

1 AMENDMENT TO HOUSE BILL 843

2 AMENDMENT NO. _____. Amend House Bill 843 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Mobile Telecommunications Sourcing Conformity Act.

6 Section 5. Legislative intent. The General Assembly
7 recognizes that the Mobile Telecommunications Sourcing Act,
8 Public Law 106-252, codified at 4 U.S.C Sections 116 through
9 126, was passed by the United States Congress to establish
10 sourcing requirements for state and local taxation of mobile
11 telecommunication services. In general, the rules provide
12 that taxes on mobile telecommunications services shall be
13 collected and remitted to the jurisdiction where the
14 customer's primary use of the services occurs, irrespective
15 of where the mobile telecommunications services originate,
16 terminate, or pass through. By passing this legislation in
17 the State of Illinois, the General Assembly desires to
18 implement that Act in this State by establishing the Mobile
19 Telecommunications Sourcing Conformity Act and to inform
20 State and local government officials of its provisions as it
21 applies to the taxes of this State.

1 Section 10. Definitions. As used in this Act:

2 "Charges for mobile telecommunications services" means
3 any charge for, or associated with, the provision of
4 commercial mobile radio service, as defined in section 20.3
5 of title 47 of the Code of Federal Regulations as in effect
6 on June 1, 1999, or any charge for, or associated with, a
7 service provided as an adjunct to a commercial mobile radio
8 service, that is billed to the customer by or for the
9 customer's home service provider regardless of whether
10 individual transmissions originate or terminate within the
11 licensed service area of the home service provider.

12 "Customer" means (i) the person or entity that contracts
13 with the home service provider for mobile telecommunications
14 services or (ii) if the end user of mobile telecommunications
15 services is not the contracting party, the end user of the
16 mobile telecommunications services, but this clause (ii)
17 applies only for the purpose of determining the place of
18 primary use. "Customer" does not include (i) a reseller of
19 mobile telecommunications service or (ii) a serving carrier
20 under an arrangement to serve the customer outside the home
21 service provider's licensed service area.

22 "Designated database provider" means a corporation,
23 association, or other entity representing all the political
24 subdivisions of a State that is:

25 (i) responsible for providing an electronic
26 database prescribed in Section 25 if the State has not
27 provided such electronic database; and

28 (ii) approved by municipal and county associations
29 or leagues of the State whose responsibility it would
30 otherwise be to provide such database prescribed by
31 Sections 116 through 126 of Title 4 of the United States
32 Code.

33 "Enhanced zip code" means a United States postal zip code
34 of 9 or more digits.

1 "Home service provider" means the facilities-based
2 carrier or reseller with which the customer contracts for the
3 provision of mobile telecommunications services.

4 "Licensed service area" means the geographic area in
5 which the home service provider is authorized by law or
6 contract to provide commercial mobile radio service to the
7 customer.

8 "Mobile telecommunications service" means commercial
9 mobile radio service, as defined in section 20.3 of title 47
10 of the Code of Federal Regulations as in effect on June 1,
11 1999.

12 "Place of primary use" means the street address
13 representative of where the customer's use of the mobile
14 telecommunications service primarily occurs, which must be:

15 (i) the residential street address or the primary
16 business street address of the customer; and

17 (ii) within the licensed service area of the home
18 service provider.

19 "Prepaid telephone calling services" means the right to
20 purchase exclusively telecommunications services that must be
21 paid for in advance that enables the origination of calls
22 using an access number, authorization code, or both, whether
23 manually or electronically dialed, if the remaining amount of
24 units of service that have been prepaid is known by the
25 provider of the prepaid service on a continuous basis.

26 "Reseller" means a provider who purchases
27 telecommunications services from another telecommunications
28 service provider and then resells, uses as a component part
29 of, or integrates the purchased services into a mobile
30 telecommunications service. "Reseller" does not include a
31 serving carrier with which a home service provider arranges
32 for the services to its customers outside the home service
33 provider's licensed service area.

34 "Serving carrier" means a facilities-based carrier

1 providing mobile telecommunications service to a customer
2 outside a home service provider's or reseller's licensed
3 service area.

4 "Taxing jurisdiction" means any of the several states,
5 the District of Columbia, or any territory or possession of
6 the United States, any municipality, city, county, township,
7 parish, transportation district, or assessment jurisdiction,
8 or any other political subdivision within the territorial
9 limits of the United States with the authority to impose a
10 tax, charge, or fee.

11 Section 15. Application of this Act. The provisions of
12 this Act shall apply as follows:

13 (a) General provisions. This Act shall apply to any
14 tax, charge, or fee levied by the State or a taxing
15 jurisdiction within this State as a fixed charge for each
16 customer or measured by gross amounts charged to customers
17 for mobile telecommunications services, regardless of whether
18 the tax, charge, or fee is imposed on the vendor or customer
19 of the service and regardless of the terminology used to
20 describe the tax, charge, or fee.

21 (b) General exceptions. This Act does not apply to:

22 (1) any tax, charge, or fee levied upon or measured
23 by the net income, capital stock, net worth, or property
24 value of the provider of mobile telecommunications
25 service;

26 (2) any tax, charge, or fee that is applied to an
27 equitably apportioned amount that is not determined on a
28 transactional basis;

29 (3) any tax, charge, or fee that represents
30 compensation for a mobile telecommunications service
31 provider's use of public rights of way or other public
32 property, provided that such tax, charge, or fee is not
33 levied by the taxing jurisdiction as a fixed charge for

1 each customer or measured by gross amounts charged to
2 customers for mobile telecommunication services;

3 (4) any generally applicable business and
4 occupation tax that is imposed by a State, is applied to
5 gross receipts or gross proceeds, is the legal liability
6 of the home service provider, and that statutorily allows
7 the home service provider to elect to use the sourcing
8 method required in this Act;

9 (5) any fee related to obligations under Section
10 254 of the federal Communications Act of 1934; or

11 (6) any tax, charge, or fee imposed by the Federal
12 Communications Commission.

13 (c) Specific exceptions. The provisions of this Act:

14 (1) do not apply to the determination of the taxing
15 situs of prepaid telephone calling services;

16 (2) do not affect the taxability of either the
17 initial sale of mobile telecommunications services or
18 subsequent resale of such services, whether as sales of
19 such services alone or as a part of a bundled product, if
20 the federal Internet Tax Freedom Act would preclude a
21 taxing jurisdiction from subjecting the charges of the
22 sale of such services to a tax, charge, or fee, but this
23 Section provides no evidence of the intent of the General
24 Assembly with respect to the applicability of the federal
25 Internet Tax Freedom Act to such charges; and

26 (3) do not apply to the determination of the taxing
27 situs of air-ground radiotelephone service as defined in
28 section 22.99 of title 47 of the Code of Federal
29 Regulations as in effect on June 1, 1999.

30 (d) Date of applicability. The provisions of this Act
31 apply to customer bills issued on or after August 1, 2002.

32 Section 20. Sourcing rules for mobile telecommunications
33 services.

1 (a) Notwithstanding the law of this State or any
2 political subdivision of this State, mobile
3 telecommunications services provided in a taxing jurisdiction
4 to a customer, the charges for which are billed by or for the
5 customer's home service provider, shall be deemed to be
6 provided by the customer's home service provider.

7 (b) All charges for mobile telecommunications services
8 that are deemed to be provided by the customer's home service
9 provider under this Act are authorized to be subjected to
10 tax, charge, or fee by the taxing jurisdictions whose
11 territorial limits encompass the customer's place of primary
12 use, regardless of where the mobile telecommunication
13 services originate, terminate, or pass through, and no other
14 taxing jurisdiction may impose taxes, charges, or fees on
15 charges for such mobile telecommunications services.

16 Section 25. Provision of electronic database.

17 (a) The State may provide an electronic database to a
18 home service provider or, if the State does not provide such
19 an electronic database to home service providers, then the
20 designated database provider may provide an electronic
21 database to a home service provider.

22 (b) The electronic database, whether provided by the
23 State or the designated database provider, shall:

24 (1) be provided in a format approved by the
25 American National Standards Institute's Accredited
26 Standards Committee X12, that, allowing for de minimis
27 deviations, designates for each street address in the
28 State, including to the extent practical, any multiple
29 postal street addresses applicable to one street
30 location, the appropriate taxing jurisdictions, and the
31 appropriate code for each taxing jurisdiction, for each
32 level of taxing jurisdiction, identified by one
33 nationwide standard numeric code described in subsection

1 (c); and

2 (2) also provide the appropriate code for each
3 street address with respect to political subdivisions
4 that are not taxing jurisdictions when reasonably needed
5 to determine the proper taxing jurisdiction.

6 (c) The nationwide standard numeric codes shall contain
7 the same number of numeric digits with each digit or
8 combination of digits referring to the same level of taxing
9 jurisdiction throughout the United States using a format
10 similar to FIPS 55-3 or other appropriate standard approved
11 by the Federation of Tax Administrators and the Multistate
12 Tax Commission, or their successors. Each address shall be
13 provided in standard postal format.

14 Section 30. Notice; updates. If the State or a
15 designated database provider provides or maintains an
16 electronic database described in Section 25, then the State
17 or the electronic database provider shall provide notice of
18 the availability of the then current electronic database, and
19 any subsequent revisions thereof, by publication in the
20 manner normally employed for the publication of informational
21 tax, charge, or fee notices to taxpayers in the State.

22 Section 35. User held harmless. A home service provider
23 using the data contained in an electronic database described
24 in Section 25 shall be held harmless from any tax, charge, or
25 fee liability that otherwise would be due solely as a result
26 of any error or omission in the database provided by the
27 State or designated database provider. The home service
28 provider shall reflect changes made to the database during a
29 calendar quarter not later than 30 days after the end of the
30 calendar quarter if the State or an electronic database
31 provider issues notice of the availability of an electronic
32 database reflecting the changes under Section 30.

1 Section 40. Safe harbor.

2 (a) If neither the State nor a designated database
3 provider provides an electronic database under Section 25, a
4 home service provider shall be held harmless from any tax,
5 charge, or fee liability that otherwise would be due solely
6 as a result of an assignment of a street address to an
7 incorrect taxing jurisdiction if, subject to Section 60, the
8 home service provider employs an enhanced zip code to assign
9 each street address to a specific taxing jurisdiction for
10 each level of taxing jurisdiction and exercises due diligence
11 at each level of taxing jurisdiction to ensure that each such
12 street address is assigned to the correct taxing
13 jurisdiction. If an enhanced zip code overlaps boundaries of
14 taxing jurisdictions of the same level, the home service
15 provider must designate one specific jurisdiction within the
16 enhanced zip code for use in taxing the activity for the
17 enhanced zip code for each level of taxing jurisdiction. Any
18 enhanced zip code assignment changed in accordance with
19 Section 60 is deemed to be in compliance with this Section.

20 (b) For purposes of this Section, there is a rebuttable
21 presumption that a home service provider has exercised due
22 diligence if the home service provider demonstrates that it
23 has:

24 (1) expended reasonable resources to implement and
25 maintain an appropriately detailed electronic database of
26 street address assignments to taxing jurisdictions;

27 (2) implemented and maintained reasonable internal
28 controls to promptly correct misassignments of street
29 addresses to taxing jurisdictions; and

30 (3) used all reasonably obtainable and usable data
31 pertaining to municipal annexations, incorporations,
32 reorganizations, and any other changes in jurisdictional
33 boundaries that materially affect the accuracy of the
34 database.

1 Section 45. Termination of safe harbor. Section 40
2 applies to a home service provider that is in compliance with
3 the requirements of Section 40 until the later of:

4 (1) Eighteen months after the nationwide standard
5 numeric code described in Section 25 has been approved by the
6 Federation of Tax Administrators and the Multistate Tax
7 Commission; or

8 (2) Six months after the State or a designated database
9 provider in the State provides such database as prescribed in
10 Section 25.

11 Section 50. Home service provider required to obtain and
12 maintain customer's place of primary use. A home service
13 provider shall be responsible for obtaining and maintaining
14 the customer's place of primary use, as defined in this Act.
15 Subject to Section 60, and if the home service provider's
16 reliance on information provided by its customer is in good
17 faith, a taxing jurisdiction shall:

18 (1) allow a home service provider to rely on the
19 applicable residential or business street address supplied by
20 the home service provider's customer; and

21 (2) not hold a home service provider liable for any
22 additional taxes, charges, or fees based on a different
23 determination of the place of primary use for taxes, charges,
24 or fees that are customarily passed on to the customer as a
25 separate itemized charge.

26 Section 55. Primary place of use for service contracts
27 in effect on or before July 28, 2002. Except as provided in
28 Section 60, a taxing jurisdiction shall allow a home service
29 provider to treat the address used by the home service
30 provider for tax purposes for any customer under a service
31 contract or agreement in effect on or before July 28, 2002 as
32 that customer's place of primary use for the remaining term

1 of the service contract or agreement, excluding any extension
2 or renewal of the service contract or agreement, for purposes
3 of determining the taxing jurisdictions to which taxes,
4 charges, or fees on charges for mobile telecommunications
5 services are remitted.

6 Section 60. Determination by taxing jurisdiction or State
7 concerning place of primary use; notice to home service
8 provider. A taxing jurisdiction or the State, on behalf of
9 any taxing jurisdiction or taxing jurisdictions within this
10 State, may:

11 (a) determine that the address used for purposes of
12 determining the taxing jurisdictions to which taxes, charges,
13 or fees for mobile telecommunications services are remitted
14 does not meet the definition of place of primary use in this
15 Act and give binding notice to the home service provider to
16 change the place of primary use on a prospective basis from
17 the date of notice of determination if:

18 (1) the taxing jurisdiction obtains the consent of
19 all affected taxing jurisdictions within the State before
20 giving the notice of determination (if the taxing
21 jurisdiction making the determination is not the State);
22 and

23 (2) before the taxing jurisdiction gives the notice
24 of determination, the customer is given an opportunity to
25 demonstrate in accordance with applicable State or local
26 tax, charge, or fee administrative procedures that the
27 address is the customer's place of primary use;

28 (b) determine that the assignment of a taxing
29 jurisdiction by a home service provider under Section 40 does
30 not reflect the correct taxing jurisdiction and give binding
31 notice to the home service provider to change the assignment
32 on a prospective basis from the date of notice of
33 determination if:

1 (1) the taxing jurisdiction obtains the consent of
2 all affected taxing jurisdictions within the State before
3 giving the notice of determination (if the taxing
4 jurisdiction making the determination is not the State);
5 and

6 (2) the home service provider is given an
7 opportunity to demonstrate in accordance with applicable
8 State or local tax, charge, or fee administrative
9 procedures that the assignment reflects the correct
10 taxing jurisdiction.

11 Section 65. No change to authority of taxing
12 jurisdiction to collect tax if customer fails to provide
13 place of primary use. Nothing in this Act modifies, impairs,
14 supersedes, or authorizes the modification, impairment, or
15 supersession of, any law allowing a taxing jurisdiction to
16 collect a tax, charge, or fee from a customer that has failed
17 to provide its place of primary use.

18 Section 70. Tax may be imposed on items not subject to
19 taxation if those items not separately stated. If a taxing
20 jurisdiction does not otherwise subject charges for mobile
21 telecommunications services to taxation and if these charges
22 are aggregated with and not separately stated from charges
23 that are subject to taxation, then the charges for nontaxable
24 mobile telecommunications services may be subject to taxation
25 unless the home service provider can reasonably identify
26 charges not subject to such tax, charge, or fee from its
27 books and records that are kept in the regular course of
28 business.

29 Section 75. Customers and otherwise non-taxable charges.
30 If a taxing jurisdiction does not subject charges for mobile
31 telecommunications services to taxation, a customer may not

1 rely upon the nontaxability of charges for mobile
2 telecommunications services unless the customer's home
3 service provider separately states the charges for nontaxable
4 mobile telecommunications services from taxable charges or
5 the home service provider elects, after receiving a written
6 request from the customer in the form required by the
7 provider, to provide verifiable data based upon the home
8 service provider's books and records that are kept in the
9 regular course of business that reasonably identifies the
10 nontaxable charges.

11 Section 80. Customers' procedures and remedies for
12 correcting taxes and fees.

13 (a) If a customer believes that an amount of tax or
14 assignment of place of primary use or taxing jurisdiction
15 included on a billing is erroneous, the customer shall notify
16 the home service provider in writing. The customer shall
17 include in this written notification the street address for
18 her or his place of primary use, the account name and number
19 for which the customer seeks a correction of the tax
20 assignment, a description of the error asserted by the
21 customer, and any other information that the home service
22 provider reasonably requires to process the request. Within
23 60 days after receiving a notice under this subsection (a),
24 the home service provider shall review its records and the
25 electronic database or enhanced zip code used pursuant to
26 Section 25 or 40 to determine the customer's taxing
27 jurisdiction. If this review shows that the amount of tax,
28 assignment of place of primary use, or taxing jurisdiction is
29 in error, the home service provider shall correct the error
30 and refund or credit the amount of tax erroneously collected
31 from the customer for a period of up to 2 years. If this
32 review shows that the amount of tax, assignment of place of
33 primary use, or taxing jurisdiction is correct, the home

1 service provider shall provide a written explanation to the
2 customer.

3 (b) If the customer is dissatisfied with the response of
4 the home service provider under this Section, the customer
5 may seek a correction or refund or both from the taxing
6 jurisdiction affected.

7 (c) The procedures in this Section shall be the sole and
8 exclusive remedy available to customers seeking correction of
9 assignment of place of primary use or taxing jurisdiction, or
10 a refund of or other compensation for taxes or fees or both
11 erroneously collected by the home service provider.

12 Section 85. Inseverability clause. If a court of
13 competent jurisdiction enters a final judgment on the merits
14 that (i) is based on federal law, (ii) is no longer subject
15 to appeal, and (iii) substantially limits or impairs the
16 essential elements of Sections 116 through 126 of Title 4 of
17 the United States Code, then the provisions of this Act are
18 invalid and have no legal effect as of the date of entry of
19 such judgment.

20 Section 905. The Telecommunications Excise Tax Act is
21 amended by changing Section 2 as follows:

22 (35 ILCS 630/2) (from Ch. 120, par. 2002)

23 Sec. 2. As used in this Article, unless the context
24 clearly requires otherwise:

25 (a) "Gross charge" means the amount paid for the act or
26 privilege of originating or receiving telecommunications in
27 this State and for all services and equipment provided in
28 connection therewith by a retailer, valued in money whether
29 paid in money or otherwise, including cash, credits, services
30 and property of every kind or nature, and shall be determined
31 without any deduction on account of the cost of such

1 telecommunications, the cost of materials used, labor or
2 service costs or any other expense whatsoever. In case
3 credit is extended, the amount thereof shall be included only
4 as and when paid. "Gross charges" for private line service
5 shall include charges imposed at each channel point within
6 this State, charges for the channel mileage between each
7 channel point within this State, and charges for that portion
8 of the interstate inter-office channel provided within
9 Illinois. However, "gross charges" shall not include:

10 (1) any amounts added to a purchaser's bill because
11 of a charge made pursuant to (i) the tax imposed by this
12 Article; (ii) charges added to customers' bills pursuant
13 to the provisions of Sections 9-221 or 9-222 of the
14 Public Utilities Act, as amended, or any similar charges
15 added to customers' bills by retailers who are not
16 subject to rate regulation by the Illinois Commerce
17 Commission for the purpose of recovering any of the tax
18 liabilities or other amounts specified in such provisions
19 of such Act; or (iii) the tax imposed by Section 4251 of
20 the Internal Revenue Code;

21 (2) charges for a sent collect telecommunication
22 received outside of the State;

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

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

1 (5) charges to business enterprises certified under
2 Section 9-222.1 of the Public Utilities Act, as amended,
3 to the extent of such exemption and during the period of
4 time specified by the Department of Commerce and
5 Community Affairs;

6 (6) charges for telecommunications and all services
7 and equipment provided in connection therewith between a
8 parent corporation and its wholly owned subsidiaries or
9 between wholly owned subsidiaries when the tax imposed
10 under this Article has already been paid to a retailer
11 and only to the extent that the charges between the
12 parent corporation and wholly owned subsidiaries or
13 between wholly owned subsidiaries represent expense
14 allocation between the corporations and not the
15 generation of profit for the corporation rendering such
16 service;

17 (7) bad debts. Bad debt means any portion of a debt
18 that is related to a sale at retail for which gross
19 charges are not otherwise deductible or excludable that
20 has become worthless or uncollectable, as determined
21 under applicable federal income tax standards. If the
22 portion of the debt deemed to be bad is subsequently
23 paid, the retailer shall report and pay the tax on that
24 portion during the reporting period in which the payment
25 is made;

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

28 (9) amounts paid by telecommunications retailers
29 under the Telecommunications Municipal Infrastructure
30 Maintenance Fee Act.

31 (b) "Amount paid" means the amount charged to the
32 taxpayer's service address in this State regardless of where
33 such amount is billed or paid.

34 (c) "Telecommunications", in addition to the meaning

1 ordinarily and popularly ascribed to it, includes, without
2 limitation, messages or information transmitted through use
3 of local, toll and wide area telephone service; private line
4 services; channel services; telegraph services;
5 teletypewriter; computer exchange services; cellular mobile
6 telecommunications service; specialized mobile radio;
7 stationary two way radio; paging service; or any other form
8 of mobile and portable one-way or two-way communications; or
9 any other transmission of messages or information by
10 electronic or similar means, between or among points by wire,
11 cable, fiber-optics, laser, microwave, radio, satellite or
12 similar facilities. As used in this Act, "private line" means
13 a dedicated non-traffic sensitive service for a single
14 customer, that entitles the customer to exclusive or priority
15 use of a communications channel or group of channels, from
16 one or more specified locations to one or more other
17 specified locations. The definition of "telecommunications"
18 shall not include value added services in which computer
19 processing applications are used to act on the form, content,
20 code and protocol of the information for purposes other than
21 transmission. "Telecommunications" shall not include
22 purchases of telecommunications by a telecommunications
23 service provider for use as a component part of the service
24 provided by him to the ultimate retail consumer who
25 originates or terminates the taxable end-to-end
26 communications. Carrier access charges, right of access
27 charges, charges for use of inter-company facilities, and all
28 telecommunications resold in the subsequent provision of,
29 used as a component of, or integrated into end-to-end
30 telecommunications service shall be non-taxable as sales for
31 resale.

32 (d) "Interstate telecommunications" means all
33 telecommunications that either originate or terminate outside
34 this State.

1 (e) "Intrastate telecommunications" means all
2 telecommunications that originate and terminate within this
3 State.

4 (f) "Department" means the Department of Revenue of the
5 State of Illinois.

6 (g) "Director" means the Director of Revenue for the
7 Department of Revenue of the State of Illinois.

8 (h) "Taxpayer" means a person who individually or
9 through his agents, employees or permittees engages in the
10 act or privilege of originating or receiving
11 telecommunications in this State and who incurs a tax
12 liability under this Article.

13 (i) "Person" means any natural individual, firm, trust,
14 estate, partnership, association, joint stock company, joint
15 venture, corporation, limited liability company, or a
16 receiver, trustee, guardian or other representative appointed
17 by order of any court, the Federal and State governments,
18 including State universities created by statute or any city,
19 town, county or other political subdivision of this State.

20 (j) "Purchase at retail" means the acquisition,
21 consumption or use of telecommunication through a sale at
22 retail.

23 (k) "Sale at retail" means the transmitting, supplying
24 or furnishing of telecommunications and all services and
25 equipment provided in connection therewith for a
26 consideration to persons other than the Federal and State
27 governments, and State universities created by statute and
28 other than between a parent corporation and its wholly owned
29 subsidiaries or between wholly owned subsidiaries for their
30 use or consumption and not for resale.

31 (l) "Retailer" means and includes every person engaged
32 in the business of making sales at retail as defined in this
33 Article. The Department may, in its discretion, upon
34 application, authorize the collection of the tax hereby

1 imposed by any retailer not maintaining a place of business
2 within this State, who, to the satisfaction of the
3 Department, furnishes adequate security to insure collection
4 and payment of the tax. Such retailer shall be issued,
5 without charge, a permit to collect such tax. When so
6 authorized, it shall be the duty of such retailer to collect
7 the tax upon all of the gross charges for telecommunications
8 in this State in the same manner and subject to the same
9 requirements as a retailer maintaining a place of business
10 within this State. The permit may be revoked by the
11 Department at its discretion.

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

23 (n) "Service address" means the location of
24 telecommunications equipment from which the
25 telecommunications services are originated or at which
26 telecommunications services are received by a taxpayer. In
27 the event this may not be a defined location, as in the case
28 of mobile phones, paging systems, maritime systems, service
29 address means the customer's place of primary use as defined
30 in the Mobile Telecommunications Sourcing Conformity Act.
31 For air-to-ground systems and the like, service address shall
32 mean the location of a taxpayer's primary use of the
33 telecommunications equipment as defined by telephone number,
34 authorization code, or location in Illinois where bills are

1 sent.

2 (o) "Prepaid telephone calling arrangements" mean the
3 right to exclusively purchase telephone or telecommunications
4 services that must be paid for in advance and enable the
5 origination of one or more intrastate, interstate, or
6 international telephone calls or other telecommunications
7 using an access number, an authorization code, or both,
8 whether manually or electronically dialed, for which payment
9 to a retailer must be made in advance, provided that, unless
10 recharged, no further service is provided once that prepaid
11 amount of service has been consumed. Prepaid telephone
12 calling arrangements include the recharge of a prepaid
13 calling arrangement. For purposes of this subsection,
14 "recharge" means the purchase of additional prepaid telephone
15 or telecommunications services whether or not the purchaser
16 acquires a different access number or authorization code.
17 "Prepaid telephone calling arrangement" does not include an
18 arrangement whereby a customer purchases a payment card and
19 pursuant to which the service provider reflects the amount of
20 such purchase as a credit on an invoice issued to that
21 customer under an existing subscription plan.

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

23 Section 910. The Telecommunications Municipal
24 Infrastructure Maintenance Fee Act is amended by changing
25 Section 10 as follows:

26 (35 ILCS 635/10)

27 Sec. 10. Definitions.

28 (a) "Gross charges" means the amount paid to a
29 telecommunications retailer for the act or privilege of
30 originating or receiving telecommunications in this State or
31 the municipality imposing the fee under this Act, as the
32 context requires, and for all services rendered in connection

1 therewith, valued in money whether paid in money or
2 otherwise, including cash, credits, services, and property of
3 every kind or nature, and shall be determined without any
4 deduction on account of the cost of such telecommunications,
5 the cost of the materials used, labor or service costs, or
6 any other expense whatsoever. In case credit is extended,
7 the amount thereof shall be included only as and when paid.
8 "Gross charges" for private line service shall include
9 charges imposed at each channel point within this State or
10 the municipality imposing the fee under this Act, charges for
11 the channel mileage between each channel point within this
12 State or the municipality imposing the fee under this Act,
13 and charges for that portion of the interstate inter-office
14 channel provided within Illinois or the municipality imposing
15 the fee under this Act. However, "gross charges" shall not
16 include:

17 (1) any amounts added to a purchaser's bill because
18 of a charge made under: (i) the fee imposed by this
19 Section, (ii) additional charges added to a purchaser's
20 bill under Section 9-221 or 9-222 of the Public Utilities
21 Act, (iii) amounts collected under Section 8-11-17 of the
22 Illinois Municipal Code, (iv) the tax imposed by the
23 Telecommunications Excise Tax Act, (v) 911 surcharges, or
24 (vi) the tax imposed by Section 4251 of the Internal
25 Revenue Code;

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

29 (3) charges for leased time on equipment or charges
30 for the storage of data or information or subsequent
31 retrieval or the processing of data or information
32 intended to change its form or content. Such equipment
33 includes, but is not limited to, the use of calculators,
34 computers, data processing equipment, tabulating

1 equipment, or accounting equipment and also includes the
2 usage of computers under a time-sharing agreement.

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

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

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

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

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

34 (9) charges for telecommunications and all services

1 and equipment provided to a municipality imposing the
2 infrastructure maintenance fee.

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

5 (b) "Telecommunications" includes, but is not limited
6 to, messages or information transmitted through use of local,
7 toll, and wide area telephone service, channel services,
8 telegraph services, teletypewriter service, computer exchange
9 services, private line services, specialized mobile radio
10 services, or any other transmission of messages or
11 information by electronic or similar means, between or among
12 points by wire, cable, fiber optics, laser, microwave, radio,
13 satellite, or similar facilities. Unless the context clearly
14 requires otherwise, "telecommunications" shall also include
15 wireless telecommunications as hereinafter defined.
16 "Telecommunications" shall not include value added services
17 in which computer processing applications are used to act on
18 the form, content, code, and protocol of the information for
19 purposes other than transmission. "Telecommunications" shall
20 not include purchase of telecommunications by a
21 telecommunications service provider for use as a component
22 part of the service provided by him or her to the ultimate
23 retail consumer who originates or terminates the end-to-end
24 communications. Retailer access charges, right of access
25 charges, charges for use of intercompany facilities, and all
26 telecommunications resold in the subsequent provision and
27 used as a component of, or integrated into, end-to-end
28 telecommunications service shall not be included in gross
29 charges as sales for resale. "Telecommunications" shall not
30 include the provision of cable services through a cable
31 system as defined in the Cable Communications Act of 1984 (47
32 U.S.C. Sections 521 and following) as now or hereafter
33 amended or through an open video system as defined in the
34 Rules of the Federal Communications Commission (47 C.D.F.

1 76.1550 and following) as now or hereafter amended. Beginning
2 January 1, 2001, prepaid telephone calling arrangements shall
3 not be considered "telecommunications" subject to the tax
4 imposed under this Act. For purposes of this Section,
5 "prepaid telephone calling arrangements" means that term as
6 defined in Section 2-27 of the Retailers' Occupation Tax Act.

7 (c) "Wireless telecommunications" includes cellular
8 mobile telephone services, personal wireless services as
9 defined in Section 704(C) of the Telecommunications Act of
10 1996 (Public Law No. 104-104) as now or hereafter amended,
11 including all commercial mobile radio services, and paging
12 services.

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

28 (e) "Retailer maintaining a place of business in this
29 State", or any like term, means and includes any retailer
30 having or maintaining within this State, directly or by a
31 subsidiary, an office, distribution facilities, transmission
32 facilities, sales office, warehouse, or other place of
33 business, or any agent or other representative operating
34 within this State under the authority of the retailer or its

1 subsidiary, irrespective of whether such place of business or
2 agent or other representative is located here permanently or
3 temporarily, or whether such retailer or subsidiary is
4 licensed to do business in this State.

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

14 (g) "Service address" means the location of
15 telecommunications equipment from which telecommunications
16 services are originated or at which telecommunications
17 services are received. If this is not a defined location, as
18 in the case of wireless telecommunications, paging systems,
19 maritime systems, service address means the customer's place
20 of primary use as defined in the Mobile Telecommunications
21 Sourcing Conformity Act. For air-to-ground systems, and the
22 like, "service address" shall mean the location of the
23 customer's primary use of the telecommunications equipment as
24 defined by the location in Illinois where bills are sent.

25 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
26 91-870, eff. 6-22-00.)

27 Section 915. The Emergency Telephone System Act is
28 amended by changing Section 15.3 as follows:

29 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

30 Sec. 15.3. (a) The corporate authorities of any
31 municipality or any county may, subject to the limitations of
32 subsections (c), (d), and (h), and in addition to any tax

1 levied pursuant to Section 8-11-2 of the Illinois Municipal
2 Code, impose a monthly surcharge on billed subscribers of
3 network connection provided by telecommunication carriers
4 engaged in the business of transmitting messages by means of
5 electricity originating within the corporate limits of the
6 municipality or county imposing the surcharge at a rate per
7 network connection determined in accordance with subsection
8 (c). For mobile telecommunications services, if a surcharge
9 is imposed it shall be imposed based upon the municipality or
10 county that encompasses the customer's place of primary use
11 as defined in the Mobile Telecommunications Sourcing
12 Conformity Act. A municipality may enter into an
13 intergovernmental agreement with any county in which it is
14 partially located, when the county has adopted an ordinance
15 to impose a surcharge as provided in subsection (c), to
16 include that portion of the municipality lying outside the
17 county in that county's surcharge referendum. If the
18 county's surcharge referendum is approved, the portion of the
19 municipality identified in the intergovernmental agreement
20 shall automatically be disconnected from the county in which
21 it lies and connected to the county which approved the
22 referendum for purposes of a surcharge on telecommunications
23 carriers.

24 (b) For purposes of computing the surcharge imposed by
25 subsection (a), the network connections to which the
26 surcharge shall apply shall be those in-service network
27 connections, other than those network connections assigned to
28 the municipality or county, where the service address for
29 each such network connection or connections is located within
30 the corporate limits of the municipality or county levying
31 the surcharge. Except for mobile telecommunication services,
32 the "service address" shall mean the location of the primary
33 use of the network connection or connections. For mobile
34 telecommunication services, "service address" means the

1 customer's place of primary use as defined in the Mobile
 2 Telecommunications Sourcing Conformity Act. With respect to
 3 network connections provided for use with pay telephone
 4 services for which there is no billed subscriber, the
 5 telecommunications carrier providing the network connection
 6 shall be deemed to be its own billed subscriber for purposes
 7 of applying the surcharge.

8 (c) Upon the passage of an ordinance to impose a
 9 surcharge under this Section the clerk of the municipality or
 10 county shall certify the question of whether the surcharge
 11 may be imposed to the proper election authority who shall
 12 submit the public question to the electors of the
 13 municipality or county in accordance with the general
 14 election law; provided that such question shall not be
 15 submitted at a consolidated primary election. The public
 16 question shall be in substantially the following form:

17 -----
 18 Shall the county (or city, village
 19 or incorporated town) of.....impose YES
 20 a surcharge of up to...¢ per month per
 21 network connection, which surcharge will
 22 be added to the monthly bill you receive -----
 23 for telephone or telecommunications
 24 charges, for the purpose of installing
 25 (or improving) a 9-1-1 Emergency NO
 26 Telephone System?
 27 -----

28 If a majority of the votes cast upon the public question
 29 are in favor thereof, the surcharge shall be imposed.

30 However, if a Joint Emergency Telephone System Board is
 31 to be created pursuant to an intergovernmental agreement
 32 under Section 15.4, the ordinance to impose the surcharge
 33 shall be subject to the approval of a majority of the total
 34 number of votes cast upon the public question by the electors

1 of all of the municipalities or counties, or combination
2 thereof, that are parties to the intergovernmental agreement.

3 The referendum requirement of this subsection (c) shall
4 not apply to any municipality with a population over 500,000
5 or to any county in which a proposition as to whether a
6 sophisticated 9-1-1 Emergency Telephone System should be
7 installed in the county, at a cost not to exceed a specified
8 monthly amount per network connection, has previously been
9 approved by a majority of the electors of the county voting
10 on the proposition at an election conducted before the
11 effective date of this amendatory Act of 1987.

12 (d) A county may not impose a surcharge, unless
13 requested by a municipality, in any incorporated area which
14 has previously approved a surcharge as provided in subsection
15 (c) or in any incorporated area where the corporate
16 authorities of the municipality have previously entered into
17 a binding contract or letter of intent with a
18 telecommunications carrier to provide sophisticated 9-1-1
19 service through municipal funds.

20 (e) A municipality or county may at any time by
21 ordinance change the rate of the surcharge imposed under this
22 Section if the new rate does not exceed the rate specified in
23 the referendum held pursuant to subsection (c).

24 (f) The surcharge authorized by this Section shall be
25 collected from the subscriber by the telecommunications
26 carrier providing the subscriber the network connection as a
27 separately stated item on the subscriber's bill.

28 (g) The amount of surcharge collected by the
29 telecommunications carrier shall be paid to the particular
30 municipality or county or Joint Emergency Telephone System
31 Board not later than 30 days after the surcharge is
32 collected, net of any network or other 9-1-1 or sophisticated
33 9-1-1 system charges then due the particular
34 telecommunications carrier, as shown on an itemized bill.

1 The telecommunications carrier collecting the surcharge shall
2 also be entitled to deduct 3% of the gross amount of
3 surcharge collected to reimburse the telecommunications
4 carrier for the expense of accounting and collecting the
5 surcharge.

6 (h) A municipality with a population over 500,000 may
7 not impose a monthly surcharge in excess of \$1.25 per network
8 connection.

9 (i) Any municipality or county or joint emergency
10 telephone system board that has imposed a surcharge pursuant
11 to this Section prior to the effective date of this
12 amendatory Act of 1990 shall hereafter impose the surcharge
13 in accordance with subsection (b) of this Section.

14 (j) The corporate authorities of any municipality or
15 county may issue, in accordance with Illinois law, bonds,
16 notes or other obligations secured in whole or in part by the
17 proceeds of the surcharge described in this Section.
18 Notwithstanding any change in law subsequent to the issuance
19 of any bonds, notes or other obligations secured by the
20 surcharge, every municipality or county issuing such bonds,
21 notes or other obligations shall be authorized to impose the
22 surcharge as though the laws relating to the imposition of
23 the surcharge in effect at the time of issuance of the bonds,
24 notes or other obligations were in full force and effect
25 until the bonds, notes or other obligations are paid in full.
26 The State of Illinois pledges and agrees that it will not
27 limit or alter the rights and powers vested in municipalities
28 and counties by this Section to impose the surcharge so as to
29 impair the terms of or affect the security for bonds, notes
30 or other obligations secured in whole or in part with the
31 proceeds of the surcharge described in this Section.

32 (k) Any surcharge collected by or imposed on a
33 telecommunications carrier pursuant to this Section shall be
34 held to be a special fund in trust for the municipality,

1 county or Joint Emergency Telephone Board imposing the
2 surcharge. Except for the 3% deduction provided in
3 subsection (g) above, the special fund shall not be subject
4 to the claims of creditors of the telecommunication carrier.
5 (Source: P.A. 86-101; 86-1344.)

6 Section 920. The Illinois Municipal Code is amended by
7 changing Section 8-11-2 as follows:

8 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

9 Sec. 8-11-2. The corporate authorities of any
10 municipality may tax any or all of the following occupations
11 or privileges:

12 1. Persons engaged in the business of transmitting
13 messages by means of electricity or radio magnetic waves,
14 or fiber optics, at a rate not to exceed 5% of the gross
15 receipts from that business originating within the
16 corporate limits of the municipality. Beginning January
17 1, 2001, prepaid telephone calling arrangements shall not
18 be subject to the tax imposed under this Section. For
19 purposes of this Section, "prepaid telephone calling
20 arrangements" means that term as defined in Section 2-27
21 of the Retailers' Occupation Tax Act.

22 2. Persons engaged in the business of distributing,
23 supplying, furnishing, or selling gas for use or
24 consumption within the corporate limits of a municipality
25 of 500,000 or fewer population, and not for resale, at a
26 rate not to exceed 5% of the gross receipts therefrom.

27 2a. Persons engaged in the business of
28 distributing, supplying, furnishing, or selling gas for
29 use or consumption within the corporate limits of a
30 municipality of over 500,000 population, and not for
31 resale, at a rate not to exceed 8% of the gross receipts
32 therefrom. If imposed, this tax shall be paid in monthly

1 payments.

2 3. The privilege of using or consuming electricity
3 acquired in a purchase at retail and used or consumed
4 within the corporate limits of the municipality at rates
5 not to exceed the following maximum rates, calculated on
6 a monthly basis for each purchaser:

7 (i) For the first 2,000 kilowatt-hours used or
8 consumed in a month; 0.61 cents per kilowatt-hour;

9 (ii) For the next 48,000 kilowatt-hours used or
10 consumed in a month; 0.40 cents per kilowatt-hour;

11 (iii) For the next 50,000 kilowatt-hours used or
12 consumed in a month; 0.36 cents per kilowatt-hour;

13 (iv) For the next 400,000 kilowatt-hours used or
14 consumed in a month; 0.35 cents per kilowatt-hour;

15 (v) For the next 500,000 kilowatt-hours used or
16 consumed in a month; 0.34 cents per kilowatt-hour;

17 (vi) For the next 2,000,000 kilowatt-hours used or
18 consumed in a month; 0.32 cents per kilowatt-hour;

19 (vii) For the next 2,000,000 kilowatt-hours used or
20 consumed in a month; 0.315 cents per kilowatt-hour;

21 (viii) For the next 5,000,000 kilowatt-hours used
22 or consumed in a month; 0.31 cents per kilowatt-hour;

23 (ix) For the next 10,000,000 kilowatt-hours used or
24 consumed in a month; 0.305 cents per kilowatt-hour; and

25 (x) For all electricity used or consumed in excess
26 of 20,000,000 kilowatt-hours in a month, 0.30 cents per
27 kilowatt-hour.

28 If a municipality imposes a tax at rates lower than
29 either the maximum rates specified in this Section or the
30 alternative maximum rates promulgated by the Illinois
31 Commerce Commission, as provided below, the tax rates
32 shall be imposed upon the kilowatt hour categories set
33 forth above with the same proportional relationship as
34 that which exists among such maximum rates.

1 Notwithstanding the foregoing, until December 31, 2008,
2 no municipality shall establish rates that are in excess
3 of rates reasonably calculated to produce revenues that
4 equal the maximum total revenues such municipality could
5 have received under the tax authorized by this
6 subparagraph in the last full calendar year prior to the
7 effective date of Section 65 of this amendatory Act of
8 1997; provided that this shall not be a limitation on the
9 amount of tax revenues actually collected by such
10 municipality.

11 Upon the request of the corporate authorities of a
12 municipality, the Illinois Commerce Commission shall,
13 within 90 days after receipt of such request, promulgate
14 alternative rates for each of these kilowatt-hour
15 categories that will reflect, as closely as reasonably
16 practical for that municipality, the distribution of the
17 tax among classes of purchasers as if the tax were based
18 on a uniform percentage of the purchase price of
19 electricity. A municipality that has adopted an
20 ordinance imposing a tax pursuant to subparagraph 3 as it
21 existed prior to the effective date of Section 65 of this
22 amendatory Act of 1997 may, rather than imposing the tax
23 permitted by this amendatory Act of 1997, continue to
24 impose the tax pursuant to that ordinance with respect to
25 gross receipts received from residential customers
26 through July 31, 1999, and with respect to gross receipts
27 from any non-residential customer until the first bill
28 issued to such customer for delivery services in
29 accordance with Section 16-104 of the Public Utilities
30 Act but in no case later than the last bill issued to
31 such customer before December 31, 2000. No ordinance
32 imposing the tax permitted by this amendatory Act of 1997
33 shall be applicable to any non-residential customer until
34 the first bill issued to such customer for delivery

1 services in accordance with Section 16-104 of the Public
2 Utilities Act but in no case later than the last bill
3 issued to such non-residential customer before December
4 31, 2000.

5 4. Persons engaged in the business of distributing,
6 supplying, furnishing, or selling water for use or
7 consumption within the corporate limits of the
8 municipality, and not for resale, at a rate not to exceed
9 5% of the gross receipts therefrom.

10 None of the taxes authorized by this Section may be
11 imposed with respect to any transaction in interstate
12 commerce or otherwise to the extent to which the business or
13 privilege may not, under the constitution and statutes of the
14 United States, be made the subject of taxation by this State
15 or any political sub-division thereof; nor shall any persons
16 engaged in the business of distributing, supplying,
17 furnishing, selling or transmitting gas, water, or
18 electricity, or engaged in the business of transmitting
19 messages, or using or consuming electricity acquired in a
20 purchase at retail, be subject to taxation under the
21 provisions of this Section for those transactions that are or
22 may become subject to taxation under the provisions of the
23 "Municipal Retailers' Occupation Tax Act" authorized by
24 Section 8-11-1; nor shall any tax authorized by this Section
25 be imposed upon any person engaged in a business or on any
26 privilege unless the tax is imposed in like manner and at the
27 same rate upon all persons engaged in businesses of the same
28 class in the municipality, whether privately or municipally
29 owned or operated, or exercising the same privilege within
30 the municipality.

31 Any of the taxes enumerated in this Section may be in
32 addition to the payment of money, or value of products or
33 services furnished to the municipality by the taxpayer as
34 compensation for the use of its streets, alleys, or other

1 public places, or installation and maintenance therein,
2 thereon or thereunder of poles, wires, pipes or other
3 equipment used in the operation of the taxpayer's business.

4 (a) If the corporate authorities of any home rule
5 municipality have adopted an ordinance that imposed a tax on
6 public utility customers, between July 1, 1971, and October
7 1, 1981, on the good faith belief that they were exercising
8 authority pursuant to Section 6 of Article VII of the 1970
9 Illinois Constitution, that action of the corporate
10 authorities shall be declared legal and valid,
11 notwithstanding a later decision of a judicial tribunal
12 declaring the ordinance invalid. No municipality shall be
13 required to rebate, refund, or issue credits for any taxes
14 described in this paragraph, and those taxes shall be deemed
15 to have been levied and collected in accordance with the
16 Constitution and laws of this State.

17 (b) In any case in which (i) prior to October 19, 1979,
18 the corporate authorities of any municipality have adopted an
19 ordinance imposing a tax authorized by this Section (or by
20 the predecessor provision of the "Revised Cities and Villages
21 Act") and have explicitly or in practice interpreted gross
22 receipts to include either charges added to customers' bills
23 pursuant to the provision of paragraph (a) of Section 36 of
24 the Public Utilities Act or charges added to customers' bills
25 by taxpayers who are not subject to rate regulation by the
26 Illinois Commerce Commission for the purpose of recovering
27 any of the tax liabilities or other amounts specified in such
28 paragraph (a) of Section 36 of that Act, and (ii) on or after
29 October 19, 1979, a judicial tribunal has construed gross
30 receipts to exclude all or part of those charges, then
31 neither those municipality nor any taxpayer who paid the tax
32 shall be required to rebate, refund, or issue credits for any
33 tax imposed or charge collected from customers pursuant to
34 the municipality's interpretation prior to October 19, 1979.

1 This paragraph reflects a legislative finding that it would
2 be contrary to the public interest to require a municipality
3 or its taxpayers to refund taxes or charges attributable to
4 the municipality's more inclusive interpretation of gross
5 receipts prior to October 19, 1979, and is not intended to
6 prescribe or limit judicial construction of this Section. The
7 legislative finding set forth in this subsection does not
8 apply to taxes imposed after the effective date of this
9 amendatory Act of 1995.

10 (c) The tax authorized by subparagraph 3 shall be
11 collected from the purchaser by the person maintaining a
12 place of business in this State who delivers the electricity
13 to the purchaser. This tax shall constitute a debt of the
14 purchaser to the person who delivers the electricity to the
15 purchaser and if unpaid, is recoverable in the same manner as
16 the original charge for delivering the electricity. Any tax
17 required to be collected pursuant to an ordinance authorized
18 by subparagraph 3 and any such tax collected by a person
19 delivering electricity shall constitute a debt owed to the
20 municipality by such person delivering the electricity,
21 provided, that the person delivering electricity shall be
22 allowed credit for such tax related to deliveries of
23 electricity the charges for which are written off as
24 uncollectible, and provided further, that if such charges are
25 thereafter collected, the delivering supplier shall be
26 obligated to remit such tax. For purposes of this subsection
27 (c), any partial payment not specifically identified by the
28 purchaser shall be deemed to be for the delivery of
29 electricity. Persons delivering electricity shall collect the
30 tax from the purchaser by adding such tax to the gross charge
31 for delivering the electricity, in the manner prescribed by
32 the municipality. Persons delivering electricity shall also
33 be authorized to add to such gross charge an amount equal to
34 3% of the tax to reimburse the person delivering electricity

1 for the expenses incurred in keeping records, billing
2 customers, preparing and filing returns, remitting the tax
3 and supplying data to the municipality upon request. If the
4 person delivering electricity fails to collect the tax from
5 the purchaser, then the purchaser shall be required to pay
6 the tax directly to the municipality in the manner prescribed
7 by the municipality. Persons delivering electricity who file
8 returns pursuant to this paragraph (c) shall, at the time of
9 filing such return, pay the municipality the amount of the
10 tax collected pursuant to subparagraph 3.

11 (d) For the purpose of the taxes enumerated in this
12 Section:

13 "Gross receipts" means the consideration received for the
14 transmission of messages, the consideration received for
15 distributing, supplying, furnishing or selling gas for use or
16 consumption and not for resale, and the consideration
17 received for distributing, supplying, furnishing or selling
18 water for use or consumption and not for resale, and for all
19 services rendered in connection therewith valued in money,
20 whether received in money or otherwise, including cash,
21 credit, services and property of every kind and material and
22 for all services rendered therewith, and shall be determined
23 without any deduction on account of the cost of transmitting
24 such messages, without any deduction on account of the cost
25 of the service, product or commodity supplied, the cost of
26 materials used, labor or service cost, or any other expenses
27 whatsoever. "Gross receipts" shall not include that portion
28 of the consideration received for distributing, supplying,
29 furnishing, or selling gas or water to, or for the
30 transmission of messages for, business enterprises described
31 in paragraph (e) of this Section to the extent and during the
32 period in which the exemption authorized by paragraph (e) is
33 in effect or for school districts or units of local
34 government described in paragraph (f) during the period in

1 which the exemption authorized in paragraph (f) is in effect.
2 "Gross receipts" shall not include amounts paid by
3 telecommunications retailers under the Telecommunications
4 Municipal Infrastructure Maintenance Fee Act.

5 For utility bills issued on or after May 1, 1996, but
6 before May 1, 1997, and for receipts from those utility
7 bills, "gross receipts" does not include one-third of (i)
8 amounts added to customers' bills under Section 9-222 of the
9 Public Utilities Act, or (ii) amounts added to customers'
10 bills by taxpayers who are not subject to rate regulation by
11 the Illinois Commerce Commission for the purpose of
12 recovering any of the tax liabilities described in Section
13 9-222 of the Public Utilities Act. For utility bills issued
14 on or after May 1, 1997, but before May 1, 1998, and for
15 receipts from those utility bills, "gross receipts" does not
16 include two-thirds of (i) amounts added to customers' bills
17 under Section 9-222 of the Public Utilities Act, or (ii)
18 amount added to customers' bills by taxpayers who are not
19 subject to rate regulation by the Illinois Commerce
20 Commission for the purpose of recovering any of the tax
21 liabilities described in Section 9-222 of the Public
22 Utilities Act. For utility bills issued on or after May 1,
23 1998, and for receipts from those utility bills, "gross
24 receipts" does not include (i) amounts added to customers'
25 bills under Section 9-222 of the Public Utilities Act, or
26 (ii) amounts added to customers' bills by taxpayers who are
27 not subject to rate regulation by the Illinois Commerce
28 Commission for the purpose of recovering any of the tax
29 liabilities described in Section 9-222 of the Public
30 Utilities Act.

31 For purposes of this Section "gross receipts" shall not
32 include (i) amounts added to customers' bills under Section
33 9-221 of the Public Utilities Act, or (ii) charges added to
34 customers' bills to recover the surcharge imposed under the

1 Emergency Telephone System Act. This paragraph is not
2 intended to nor does it make any change in the meaning of
3 "gross receipts" for the purposes of this Section, but is
4 intended to remove possible ambiguities, thereby confirming
5 the existing meaning of "gross receipts" prior to the
6 effective date of this amendatory Act of 1995.

7 The words "transmitting messages", in addition to the
8 usual and popular meaning of person to person communication,
9 shall include the furnishing, for a consideration, of
10 services or facilities (whether owned or leased), or both, to
11 persons in connection with the transmission of messages where
12 those persons do not, in turn, receive any consideration in
13 connection therewith, but shall not include such furnishing
14 of services or facilities to persons for the transmission of
15 messages to the extent that any such services or facilities
16 for the transmission of messages are furnished for a
17 consideration, by those persons to other persons, for the
18 transmission of messages.

19 "Person" as used in this Section means any natural
20 individual, firm, trust, estate, partnership, association,
21 joint stock company, joint adventure, corporation, limited
22 liability company, municipal corporation, the State or any of
23 its political subdivisions, any State university created by
24 statute, or a receiver, trustee, guardian or other
25 representative appointed by order of any court.

26 "Person maintaining a place of business in this State"
27 shall mean any person having or maintaining within this
28 State, directly or by a subsidiary or other affiliate, an
29 office, generation facility, distribution facility,
30 transmission facility, sales office or other place of
31 business, or any employee, agent, or other representative
32 operating within this State under the authority of the person
33 or its subsidiary or other affiliate, irrespective of whether
34 such place of business or agent or other representative is

1 located in this State permanently or temporarily, or whether
2 such person, subsidiary or other affiliate is licensed or
3 qualified to do business in this State.

4 "Public utility" shall have the meaning ascribed to it in
5 Section 3-105 of the Public Utilities Act and shall include
6 telecommunications carriers as defined in Section 13-202 of
7 that Act and alternative retail electric suppliers as defined
8 in Section 16-102 of that Act.

9 "Purchase at retail" shall mean any acquisition of
10 electricity by a purchaser for purposes of use or
11 consumption, and not for resale, but shall not include the
12 use of electricity by a public utility directly in the
13 generation, production, transmission, delivery or sale of
14 electricity.

15 "Purchaser" shall mean any person who uses or consumes,
16 within the corporate limits of the municipality, electricity
17 acquired in a purchase at retail.

18 In the case of persons engaged in the business of
19 transmitting messages through the use of mobile equipment,
20 such as cellular phones and paging systems, the gross
21 receipts from the business shall be deemed to originate
22 within the corporate limits of a municipality only if the
23 customer's place of primary use as defined in the Mobile
24 Telecommunications Sourcing Conformity Act address--to--which
25 the--bills-for-the-service-are-sent is within those corporate
26 limits. If, however, that address is not located within a
27 municipality that imposes a tax under this Section, then (i)
28 if the party responsible for the bill is not an individual,
29 the gross receipts from the business shall be deemed to
30 originate within the corporate limits of the municipality
31 where that party's principal place of business in Illinois is
32 located, and (ii) if the party responsible for the bill is an
33 individual, the gross receipts from the business shall be
34 deemed to originate within the corporate limits of the

1 municipality---where--that--party's--principle--residence--in
2 Illinois-is-located.

3 (e) Any municipality that imposes taxes upon public
4 utilities or upon the privilege of using or consuming
5 electricity pursuant to this Section whose territory includes
6 any part of an enterprise zone or federally designated
7 Foreign Trade Zone or Sub-Zone may, by a majority vote of its
8 corporate authorities, exempt from those taxes for a period
9 not exceeding 20 years any specified percentage of gross
10 receipts of public utilities received from, or electricity
11 used or consumed by, business enterprises that:

12 (1) either (i) make investments that cause the
13 creation of a minimum of 200 full-time equivalent jobs in
14 Illinois, (ii) make investments of at least \$175,000,000
15 that cause the creation of a minimum of 150 full-time
16 equivalent jobs in Illinois, or (iii) make investments
17 that cause the retention of a minimum of 1,000 full-time
18 jobs in Illinois; and

19 (2) are either (i) located in an Enterprise Zone
20 established pursuant to the Illinois Enterprise Zone Act
21 or (ii) Department of Commerce and Community Affairs
22 designated High Impact Businesses located in a federally
23 designated Foreign Trade Zone or Sub-Zone; and

24 (3) are certified by the Department of Commerce and
25 Community Affairs as complying with the requirements
26 specified in clauses (1) and (2) of this paragraph (e).

27 Upon adoption of the ordinance authorizing the exemption,
28 the municipal clerk shall transmit a copy of that ordinance
29 to the Department of Commerce and Community Affairs. The
30 Department of Commerce and Community Affairs shall determine
31 whether the business enterprises located in the municipality
32 meet the criteria prescribed in this paragraph. If the
33 Department of Commerce and Community Affairs determines that
34 the business enterprises meet the criteria, it shall grant

1 certification. The Department of Commerce and Community
2 Affairs shall act upon certification requests within 30 days
3 after receipt of the ordinance.

4 Upon certification of the business enterprise by the
5 Department of Commerce and Community Affairs, the Department
6 of Commerce and Community Affairs shall notify the Department
7 of Revenue of the certification. The Department of Revenue
8 shall notify the public utilities of the exemption status of
9 the gross receipts received from, and the electricity used or
10 consumed by, the certified business enterprises. Such
11 exemption status shall be effective within 3 months after
12 certification.

13 (f) A municipality that imposes taxes upon public
14 utilities or upon the privilege of using or consuming
15 electricity under this Section and whose territory includes
16 part of another unit of local government or a school district
17 may by ordinance exempt the other unit of local government or
18 school district from those taxes.

19 (g) The amendment of this Section by Public Act 84-127
20 shall take precedence over any other amendment of this
21 Section by any other amendatory Act passed by the 84th
22 General Assembly before the effective date of Public Act
23 84-127.

24 (h) In any case in which, before July 1, 1992, a person
25 engaged in the business of transmitting messages through the
26 use of mobile equipment, such as cellular phones and paging
27 systems, has determined the municipality within which the
28 gross receipts from the business originated by reference to
29 the location of its transmitting or switching equipment, then
30 (i) neither the municipality to which tax was paid on that
31 basis nor the taxpayer that paid tax on that basis shall be
32 required to rebate, refund, or issue credits for any such tax
33 or charge collected from customers to reimburse the taxpayer
34 for the tax and (ii) no municipality to which tax would have

1 been paid with respect to those gross receipts if the
2 provisions of this amendatory Act of 1991 had been in effect
3 before July 1, 1992, shall have any claim against the
4 taxpayer for any amount of the tax.

5 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;
6 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.
7 6-22-00.)

8 Section 999. Effective date. This Act takes effect on
9 August 1, 2002."