

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Section 2-202 as follows:

6 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

7 Sec. 2-202. Policy; Public Utility Fund; tax.

8 (a) It is declared to be the public policy of this State  
9 that in order to maintain and foster the effective regulation  
10 of public utilities under this Act in the interests of the  
11 People of the State of Illinois and the public utilities as  
12 well, the public utilities subject to regulation under this Act  
13 and which enjoy the privilege of operating as public utilities  
14 in this State, shall bear the expense of administering this Act  
15 by means of a tax on such privilege measured by the annual  
16 gross revenue of such public utilities in the manner provided  
17 in this Section. For purposes of this Section, "expense of  
18 administering this Act" includes any costs incident to studies,  
19 whether made by the Commission or under contract entered into  
20 by the Commission, concerning environmental pollution problems  
21 caused or contributed to by public utilities and the means for  
22 eliminating or abating those problems. Such proceeds shall be  
23 deposited in the Public Utility Fund in the State treasury.

1           (b) All of the ordinary and contingent expenses of the  
2 Commission incident to the administration of this Act shall be  
3 paid out of the Public Utility Fund except the compensation of  
4 the members of the Commission which shall be paid from the  
5 General Revenue Fund. Notwithstanding other provisions of this  
6 Act to the contrary, the ordinary and contingent expenses of  
7 the Commission incident to the administration of the Illinois  
8 Commercial Transportation Law may be paid from appropriations  
9 from the Public Utility Fund through the end of fiscal year  
10 1986.

11           (c) A tax is imposed upon each public utility subject to  
12 the provisions of this Act equal to .08% of its gross revenue  
13 for each calendar year commencing with the calendar year  
14 beginning January 1, 1982, except that the Commission may, by  
15 rule, establish a different rate no greater than 0.1%. For  
16 purposes of this Section, "gross revenue" shall not include  
17 revenue from the production, transmission, distribution, sale,  
18 delivery, or furnishing of electricity. "Gross revenue" shall  
19 not include amounts paid by telecommunications retailers under  
20 the Telecommunications Infrastructure Maintenance Fee Act.

21           (d) Annual gross revenue returns shall be filed in  
22 accordance with paragraph (1) or (2) of this subsection (d).

23           (1) Except as provided in paragraph (2) of this  
24 subsection (d), on or before January 10 of each year each  
25 public utility subject to the provisions of this Act shall  
26 file with the Commission an estimated annual gross revenue

1 return containing an estimate of the amount of its gross  
2 revenue for the calendar year commencing January 1 of said  
3 year and a statement of the amount of tax due for said  
4 calendar year on the basis of that estimate. Public  
5 utilities may also file revised returns containing updated  
6 estimates and updated amounts of tax due during the  
7 calendar year. These revised returns, if filed, shall form  
8 the basis for quarterly payments due during the remainder  
9 of the calendar year. In addition, on or before March 31 of  
10 each year, each public utility shall file an amended return  
11 showing the actual amount of gross revenues shown by the  
12 company's books and records as of December 31 of the  
13 previous year. Forms and instructions for such estimated,  
14 revised, and amended returns shall be devised and supplied  
15 by the Commission.

16 (2) Beginning with returns due after January 1, 2002,  
17 the requirements of paragraph (1) of this subsection (d)  
18 shall not apply to any public utility in any calendar year  
19 for which the total tax the public utility owes under this  
20 Section is less than \$10,000. For such public utilities  
21 with respect to such years, the public utility shall file  
22 with the Commission, on or before March 31 of the following  
23 year, an annual gross revenue return for the year and a  
24 statement of the amount of tax due for that year on the  
25 basis of such a return. Forms and instructions for such  
26 returns and corrected returns shall be devised and supplied

1 by the Commission.

2 (e) All returns submitted to the Commission by a public  
3 utility as provided in this subsection (e) or subsection (d) of  
4 this Section shall contain or be verified by a written  
5 declaration by an appropriate officer of the public utility  
6 that the return is made under the penalties of perjury. The  
7 Commission may audit each such return submitted and may, under  
8 the provisions of Section 5-101 of this Act, take such measures  
9 as are necessary to ascertain the correctness of the returns  
10 submitted. The Commission has the power to direct the filing of  
11 a corrected return by any utility which has filed an incorrect  
12 return and to direct the filing of a return by any utility  
13 which has failed to submit a return. A taxpayer's signing a  
14 fraudulent return under this Section is perjury, as defined in  
15 Section 32-2 of the Criminal Code of 1961.

16 (f) (1) For all public utilities subject to paragraph (1)  
17 of subsection (d), at least one quarter of the annual amount of  
18 tax due under subsection (c) shall be paid to the Commission on  
19 or before the tenth day of January, April, July, and October of  
20 the calendar year subject to tax. In the event that an  
21 adjustment in the amount of tax due should be necessary as a  
22 result of the filing of an amended or corrected return under  
23 subsection (d) or subsection (e) of this Section, the amount of  
24 any deficiency shall be paid by the public utility together  
25 with the amended or corrected return and the amount of any  
26 excess shall, after the filing of a claim for credit by the

1 public utility, be returned to the public utility in the form  
2 of a credit memorandum in the amount of such excess or be  
3 refunded to the public utility in accordance with the  
4 provisions of subsection (k) of this Section. However, if such  
5 deficiency or excess is less than \$1, then the public utility  
6 need not pay the deficiency and may not claim a credit.

7 (2) Any public utility subject to paragraph (2) of  
8 subsection (d) shall pay the amount of tax due under subsection  
9 (c) on or before March 31 next following the end of the  
10 calendar year subject to tax. In the event that an adjustment  
11 in the amount of tax due should be necessary as a result of the  
12 filing of a corrected return under subsection (e), the amount  
13 of any deficiency shall be paid by the public utility at the  
14 time the corrected return is filed. Any excess tax payment by  
15 the public utility shall be returned to it after the filing of  
16 a claim for credit, in the form of a credit memorandum in the  
17 amount of the excess. However, if such deficiency or excess is  
18 less than \$1, the public utility need not pay the deficiency  
19 and may not claim a credit.

20 (g) Each installment or required payment of the tax imposed  
21 by subsection (c) becomes delinquent at midnight of the date  
22 that it is due. Failure to make a payment as required by this  
23 Section shall result in the imposition of a late payment  
24 penalty, an underestimation penalty, or both, as provided by  
25 this subsection. The late payment penalty shall be the greater  
26 of:

1           (1) \$25 for each month or portion of a month that the  
2           installment or required payment is unpaid or

3           (2) an amount equal to the difference between what  
4           should have been paid on the due date, based upon the most  
5           recently filed estimated, annual, or amended return, and  
6           what was actually paid, times 1%, for each month or portion  
7           of a month that the installment or required payment goes  
8           unpaid. This penalty may be assessed as soon as the  
9           installment or required payment becomes delinquent.

10          The underestimation penalty shall apply to those public  
11          utilities subject to paragraph (1) of subsection (d) and shall  
12          be calculated after the filing of the amended return. It shall  
13          be imposed if the amount actually paid on any of the dates  
14          specified in subsection (f) is not equal to at least one-fourth  
15          of the amount actually due for the year, and shall equal the  
16          greater of:

17           (1) \$25 for each month or portion of a month that the  
18           amount due is unpaid or

19           (2) an amount equal to the difference between what  
20           should have been paid, based on the amended return, and  
21           what was actually paid as of the date specified in  
22           subsection (f), times a percentage equal to 1/12 of the sum  
23           of 10% and the percentage most recently established by the  
24           Commission for interest to be paid on customer deposits  
25           under 83 Ill. Adm. Code 280.70(e)(1), for each month or  
26           portion of a month that the amount due goes unpaid, except

1       that no underestimation penalty shall be assessed if the  
2       amount actually paid on or before each of the dates  
3       specified in subsection (f) was based on an estimate of  
4       gross revenues at least equal to the actual gross revenues  
5       for the previous year. The Commission may enforce the  
6       collection of any delinquent installment or payment, or  
7       portion thereof by legal action or in any other manner by  
8       which the collection of debts due the State of Illinois may  
9       be enforced under the laws of this State. The executive  
10      director or his designee may excuse the payment of an  
11      assessed penalty or a portion of an assessed penalty if he  
12      determines that enforced collection of the penalty as  
13      assessed would be unjust.

14      (h) All sums collected by the Commission under the  
15      provisions of this Section shall be paid promptly after the  
16      receipt of the same, accompanied by a detailed statement  
17      thereof, into the Public Utility Fund in the State treasury.

18      (i) During the month of October of each odd-numbered year  
19      the Commission shall:

20           (1) determine the amount of all moneys deposited in the  
21      Public Utility Fund during the preceding fiscal biennium  
22      plus the balance, if any, in that fund at the beginning of  
23      that biennium;

24           (2) determine the sum total of the following items: (A)  
25      all moneys expended or obligated against appropriations  
26      made from the Public Utility Fund during the preceding

1       fiscal biennium, plus (B) the sum of the credit memoranda  
2       then outstanding against the Public Utility Fund, if any;  
3       and

4             (3) determine the amount, if any, by which the sum  
5       determined as provided in item (1) exceeds the amount  
6       determined as provided in item (2).

7       If the amount determined as provided in item (3) of this  
8       subsection exceeds 50% of the previous fiscal year's  
9       appropriation level ~~\$5,000,000~~, the Commission shall then  
10      compute the proportionate amount, if any, which (x) the tax  
11      paid hereunder by each utility during the preceding biennium,  
12      and (y) the amount paid into the Public Utility Fund during the  
13      preceding biennium by the Department of Revenue pursuant to  
14      Sections 2-9 and 2-11 of the Electricity Excise Tax Law, bears  
15      to the difference between the amount determined as provided in  
16      item (3) of this subsection (i) and 50% of the previous fiscal  
17      year's appropriation level ~~\$5,000,000~~. The Commission shall  
18      cause the proportionate amount determined with respect to  
19      payments made under the Electricity Excise Tax Law to be  
20      transferred into the General Revenue Fund in the State  
21      Treasury, and notify each public utility that it may file  
22      during the 3 month period after the date of notification a  
23      claim for credit for the proportionate amount determined with  
24      respect to payments made hereunder by the public utility. If  
25      the proportionate amount is less than \$10, no notification will  
26      be sent by the Commission, and no right to a claim exists as to

1 that amount. Upon the filing of a claim for credit within the  
2 period provided, the Commission shall issue a credit memorandum  
3 in such amount to such public utility. Any claim for credit  
4 filed after the period provided for in this Section is void.

5 (j) Credit memoranda issued pursuant to subsection (f) and  
6 credit memoranda issued after notification and filing pursuant  
7 to subsection (i) may be applied for the 2 year period from the  
8 date of issuance, against the payment of any amount due during  
9 that period under the tax imposed by subsection (c), or,  
10 subject to reasonable rule of the Commission including  
11 requirement of notification, may be assigned to any other  
12 public utility subject to regulation under this Act. Any  
13 application of credit memoranda after the period provided for  
14 in this Section is void.

15 (k) The chairman or executive director may make refund of  
16 fees, taxes or other charges whenever he shall determine that  
17 the person or public utility will not be liable for payment of  
18 such fees, taxes or charges during the next 24 months and he  
19 determines that the issuance of a credit memorandum would be  
20 unjust.

21 (Source: P.A. 92-11, eff. 6-11-01; 92-22, eff. 6-30-01; 92-526,  
22 eff. 1-1-03.)

23 Section 10. The Illinois Vehicle Code is amended by  
24 changing Section 18c-1503 as follows:

1 (625 ILCS 5/18c-1503) (from Ch. 95 1/2, par. 18c-1503)

2 Sec. 18c-1503. Legislative Intent. It is the intent of the  
3 Legislature that the exercise of powers under Sections 18c-1501  
4 and 18c-1502 of this Chapter shall not diminish revenues to the  
5 Commission, and that any surplus or deficit of revenues in the  
6 Transportation Regulatory Fund, together with any projected  
7 changes in the cost of administering and enforcing this  
8 Chapter, should be considered in establishing or adjusting fees  
9 and taxes in succeeding years. The Commission shall administer  
10 fees and taxes under this Chapter in such a manner as to insure  
11 that any surplus generated or accumulated in the Transportation  
12 Regulatory Fund does not exceed 50% of the previous fiscal  
13 year's appropriation ~~the surplus accumulated in the Motor~~  
14 ~~Vehicle Fund during fiscal year 1984,~~ and shall adjust the  
15 level of such fees and taxes to insure compliance with this  
16 provision.

17 (Source: P.A. 84-796.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.