossing.

8 The Commission shall also have power, after a hearing, to  
9 require major alteration of or to abolish any crossing,  
10 heretofore or hereafter established, when in its opinion, the  
11 public safety requires such alteration or abolition, and,  
12 except in cities, villages, and incorporated towns of  
13 1,000,000 or more inhabitants, to vacate and close that part  
14 of the highway on such crossing altered or abolished and cause  
15 barricades to be erected across such highway in such manner as  
16 to prevent the use of such crossing as a highway, when, in the  
17 opinion of the Commission, the public convenience served by  
18 the crossing in question is not such as to justify the further  
19 retention thereof; or to require a separation of grades, at  
20 railroad-highway grade crossings; or to require a separation  
21 of grades at any proposed crossing where a proposed public  
22 highway may cross the tracks of any rail carrier or carriers;  
23 and to prescribe, after a hearing of the parties, the terms  
24 upon which such separations shall be made and the proportion  
25 in which the expense of the alteration or abolition of such  
26 crossings or the separation of such grades, having regard to

1 the benefits, if any, accruing to the rail carrier or any party  
2 in interest, shall be divided between the rail carrier or  
3 carriers affected, or between such carrier or carriers and the  
4 State, county, municipality or other public authority in  
5 interest. However, a public hearing by the Commission to  
6 abolish a crossing shall not be required when the public  
7 highway authority in interest vacates the highway. In such  
8 instance the rail carrier, following notification to the  
9 Commission and the highway authority, shall remove any grade  
10 crossing warning devices and the grade crossing surface.

11 The Commission shall also have power by its order to  
12 require the reconstruction, minor alteration, minor  
13 relocation, or improvement of any crossing (including the  
14 necessary highway approaches thereto) of any railroad across  
15 any highway or public road, pedestrian bridge, or pedestrian  
16 subway, whether such crossing be at grade or by overhead  
17 structure or by subway, whenever the Commission finds after a  
18 hearing or without a hearing as otherwise provided in this  
19 paragraph that such reconstruction, alteration, relocation, or  
20 improvement is necessary to preserve or promote the safety or  
21 convenience of the public or of the employees or passengers of  
22 such rail carrier or carriers. By its original order or  
23 supplemental orders in such case, the Commission may direct  
24 such reconstruction, alteration, relocation, or improvement to  
25 be made in such manner and upon such terms and conditions as  
26 may be reasonable and necessary and may apportion the cost of

1 such reconstruction, alteration, relocation, or improvement  
2 and the subsequent maintenance thereof, having regard to the  
3 benefits, if any, accruing to the railroad or any party in  
4 interest, between the rail carrier or carriers and public  
5 utilities affected, or between such carrier or carriers and  
6 public utilities and the State, county, municipality or other  
7 public authority in interest. The cost to be so apportioned  
8 shall include the cost of changes or alterations in the  
9 equipment of public utilities affected as well as the cost of  
10 the relocation, diversion or establishment of any public  
11 highway, made necessary by such reconstruction, alteration,  
12 relocation, or improvement of said crossing. A hearing shall  
13 not be required in those instances when the Commission enters  
14 an order confirming a written stipulation in which the  
15 Commission, the public highway authority or other public  
16 authority in interest, the rail carrier or carriers affected,  
17 and in instances involving the use of the Grade Crossing  
18 Protection Fund, the Illinois Department of Transportation,  
19 agree on the reconstruction, alteration, relocation, or  
20 improvement and the subsequent maintenance thereof and the  
21 division of costs of such changes of any grade crossing  
22 (including the necessary highway approaches thereto) of any  
23 railroad across any highway, pedestrian bridge, or pedestrian  
24 subway.

25 The Commission shall also have power to enter into  
26 stipulated agreements with a rail carrier or rail carriers or

1 public authorities to fund, provide, install, and maintain  
2 safety treatments to deter trespassing on railroad property in  
3 accordance with paragraph (1) of Section 18c-7503 at locations  
4 approved by such rail carrier or rail carriers following a  
5 diagnostic evaluation between the Commission and the rail  
6 carrier or rail carriers, including any public authority in  
7 interest or the Federal Railroad Administration, and to order  
8 the allocation of the cost of those treatments and their  
9 installation and maintenance from the Grade Crossing  
10 Protection Fund. Safety treatments approved under this  
11 paragraph by the Commission shall be deemed adequate and  
12 appropriate.

13 Every rail carrier operating in the State of Illinois  
14 shall construct and maintain every highway crossing over its  
15 tracks within the State so that the roadway at the  
16 intersection shall be as flush with the rails as superelevated  
17 curves will allow, and, unless otherwise ordered by the  
18 Commission, shall construct and maintain the approaches  
19 thereto at a grade of not more than 5% within the right of way  
20 for a distance of not less the 6 feet on each side of the  
21 centerline of such tracks; provided, that the grades at the  
22 approaches may be maintained in excess of 5% only when  
23 authorized by the Commission.

24 Every rail carrier operating within this State shall  
25 remove from its right of way at all railroad-highway grade  
26 crossings within the State, such brush, shrubbery, and trees

1 as is reasonably practical for a distance of not less than 500  
2 feet in either direction from each grade crossing. The  
3 Commission shall have power, upon its own motion, or upon  
4 complaint, and after having made proper investigation, to  
5 require the installation of adequate and appropriate luminous  
6 reflective warning signs, luminous flashing signals, crossing  
7 gates illuminated at night, or other protective devices in  
8 order to promote and safeguard the health and safety of the  
9 public. Luminous flashing signal or crossing gate devices  
10 installed at grade crossings, which have been approved by the  
11 Commission, shall be deemed adequate and appropriate. The  
12 Commission shall have authority to determine the number, type,  
13 and location of such signs, signals, gates, or other  
14 protective devices which, however, shall conform as near as  
15 may be with generally recognized national standards, and the  
16 Commission shall have authority to prescribe the division of  
17 the cost of the installation and subsequent maintenance of  
18 such signs, signals, gates, or other protective devices  
19 between the rail carrier or carriers, the public highway  
20 authority or other public authority in interest, and in  
21 instances involving the use of the Grade Crossing Protection  
22 Fund, the Illinois Department of Transportation. Except where  
23 train crews provide flagging of the crossing to road users,  
24 yield signs shall be installed at all highway intersections  
25 with every grade crossing in this State that is not equipped  
26 with automatic warning devices, such as luminous flashing

1 signals or crossing gate devices. A stop sign may be used in  
2 lieu of the yield sign when an engineering study conducted in  
3 cooperation with the highway authority and the Illinois  
4 Department of Transportation has determined that a stop sign  
5 is warranted. If the Commission has ordered the installation  
6 of luminous flashing signal or crossing gate devices at a  
7 grade crossing not equipped with active warning devices, the  
8 Commission shall order the installation of temporary stop  
9 signs at the highway intersection with the grade crossing  
10 unless an engineering study has determined that a stop sign is  
11 not appropriate. If a stop sign is not appropriate, the  
12 Commission may order the installation of other appropriate  
13 supplemental signing as determined by an engineering study.  
14 The temporary signs shall remain in place until the luminous  
15 flashing signal or crossing gate devices have been installed.  
16 The rail carrier is responsible for the installation and  
17 subsequent maintenance of any required signs. The permanent  
18 signs shall be in place by July 1, 2011.

19 No railroad may change or modify the warning device system  
20 at a railroad-highway grade crossing, including warning  
21 systems interconnected with highway traffic control signals,  
22 without having first received the approval of the Commission.  
23 The Commission shall have the further power, upon application,  
24 upon its own motion, or upon complaint and after having made  
25 proper investigation, to require the interconnection of grade  
26 crossing warning devices with traffic control signals at

1 highway intersections located at or near railroad crossings  
2 within the distances described by the State Manual on Uniform  
3 Traffic Control Devices adopted pursuant to Section 11-301 of  
4 this Code. In addition, State and local authorities may not  
5 install, remove, modernize, or otherwise modify traffic  
6 control signals at a highway intersection that is  
7 interconnected or proposed to be interconnected with grade  
8 crossing warning devices when the change affects the number,  
9 type, or location of traffic control devices on the track  
10 approach leg or legs of the intersection or the timing of the  
11 railroad preemption sequence of operation until the Commission  
12 has approved the installation, removal, modernization, or  
13 modification. Commission approval shall be limited to  
14 consideration of issues directly affecting the public safety  
15 at the railroad-highway grade crossing. The electrical circuit  
16 devices, alternate warning devices, and preemption sequences  
17 shall conform as nearly as possible, considering the  
18 particular characteristics of the crossing and intersection  
19 area, to the State manual adopted by the Illinois Department  
20 of Transportation pursuant to Section 11-301 of this Code and  
21 such federal standards as are made applicable by subsection  
22 (2) of this Section. In order to carry out this authority, the  
23 Commission shall have the authority to determine the number,  
24 type, and location of traffic control devices on the track  
25 approach leg or legs of the intersection and the timing of the  
26 railroad preemption sequence of operation. The Commission

1 shall prescribe the division of costs for installation and  
2 maintenance of all devices required by this paragraph between  
3 the railroad or railroads and the highway authority in  
4 interest and in instances involving the use of the Grade  
5 Crossing Protection Fund or a State highway, the Illinois  
6 Department of Transportation.

7 Any person who unlawfully or maliciously removes, throws  
8 down, damages or defaces any sign, signal, gate, or other  
9 protective device, located at or near any public grade  
10 crossing, shall be guilty of a petty offense and fined not less  
11 than \$50 nor more than \$200 for each offense. In addition to  
12 fines levied under the provisions of this Section a person  
13 adjudged guilty hereunder may also be directed to make  
14 restitution for the costs of repair or replacement, or both,  
15 necessitated by his misconduct.

16 It is the public policy of the State of Illinois to enhance  
17 public safety by establishing safe grade crossings. In order  
18 to implement this policy, the Illinois Commerce Commission is  
19 directed to conduct public hearings and to adopt specific  
20 criteria by July 1, 1994, that shall be adhered to by the  
21 Illinois Commerce Commission in determining if a grade  
22 crossing should be opened or abolished. The following factors  
23 shall be considered by the Illinois Commerce Commission in  
24 developing the specific criteria for opening and abolishing  
25 grade crossings:

26 (a) timetable speed of passenger trains;

- 1 (b) distance to an alternate crossing;
- 2 (c) accident history for the last 5 years;
- 3 (d) number of vehicular traffic and posted speed  
4 limits;
- 5 (e) number of freight trains and their timetable  
6 speeds;
- 7 (f) the type of warning device present at the grade  
8 crossing;
- 9 (g) alignments of the roadway and railroad, and the  
10 angle of intersection of those alignments;
- 11 (h) use of the grade crossing by trucks carrying  
12 hazardous materials, vehicles carrying passengers for  
13 hire, and school buses; and
- 14 (i) use of the grade crossing by emergency vehicles.

15 The Illinois Commerce Commission, upon petition to open or  
16 abolish a grade crossing, shall enter an order opening or  
17 abolishing the crossing if it meets the specific criteria  
18 adopted by the Commission.

19 Except as otherwise provided in this subsection (3), in no  
20 instance shall a grade crossing be permanently closed without  
21 public hearing first being held and notice of such hearing  
22 being published in an area newspaper of local general  
23 circulation.

24 (4) Freight Trains; Radio Communications. The Commission  
25 shall after hearing and order require that every main line  
26 railroad freight train operating on main tracks outside of

1 yard limits within this State shall be equipped with a radio  
2 communication system. The Commission after notice and hearing  
3 may grant exemptions from the requirements of this Section as  
4 to secondary and branch lines.

5 (5) Railroad Bridges and Trestles; Walkway and Handrail.  
6 In cases in which the Commission finds the same to be practical  
7 and necessary for safety of railroad employees, bridges and  
8 trestles, over and upon which railroad trains are operated,  
9 shall include as a part thereof, a safe and suitable walkway  
10 and handrail on one side only of such bridge or trestle, and  
11 such handrail shall be located at the outer edge of the walkway  
12 and shall provide a clearance of not less than 8 feet, 6  
13 inches, from the center line of the nearest track, measured at  
14 right angles thereto.

15 (6) Packages Containing Articles for First Aid to Injured  
16 on Trains.

17 (a) All rail carriers shall provide a first aid kit  
18 that contains, at a minimum, those articles prescribed by  
19 the Commission, on each train or engine, for first aid to  
20 persons who may be injured in the course of the operation  
21 of such trains.

22 (b) A vehicle, excluding a taxi cab used in an  
23 emergency situation, operated by a contract carrier  
24 transporting railroad employees in the course of their  
25 employment shall be equipped with a readily available  
26 first aid kit that contains, as a minimum, the same

1 articles that are required on each train or engine.

2 (7) Abandoned Bridges, Crossings, and Other Rail Plant.  
3 The Commission shall have authority, after notice and hearing,  
4 to order:

5 (a) the removal of any abandoned railroad tracks from  
6 roads, streets or other thoroughfares in this State; and

7 (b) the removal of abandoned overhead railroad  
8 structures crossing highways, waterways, or railroads.

9 The Commission may equitably apportion the cost of such  
10 actions between the rail carrier or carriers, public  
11 utilities, and the State, county, municipality, township, road  
12 district, or other public authority in interest.

13 (8) Railroad-Highway Bridge Clearance. A vertical  
14 clearance of not less than 23 feet above the top of rail shall  
15 be provided for all new or reconstructed highway bridges  
16 constructed over a railroad track. The Commission may permit a  
17 lesser clearance if it determines that the 23-foot clearance  
18 standard cannot be justified based on engineering,  
19 operational, and economic conditions.

20 (9) Right of Access To Railroad Property.

21 (a) A community antenna television company franchised  
22 by a municipality or county pursuant to the Illinois  
23 Municipal Code or the Counties Code, respectively, shall  
24 not enter upon any real estate or rights-of-way in the  
25 possession or control of a railroad subject to the  
26 jurisdiction of the Illinois Commerce Commission unless

1 the community antenna television company first complies  
2 with the applicable provisions of subparagraph (f) of  
3 Section 11-42-11.1 of the Illinois Municipal Code or  
4 subparagraph (f) of Section 5-1096 of the Counties Code.

5 (b) Notwithstanding any provision of law to the  
6 contrary, this subsection (9) applies to all entries of  
7 railroad rights-of-way involving a railroad subject to the  
8 jurisdiction of the Illinois Commerce Commission by a  
9 community antenna television company and shall govern in  
10 the event of any conflict with any other provision of law.

11 (c) This subsection (9) applies to any entry upon any  
12 real estate or right-of-way in the possession or control  
13 of a railroad subject to the jurisdiction of the Illinois  
14 Commerce Commission for the purpose of or in connection  
15 with the construction, or installation of a community  
16 antenna television company's system or facilities  
17 commenced or renewed on or after August 22, 2017 (the  
18 effective date of Public Act 100-251).

19 (d) Nothing in Public Act 100-251 shall be construed  
20 to prevent a railroad from negotiating other terms and  
21 conditions or the resolution of any dispute in relation to  
22 an entry upon or right of access as set forth in this  
23 subsection (9).

24 (e) For purposes of this subsection (9):

25 "Broadband service", "cable operator", and "holder"  
26 have the meanings given to those terms under Section

1 21-201 of the Public Utilities Act.

2 "Community antenna television company" includes, in  
3 the case of real estate or rights-of-way in possession of  
4 or in control of a railroad, a holder, cable operator, or  
5 broadband service provider.

6 (f) Beginning on August 22, 2017 (the effective date  
7 of Public Act 100-251), the Transportation Division of the  
8 Illinois Commerce Commission shall include in its annual  
9 Crossing Safety Improvement Program report a brief  
10 description of the number of cases decided by the Illinois  
11 Commerce Commission and the number of cases that remain  
12 pending before the Illinois Commerce Commission under this  
13 subsection (9) for the period covered by the report.

14 (Source: P.A. 100-251, eff. 8-22-17; 101-81, eff. 7-12-19.)".