

1                                    AMENDMENT TO SENATE BILL 10

2            AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 10 by replacing  
3 the title with the following:

4            "AN ACT concerning telecommunications."; and

5 by replacing everything after the enacting clause with the  
6 following:

7                                    "ARTICLE 5

8            Section 5-1. Short title. This Article may be cited as  
9 the Simplified Municipal Telecommunications Tax Act.  
10 References in this Article to "this Act" mean this Article.

11           Section 5-5. Legislative intent. The General Assembly has  
12 authorized the corporate authorities of any municipality to  
13 impose various fees and taxes on the privilege of originating  
14 or receiving telecommunications, and on retailers engaged in  
15 the business of transmitting such telecommunications, all of  
16 which are remitted by such retailers directly to the imposing  
17 municipality. To simplify the imposition and collection of  
18 municipal telecommunications taxes and to reduce complication  
19 and burden, the General Assembly is replacing the various  
20 municipal telecommunications fees and taxes with a single tax

1 by replacing the municipal telecommunications tax, the  
2 municipal tax on the occupation or privilege of transmitting  
3 messages, and the municipal infrastructure maintenance fee  
4 with this Simplified Municipal Telecommunications Tax Act  
5 which provides for a single municipally imposed  
6 telecommunications tax which, for municipalities with  
7 populations of less than 500,000, will be collected by the  
8 Illinois Department of Revenue, but which, for municipalities  
9 of 500,000 or more, will continue to be collected by such  
10 municipalities. To promote certainty and so as not to impose  
11 an unnecessary burden on the municipalities that currently  
12 have in place one or more of the taxes or fees being  
13 replaced, the General Assembly will not require such  
14 municipalities to adopt a new ordinance imposing the  
15 Simplified Municipal Telecommunications Tax. Instead, the  
16 General Assembly will replace the existing taxes and fees  
17 with the Simplified Municipal Telecommunications Tax, which  
18 may be imposed at a rate initially calculated to combine the  
19 previously existing effective rates of the replaced taxes and  
20 fees; provided, however, that the Simplified Municipal  
21 Telecommunications Tax shall be valid whether or not it  
22 generates the same amount of revenue as was generated by the  
23 previously imposed taxes and fees. Municipalities that  
24 determine to impose the Simplified Municipal  
25 Telecommunications Tax at an authorized rate other than that  
26 provided by Sections 5-25 and 5-30, and municipalities that  
27 do not currently have in place one or more of the taxes or  
28 fees being replaced, may also adopt the Simplified Municipal  
29 Telecommunications Tax by passage of an ordinance in  
30 accordance with Section 5-20.

31 Section 5-7. Definitions. For purposes of the taxes  
32 authorized by this Act:

33 "Amount paid" means the amount charged to the taxpayer's

1 service address in such municipality regardless of where such  
2 amount is billed or paid.

3 "Department" means the Illinois Department of Revenue.

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

20 (1) any amounts added to a purchaser's bill because  
21 of a charge made pursuant to: (i) the tax imposed by this  
22 Act, (ii) the tax imposed by the Telecommunications  
23 Excise Tax Act, (iii) the tax imposed by Section 4251 of  
24 the Internal Revenue Code, (iv) 911 surcharges, or (v)  
25 charges added to customers' bills pursuant to the  
26 provisions of Section 9-221 or 9-222 of the Public  
27 Utilities Act, as amended, or any similar charges added  
28 to customers' bills by retailers who are not subject to  
29 rate regulation by the Illinois Commerce Commission for  
30 the purpose of recovering any of the tax liabilities or  
31 other amounts specified in those provisions of the Public  
32 Utilities Act;

33 (2) charges for a sent collect telecommunication  
34 received outside of such municipality;

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

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

13           (5) charges to business enterprises certified as  
14 exempt under Section 9-222.1 of the Public Utilities Act  
15 to the extent of such exemption and during the period of  
16 time specified by the Department of Commerce and  
17 Community Affairs;

18           (6) charges for telecommunications and all services  
19 and equipment provided in connection therewith between a  
20 parent corporation and its wholly owned subsidiaries or  
21 between wholly owned subsidiaries when the tax imposed  
22 under this Act has already been paid to a retailer and  
23 only to the extent that the charges between the parent  
24 corporation and wholly owned subsidiaries or between  
25 wholly owned subsidiaries represent expense allocation  
26 between the corporations and not the generation of profit  
27 for the corporation rendering such service;

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

1 portion during the reporting period in which the payment  
2 is made);

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

5 (9) amounts paid by telecommunications retailers  
6 under the Telecommunications Infrastructure Maintenance  
7 Fee Act.

8 "Interstate telecommunications" means all  
9 telecommunications that either originate or terminate outside  
10 this State.

11 "Intrastate telecommunications" means all  
12 telecommunications that originate and terminate within this  
13 State.

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

22 "Purchase at retail" means the acquisition, consumption  
23 or use of telecommunications through a sale at retail.

24 "Retailer" means and includes every person engaged in the  
25 business of making sales at retail as defined in this  
26 Section. The Department may, in its discretion, upon  
27 application, authorize the collection of the tax hereby  
28 imposed by any retailer not maintaining a place of business  
29 within this State, who, to the satisfaction of the  
30 Department, furnishes adequate security to insure collection  
31 and payment of the tax. Such retailer shall be issued,  
32 without charge, a permit to collect such tax. When so  
33 authorized, it shall be the duty of such retailer to collect  
34 the tax upon all of the gross charges for telecommunications

1 in this State in the same manner and subject to the same  
2 requirements as a retailer maintaining a place of business  
3 within this State. The permit may be revoked by the  
4 Department at its discretion.

5 "Retailer maintaining a place of business in this State",  
6 or any like term, means and includes any retailer having or  
7 maintaining within this State, directly or by a subsidiary,  
8 an office, distribution facilities, transmission facilities,  
9 sales office, warehouse or other place of business, or any  
10 agent or other representative operating within this State  
11 under the authority of the retailer or its subsidiary,  
12 irrespective of whether such place of business or agent or  
13 other representative is located here permanently or  
14 temporarily, or whether such retailer or subsidiary is  
15 licensed to do business in this State.

16 "Sale at retail" means the transmitting, supplying or  
17 furnishing of telecommunications and all services and  
18 equipment provided in connection therewith for a  
19 consideration, to persons other than the Federal and State  
20 governments, and State universities created by statute and  
21 other than between a parent corporation and its wholly owned  
22 subsidiaries or between wholly owned subsidiaries for their  
23 use or consumption and not for resale.

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

1 authorization code, or location in Illinois where bills are  
2 sent.

3 "Taxpayer" means a person who individually or through his  
4 or her agents, employees, or permittees engages in the act or  
5 privilege of originating or receiving telecommunications in a  
6 municipality and who incurs a tax liability as authorized by  
7 this Act.

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

1 charges, charges for use of inter-company facilities, and all  
2 telecommunications resold in the subsequent provision of,  
3 used as a component of, or integrated into, end-to-end  
4 telecommunications service shall be non-taxable as sales for  
5 resale. Prepaid telephone calling arrangements shall not be  
6 considered "telecommunications" subject to the tax imposed  
7 under this Act. For purposes of this Section, "prepaid  
8 telephone calling arrangements" means that term as defined in  
9 Section 2-27 of the Retailers' Occupations Tax Act.

10 Section 5-10. Authority. The corporate authorities of  
11 any municipality in this State may tax any and all of the  
12 following acts or privileges:

13 (a) The act or privilege of originating in such  
14 municipality or receiving in such municipality intrastate  
15 telecommunications by a person. However, such tax is not  
16 imposed on such act or privilege to the extent such act or  
17 privilege may not, under the Constitution and statutes of the  
18 United States, be made the subject of taxation by  
19 municipalities in this State.

20 (b) The act or privilege of originating in such  
21 municipality or receiving in such municipality interstate  
22 telecommunications by a person. To prevent actual multi-state  
23 taxation of the act or privilege that is subject to taxation  
24 under this subsection, any taxpayer, upon proof that the  
25 taxpayer has paid a tax in another state on such event, shall  
26 be allowed a credit against any tax enacted pursuant to or  
27 authorized by this Section to the extent of the amount of  
28 such tax properly due and paid in such other state which was  
29 not previously allowed as a credit against any other state or  
30 local tax in this State. However, such tax is not imposed on  
31 the act or privilege to the extent such act or privilege may  
32 not, under the Constitution and statutes of the United  
33 States, be made the subject of taxation by municipalities in



1 this State.

2 Section 5-15. Maximum rates.

3 (a) For municipalities with a population of less than  
4 500,000, the tax authorized by this Act may be imposed at a  
5 rate not to exceed 6% of the gross charge for  
6 telecommunications purchased at retail. If imposed, the tax  
7 must be in increments of 0.25%.

8 (b) For municipalities with a population of 500,000 or  
9 more, the tax authorized by this Act may be imposed at a rate  
10 not to exceed 7% of the gross charge for telecommunications  
11 purchased at retail. If imposed, the tax must be in  
12 increments of 0.25%.

13 Section 5-20. Imposition.

14 (a) On and after July 1, 2002, for municipalities with  
15 populations of less than 500,000, the tax authorized by this  
16 Act shall be imposed (except as provided in Sections 5-25 and  
17 5-30 of this Act), amended, or repealed by an ordinance  
18 adopted by the municipality, which ordinance shall be filed  
19 by the municipality with the Department pursuant to the rules  
20 of the Department.

21 (1) Any ordinance adopted by a municipality with a  
22 population of less than 500,000 which attempts to impose,  
23 amend or repeal the tax authorized by this Act shall be  
24 of no force and effect until properly filed with an  
25 appropriate form with the Department.

26 (2) Any certified copy of an ordinance filed with  
27 the Department prior to April 1, 2002 shall be effective  
28 with respect to gross charges billed by  
29 telecommunications retailers on or after July 1, 2002 and  
30 thereafter any certified copy of an ordinance filed with  
31 the Department prior to any October 1 or April 1 shall  
32 be effective with respect to gross charges billed by

1 telecommunications retailers on or after the following  
2 January 1 or July 1, respectively.

3 (b) On and after July 1, 2002, for municipalities with  
4 populations of 500,000 or more, the tax authorized by this  
5 Act shall be imposed, amended, or repealed, and any  
6 authorized exemptions granted, by the adoption of an  
7 ordinance.

8 Section 5-25. Existing telecommunications taxes and  
9 fees.

10 (a) Between January 1, 2002 and February 1, 2002, the  
11 Department shall publish a list of the municipalities with a  
12 population of less than 500,000 which had any taxes or fees  
13 authorized by subparagraph (1) of Section 8-11-2 of the  
14 Illinois Municipal Code, Section 8-11-17 of the Illinois  
15 Municipal Code, or Section 20 of the Telecommunications  
16 Infrastructure Maintenance Fee Act that were in effect for  
17 billing periods that include January 1, 2002, whether or not  
18 bills were actually issued on January 1, 2002. Such list  
19 shall include the name of each such municipality, the rates  
20 at which such taxes or fees were imposed, and the rate of the  
21 new Simplified Municipal Telecommunications Tax, as  
22 calculated pursuant to Section 5-30 of this Act.

23 (b) In compiling the list described in this Section, the  
24 Department shall collect information from retailers,  
25 municipalities, the Illinois Commerce Commission, and other  
26 sources deemed by the Department to be reliable.

27 (c) Any municipality appearing on the list published  
28 pursuant to this Section shall not be required to adopt and  
29 file an ordinance implementing the tax authorized by this  
30 Act. The list shall be conclusive evidence of the imposition  
31 of the tax authorized by this Act at the rate appearing on  
32 such list. Any tax imposed in such manner shall take effect  
33 with respect to gross charges billed by telecommunications

1 retailers on or after July 1, 2002. A municipality may alter  
2 such tax only by filing an ordinance with the Department  
3 pursuant to Section 5-20 of this Act.

4 Section 5-30. Calculation of rates for certain  
5 municipalities.

6 (a) For each municipality on the list described in  
7 Section 5-25 of this Act, the rate of the taxes and fees  
8 imposed by a municipality pursuant to subparagraph (1) of  
9 Section 8-11-2 of the Illinois Municipal Code, Section  
10 8-11-17 of the Illinois Municipal Code, or Section 20 of the  
11 Telecommunications Infrastructure Maintenance Fee Act which  
12 appears on the list shall be used by the Department in  
13 calculating the rate of the Simplified Municipal  
14 Telecommunications Tax for such municipality.

15 (b) The rate of the Simplified Municipal  
16 Telecommunications Tax for municipalities on the list shall  
17 be equal to the sum of the following rates in effect on  
18 January 1, 2002:

19 (1) The rate equal to 70% of the rate imposed by  
20 such municipality pursuant to subparagraph (1) of Section  
21 8-11-2 of the Illinois Municipal Code, rounded to the  
22 nearest even 0.25% increment; plus

23 (2) The rate imposed by such municipality pursuant  
24 to Section 8-11-17 of the Illinois Municipal Code,  
25 rounded to the nearest even 0.25% increment; plus

26 (3) The rate imposed by such municipality pursuant  
27 to Section 20 of the Telecommunications Infrastructure  
28 Maintenance Fee Act.

29 (c) The Department shall enter each of the rates  
30 described in subdivisions (b)(1), (b)(2), and (b)(3) of this  
31 Section 5-30, as well as the rate of the Simplified Municipal  
32 Telecommunications Tax, on the list provided for in Section  
33 5-25 of this Act.

1 Section 5-35. Rebates and exemptions. Any municipality  
2 may implement the following rebates and exemptions:

3 (1) A municipality that imposes the tax authorized  
4 by this Act and whose territory includes part of another  
5 unit of local government or a school district, may, by  
6 separate ordinance, rebate some or all of the amount of  
7 such tax paid by the other unit of local government or  
8 school district. Any such rebate shall be paid by the  
9 municipality directly to the other unit of local  
10 government or school district qualifying for the rebate  
11 as determined by the municipality's ordinance, which  
12 shall not be filed with the Department.

13 (2) A municipality that imposes the tax authorized  
14 by this Act may, by separate ordinance, rebate some or  
15 all of the amount of such tax to persons 65 years of age  
16 or older. Any tax related to such rebate shall be  
17 rebated from the municipality directly to persons  
18 qualified for the rebate as determined by the  
19 municipality's ordinance, which shall not be filed with  
20 the Department.

21 (3) A municipality with a population of 500,000 or  
22 more that imposes the tax authorized by this Act may, by  
23 separate ordinance, exempt from the tax authorized by  
24 this Act, charges for inbound toll-free  
25 telecommunications service commonly known as "800",  
26 "877", or "888" or for a similar service, to the extent  
27 such municipality has passed an ordinance providing for  
28 this exemption.

29 Section 5-40. Collection.

30 (a) For municipalities with populations of less than  
31 500,000, the tax authorized by this Act shall be collected  
32 from the taxpayer by a retailer maintaining a place of  
33 business in this State and shall be remitted by such retailer

1 to the Department. Any tax required to be collected pursuant  
2 to or as authorized by this Act and any such tax collected by  
3 such retailer and required to be remitted to the Department  
4 shall constitute a debt owed by the retailer to the State.  
5 Retailers shall collect the tax from the taxpayer by adding  
6 the tax to the gross charge for the act or privilege of  
7 originating or receiving telecommunications when sold for  
8 use, in the manner prescribed by the Department. The tax  
9 authorized by this Act shall constitute a debt of the  
10 taxpayer to the retailer until paid, and, if unpaid, is  
11 recoverable at law in the same manner as the original charge  
12 for such sale at retail. If the retailer fails to collect  
13 the tax from the taxpayer, then the taxpayer shall be  
14 required to pay the tax directly to the Department in the  
15 manner provided by the Department.

16 (b) For municipalities with populations of 500,000 or  
17 more, the tax authorized by this Act shall be collected from  
18 the taxpayer by a retailer making or effectuating the sale at  
19 retail and shall be remitted by such retailer to such  
20 municipality. Any tax required to be collected pursuant to  
21 an ordinance authorized by this Act and any such tax  
22 collected by a retailer shall constitute a debt owed by the  
23 retailer to such municipality. Retailers shall collect the  
24 tax from the taxpayer by adding the tax to the gross charge  
25 for the act or privilege of originating or receiving  
26 telecommunications when sold for use, in the manner  
27 prescribed by such municipality. The tax authorized by this  
28 Act shall constitute a debt of the taxpayer to the retailer  
29 who made or effectuated the sale at retail until paid and, if  
30 unpaid, is recoverable at law in the same manner as the  
31 original charge for the sale at retail. If the retailer  
32 fails to collect the tax from the taxpayer, then the taxpayer  
33 shall be required to pay the tax directly to such  
34 municipality in the manner provided by such municipality.

1 The municipality imposing the tax shall provide for its  
2 administration and enforcement.

3 (c) Retailers filing tax returns pursuant to this Act  
4 shall, at the time of filing such return, pay to a  
5 municipality with a population of 500,000 or more or to the  
6 Department for all other municipalities, the amount of the  
7 tax collected, less a commission of 1% which is allowed to  
8 reimburse the retailer for the expenses incurred in keeping  
9 records, billing the customer, preparing and filing returns,  
10 remitting the tax and supplying data to a municipality or  
11 Department upon request. No commission may be claimed by a  
12 retailer for taxes not timely remitted.

13 (d) Whenever possible, the tax authorized by this Act  
14 shall, when collected, be stated as a distinct item separate  
15 and apart from the gross charge for telecommunications.

16 Section 5-45. Resellers.

17 (a) If a person who originates or receives  
18 telecommunications claims to be a reseller of such  
19 telecommunications, such person shall apply to a municipality  
20 with a population of 500,000 or more or to the Department for  
21 all other municipalities, for a resale number. Such  
22 applicant shall state facts which will show a municipality  
23 with a population of 500,000 or more or the Department for  
24 all other municipalities, why such applicant is not liable  
25 for tax authorized by this Act on any of such purchases and  
26 shall furnish such additional information as a municipality  
27 with a population of 500,000 or more or the Department for  
28 all other municipalities, may reasonably require.

29 (b) Upon approval of the application, a municipality  
30 with a population of 500,000 or more or the Department for  
31 all other municipalities, shall assign a resale number to the  
32 applicant and shall certify such number to the applicant. A  
33 municipality with a population of 500,000 or more or the

1 Department for all other municipalities, may cancel any  
2 number which is obtained through misrepresentation, or which  
3 is used to send or receive such telecommunication tax-free  
4 when such actions in fact are not for resale, or which no  
5 longer applies because of the person's having discontinued  
6 the making of resales.

7 (c) Except as provided hereinabove in this Section, the  
8 act or privilege of originating or receiving  
9 telecommunications in this State shall not be made tax-free  
10 on the ground of being a sale for resale unless the person  
11 has an active resale number from a municipality with a  
12 population of 500,000 or more or the Department for all other  
13 municipalities, and furnishes that number to the retailer in  
14 connection with certifying to the retailer that any sale to  
15 such person is non-taxable because of being a sale for  
16 resale.

17 Section 5-50. Returns to the Department.

18 (a) Commencing on August 1, 2002, for the tax imposed  
19 under subsection (a) of Section 5-20 of this Act, every  
20 retailer maintaining a place of business in this State shall,  
21 on or before the 30th day of each month, except for the month  
22 of February, on or before the 28th day of February, make a  
23 return to the Department for the preceding calendar month,  
24 stating:

- 25 (1) Its name;
- 26 (2) The address of its principal place of business,  
27 and the address of the principal place of business (if  
28 that is a different address) from which it engages in the  
29 business of transmitting telecommunications;
- 30 (3) Total amount of gross charges billed by it  
31 during the preceding calendar month for providing  
32 telecommunications during the calendar month;
- 33 (4) Total amount received by it during the

1 preceding calendar month on credit extended;

2 (5) Deductions allowed by law;

3 (6) Gross charges that were billed by it during the  
4 preceding calendar month and upon the basis of which the  
5 tax is imposed;

6 (7) Amount of tax (computed upon Item 6);

7 (8) The municipalities to which the Department  
8 shall remit the taxes and the amount of such remittances;

9 (9) Such other reasonable information as the  
10 Department may require.

11 (b) Any retailer required to make payments under this  
12 Section may make the payments by electronic funds transfer.  
13 The Department shall adopt rules necessary to effectuate a  
14 program of electronic funds transfer. Any retailer who has  
15 average monthly tax billings due to the Department under this  
16 Act and the Telecommunications Excise Tax Act that exceed  
17 \$1,000 shall make all payments by electronic funds transfer  
18 as required by rules of the Department.

19 (c) If the retailer's average monthly tax billings due  
20 to the Department under this Act and the Telecommunications  
21 Excise Tax Act do not exceed \$1,000, the Department may  
22 authorize such retailer's returns to be filed on a  
23 quarter-annual basis, with the return for January, February,  
24 and March of a given year being due by April 30th of that  
25 year; with the return for April, May, and June of a given  
26 year being due by July 30th of that year; with the return for  
27 July, August, and September of a given year being due by  
28 October 30th of that year; and with the return for October,  
29 November, and December of a given year being due by January  
30 30th of the following year.

31 (d) If the retailer is otherwise required to file a  
32 monthly or quarterly return and if the retailer's average  
33 monthly tax billings due to the Department under this Act and  
34 the Telecommunications Excise Tax Act do not exceed \$400, the



1 Department may authorize such retailer's return to be filed  
2 on an annual basis, with the return for a given year being  
3 due by January 30th of the following year.

4 (e) Each retailer whose average monthly remittance to  
5 the Department under this Act and the Telecommunications  
6 Excise Tax Act was \$25,000 or more during the preceding  
7 calendar year, excluding the month of highest remittance and  
8 the month of lowest remittance in such calendar year, and who  
9 is not operated by a unit of local government, shall make  
10 estimated payments to the Department on or before the 7th,  
11 15th, 22nd, and last day of the month during which the tax  
12 remittance is owed to the Department in an amount not less  
13 than the lower of either 22.5% of the retailer's actual tax  
14 collections for the month or 25% of the retailer's actual tax  
15 collections for the same calendar month of the preceding  
16 year. The amount of such quarter-monthly payments shall be  
17 credited against the final remittance of the retailer's  
18 return for that month. Any outstanding credit, approved by  
19 the Department, arising from the retailer's overpayment of  
20 its final remittance for any month may be applied to reduce  
21 the amount of any subsequent quarter-monthly payment or  
22 credited against the final remittance of the retailer's  
23 return for any subsequent month. If any quarter-monthly  
24 payment is not paid at the time or in the amount required by  
25 this Section, the retailer shall be liable for penalty and  
26 interest on the difference between the minimum amount due as  
27 a payment and the amount of such payment actually and timely  
28 paid, except insofar as the retailer has previously made  
29 payments for that month to the Department or received credits  
30 in excess of the minimum payments previously due.

31 (f) Notwithstanding any other provision of this Section  
32 containing the time within which a retailer may file his or  
33 her return, in the case of any retailer who ceases to engage  
34 in a kind of business that makes him or her responsible for

1 filing returns under this Section, the retailer shall file a  
2 final return under this Section with the Department not more  
3 than one month after discontinuing such business.

4 (g) In making such return, the retailer shall determine  
5 the value of any consideration other than money received by  
6 it and such retailer shall include the value in its return.  
7 Such determination shall be subject to review and revision by  
8 the Department in the manner hereinafter provided for the  
9 correction of returns.

10 (h) Any retailer who has average monthly tax billings  
11 due to the Department under this Act and the  
12 Telecommunications Excise Tax Act that exceed \$1,000 shall  
13 file the return required by this Section by electronic means  
14 as required by rules of the Department.

15 (i) The retailer filing the return herein provided for  
16 shall, at the time of filing the return, pay to the  
17 Department the amounts due pursuant to this Act. The  
18 Department shall immediately pay over to the State Treasurer,  
19 ex officio, as trustee, 99.5% of all taxes, penalties, and  
20 interest collected hereunder for deposit into the Municipal  
21 Telecommunications Fund, which is hereby created. The  
22 remaining 0.5% received by the Department pursuant to this  
23 Act shall be deposited into the Tax Compliance and  
24 Administration Fund and shall be used by the Department,  
25 subject to appropriation, to cover the costs of the  
26 Department. On or before the 25th day of each calendar month,  
27 the Department shall prepare and certify to the Comptroller  
28 the disbursement of stated sums of money to be paid to named  
29 municipalities from the Municipal Telecommunications Fund for  
30 amounts collected during the second preceding calendar month.  
31 The named municipalities shall be those municipalities  
32 identified by a retailer in such retailer's return as having  
33 imposed the tax authorized by the Act. The amount of money  
34 to be paid to each municipality shall be the amount (not

1 including credit memoranda) collected hereunder during the  
2 second preceding calendar month by the Department, plus an  
3 amount the Department determines is necessary to offset any  
4 amounts that were erroneously paid to a different taxing  
5 body, and not including an amount equal to the amount of  
6 refunds made during the second preceding calendar month by  
7 the Department on behalf of such municipality, and not  
8 including any amount that the Department determines is  
9 necessary to offset any amount that were payable to a  
10 different taxing body but were erroneously paid to the  
11 municipality. Within 10 days after receipt by the  
12 Comptroller of the disbursement certification from the  
13 Department, the Comptroller shall cause the orders to be  
14 drawn for the respective amounts in accordance with the  
15 directions contained in the certification. When certifying  
16 to the Comptroller the amount of a monthly disbursement to a  
17 municipality under this Section, the Department shall  
18 increase or decrease the amount by an amount necessary to  
19 offset any misallocation of previous disbursements. The  
20 offset amount shall be the amount erroneously disbursed  
21 within the previous 6 months from the time a misallocation is  
22 discovered.

23 (j) For municipalities with populations of less than  
24 500,000, whenever the Department determines that a refund  
25 shall be made under this Section to a claimant instead of  
26 issuing a credit memorandum, the Department shall notify the  
27 State Comptroller, who shall cause the order to be drawn for  
28 the amount specified and to the person named in the  
29 notification from the Department. The refund shall be paid  
30 by the State Treasurer out of the Municipal  
31 Telecommunications Fund.

32 Section 5-55. Pledged revenues. If a municipality has,  
33 by contract, pledged or dedicated any or all of the revenues

1 collected under any of its taxes imposed pursuant to  
2 subparagraph (1) of Section 8-11-2 of the Illinois Municipal  
3 Code, Section 8-11-17 of the Illinois Municipal Code, or  
4 Section 20 of the Telecommunications Infrastructure  
5 Maintenance Fee Act as shown on the list described in Section  
6 5-25 of this Act, then the equivalent portion of revenues  
7 collected from the tax authorized by this Act shall be deemed  
8 pledged or dedicated in a manner substantially similar to the  
9 pledge of the then existing taxes so as to prevent disruption  
10 of such contract.

11 Section 5-60. Waiver of franchise fees.

12 (a) Any municipality shall be deemed to have waived its  
13 right to receive all fees, charges and other compensation  
14 that might accrue to the municipality after the effective  
15 date of this Act, under any franchise agreement, license, or  
16 similar agreement, executed on or before January 1, 1998 with  
17 telecommunications retailers if:

18 (1) the municipality imposes the tax authorized by  
19 this Act at a rate exceeding 5%;

20 (2) the municipality affirmatively waives such  
21 fees; or

22 (3) the municipality is included in the list  
23 described in Section 5-25 of this Act as having an  
24 infrastructure maintenance fee in place.

25 (b) This waiver shall be effective only during the time  
26 that either the infrastructure maintenance fee or the  
27 replacement tax authorized under this Act is subject to being  
28 lawfully imposed on the telecommunications retailer,  
29 collected by the municipality or the Department, and paid  
30 over to the municipality.

31 (c) No portion of this Act shall be construed to have  
32 repealed or amended the prohibition on franchise fees or  
33 other charges set forth in Section 30 of the

1 Telecommunications Infrastructure Maintenance Fee Act.

2 Section 5-65. Incorporation by reference. On and after  
3 January 1, 2002, for municipalities with populations of less  
4 than 500,000, all of the provisions of Sections 7, 10, 11,  
5 12, 13, 14, 15, 16, 17, 18, and 19 of the Telecommunications  
6 Excise Tax Act, Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g,  
7 5i, 5j, 6, 6a, 6b, and 6c of the Retailers' Occupation Tax  
8 Act, and all the provisions of the Uniform Penalty and  
9 Interest Act, which are not inconsistent with this Act, shall  
10 apply, as far as practicable, to the subject matter of this  
11 Act to the same extent as if such provisions were included  
12 herein. References in such incorporated Sections of the  
13 Retailers' Occupation Tax Act to retailers, to sellers, or to  
14 persons engaged in the business of selling tangible personal  
15 property mean retailers, as defined in this Act, or persons  
16 engaged in the act or privilege of originating or receiving  
17 telecommunications. References in such incorporated Sections  
18 of the Retailers' Occupation Tax Act to purchasers of  
19 tangible personal property mean purchasers of  
20 telecommunications as defined in this Act. References in  
21 such incorporated Sections of the Retailers' Occupation Tax  
22 Act to sales of tangible personal property mean the act or  
23 privilege of originating or receiving telecommunications as  
24 defined in this Act.

25 ARTICLE 10

26 Section 10-1. Short title. This Article may be cited as  
27 the Mobile Telecommunications Sourcing Conformity Act.  
28 References in this Article to "this Act" mean this Article.

29 Section 10-5. Legislative intent. The General Assembly  
30 recognizes that the Mobile Telecommunications Sourcing Act,

1 Public Law 106-252, codified at 4 U.S.C Sections 116 through  
2 126, was passed by the United States Congress to establish  
3 sourcing requirements for state and local taxation of mobile  
4 telecommunication services. In general, the rules provide  
5 that taxes on mobile telecommunications services shall be  
6 collected and remitted to the jurisdiction where the  
7 customer's primary use of the services occurs, irrespective  
8 of where the mobile telecommunications services originate,  
9 terminate, or pass through. By passing this legislation in  
10 the State of Illinois, the General Assembly desires to  
11 implement that Act in this State by establishing the Mobile  
12 Telecommunications Sourcing Conformity Act and to inform  
13 State and local government officials of its provisions as it  
14 applies to the taxes of this State.

15 Section 10-10. Definitions. As used in this Act:

16 "Charges for mobile telecommunications services" means  
17 any charge for, or associated with, the provision of  
18 commercial mobile radio service, as defined in Section 20.3  
19 of Title 47 of the Code of Federal Regulations as in effect  
20 on June 1, 1999, or any charge for, or associated with, a  
21 service provided as an adjunct to a commercial mobile radio  
22 service, that is billed to the customer by or for the  
23 customer's home service provider regardless of whether  
24 individual transmissions originate or terminate within the  
25 licensed service area of the home service provider.

26 "Customer" means (i) the person or entity that contracts  
27 with the home service provider for mobile telecommunications  
28 services or (ii) if the end user of mobile telecommunications  
29 services is not the contracting party, the end user of the  
30 mobile telecommunications services, but this clause (ii)  
31 applies only for the purpose of determining the place of  
32 primary use. "Customer" does not include (i) a reseller of  
33 mobile telecommunications service or (ii) a serving carrier

1 under an arrangement to serve the customer outside the home  
2 service provider's licensed service area.

3 "Designated database provider" means a corporation,  
4 association, or other entity representing all the political  
5 subdivisions of a State that is:

6 (i) responsible for providing an electronic  
7 database prescribed in Section 10-25 if the State has not  
8 provided such electronic database; and

9 (ii) approved by municipal and county associations  
10 or leagues of the State whose responsibility it would  
11 otherwise be to provide such database prescribed by  
12 Sections 116 through 126 of Title 4 of the United States  
13 Code.

14 "Enhanced zip code" means a United States postal zip code  
15 of 9 or more digits.

16 "Home service provider" means the facilities-based  
17 carrier or reseller with which the customer contracts for the  
18 provision of mobile telecommunications services.

19 "Licensed service area" means the geographic area in  
20 which the home service provider is authorized by law or  
21 contract to provide commercial mobile radio service to the  
22 customer.

23 "Mobile telecommunications service" means commercial  
24 mobile radio service, as defined in Section 20.3 of Title 47  
25 of the Code of Federal Regulations as in effect on June 1,  
26 1999.

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

30 (i) the residential street address or the primary  
31 business street address of the customer; and

32 (ii) within the licensed service area of the home  
33 service provider.

34 "Prepaid telephone calling services" means the right to

1 purchase exclusively telecommunications services that must be  
2 paid for in advance that enables the origination of calls  
3 using an access number, authorization code, or both, whether  
4 manually or electronically dialed, if the remaining amount of  
5 units of service that have been prepaid is known by the  
6 provider of the prepaid service on a continuous basis.

7 "Reseller" means a provider who purchases  
8 telecommunications services from another telecommunications  
9 service provider and then resells, uses as a component part  
10 of, or integrates the purchased services into a mobile  
11 telecommunications service. "Reseller" does not include a  
12 serving carrier with which a home service provider arranges  
13 for the services to its customers outside the home service  
14 provider's licensed service area.

15 "Serving carrier" means a facilities-based carrier  
16 providing mobile telecommunications service to a customer  
17 outside a home service provider's or reseller's licensed  
18 service area.

19 "Taxing jurisdiction" means any of the several states,  
20 the District of Columbia, or any territory or possession of  
21 the United States, any municipality, city, county, township,  
22 parish, transportation district, or assessment jurisdiction,  
23 or any other political subdivision within the territorial  
24 limits of the United States with the authority to impose a  
25 tax, charge, or fee.

26 Section 10-15. Application of this Act. The provisions  
27 of this Act shall apply as follows:

28 (a) General provisions. This Act shall apply to any  
29 tax, charge, or fee levied by the State or a taxing  
30 jurisdiction within this State as a fixed charge for each  
31 customer or measured by gross amounts charged to customers  
32 for mobile telecommunications services, regardless of whether  
33 the tax, charge, or fee is imposed on the vendor or customer



1 of the service and regardless of the terminology used to  
2 describe the tax, charge, or fee.

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

4 (1) any tax, charge, or fee levied upon or measured  
5 by the net income, capital stock, net worth, or property  
6 value of the provider of mobile telecommunications  
7 service;

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

11 (3) any tax, charge, or fee that represents  
12 compensation for a mobile telecommunications service  
13 provider's use of public rights of way or other public  
14 property, provided that such tax, charge, or fee is not  
15 levied by the taxing jurisdiction as a fixed charge for  
16 each customer or measured by gross amounts charged to  
17 customers for mobile telecommunications services;

18 (4) any generally applicable business and  
19 occupation tax that is imposed by a State, is applied to  
20 gross receipts or gross proceeds, is the legal liability  
21 of the home service provider, and that statutorily allows  
22 the home service provider to elect to use the sourcing  
23 method required in this Act;

24 (5) any fee related to obligations under Section  
25 254 of the federal Communications Act of 1934; or

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

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

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

31 (2) do not affect the taxability of either the  
32 initial sale of mobile telecommunications services or  
33 subsequent resale of such services, whether as sales of  
34 such services alone or as a part of a bundled product, if

1 the federal Internet Tax Freedom Act would preclude a  
2 taxing jurisdiction from subjecting the charges of the  
3 sale of such services to a tax, charge, or fee, but this  
4 Section provides no evidence of the intent of the General  
5 Assembly with respect to the applicability of the federal  
6 Internet Tax Freedom Act to such charges; and

7 (3) do not apply to the determination of the taxing  
8 situs of air-ground radiotelephone service as defined in  
9 Section 22.99 of Title 47 of the Code of Federal  
10 Regulations as in effect on June 1, 1999.

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

13 Section 10-20. Sourcing rules for mobile  
14 telecommunications services.

15 (a) Notwithstanding the law of this State or any  
16 political subdivision of this State, mobile  
17 telecommunications services provided in a taxing jurisdiction  
18 to a customer, the charges for which are billed by or for the  
19 customer's home service provider, shall be deemed to be  
20 provided by the customer's home service provider.

21 (b) All charges for mobile telecommunications services  
22 that are deemed to be provided by the customer's home service  
23 provider under this Act are authorized to be subjected to  
24 tax, charge, or fee by the taxing jurisdictions whose  
25 territorial limits encompass the customer's place of primary  
26 use, regardless of where the mobile telecommunications  
27 services originate, terminate, or pass through, and no other  
28 taxing jurisdiction may impose taxes, charges, or fees on  
29 charges for such mobile telecommunications services.

30 Section 10-25. Provision of electronic database.

31 (a) The State may provide an electronic database to a  
32 home service provider or, if the State does not provide such

1 an electronic database to home service providers, then the  
2 designated database provider may provide an electronic  
3 database to a home service provider.

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

6 (1) be provided in a format approved by the  
7 American National Standards Institute's Accredited  
8 Standards Committee X12, that, allowing for de minimis  
9 deviations, designates for each street address in the  
10 State, including to the extent practical, any multiple  
11 postal street addresses applicable to one street  
12 location, the appropriate taxing jurisdictions, and the  
13 appropriate code for each taxing jurisdiction, for each  
14 level of taxing jurisdiction, identified by one  
15 nationwide standard numeric code described in subsection  
16 (c); and

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

21 (c) The nationwide standard numeric codes shall contain  
22 the same number of numeric digits with each digit or  
23 combination of digits referring to the same level of taxing  
24 jurisdiction throughout the United States using a format  
25 similar to FIPS 55-3 or other appropriate standard approved  
26 by the Federation of Tax Administrators and the Multistate  
27 Tax Commission, or their successors. Each address shall be  
28 provided in standard postal format.

29 Section 10-30. Notice; updates. If the State or a  
30 designated database provider provides or maintains an  
31 electronic database described in Section 10-25, then the  
32 State or the electronic database provider shall provide  
33 notice of the availability of the then current electronic

1 database, and any subsequent revisions thereof, by  
2 publication in the manner normally employed for the  
3 publication of informational tax, charge, or fee notices to  
4 taxpayers in the State.

5 Section 10-35. User held harmless. A home service  
6 provider using the data contained in an electronic database  
7 described in Section 10-25 shall be held harmless from any  
8 tax, charge, or fee liability that otherwise would be due  
9 solely as a result of any error or omission in the database  
10 provided by the State or designated database provider. The  
11 home service provider shall reflect changes made to the  
12 database during a calendar quarter not later than 30 days  
13 after the end of the calendar quarter if the State or an  
14 electronic database provider issues notice of the  
15 availability of an electronic database reflecting the changes  
16 under Section 10-30.

17 Section 10-40. Safe harbor.

18 (a) If neither the State nor a designated database  
19 provider provides an electronic database under Section 10-25,  
20 a home service provider shall be held harmless from any tax,  
21 charge, or fee liability that otherwise would be due solely  
22 as a result of an assignment of a street address to an  
23 incorrect taxing jurisdiction if, subject to Section 10-60,  
24 the home service provider employs an enhanced zip code to  
25 assign each street address to a specific taxing jurisdiction  
26 for each level of taxing jurisdiction and exercises due  
27 diligence at each level of taxing jurisdiction to ensure that  
28 each such street address is assigned to the correct taxing  
29 jurisdiction. If an enhanced zip code overlaps boundaries of  
30 taxing jurisdictions of the same level, the home service  
31 provider must designate one specific jurisdiction within the  
32 enhanced zip code for use in taxing the activity for the

1 enhanced zip code for each level of taxing jurisdiction. Any  
2 enhanced zip code assignment changed in accordance with  
3 Section 10-60 is deemed to be in compliance with this  
4 Section.

5 (b) For purposes of this Section, there is a rebuttable  
6 presumption that a home service provider has exercised due  
7 diligence if the home service provider demonstrates that it  
8 has:

9 (1) expended reasonable resources to implement and  
10 maintain an appropriately detailed electronic database of  
11 street address assignments to taxing jurisdictions;

12 (2) implemented and maintained reasonable internal  
13 controls to promptly correct misassignments of street  
14 addresses to taxing jurisdictions; and

15 (3) used all reasonably obtainable and usable data  
16 pertaining to municipal annexations, incorporations,  
17 reorganizations, and any other changes in jurisdictional  
18 boundaries that materially affect the accuracy of the  
19 database.

20 Section 10-45. Termination of safe harbor. Section  
21 10-40 applies to a home service provider that is in  
22 compliance with the requirements of Section 10-40 until the  
23 later of:

24 (1) Eighteen months after the nationwide standard  
25 numeric code described in Section 10-25 has been approved by  
26 the Federation of Tax Administrators and the Multistate Tax  
27 Commission; or

28 (2) Six months after the State or a designated database  
29 provider in the State provides such database as prescribed in  
30 Section 10-25.

31 Section 10-50. Home service provider required to obtain  
32 and maintain customer's place of primary use. A home service

1 provider shall be responsible for obtaining and maintaining  
2 the customer's place of primary use, as defined in this Act.  
3 Subject to Section 10-60, and if the home service provider's  
4 reliance on information provided by its customer is in good  
5 faith, a taxing jurisdiction shall:

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

9 (2) not hold a home service provider liable for any  
10 additional taxes, charges, or fees based on a different  
11 determination of the place of primary use for taxes, charges,  
12 or fees that are customarily passed on to the customer as a  
13 separate itemized charge.

14 Section 10-55. Primary place of use for service  
15 contracts in effect on or before July 28, 2002. Except as  
16 provided in Section 10-60, a taxing jurisdiction shall allow  
17 a home service provider to treat the address used by the home  
18 service provider for tax purposes for any customer under a  
19 service contract or agreement in effect on or before July 28,  
20 2002 as that customer's place of primary use for the  
21 remaining term of the service contract or agreement,  
22 excluding any extension or renewal of the service contract or  
23 agreement, for purposes of determining the taxing  
24 jurisdictions to which taxes, charges, or fees on charges for  
25 mobile telecommunications services are remitted.

26 Section 10-60. Determination by taxing jurisdiction or  
27 State concerning place of primary use; notice to home service  
28 provider. A taxing jurisdiction or the State, on behalf of  
29 any taxing jurisdiction or taxing jurisdictions within this  
30 State, may:

31 (a) determine that the address used for purposes of  
32 determining the taxing jurisdictions to which taxes, charges,

1 or fees for mobile telecommunications services are remitted  
2 does not meet the definition of place of primary use in this  
3 Act and give binding notice to the home service provider to  
4 change the place of primary use on a prospective basis from  
5 the date of notice of determination if:

6 (1) the taxing jurisdiction obtains the consent of  
7 all affected taxing jurisdictions within the State before  
8 giving the notice of determination (if the taxing  
9 jurisdiction making the determination is not the State);  
10 and

11 (2) before the taxing jurisdiction gives the notice  
12 of determination, the customer is given an opportunity to  
13 demonstrate in accordance with applicable State or local  
14 tax, charge, or fee administrative procedures that the  
15 address is the customer's place of primary use.

16 (b) determine that the assignment of a taxing  
17 jurisdiction by a home service provider under Section 10-40  
18 does not reflect the correct taxing jurisdiction and give  
19 binding notice to the home service provider to change the  
20 assignment on a prospective basis from the date of notice of  
21 determination if:

22 (1) the taxing jurisdiction obtains the consent of  
23 all affected taxing jurisdictions within the State before  
24 giving the notice of determination (if the taxing  
25 jurisdiction making the determination is not the State);  
26 and

27 (2) the home service provider is given an  
28 opportunity to demonstrate in accordance with applicable  
29 State or local tax, charge, or fee administrative  
30 procedures that the assignment reflects the correct  
31 taxing jurisdiction.

32 Section 10-65. No change to authority of taxing  
33 jurisdiction to collect tax if customer fails to provide

1 place of primary use. Nothing in this Act modifies, impairs,  
2 supersedes, or authorizes the modification, impairment, or  
3 supersession of, any law allowing a taxing jurisdiction to  
4 collect a tax, charge, or fee from a customer that has failed  
5 to provide its place of primary use.

6 Section 10-70. Tax may be imposed on items not subject  
7 to taxation if those items not separately stated. If a  
8 taxing jurisdiction does not otherwise subject charges for  
9 mobile telecommunications services to taxation and if these  
10 charges are aggregated with and not separately stated from  
11 charges that are subject to taxation, then the charges for  
12 nontaxable mobile telecommunications services may be subject  
13 to taxation unless the home service provider can reasonably  
14 identify charges not subject to such tax, charge, or fee from  
15 its books and records that are kept in the regular course of  
16 business.

17 Section 10-75. Customers and otherwise non-taxable  
18 charges. If a taxing jurisdiction does not subject charges  
19 for mobile telecommunications services to taxation, a  
20 customer may not rely upon the nontaxability of charges for  
21 mobile telecommunications services unless the customer's home  
22 service provider separately states the charges for nontaxable  
23 mobile telecommunications services from taxable charges or  
24 the home service provider elects, after receiving a written  
25 request from the customer in the form required by the  
26 provider, to provide verifiable data based upon the home  
27 service provider's books and records that are kept in the  
28 regular course of business that reasonably identifies the  
29 nontaxable charges.

30 Section 10-80. Customers' procedures and remedies for  
31 correcting taxes and fees.



1           (a) If a customer believes that an amount of tax or  
2 assignment of place of primary use or taxing jurisdiction  
3 included on a billing is erroneous, the customer shall notify  
4 the home service provider in writing. The customer shall  
5 include in this written notification the street address for  
6 her or his place of primary use, the account name and number  
7 for which the customer seeks a correction of the tax  
8 assignment, a description of the error asserted by the  
9 customer, and any other information that the home service  
10 provider reasonably requires to process the request. Within  
11 60 days after receiving a notice under this subsection (a),  
12 the home service provider shall review its records and the  
13 electronic database or enhanced zip code used pursuant to  
14 Section 10-25 or 10-40 to determine the customer's taxing  
15 jurisdiction. If this review shows that the amount of tax,  
16 assignment of place of primary use, or taxing jurisdiction is  
17 in error, the home service provider shall correct the error  
18 and refund or credit the amount of tax erroneously collected  
19 from the customer for a period of up to 2 years. If this  
20 review shows that the amount of tax, assignment of place of  
21 primary use, or taxing jurisdiction is correct, the home  
22 service provider shall provide a written explanation to the  
23 customer.

24           (b) If the customer is dissatisfied with the response of  
25 the home service provider under this Section, the customer  
26 may seek a correction or refund or both from the taxing  
27 jurisdiction affected.

28           (c) The procedures in this Section shall be the first  
29 course of remedy available to customers seeking correction of  
30 assignment of place of primary use or taxing jurisdiction or  
31 a refund of or other compensation for taxes, charges, and  
32 fees erroneously collected by the home service provider, and  
33 no cause of action based upon a dispute arising from these  
34 taxes, charges, or fees shall accrue until a customer has

1 reasonably exercised the rights and procedures set forth in  
2 this Section.

3 Section 10-85. Conditional effectiveness of Act. If the  
4 federal Mobile Telecommunications Sourcing Act becomes  
5 invalid and has no legal effect under the provisions of  
6 Section 125 of Title 4 of the United States Code, then the  
7 provisions of this Article 10 (the Mobile Telecommunications  
8 Sourcing Conformity Act) and the amendatory changes made in  
9 Sections 90-11 and 90-21 of Article 90 to Section 2 of the  
10 Telecommunications Excise Tax Act and Section 15.3 of the  
11 Emergency Telephone System Act are invalid and have no legal  
12 effect as of the date the federal Mobile Telecommunications  
13 Sourcing Act becomes invalid and has no legal effect.

14 ARTICLE 90

15 Section 90-5. The State Revenue Sharing Act is amended  
16 by changing Section 12 as follows:

17 (30 ILCS 115/12) (from Ch. 85, par. 616)

18 Sec. 12. Personal Property Tax Replacement Fund. There  
19 is hereby created the Personal Property Tax Replacement Fund,  
20 a special fund in the State Treasury into which shall be paid  
21 all revenue realized:

22 (a) all amounts realized from the additional personal  
23 property tax replacement income tax imposed by subsections  
24 (c) and (d) of Section 201 of the Illinois Income Tax Act,  
25 except for those amounts deposited into the Income Tax Refund  
26 Fund pursuant to subsection (c) of Section 901 of the  
27 Illinois Income Tax Act; and

28 (b) all amounts realized from the additional personal  
29 property replacement invested capital taxes imposed by  
30 Section 2a.1 of the Messages Tax Act, Section 2a.1 of the Gas

1 Revenue Tax Act, Section 2a.1 of the Public Utilities  
2 Revenue Act, and Section 3 of the Water Company Invested  
3 Capital Tax Act, and amounts payable to the Department of  
4 Revenue under the Telecommunications ~~Municipal~~ Infrastructure  
5 Maintenance Fee Act.

6 As soon as may be after the end of each month, the  
7 Department of Revenue shall certify to the Treasurer and the  
8 Comptroller the amount of all refunds paid out of the General  
9 Revenue Fund through the preceding month on account of  
10 overpayment of liability on taxes paid into the Personal  
11 Property Tax Replacement Fund. Upon receipt of such  
12 certification, the Treasurer and the Comptroller shall  
13 transfer the amount so certified from the Personal Property  
14 Tax Replacement Fund into the General Revenue Fund.

15 The payments of revenue into the Personal Property Tax  
16 Replacement Fund shall be used exclusively for distribution  
17 to taxing districts as provided in this Section, payment of  
18 the expenses of the Department of Revenue incurred in  
19 administering the collection and distribution of monies paid  
20 into the Personal Property Tax Replacement Fund and transfers  
21 due to refunds to taxpayers for overpayment of liability for  
22 taxes paid into the Personal Property Tax Replacement Fund.

23 As soon as may be after the effective date of this  
24 amendatory Act of 1980, the Department of Revenue shall  
25 certify to the Treasurer the amount of net replacement  
26 revenue paid into the General Revenue Fund prior to that  
27 effective date from the additional tax imposed by Section  
28 2a.1 of the Messages Tax Act; Section 2a.1 of the Gas Revenue  
29 Tax Act; Section 2a.1 of the Public Utilities Revenue Act;  
30 Section 3 of the Water Company Invested Capital Tax Act;  
31 amounts collected by the Department of Revenue under the  
32 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee  
33 Act; and the additional personal property tax replacement  
34 income tax imposed by the Illinois Income Tax Act, as amended

1 by Public Act 81-1st Special Session-1. Net replacement  
2 revenue shall be defined as the total amount paid into and  
3 remaining in the General Revenue Fund as a result of those  
4 Acts minus the amount outstanding and obligated from the  
5 General Revenue Fund in state vouchers or warrants prior to  
6 the effective date of this amendatory Act of 1980 as refunds  
7 to taxpayers for overpayment of liability under those Acts.

8 All interest earned by monies accumulated in the Personal  
9 Property Tax Replacement Fund shall be deposited in such  
10 Fund. All amounts allocated pursuant to this Section are  
11 appropriated on a continuing basis.

12 Prior to December 31, 1980, as soon as may be after the  
13 end of each quarter beginning with the quarter ending  
14 December 31, 1979, and on and after December 31, 1980, as  
15 soon as may be after January 1, March 1, April 1, May 1, July  
16 1, August 1, October 1 and December 1 of each year, the  
17 Department of Revenue shall allocate to each taxing district  
18 as defined in Section 1-150 of the Property Tax Code, in  
19 accordance with the provisions of paragraph (2) of this  
20 Section the portion of the funds held in the Personal  
21 Property Tax Replacement Fund which is required to be  
22 distributed, as provided in paragraph (1), for each quarter.  
23 Provided, however, under no circumstances shall any taxing  
24 district during each of the first two years of distribution  
25 of the taxes imposed by this amendatory Act of 1979 be  
26 entitled to an annual allocation which is less than the funds  
27 such taxing district collected from the 1978 personal  
28 property tax. Provided further that under no circumstances  
29 shall any taxing district during the third year of  
30 distribution of the taxes imposed by this amendatory Act of  
31 1979 receive less than 60% of the funds such taxing district  
32 collected from the 1978 personal property tax. In the event  
33 that the total of the allocations made as above provided for  
34 all taxing districts, during either of such 3 years, exceeds

1 the amount available for distribution the allocation of each  
2 taxing district shall be proportionately reduced. Except as  
3 provided in Section 13 of this Act, the Department shall then  
4 certify, pursuant to appropriation, such allocations to the  
5 State Comptroller who shall pay over to the several taxing  
6 districts the respective amounts allocated to them.

7 Any township which receives an allocation based in whole  
8 or in part upon personal property taxes which it levied  
9 pursuant to Section 6-507 or 6-512 of the Illinois Highway  
10 Code and which was previously required to be paid over to a  
11 municipality shall immediately pay over to that municipality  
12 a proportionate share of the personal property replacement  
13 funds which such township receives.

14 Any municipality or township, other than a municipality  
15 with a population in excess of 500,000, which receives an  
16 allocation based in whole or in part on personal property  
17 taxes which it levied pursuant to Sections 3-1, 3-4 and 3-6  
18 of the Illinois Local Library Act and which was previously  
19 required to be paid over to a public library shall  
20 immediately pay over to that library a proportionate share of  
21 the personal property tax replacement funds which such  
22 municipality or township receives; provided that if such a  
23 public library has converted to a library organized under The  
24 Illinois Public Library District Act, regardless of whether  
25 such conversion has occurred on, after or before January 1,  
26 1988, such proportionate share shall be immediately paid over  
27 to the library district which maintains and operates the  
28 library. However, any library that has converted prior to  
29 January 1, 1988, and which hitherto has not received the  
30 personal property tax replacement funds, shall receive such  
31 funds commencing on January 1, 1988.

32 Any township which receives an allocation based in whole  
33 or in part on personal property taxes which it levied  
34 pursuant to Section 1c of the Public Graveyards Act and which

1 taxes were previously required to be paid over to or used for  
2 such public cemetery or cemeteries shall immediately pay over  
3 to or use for such public cemetery or cemeteries a  
4 proportionate share of the personal property tax replacement  
5 funds which the township receives.

6 Any taxing district which receives an allocation based in  
7 whole or in part upon personal property taxes which it levied  
8 for another governmental body or school district in Cook  
9 County in 1976 or for another governmental body or school  
10 district in the remainder of the State in 1977 shall  
11 immediately pay over to that governmental body or school  
12 district the amount of personal property replacement funds  
13 which such governmental body or school district would receive  
14 directly under the provisions of paragraph (2) of this  
15 Section, had it levied its own taxes.

16 (1) The portion of the Personal Property Tax Replacement  
17 Fund required to be distributed as of the time allocation is  
18 required to be made shall be the amount available in such  
19 Fund as of the time allocation is required to be made.

20 The amount available for distribution shall be the total  
21 amount in the fund at such time minus the necessary  
22 administrative expenses as limited by the appropriation and  
23 the amount determined by: (a) \$2.8 million for fiscal year  
24 1981; (b) for fiscal year 1982, .54% of the funds distributed  
25 from the fund during the preceding fiscal year; (c) for  
26 fiscal year 1983 through fiscal year 1988, .54% of the funds  
27 distributed from the fund during the preceding fiscal year  
28 less .02% of such fund for fiscal year 1983 and less .02% of  
29 such funds for each fiscal year thereafter, or (d) for fiscal  
30 year 1989 and beyond no more than 105% of the actual  
31 administrative expenses of the prior fiscal year. Such  
32 portion of the fund shall be determined after the transfer  
33 into the General Revenue Fund due to refunds, if any, paid  
34 from the General Revenue Fund during the preceding quarter.

1 If at any time, for any reason, there is insufficient amount  
2 in the Personal Property Tax Replacement Fund for payment of  
3 costs of administration or for transfers due to refunds at  
4 the end of any particular month, the amount of such  
5 insufficiency shall be carried over for the purposes of  
6 transfers into the General Revenue Fund and for purposes of  
7 costs of administration to the following month or months.  
8 Net replacement revenue held, and defined above, shall be  
9 transferred by the Treasurer and Comptroller to the Personal  
10 Property Tax Replacement Fund within 10 days of such  
11 certification.

12 (2) Each quarterly allocation shall first be apportioned  
13 in the following manner: 51.65% for taxing districts in Cook  
14 County and 48.35% for taxing districts in the remainder of  
15 the State.

16 The Personal Property Replacement Ratio of each taxing  
17 district outside Cook County shall be the ratio which the Tax  
18 Base of that taxing district bears to the Downstate Tax Base.  
19 The Tax Base of each taxing district outside of Cook County  
20 is the personal property tax collections for that taxing  
21 district for the 1977 tax year. The Downstate Tax Base is  
22 the personal property tax collections for all taxing  
23 districts in the State outside of Cook County for the 1977  
24 tax year. The Department of Revenue shall have authority to  
25 review for accuracy and completeness the personal property  
26 tax collections for each taxing district outside Cook County  
27 for the 1977 tax year.

28 The Personal Property Replacement Ratio of each Cook  
29 County taxing district shall be the ratio which the Tax Base  
30 of that taxing district bears to the Cook County Tax Base.  
31 The Tax Base of each Cook County taxing district is the  
32 personal property tax collections for that taxing district  
33 for the 1976 tax year. The Cook County Tax Base is the  
34 personal property tax collections for all taxing districts in

1 Cook County for the 1976 tax year. The Department of Revenue  
2 shall have authority to review for accuracy and completeness  
3 the personal property tax collections for each taxing  
4 district within Cook County for the 1976 tax year.

5 For all purposes of this Section 12, amounts paid to a  
6 taxing district for such tax years as may be applicable by a  
7 foreign corporation under the provisions of Section 7-202 of  
8 the Public Utilities Act, as amended, shall be deemed to be  
9 personal property taxes collected by such taxing district for  
10 such tax years as may be applicable. The Director shall  
11 determine from the Illinois Commerce Commission, for any tax  
12 year as may be applicable, the amounts so paid by any such  
13 foreign corporation to any and all taxing districts. The  
14 Illinois Commerce Commission shall furnish such information  
15 to the Director. For all purposes of this Section 12, the  
16 Director shall deem such amounts to be collected personal  
17 property taxes of each such taxing district for the  
18 applicable tax year or years.

19 Taxing districts located both in Cook County and in one  
20 or more other counties shall receive both a Cook County  
21 allocation and a Downstate allocation determined in the same  
22 way as all other taxing districts.

23 If any taxing district in existence on July 1, 1979  
24 ceases to exist, or discontinues its operations, its Tax Base  
25 shall thereafter be deemed to be zero. If the powers, duties  
26 and obligations of the discontinued taxing district are  
27 assumed by another taxing district, the Tax Base of the  
28 discontinued taxing district shall be added to the Tax Base  
29 of the taxing district assuming such powers, duties and  
30 obligations.

31 If two or more taxing districts in existence on July 1,  
32 1979, or a successor or successors thereto shall consolidate  
33 into one taxing district, the Tax Base of such consolidated  
34 taxing district shall be the sum of the Tax Bases of each of



1 the taxing districts which have consolidated.

2 If a single taxing district in existence on July 1, 1979,  
3 or a successor or successors thereto shall be divided into  
4 two or more separate taxing districts, the tax base of the  
5 taxing district so divided shall be allocated to each of the  
6 resulting taxing districts in proportion to the then current  
7 equalized assessed value of each resulting taxing district.

8 If a portion of the territory of a taxing district is  
9 disconnected and annexed to another taxing district of the  
10 same type, the Tax Base of the taxing district from which  
11 disconnection was made shall be reduced in proportion to the  
12 then current equalized assessed value of the disconnected  
13 territory as compared with the then current equalized  
14 assessed value within the entire territory of the taxing  
15 district prior to disconnection, and the amount of such  
16 reduction shall be added to the Tax Base of the taxing  
17 district to which annexation is made.

18 If a community college district is created after July 1,  
19 1979, beginning on the effective date of this amendatory Act  
20 of 1995, its Tax Base shall be 3.5% of the sum of the  
21 personal property tax collected for the 1977 tax year within  
22 the territorial jurisdiction of the district.

23 The amounts allocated and paid to taxing districts  
24 pursuant to the provisions of this amendatory Act of 1979  
25 shall be deemed to be substitute revenues for the revenues  
26 derived from taxes imposed on personal property pursuant to  
27 the provisions of the "Revenue Act of 1939" or "An Act for  
28 the assessment and taxation of private car line companies",  
29 approved July 22, 1943, as amended, or Section 414 of the  
30 Illinois Insurance Code, prior to the abolition of such taxes  
31 and shall be used for the same purposes as the revenues  
32 derived from ad valorem taxes on real estate.

33 Monies received by any taxing districts from the Personal  
34 Property Tax Replacement Fund shall be first applied toward

1 payment of the proportionate amount of debt service which was  
2 previously levied and collected from extensions against  
3 personal property on bonds outstanding as of December 31,  
4 1978 and next applied toward payment of the proportionate  
5 share of the pension or retirement obligations of the taxing  
6 district which were previously levied and collected from  
7 extensions against personal property. For each such  
8 outstanding bond issue, the County Clerk shall determine the  
9 percentage of the debt service which was collected from  
10 extensions against real estate in the taxing district for  
11 1978 taxes payable in 1979, as related to the total amount of  
12 such levies and collections from extensions against both real  
13 and personal property. For 1979 and subsequent years' taxes,  
14 the County Clerk shall levy and extend taxes against the real  
15 estate of each taxing district which will yield the said  
16 percentage or percentages of the debt service on such  
17 outstanding bonds. The balance of the amount necessary to  
18 fully pay such debt service shall constitute a first and  
19 prior lien upon the monies received by each such taxing  
20 district through the Personal Property Tax Replacement Fund  
21 and shall be first applied or set aside for such purpose. In  
22 counties having fewer than 3,000,000 inhabitants, the  
23 amendments to this paragraph as made by this amendatory Act  
24 of 1980 shall be first applicable to 1980 taxes to be  
25 collected in 1981.

26 (Source: P.A. 89-327, eff. 1-1-96; 90-154, eff. 1-1-98.)

27 Section 90-10. The Telecommunications Excise Tax Act is  
28 amended by changing Sections 2, 6, and 15 as follows:

29 (35 ILCS 630/2) (from Ch. 120, par. 2002)

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

32 (a) "Gross charge" means the amount paid for the act or

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

16 (1) any amounts added to a purchaser's bill because  
17 of a charge made pursuant to (i) the tax imposed by this  
18 Article; (ii) charges added to customers' bills pursuant  
19 to the provisions of Sections 9-221 or 9-222 of the  
20 Public Utilities Act, as amended, or any similar charges  
21 added to customers' bills by retailers who are not  
22 subject to rate regulation by the Illinois Commerce  
23 Commission for the purpose of recovering any of the tax  
24 liabilities or other amounts specified in such provisions  
25 of such Act; ~~or~~ (iii) the tax imposed by Section 4251 of  
26 the Internal Revenue Code; (iv) 911 surcharges; or (v)  
27 the tax imposed by the Simplified Municipal  
28 Telecommunications Tax Act;

29 (2) charges for a sent collect telecommunication  
30 received outside of the State;

31 (3) charges for leased time on equipment or charges  
32 for the storage of data or information for subsequent  
33 retrieval or the processing of data or information  
34 intended to change its form or content. Such equipment

1 includes, but is not limited to, the use of calculators,  
2 computers, data processing equipment, tabulating  
3 equipment or accounting equipment and also includes the  
4 usage of computers under a time-sharing agreement;

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

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

14 (6) charges for telecommunications and all services  
15 and equipment provided in connection therewith between a  
16 parent corporation and its wholly owned subsidiaries or  
17 between wholly owned subsidiaries when the tax imposed  
18 under this Article has already been paid to a retailer  
19 and only to the extent that the charges between the  
20 parent corporation and wholly owned subsidiaries or  
21 between wholly owned subsidiaries represent expense  
22 allocation between the corporations and not the  
23 generation of profit for the corporation rendering such  
24 service;

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

34 (8) charges paid by inserting coins in

1 coin-operated telecommunication devices;

2 (9) amounts paid by telecommunications retailers  
3 under the Telecommunications Municipal Infrastructure  
4 Maintenance Fee Act.

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

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

1 charges, charges for use of inter-company facilities, and all  
2 telecommunications resold in the subsequent provision of,  
3 used as a component of, or integrated into end-to-end  
4 telecommunications service shall be non-taxable as sales for  
5 resale.

6 (d) "Interstate telecommunications" means all  
7 telecommunications that either originate or terminate outside  
8 this State.

9 (e) "Intrastate telecommunications" means all  
10 telecommunications that originate and terminate within this  
11 State.

12 (f) "Department" means the Department of Revenue of the  
13 State of Illinois.

14 (g) "Director" means the Director of Revenue for the  
15 Department of Revenue of the State of Illinois.

16 (h) "Taxpayer" means a person who individually or  
17 through his agents, employees or permittees engages in the  
18 act or privilege of originating or receiving  
19 telecommunications in this State and who incurs a tax  
20 liability under this Article.

21 (i) "Person" means any natural individual, firm, trust,  
22 estate, partnership, association, joint stock company, joint  
23 venture, corporation, limited liability company, or a  
24 receiver, trustee, guardian or other representative appointed  
25 by order of any court, the Federal and State governments,  
26 including State universities created by statute or any city,  
27 town, county or other political subdivision of this State.

28 (j) "Purchase at retail" means the acquisition,  
29 consumption or use of telecommunication through a sale at  
30 retail.

31 (k) "Sale at retail" means the transmitting, supplying  
32 or furnishing of telecommunications and all services and  
33 equipment provided in connection therewith for a  
34 consideration to persons other than the Federal and State

1 governments, and State universities created by statute and  
2 other than between a parent corporation and its wholly owned  
3 subsidiaries or between wholly owned subsidiaries for their  
4 use or consumption and not for resale.

5 (l) "Retailer" means and includes every person engaged  
6 in the business of making sales at retail as defined in this  
7 Article. The Department may, in its discretion, upon  
8 application, authorize the collection of the tax hereby  
9 imposed by any retailer not maintaining a place of business  
10 within this State, who, to the satisfaction of the  
11 Department, furnishes adequate security to insure collection  
12 and payment of the tax. Such retailer shall be issued,  
13 without charge, a permit to collect such tax. When so  
14 authorized, it shall be the duty of such retailer to collect  
15 the tax upon all of the gross charges for telecommunications  
16 in this State in the same manner and subject to the same  
17 requirements as a retailer maintaining a place of business  
18 within this State. The permit may be revoked by the  
19 Department at its discretion.

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

31 (n) "Service address" means the location of  
32 telecommunications equipment from which the  
33 telecommunications services are originated or at which  
34 telecommunications services are received by a taxpayer. In

1 the event this may not be a defined location, as in the case  
2 of mobile phones, paging systems, maritime systems,  
3 air-to-ground systems and the like, service address shall  
4 mean the location of a taxpayer's primary use of the  
5 telecommunications equipment as defined by telephone number,  
6 authorization code, or location in Illinois where bills are  
7 sent.

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

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

29 (35 ILCS 630/6) (from Ch. 120, par. 2006)

30 Sec. 6. Except as provided hereinafter in this Section,  
31 on or before the 30th 15th day of each month, except for the  
32 month of February, on or before the 28th day of February,  
33 each retailer maintaining a place of business in this State



1 shall make a return to the Department for the preceding  
2 calendar month, stating:

- 3 1. His name;
- 4 2. The address of his principal place of business,  
5 and the address of the principal place of business (if  
6 that is a different address) from which he engages in the  
7 business of transmitting telecommunications;
- 8 3. Total amount of gross charges billed by him  
9 during the preceding calendar month for providing  
10 telecommunications during such calendar month;
- 11 4. Total amount received by him during the  
12 preceding calendar month on credit extended;
- 13 5. Deductions allowed by law;
- 14 6. Gross charges which were billed by him during  
15 the preceding calendar month and upon the basis of which  
16 the tax is imposed;
- 17 7. Amount of tax (computed upon Item 6);
- 18 8. Such other reasonable information as the  
19 Department may require.

20 Any taxpayer required to make payments under this Section  
21 may make the payments by electronic funds transfer. The  
22 Department shall adopt rules necessary to effectuate a  
23 program of electronic funds transfer. Any taxpayer who has  
24 average monthly tax billings due to the Department under this  
25 Act and the Simplified Municipal Telecommunications Tax Act  
26 that exceed \$1,000 shall make all payments by electronic  
27 funds transfer as required by rules of the Department and  
28 shall file the return required by this Section by electronic  
29 means as required by rules of the Department.

30 If the retailer's average monthly tax billings due to the  
31 Department under this Act and the Simplified Municipal  
32 Telecommunications Tax Act do not exceed \$1,000 \$200, the  
33 Department may authorize his returns to be filed on a quarter  
34 annual basis, with the return for January, February and March

1 of a given year being due by April 30 15 of such year; with  
2 the return for April, May and June of a given year being due  
3 by July 30 15 of such year; with the return for July, August  
4 and September of a given year being due by October 30 15 of  
5 such year; and with the return of October, November and  
6 December of a given year being due by January 30 15 of the  
7 following year.

8 If the retailer is otherwise required to file a monthly  
9 or quarterly return and if the retailer's average monthly tax  
10 billings due to the Department under this Act and the  
11 Simplified Municipal Telecommunications Tax Act do not exceed  
12 \$400 \$50, the Department may authorize his or her return to  
13 be filed on an annual basis, with the return for a given year  
14 being due by January 30th 15th of the following year.

15 Notwithstanding any other provision of this Article  
16 containing the time within which a retailer may file his  
17 return, in the case of any retailer who ceases to engage in a  
18 kind of business which makes him responsible for filing  
19 returns under this Article, such retailer shall file a final  
20 return under this Article with the Department not more than  
21 one month after discontinuing such business.

22 In making such return, the retailer shall determine the  
23 value of any consideration other than money received by him  
24 and he shall include such value in his return. Such  
25 determination shall be subject to review and revision by the  
26 Department in the manner hereinafter provided for the  
27 correction of returns.

28 Each retailer whose average monthly liability to the  
29 Department under this Article and the Simplified Municipal  
30 Telecommunications Tax Act was \$25,000 \$10,000 or more during  
31 the preceding calendar year, excluding the month of highest  
32 liability and the month of lowest liability in such calendar  
33 year, and who is not operated by a unit of local government,  
34 shall make estimated payments to the Department on or before

1 the 7th, 15th, 22nd and last day of the month during which  
 2 tax collection liability to the Department is incurred in an  
 3 amount not less than the lower of either 22.5% of the  
 4 retailer's actual tax collections for the month or 25% of the  
 5 retailer's actual tax collections for the same calendar month  
 6 of the preceding year. The amount of such quarter monthly  
 7 payments shall be credited against the final liability of the  
 8 retailer's return for that month. Any outstanding credit,  
 9 approved by the Department, arising from the retailer's  
 10 overpayment of its final liability for any month may be  
 11 applied to reduce the amount of any subsequent quarter  
 12 monthly payment or credited against the final liability of  
 13 the retailer's return for any subsequent month. If any  
 14 quarter monthly payment is not paid at the time or in the  
 15 amount required by this Section, the retailer shall be liable  
 16 for penalty and interest on the difference between the  
 17 minimum amount due as a payment and the amount of such  
 18 payment actually and timely paid, except insofar as the  
 19 retailer has previously made payments for that month to the  
 20 Department in excess of the minimum payments previously due.

21 ~~If the Director finds that the information required for~~  
 22 ~~the making of an accurate return cannot reasonably be~~  
 23 ~~compiled by a retailer within 15 days after the close of the~~  
 24 ~~calendar month for which a return is to be made, he may grant~~  
 25 ~~an extension of time for the filing of such return for a~~  
 26 ~~period of not to exceed 31 calendar days. The granting of~~  
 27 ~~such an extension may be conditioned upon the deposit by the~~  
 28 ~~retailer with the Department of an amount of money not~~  
 29 ~~exceeding the amount estimated by the Director to be due with~~  
 30 ~~the return so extended. All such deposits, including any~~  
 31 ~~heretofore made with the Department, shall be credited~~  
 32 ~~against the retailer's liabilities under this Article. If~~  
 33 ~~any such deposit exceeds the retailer's present and probable~~  
 34 ~~future liabilities under this Article, the Department shall~~

1 issue--to--the--retailer--a--credit--memorandum,--which--may--be  
2 assigned--by--the--retailer--to--a--similar--retailer--under--this  
3 Article,--in--accordance--with--reasonable--rules--and--regulations  
4 to--be--prescribed--by--the--Department.

5 The retailer making the return herein provided for shall,  
6 at the time of making such return, pay to the Department the  
7 amount of tax herein imposed, less a commission of 1% which  
8 is allowed to reimburse the retailer for the expenses  
9 incurred in keeping records, billing the customer, preparing  
10 and filing returns, remitting the tax, and supplying data to  
11 the Department upon request. No commission may be claimed by  
12 a retailer for taxes not timely remitted. On and after the  
13 effective date of this Article of 1985, \$1,000,000 of the  
14 moneys received by the Department of Revenue pursuant to this  
15 Article shall be paid each month into the Common School Fund  
16 and the remainder into the General Revenue Fund. On and after  
17 February 1, 1998, however, of the moneys received by the  
18 Department of Revenue pursuant to the additional taxes  
19 imposed by this amendatory Act of 1997 one-half shall be  
20 deposited into the School Infrastructure Fund and one-half  
21 shall be deposited into the Common School Fund. On and after  
22 the effective date of this amendatory Act of the 91st General  
23 Assembly, if in any fiscal year the total of the moneys  
24 deposited into the School Infrastructure Fund under this Act  
25 is less than the total of the moneys deposited into that Fund  
26 from the additional taxes imposed by Public Act 90-548 during  
27 fiscal year 1999, then, as soon as possible after the close  
28 of the fiscal year, the Comptroller shall order transferred  
29 and the Treasurer shall transfer from the General Revenue  
30 Fund to the School Infrastructure Fund an amount equal to the  
31 difference between the fiscal year total deposits and the  
32 total amount deposited into the Fund in fiscal year 1999.

33 (Source: P.A. 90-16, eff. 6-16-97; 90-548, eff. 12-4-97;  
34 91-541, eff. 8-13-99; 91-870, 6-22-00.)

1 (35 ILCS 630/15) (from Ch. 120, par. 2015)

2 Sec. 15. Confidential information. All information  
3 received by the Department from returns filed under this  
4 Article, or from any investigations conducted under this  
5 Article, shall be confidential, except for official purposes,  
6 and any person who divulges any such information in any  
7 manner, except in accordance with a proper judicial order or  
8 as otherwise provided by law, shall be guilty of a Class B  
9 misdemeanor.

10 Provided, that nothing contained in this Article shall  
11 prevent the Director from publishing or making available to  
12 the public the names and addresses of retailers or taxpayers  
13 filing returns under this Article, or from publishing or  
14 making available reasonable statistics concerning the  
15 operation of the tax wherein the contents of returns are  
16 grouped into aggregates in such a way that the information  
17 contained in any individual return shall not be disclosed.

18 And provided, that nothing contained in this Article  
19 shall prevent the Director from making available to the  
20 United States Government or the government of any other  
21 state, or any officer or agency thereof, for exclusively  
22 official purposes, information received by the Department in  
23 the administration of this Article, if such other  
24 governmental agency agrees to divulge requested tax  
25 information to the Department.

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

30 The furnishing of financial information to a municipality  
31 that has imposed a tax under the Simplified Municipal  
32 Telecommunications Tax Act, upon request of the chief  
33 executive thereof, is an official purpose within the meaning  
34 of this Section, provided that the municipality agrees in

1 writing to the requirements of this Section. Information so  
2 provided shall be subject to all confidentiality provisions  
3 of this Section. The written agreement shall provide for  
4 reciprocity, limitations on access, disclosure, and  
5 procedures for requesting information.

6 The Director shall make available for public inspection  
7 in the Department's principal office and for publication, at  
8 cost, administrative decisions issued on or after January 1,  
9 1995. These decisions are to be made available in a manner so  
10 that the following taxpayer information is not disclosed:

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

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

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

22 The Director shall make available for public inspection  
23 and publication an administrative decision within 180 days  
24 after the issuance of the administrative decision. The term  
25 "administrative decision" has the same meaning as defined in  
26 Section 3-101 of Article III of the Code of Civil Procedure.  
27 Costs collected under this Section shall be paid into the Tax  
28 Compliance and Administration Fund.

29 Nothing contained in this Act shall prevent the Director  
30 from divulging information to any person pursuant to a  
31 request or authorization made by the taxpayer or by an  
32 authorized representative of the taxpayer.

33 (Source: P.A. 90-491, eff. 1-1-98.)

1 Section 90-11. The Telecommunications Excise Tax Act is  
2 amended by changing Section 2 as follows:

3 (35 ILCS 630/2) (from Ch. 120, par. 2002)

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

6 (a) "Gross charge" means the amount paid for the act or  
7 privilege of originating or receiving telecommunications in  
8 this State and for all services and equipment provided in  
9 connection therewith by a retailer, valued in money whether  
10 paid in money or otherwise, including cash, credits, services  
11 and property of every kind or nature, and shall be determined  
12 without any deduction on account of the cost of such  
13 telecommunications, the cost of materials used, labor or  
14 service costs or any other expense whatsoever. In case  
15 credit is extended, the amount thereof shall be included only  
16 as and when paid. "Gross charges" for private line service  
17 shall include charges imposed at each channel point within  
18 this State, charges for the channel mileage between each  
19 channel point within this State, and charges for that portion  
20 of the interstate inter-office channel provided within  
21 Illinois. However, "gross charges" shall not include:

22 (1) any amounts added to a purchaser's bill because  
23 of a charge made pursuant to (i) the tax imposed by this  
24 Article; (ii) charges added to customers' bills pursuant  
25 to the provisions of Sections 9-221 or 9-222 of the  
26 Public Utilities Act, as amended, or any similar charges  
27 added to customers' bills by retailers who are not  
28 subject to rate regulation by the Illinois Commerce  
29 Commission for the purpose of recovering any of the tax  
30 liabilities or other amounts specified in such provisions  
31 of such Act; or (iii) the tax imposed by Section 4251 of  
32 the Internal Revenue Code;

33 (2) charges for a sent collect telecommunication

1 received outside of the State;

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

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

14 (5) charges to business enterprises certified under  
15 Section 9-222.1 of the Public Utilities Act, as amended,  
16 to the extent of such exemption and during the period of  
17 time specified by the Department of Commerce and  
18 Community Affairs;

19 (6) charges for telecommunications and all services  
20 and equipment provided in connection therewith between a  
21 parent corporation and its wholly owned subsidiaries or  
22 between wholly owned subsidiaries when the tax imposed  
23 under this Article has already been paid to a retailer  
24 and only to the extent that the charges between the  
25 parent corporation and wholly owned subsidiaries or  
26 between wholly owned subsidiaries represent expense  
27 allocation between the corporations and not the  
28 generation of profit for the corporation rendering such  
29 service;

30 (7) bad debts. Bad debt means any portion of a debt  
31 that is related to a sale at retail for which gross  
32 charges are not otherwise deductible or excludable that  
33 has become worthless or uncollectable, as determined  
34 under applicable federal income tax standards. If the



1 portion of the debt deemed to be bad is subsequently  
2 paid, the retailer shall report and pay the tax on that  
3 portion during the reporting period in which the payment  
4 is made;

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

7 (9) amounts paid by telecommunications retailers  
8 under the Telecommunications Municipal Infrastructure  
9 Maintenance Fee Act.

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

13 (c) "Telecommunications", in addition to the meaning  
14 ordinarily and popularly ascribed to it, includes, without  
15 limitation, messages or information transmitted through use  
16 of local, toll and wide area telephone service; private line  
17 services; channel services; telegraph services;  
18 teletypewriter; computer exchange services; cellular mobile  
19 telecommunications service; specialized mobile radio;  
20 stationary two way radio; paging service; or any other form  
21 of mobile and portable one-way or two-way communications; or  
22 any other transmission of messages or information by  
23 electronic or similar means, between or among points by wire,  
24 cable, fiber-optics, laser, microwave, radio, satellite or  
25 similar facilities. As used in this Act, "private line" means  
26 a dedicated non-traffic sensitive service for a single  
27 customer, that entitles the customer to exclusive or priority  
28 use of a communications channel or group of channels, from  
29 one or more specified locations to one or more other  
30 specified locations. The definition of "telecommunications"  
31 shall not include value added services in which computer  
32 processing applications are used to act on the form, content,  
33 code and protocol of the information for purposes other than  
34 transmission. "Telecommunications" shall not include

1 purchases of telecommunications by a telecommunications  
2 service provider for use as a component part of the service  
3 provided by him to the ultimate retail consumer who  
4 originates or terminates the taxable end-to-end  
5 communications. Carrier access charges, right of access  
6 charges, charges for use of inter-company facilities, and all  
7 telecommunications resold in the subsequent provision of,  
8 used as a component of, or integrated into end-to-end  
9 telecommunications service shall be non-taxable as sales for  
10 resale.

11 (d) "Interstate telecommunications" means all  
12 telecommunications that either originate or terminate outside  
13 this State.

14 (e) "Intrastate telecommunications" means all  
15 telecommunications that originate and terminate within this  
16 State.

17 (f) "Department" means the Department of Revenue of the  
18 State of Illinois.

19 (g) "Director" means the Director of Revenue for the  
20 Department of Revenue of the State of Illinois.

21 (h) "Taxpayer" means a person who individually or  
22 through his agents, employees or permittees engages in the  
23 act or privilege of originating or receiving  
24 telecommunications in this State and who incurs a tax  
25 liability under this Article.

26 (i) "Person" means any natural individual, firm, trust,  
27 estate, partnership, association, joint stock company, joint  
28 venture, corporation, limited liability company, or a  
29 receiver, trustee, guardian or other representative appointed  
30 by order of any court, the Federal and State governments,  
31 including State universities created by statute or any city,  
32 town, county or other political subdivision of this State.

33 (j) "Purchase at retail" means the acquisition,  
34 consumption or use of telecommunication through a sale at

1 retail.

2 (k) "Sale at retail" means the transmitting, supplying  
3 or furnishing of telecommunications and all services and  
4 equipment provided in connection therewith for a  
5 consideration to persons other than the Federal and State  
6 governments, and State universities created by statute and  
7 other than between a parent corporation and its wholly owned  
8 subsidiaries or between wholly owned subsidiaries for their  
9 use or consumption and not for resale.

10 (l) "Retailer" means and includes every person engaged  
11 in the business of making sales at retail as defined in this  
12 Article. The Department may, in its discretion, upon  
13 application, authorize the collection of the tax hereby  
14 imposed by any retailer not maintaining a place of business  
15 within this State, who, to the satisfaction of the  
16 Department, furnishes adequate security to insure collection  
17 and payment of the tax. Such retailer shall be issued,  
18 without charge, a permit to collect such tax. When so  
19 authorized, it shall be the duty of such retailer to collect  
20 the tax upon all of the gross charges for telecommunications  
21 in this State in the same manner and subject to the same  
22 requirements as a retailer maintaining a place of business  
23 within this State. The permit may be revoked by the  
24 Department at its discretion.

25 (m) "Retailer maintaining a place of business in this  
26 State", or any like term, means and includes any retailer  
27 having or maintaining within this State, directly or by a  
28 subsidiary, an office, distribution facilities, transmission  
29 facilities, sales office, warehouse or other place of  
30 business, or any agent or other representative operating  
31 within this State under the authority of the retailer or its  
32 subsidiary, irrespective of whether such place of business or  
33 agent or other representative is located here permanently or  
34 temporarily, or whether such retailer or subsidiary is

1 licensed to do business in this State.

2 (n) "Service address" means the location of  
3 telecommunications equipment from which the  
4 telecommunications services are originated or at which  
5 telecommunications services are received by a taxpayer. In  
6 the event this may not be a defined location, as in the case  
7 of mobile phones, paging systems, maritime systems, service  
8 address means the customer's place of primary use as defined  
9 in the Mobile Telecommunications Sourcing Conformity Act.  
10 For air-to-ground systems and the like, service address shall  
11 mean the location of a taxpayer's primary use of the  
12 telecommunications equipment as defined by telephone number,  
13 authorization code, or location in Illinois where bills are  
14 sent. The changes made to this subsection (n) by this  
15 amendatory Act of the 92nd General Assembly are subject to  
16 the conditional effectiveness provisions of Section 10-85 of  
17 the Mobile Telecommunications Sourcing Conformity Act.

18 (o) "Prepaid telephone calling arrangements" mean the  
19 right to exclusively purchase telephone or telecommunications  
20 services that must be paid for in advance and enable the  
21 origination of one or more intrastate, interstate, or  
22 international telephone calls or other telecommunications  
23 using an access number, an authorization code, or both,  
24 whether manually or electronically dialed, for which payment  
25 to a retailer must be made in advance, provided that, unless  
26 recharged, no further service is provided once that prepaid  
27 amount of service has been consumed. Prepaid telephone  
28 calling arrangements include the recharge of a prepaid  
29 calling arrangement. For purposes of this subsection,  
30 "recharge" means the purchase of additional prepaid telephone  
31 or telecommunications services whether or not the purchaser  
32 acquires a different access number or authorization code.  
33 "Prepaid telephone calling arrangement" does not include an  
34 arrangement whereby a customer purchases a payment card and

1 pursuant to which the service provider reflects the amount of  
2 such purchase as a credit on an invoice issued to that  
3 customer under an existing subscription plan.

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

5 Section 90-15. The Telecommunications Municipal  
6 Infrastructure Maintenance Fee Act is amended by changing  
7 Sections 1, 5, 10, 15, 20, 25, 27, 27.35, 30, and 35 as  
8 follows:

9 (35 ILCS 635/1)

10 Sec. 1. Short title. This Act may be cited as the  
11 Telecommunications Municipal Infrastructure Maintenance Fee  
12 Act.

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

14 (35 ILCS 635/5)

15 Sec. 5. Legislative intent.

16 (a) The General Assembly imposed a tax on invested  
17 capital of utilities to partially replace the personal  
18 property tax that was abolished by the Illinois Constitution  
19 of 1970. Since that tax was imposed, telecommunications  
20 retailers have evolved from utility status into an  
21 increasingly competitive industry serving the public.

22 (b) This Act is intended to abolish the invested capital  
23 tax on telecommunications retailers (that is, persons engaged  
24 in the business of transmitting messages and acting as a  
25 retailer of telecommunications as defined in Section 2 of the  
26 Telecommunications Excise Tax Act). Cellular  
27 telecommunications retailers have already been excluded from  
28 application of the invested capital tax by earlier  
29 legislative action.

30 (c) For the period prior to the effective date of this  
31 amendatory Act of the 92nd General Assembly, this Act is also

1 intended to abolish municipal franchise fees with respect to  
2 telecommunications retailers, create a uniform system for the  
3 collection and distribution of fees associated with the  
4 privilege of use of the public right of way for  
5 telecommunications activity, and provide municipalities with  
6 a comprehensive method of compensation for telecommunications  
7 activity including the recovery of reasonable costs of  
8 regulating the use of the public rights-of-way for  
9 telecommunications activity.

10 (d) For the period from the effective date of this  
11 amendatory Act of the 92nd General Assembly through June 30,  
12 2002 it is the intent of the General Assembly that the  
13 municipal infrastructure maintenance fee and its rate are  
14 subject only to the limits prescribed in Section 20, and that  
15 the fee and the rate of the fee need not relate to use of the  
16 public rights-of-way or the costs associated with maintaining  
17 and regulating the use of the public rights-of-way. It is  
18 also the intent of the General Assembly that proceeds of the  
19 municipal infrastructure maintenance fee may be used for any  
20 lawful corporate purpose. It is not the intent of the  
21 General Assembly that the municipal infrastructure  
22 maintenance fee is in any way compensation for use of the  
23 public rights-of-way. It is the intent of the General  
24 Assembly that the fee be paid by all telecommunications  
25 retailers, regardless of whether they have equipment in the  
26 public rights-of-way.

27 (e) On and after July 1, 2002, the enactment by the  
28 General Assembly of the Simplified Municipal  
29 Telecommunications Tax Act creates a replacement source of  
30 revenue for municipalities in substitution for, among other  
31 things, the municipal infrastructure maintenance fee and the  
32 optional infrastructure maintenance fee. This amendatory Act  
33 of the 92nd General Assembly is intended to repeal the  
34 municipal infrastructure maintenance fee and the optional

1 infrastructure maintenance fee effective July 1, 2002.

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

3 (35 ILCS 635/10)

4 Sec. 10. Definitions.

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

- 26 (1) any amounts added to a purchaser's bill because  
27 of a charge made under: (i) the fee imposed by this  
28 Section, (ii) additional charges added to a purchaser's  
29 bill under Section 9-221 or 9-222 of the Public Utilities  
30 Act, (iii) ~~amounts--collected--under--Section--8--11--17--of--the~~  
31 ~~Illinois--Municipal--Code,~~ (iv) the tax imposed by the  
32 Telecommunications Excise Tax Act, (iv) (v) 911  
33 surcharges, (v) ~~or--(vi)~~ the tax imposed by Section 4251

1 of the Internal Revenue Code, or (vi) the Simplified  
2 Municipal Telecommunications Tax Act;

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

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

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

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

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

34 (7) bad debts ("bad debt" means any portion of a



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

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

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

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

16 (b) "Telecommunications" includes, but is not limited  
 17 to, messages or information transmitted through use of local,  
 18 toll, and wide area telephone service, channel services,  
 19 telegraph services, teletypewriter service, computer exchange  
 20 services, private line services, specialized mobile radio  
 21 services, or any other transmission of messages or  
 22 information by electronic or similar means, between or among  
 23 points by wire, cable, fiber optics, laser, microwave, radio,  
 24 satellite, or similar facilities. Unless the context clearly  
 25 requires otherwise, "telecommunications" shall also include  
 26 wireless telecommunications as hereinafter defined.  
 27 "Telecommunications" shall not include value added services  
 28 in which computer processing applications are used to act on  
 29 the form, content, code, and protocol of the information for  
 30 purposes other than transmission. "Telecommunications" shall  
 31 not include purchase of telecommunications by a  
 32 telecommunications service provider for use as a component  
 33 part of the service provided by him or her to the ultimate  
 34 retail consumer who originates or terminates the end-to-end

1 communications. Retailer access charges, right of access  
2 charges, charges for use of intercompany facilities, and all  
3 telecommunications resold in the subsequent provision and  
4 used as a component of, or integrated into, end-to-end  
5 telecommunications service shall not be included in gross  
6 charges as sales for resale. "Telecommunications" shall not  
7 include the provision of cable services through a cable  
8 system as defined in the Cable Communications Act of 1984 (47  
9 U.S.C. Sections 521 and following) as now or hereafter  
10 amended or through an open video system as defined in the  
11 Rules of the Federal Communications Commission (47 C.D.F.  
12 76.1550 and following) as now or hereafter amended. Beginning  
13 January 1, 2001, prepaid telephone calling arrangements shall  
14 not be considered "telecommunications" subject to the tax  
15 imposed under this Act. For purposes of this Section,  
16 "prepaid telephone calling arrangements" means that term as  
17 defined in Section 2-27 of the Retailers' Occupation Tax Act.

18 (c) "Wireless telecommunications" includes cellular  
19 mobile telephone services, personal wireless services as  
20 defined in Section 704(C) of the Telecommunications Act of  
21 1996 (Public Law No. 104-104) as now or hereafter amended,  
22 including all commercial mobile radio services, and paging  
23 services.

24 (d) "Telecommunications retailer" or "retailer" or  
25 "carrier" means and includes every person engaged in the  
26 business of making sales of telecommunications at retail as  
27 defined in this Section. The Illinois Department of Revenue  
28 ~~or the municipality imposing the fee, as the case may be,~~  
29 may, in its discretion, upon applications, authorize the  
30 collection of the fee hereby imposed by any retailer not  
31 maintaining a place of business within this State, who, to  
32 the satisfaction of the Department ~~or municipality,~~ furnishes  
33 adequate security to insure collection and payment of the  
34 fee. When so authorized, it shall be the duty of such

1 retailer to pay the fee upon all of the gross charges for  
2 telecommunications in the same manner and subject to the same  
3 requirements as a retailer maintaining a place of business  
4 within this the State ~~or municipality imposing the fee~~.

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

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

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

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

1 91-870, eff. 6-22-00.)

2 (35 ILCS 635/15)

3 Sec. 15. State telecommunications infrastructure  
4 maintenance fees.

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

9 (b) The amount of the State infrastructure maintenance  
10 fee imposed upon a telecommunications retailer under this  
11 Section shall be equal to 0.5% of all gross charges charged  
12 by the telecommunications retailer to service addresses in  
13 this State for telecommunications, other than wireless  
14 telecommunications, originating or received in this State.  
15 However, the State infrastructure maintenance fee is not  
16 imposed in any case in which the imposition of the fee would  
17 violate the Constitution or statutes of the United States.

18 (c) (Blank). ~~An optional infrastructure maintenance fee~~  
19 ~~is hereby created. A telecommunications retailer may elect~~  
20 ~~to pay the optional infrastructure maintenance fee with~~  
21 ~~respect to the gross charges charged by the~~  
22 ~~telecommunications retailer to service addresses in a~~  
23 ~~particular municipality for telecommunications, other than~~  
24 ~~wireless telecommunications, originating or received in the~~  
25 ~~municipality if (1) the telecommunications retailer is not~~  
26 ~~required to pay any compensation to the municipality under an~~  
27 ~~existing franchise agreement and (2) the municipality has not~~  
28 ~~imposed a municipal infrastructure maintenance fee as~~  
29 ~~authorized in Section 20 of this Act. A telecommunications~~  
30 ~~retailer electing to pay the optional infrastructure~~  
31 ~~maintenance fee shall notify the Department of such election~~  
32 ~~on the application for certificate of registration. If a~~  
33 ~~telecommunications retailer elects to pay this fee with~~

1 respect---to---the---gross---charges---charged---by---the  
 2 telecommunications---retailer---to---service---addresses---in---a  
 3 particular-municipality,-such-election-shall-remain--in--full  
 4 force--and-effect-until-such-time-as-the-municipality-imposes  
 5 a-municipal-infrastructure-maintenance-fee.

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

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

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

17 (35 ILCS 635/20)

18 Sec. 20. Municipal telecommunications infrastructure  
 19 maintenance fee.

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

1 ordinances and resolutions, available to the public for a  
2 reasonable fee.

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

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

23 (d) A municipality with a population of more than  
24 500,000 that imposes a municipal infrastructure maintenance  
25 fee under this Section may, by ordinance, exempt from the fee  
26 all charges for the inbound toll-free telecommunications  
27 service commonly known as "800", "877", or "888" or for a  
28 similar service.

29 (e) This Section is repealed on July 1, 2002.

30 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;  
31 91-870, eff. 6-22-00.)

32 (35 ILCS 635/25)

33 Sec. 25. Collection, enforcement, and administration of

1 telecommunications infrastructure maintenance fees.

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

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

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

1 (d) Except as provided in subsection (e), During any  
 2 period of time when a municipality receives any compensation  
 3 other than the municipal infrastructure maintenance fee set  
 4 forth in Section 20, for a telecommunications retailer's use  
 5 of the public right of way, no municipal infrastructure  
 6 maintenance fee may be imposed by such municipality pursuant  
 7 to this Act.

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

25 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;  
 26 90-655, eff. 7-30-98.)

27 (35 ILCS 635/27)

28 Sec. 27. Returns by telecommunications retailer;  
 29 extensions. Except as provided hereinafter in this Section,  
 30 on or before the 30th day of each month each  
 31 telecommunications retailer maintaining a place of business  
 32 in this State shall make a return and payment of fees to the  
 33 Department for the preceding calendar month on a form



1 prescribed and furnished by the Department. The return shall  
2 be signed by the telecommunications retailer under penalties  
3 of perjury and shall contain the following information:

4 1. His or her name;

5 2. The address of his or her principal place of  
6 business, and the address of the principal place of  
7 business (if that is a different address) from which he  
8 or she engages in the business of transmitting  
9 telecommunications;

10 3. The total amount of gross charges charged by him  
11 or her during the preceding calendar month for providing  
12 telecommunications during such calendar month;

13 4. The total amount received by him or her during  
14 the preceding calendar month on credit extended;

15 5. Deductions allowed by law;

16 6. Gross charges that were charged by him or her  
17 during the preceding calendar month and upon the basis of  
18 which the State infrastructure maintenance fee is  
19 imposed;

20 7. (Blank) ~~Gross--charges--that--were--charged--by--him~~  
21 ~~or--her--during--the--preceeding--calendar--month--and--upon--the~~  
22 ~~basis--of--which--the--optional--infrastructure--maintenance~~  
23 ~~fee,--if--any,--is--imposed--for--each--particular--municipality;~~

24 8. Amounts of fees due;

25 9. Such other reasonable information as the  
26 Department may require.

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

1 of such year; and with the return of October, November, and  
2 December of a given year being due by January 15 of the  
3 following year.

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

12 In making such return, the telecommunications retailer  
13 shall determine the value of any consideration other than  
14 money received by him or her and he or she shall include such  
15 value in his or her return. Such determination shall be  
16 subject to review and revision by the Department in the  
17 manner hereinafter provided for the correction of returns.

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

32 ~~If the Director finds that the information required for~~  
33 ~~the making of an accurate return cannot reasonably be~~  
34 ~~compiled by a telecommunications retailer within 15 days~~

1 after--the--close-of-the-calendar-month-for-which-a-return-is  
2 to-be-made, he-or-she-may-grant-an-extension-of-time-for--the  
3 filing--of--such--return--for--a--period--of-not-to-exceed-31  
4 calendar-days.-The-granting--of--such--an--extension--may--be  
5 conditioned---upon--the--deposit--by--the--telecommunications  
6 retailer-with-the--Department--of--an--amount--of--money--not  
7 exceeding-the-amount-estimated-by-the-Director-to-be-due-with  
8 the--return--so--extended.--All--such-deposits, including-any  
9 heretofore--made--with--the--Department, shall--be--credited  
10 against-the-telecommunications-retailer's--liabilities--under  
11 this--Act.-If-any-such-deposit-exceeds-the-telecommunications  
12 retailer's-present-and-probable-future-liabilities-under-this  
13 Act, the-Department-shall--issue--to--the--telecommunications  
14 retailer--a--credit--memorandum, which-may-be-assigned-by-the  
15 telecommunications-retailer-to-a--similar--telecommunications  
16 retailer--under-this-Act, in-accordance-with-reasonable-rules  
17 and-regulations-to-be-prescribed-by-the-Department.

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

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

23 (35 ILCS 635/27.35)

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

33 Whenever notice to a telecommunications retailer is

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

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

19 Whenever any proceeding provided by this Act has been  
20 begun by the Department or by a person subject thereto and  
21 such person thereafter dies or becomes a person under legal  
22 disability before the proceeding has been concluded, the  
23 legal representative of the deceased person or a person under  
24 legal disability shall notify the Department of such death or  
25 legal disability. The legal representative, as such, shall  
26 then be substituted by the Department in place of and for the  
27 person. Within 20 days after notice to the legal  
28 representative of the time fixed for that purpose, the  
29 proceeding may proceed in all respects and with like effect  
30 as though the person had not died or become a person under  
31 legal disability.

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

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

3           (a) ~~Upon the effective date of this Act, the municipal~~  
4 ~~infrastructure maintenance fee authorized by this Act shall~~  
5 ~~be the only fee or compensation for recovering the reasonable~~  
6 ~~costs of regulating the use of the public rights-of-way and~~  
7 ~~for the use of public rights-of-way that may be levied by or~~  
8 ~~otherwise required by ordinance, resolution, or contract to~~  
9 ~~be paid to a municipality for the use of its public way by~~  
10 ~~telecommunications retailers. No new franchise fees or other~~  
11 ~~charges for the use of the public rights-of-way, including~~  
12 ~~charges for the recovery of reasonable costs of regulating~~  
13 ~~the use of the public rights-of-way, shall be imposed upon~~  
14 ~~levied on, or otherwise required of telecommunications~~  
15 ~~retailers by ordinance, resolution, or contract, nor shall~~  
16 ~~any or other new charges be required from telecommunications~~  
17 ~~retailers by municipalities from and after the effective date~~  
18 ~~of this Act. No telecommunications retailer paying either~~  
19 ~~the applicable municipal infrastructure maintenance fee or~~  
20 ~~the optional infrastructure maintenance fee authorized by~~  
21 ~~this Act may be denied the use, directly or indirectly, of~~  
22 ~~the public way of the municipality either imposing the~~  
23 ~~municipal infrastructure maintenance fee or to which the~~  
24 ~~optional infrastructure maintenance fee relates, as the case~~  
25 ~~may be, as authorized under the Telephone Company Act.~~  
26 Nothing in this Act shall excuse any person or entity from  
27 obligations imposed under any law concerning generally  
28 applicable taxes or standards for construction on, over,  
29 under, or within, use of or repair of the public  
30 rights-of-way, including standards relating to free standing  
31 towers and other structures upon the public way, nor shall  
32 any person or entity be excused from any liability imposed by  
33 any such law for the failure to comply with such generally  
34 applicable taxes or standards governing construction on,

1 over, under, or within, use of or repair of the public  
2 rights-of-way.

3 (b) Agreements between telecommunications retailers and  
4 municipalities entered into before the effective date of this  
5 Act regarding use of the public ways shall remain valid  
6 according to and for their stated terms, except as to fees or  
7 charges waived under Section 5-60 of the Simplified Municipal  
8 Telecommunications Tax Act. ~~If, following the effective date~~  
9 ~~of this Act, such an agreement is renewed automatically or by~~  
10 ~~agreement of the parties, the compensation or fee under the~~  
11 ~~agreement shall be equal to the maximum amount of the~~  
12 ~~municipal infrastructure maintenance fee which the~~  
13 ~~municipality could impose under Section 20 of this Act.~~

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

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

28 (35 ILCS 635/35)

29 Sec. 35. Home rule. The authorization of infrastructure  
30 maintenance fees and other fees relating to the use of the  
31 public right-of-way for telecommunications activity imposed  
32 upon telecommunications retailers is an exclusive power and  
33 function of the State. A home rule municipality may not

1 impose franchise or other fees upon or require other  
 2 compensation from telecommunications retailers for use of the  
 3 public way, ~~---other---than---the---municipal---infrastructure~~  
 4 ~~maintenance-fee-authorized-by-this-Act.~~ This Act is a denial  
 5 and limitation of municipal home rule powers and functions  
 6 under subsection (h) of Section 6 of Article VII of the  
 7 Illinois Constitution.  
 8 (Source: P.A. 90-154, eff. 1-1-98.)

9 Section 90-20. The Emergency Telephone System Act is  
 10 amended by changing Section 15.3 as follows:

11 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)  
 12 Sec. 15.3. (a) The corporate authorities of any  
 13 municipality or any county may, subject to the limitations of  
 14 subsections (c), (d), and (h), and in addition to any tax  
 15 levied pursuant to the Simplified Municipal  
 16 Telecommunications Tax Act Section--8-11-2--of--the--Illinois  
 17 Municipal---Code, impose a monthly surcharge on billed  
 18 subscribers of network connection provided by  
 19 telecommunication carriers engaged in the business of  
 20 transmitting messages by means of electricity originating  
 21 within the corporate limits of the municipality or county  
 22 imposing the surcharge at a rate per network connection  
 23 determined in accordance with subsection (c). A municipality  
 24 may enter into an intergovernmental agreement with any county  
 25 in which it is partially located, when the county has adopted  
 26 an ordinance to impose a surcharge as provided in subsection  
 27 (c), to include that portion of the municipality lying  
 28 outside the county in that county's surcharge referendum. If  
 29 the county's surcharge referendum is approved, the portion of  
 30 the municipality identified in the intergovernmental  
 31 agreement shall automatically be disconnected from the county  
 32 in which it lies and connected to the county which approved

1 the referendum for purposes of a surcharge on  
2 telecommunications carriers.

3 (b) For purposes of computing the surcharge imposed by  
4 subsection (a), the network connections to which the  
5 surcharge shall apply shall be those in-service network  
6 connections, other than those network connections assigned to  
7 the municipality or county, where the service address for  
8 each such network connection or connections is located within  
9 the corporate limits of the municipality or county levying  
10 the surcharge. The "service address" shall mean the location  
11 of the primary use of the network connection or connections.  
12 With respect to network connections provided for use with pay  
13 telephone services for which there is no billed subscriber,  
14 the telecommunications carrier providing the network  
15 connection shall be deemed to be its own billed subscriber  
16 for purposes of applying the surcharge.

17 (c) Upon the passage of an ordinance to impose a  
18 surcharge under this Section the clerk of the municipality or  
19 county shall certify the question of whether the surcharge  
20 may be imposed to the proper election authority who shall  
21 submit the public question to the electors of the  
22 municipality or county in accordance with the general  
23 election law; provided that such question shall not be  
24 submitted at a consolidated primary election. The public  
25 question shall be in substantially the following form:

26 -----  
27 Shall the county (or city, village  
28 or incorporated town) of.....impose YES  
29 a surcharge of up to...¢ per month per  
30 network connection, which surcharge will  
31 be added to the monthly bill you receive -----  
32 for telephone or telecommunications  
33 charges, for the purpose of installing  
34 (or improving) a 9-1-1 Emergency NO



1 Telephone System?

2 -----

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

5 However, if a Joint Emergency Telephone System Board is  
6 to be created pursuant to an intergovernmental agreement  
7 under Section 15.4, the ordinance to impose the surcharge  
8 shall be subject to the approval of a majority of the total  
9 number of votes cast upon the public question by the electors  
10 of all of the municipalities or counties, or combination  
11 thereof, that are parties to the intergovernmental agreement.

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

21 (d) A county may not impose a surcharge, unless  
22 requested by a municipality, in any incorporated area which  
23 has previously approved a surcharge as provided in subsection  
24 (c) or in any incorporated area where the corporate  
25 authorities of the municipality have previously entered into  
26 a binding contract or letter of intent with a  
27 telecommunications carrier to provide sophisticated 9-1-1  
28 service through municipal funds.

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

33 (f) The surcharge authorized by this Section shall be  
34 collected from the subscriber by the telecommunications

1 carrier providing the subscriber the network connection as a  
2 separately stated item on the subscriber's bill.

3 (g) The amount of surcharge collected by the  
4 telecommunications carrier shall be paid to the particular  
5 municipality or county or Joint Emergency Telephone System  
6 Board not later than 30 days after the surcharge is  
7 collected, net of any network or other 9-1-1 or sophisticated  
8 9-1-1 system charges then due the particular  
9 telecommunications carrier, as shown on an itemized bill.  
10 The telecommunications carrier collecting the surcharge shall  
11 also be entitled to deduct 3% of the gross amount of  
12 surcharge collected to reimburse the telecommunications  
13 carrier for the expense of accounting and collecting the  
14 surcharge.

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

18 (i) Any municipality or county or joint emergency  
19 telephone system board that has imposed a surcharge pursuant  
20 to this Section prior to the effective date of this  
21 amendatory Act of 1990 shall hereafter impose the surcharge  
22 in accordance with subsection (b) of this Section.

23 (j) The corporate authorities of any municipality or  
24 county may issue, in accordance with Illinois law, bonds,  
25 notes or other obligations secured in whole or in part by the  
26 proceeds of the surcharge described in this Section.  
27 Notwithstanding any change in law subsequent to the issuance  
28 of any bonds, notes or other obligations secured by the  
29 surcharge, every municipality or county issuing such bonds,  
30 notes or other obligations shall be authorized to impose the  
31 surcharge as though the laws relating to the imposition of  
32 the surcharge in effect at the time of issuance of the bonds,  
33 notes or other obligations were in full force and effect  
34 until the bonds, notes or other obligations are paid in full.

1 The State of Illinois pledges and agrees that it will not  
 2 limit or alter the rights and powers vested in municipalities  
 3 and counties by this Section to impose the surcharge so as to  
 4 impair the terms of or affect the security for bonds, notes  
 5 or other obligations secured in whole or in part with the  
 6 proceeds of the surcharge described in this Section.

7 (k) Any surcharge collected by or imposed on a  
 8 telecommunications carrier pursuant to this Section shall be  
 9 held to be a special fund in trust for the municipality,  
 10 county or Joint Emergency Telephone Board imposing the  
 11 surcharge. Except for the 3% deduction provided in  
 12 subsection (g) above, the special fund shall not be subject  
 13 to the claims of creditors of the telecommunication carrier.  
 14 (Source: P.A. 86-101; 86-1344.)

15 Section 90-21. The Emergency Telephone System Act is  
 16 amended by changing Section 15.3 as follows:

17 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

18 Sec. 15.3. (a) The corporate authorities of any  
 19 municipality or any county may, subject to the limitations of  
 20 subsections (c), (d), and (h), and in addition to any tax  
 21 levied pursuant to Section 8-11-2 of the Illinois Municipal  
 22 Code, impose a monthly surcharge on billed subscribers of  
 23 network connection provided by telecommunication carriers  
 24 engaged in the business of transmitting messages by means of  
 25 electricity originating within the corporate limits of the  
 26 municipality or county imposing the surcharge at a rate per  
 27 network connection determined in accordance with subsection  
 28 (c). For mobile telecommunications services, if a surcharge  
 29 is imposed it shall be imposed based upon the municipality or  
 30 county that encompasses the customer's place of primary use  
 31 as defined in the Mobile Telecommunications Sourcing  
 32 Conformity Act. A municipality may enter into an

1 intergovernmental agreement with any county in which it is  
2 partially located, when the county has adopted an ordinance  
3 to impose a surcharge as provided in subsection (c), to  
4 include that portion of the municipality lying outside the  
5 county in that county's surcharge referendum. If the  
6 county's surcharge referendum is approved, the portion of the  
7 municipality identified in the intergovernmental agreement  
8 shall automatically be disconnected from the county in which  
9 it lies and connected to the county which approved the  
10 referendum for purposes of a surcharge on telecommunications  
11 carriers. The changes made to this subsection (a) by this  
12 amendatory Act of the 92nd General Assembly are subject to  
13 the conditional effectiveness provisions of Section 10-85 of  
14 the Mobile Telecommunications Sourcing Conformity Act.

15 (b) For purposes of computing the surcharge imposed by  
16 subsection (a), the network connections to which the  
17 surcharge shall apply shall be those in-service network  
18 connections, other than those network connections assigned to  
19 the municipality or county, where the service address for  
20 each such network connection or connections is located within  
21 the corporate limits of the municipality or county levying  
22 the surcharge. Except for mobile telecommunication services,  
23 the "service address" shall mean the location of the primary  
24 use of the network connection or connections. For mobile  
25 telecommunication services, "service address" means the  
26 customer's place of primary use as defined in the Mobile  
27 Telecommunications Sourcing Conformity Act. With respect to  
28 network connections provided for use with pay telephone  
29 services for which there is no billed subscriber, the  
30 telecommunications carrier providing the network connection  
31 shall be deemed to be its own billed subscriber for purposes  
32 of applying the surcharge. The changes made to this  
33 subsection (b) by this amendatory Act of the 92nd General  
34 Assembly are subject to the conditional effectiveness

1 provisions of Section 10-85 of the Mobile Telecommunications  
2 Sourcing Conformity Act.

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

12 -----  
13 Shall the county (or city, village  
14 or incorporated town) of.....impose YES  
15 a surcharge of up to...¢ per month per  
16 network connection, which surcharge will  
17 be added to the monthly bill you receive -----  
18 for telephone or telecommunications  
19 charges, for the purpose of installing  
20 (or improving) a 9-1-1 Emergency NO  
21 Telephone System?  
22 -----

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

25 However, if a Joint Emergency Telephone System Board is  
26 to be created pursuant to an intergovernmental agreement  
27 under Section 15.4, the ordinance to impose the surcharge  
28 shall be subject to the approval of a majority of the total  
29 number of votes cast upon the public question by the electors  
30 of all of the municipalities or counties, or combination  
31 thereof, that are parties to the intergovernmental agreement.

32 The referendum requirement of this subsection (c) shall  
33 not apply to any municipality with a population over 500,000  
34 or to any county in which a proposition as to whether a

1 sophisticated 9-1-1 Emergency Telephone System should be  
2 installed in the county, at a cost not to exceed a specified  
3 monthly amount per network connection, has previously been  
4 approved by a majority of the electors of the county voting  
5 on the proposition at an election conducted before the  
6 effective date of this amendatory Act of 1987.

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

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

19 (f) The surcharge authorized by this Section shall be  
20 collected from the subscriber by the telecommunications  
21 carrier providing the subscriber the network connection as a  
22 separately stated item on the subscriber's bill.

23 (g) The amount of surcharge collected by the  
24 telecommunications carrier shall be paid to the particular  
25 municipality or county or Joint Emergency Telephone System  
26 Board not later than 30 days after the surcharge is  
27 collected, net of any network or other 9-1-1 or sophisticated  
28 9-1-1 system charges then due the particular  
29 telecommunications carrier, as shown on an itemized bill.  
30 The telecommunications carrier collecting the surcharge shall  
31 also be entitled to deduct 3% of the gross amount of  
32 surcharge collected to reimburse the telecommunications  
33 carrier for the expense of accounting and collecting the  
34 surcharge.

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

4           (i) Any municipality or county or joint emergency  
5 telephone system board that has imposed a surcharge pursuant  
6 to this Section prior to the effective date of this  
7 amendatory Act of 1990 shall hereafter impose the surcharge  
8 in accordance with subsection (b) of this Section.

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

27           (k) Any surcharge collected by or imposed on a  
28 telecommunications carrier pursuant to this Section shall be  
29 held to be a special fund in trust for the municipality,  
30 county or Joint Emergency Telephone Board imposing the  
31 surcharge. Except for the 3% deduction provided in  
32 subsection (g) above, the special fund shall not be subject  
33 to the claims of creditors of the telecommunication carrier.

34           (Source: P.A. 86-101; 86-1344.)

1 Section 90-25. The Illinois Municipal Code is amended by  
2 changing Section 8-11-2 as follows:

3 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

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

7 1. (Blank). ~~Persons--engaged--in--the--business--of~~  
8 ~~transmitting--messages--by--means--of--electricity--or--radio~~  
9 ~~magnetic--waves,--or--fiber--optics,--at--a--rate--not--to--exceed~~  
10 ~~5%--of--the--gross--receipts--from--that--business--originating~~  
11 ~~within---the---corporate---limits--of--the--municipality.~~  
12 ~~Beginning--January--1,--2001,--prepaid--telephone--calling~~  
13 ~~arrangements--shall--not--be--subject--to--the--tax--imposed~~  
14 ~~under--this--Section.---For--purposes--of--this--Section,~~  
15 ~~"prepaid--telephone--calling--arrangements"--means--that--term~~  
16 ~~as--defined--in--Section--2--27--of--the--Retailers'-Occupation~~  
17 ~~Tax--Act.~~

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

23 2a. Persons engaged in the business of  
24 distributing, supplying, furnishing, or selling gas for  
25 use or consumption within the corporate limits of a  
26 municipality of over 500,000 population, and not for  
27 resale, at a rate not to exceed 8% of the gross receipts  
28 therefrom. If imposed, this tax shall be paid in monthly  
29 payments.

30 3. The privilege of using or consuming electricity  
31 acquired in a purchase at retail and used or consumed  
32 within the corporate limits of the municipality at rates  
33 not to exceed the following maximum rates, calculated on



1 a monthly basis for each purchaser:

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

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

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

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

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

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

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

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

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

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

23 If a municipality imposes a tax at rates lower than  
24 either the maximum rates specified in this Section or the  
25 alternative maximum rates promulgated by the Illinois  
26 Commerce Commission, as provided below, the tax rates  
27 shall be imposed upon the kilowatt hour categories set  
28 forth above with the same proportional relationship as  
29 that which exists among such maximum rates.  
30 Notwithstanding the foregoing, until December 31, 2008,  
31 no municipality shall establish rates that are in excess  
32 of rates reasonably calculated to produce revenues that  
33 equal the maximum total revenues such municipality could  
34 have received under the tax authorized by this

1       subparagraph in the last full calendar year prior to the  
2       effective date of Section 65 of this amendatory Act of  
3       1997; provided that this shall not be a limitation on the  
4       amount of tax revenues actually collected by such  
5       municipality.

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

34             4. Persons engaged in the business of distributing,

1 supplying, furnishing, or selling water for use or  
2 consumption within the corporate limits of the  
3 municipality, and not for resale, at a rate not to exceed  
4 5% of the gross receipts therefrom.

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

26 Any of the taxes enumerated in this Section may be in  
27 addition to the payment of money, or value of products or  
28 services furnished to the municipality by the taxpayer as  
29 compensation for the use of its streets, alleys, or other  
30 public places, or installation and maintenance therein,  
31 thereon or thereunder of poles, wires, pipes or other  
32 equipment used in the operation of the taxpayer's business.

33 (a) If the corporate authorities of any home rule  
34 municipality have adopted an ordinance that imposed a tax on

1 public utility customers, between July 1, 1971, and October  
2 1, 1981, on the good faith belief that they were exercising  
3 authority pursuant to Section 6 of Article VII of the 1970  
4 Illinois Constitution, that action of the corporate  
5 authorities shall be declared legal and valid,  
6 notwithstanding a later decision of a judicial tribunal  
7 declaring the ordinance invalid. No municipality shall be  
8 required to rebate, refund, or issue credits for any taxes  
9 described in this paragraph, and those taxes shall be deemed  
10 to have been levied and collected in accordance with the  
11 Constitution and laws of this State.

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

1 prescribe or limit judicial construction of this Section. The  
2 legislative finding set forth in this subsection does not  
3 apply to taxes imposed after the effective date of this  
4 amendatory Act of 1995.

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

1 the tax directly to the municipality in the manner prescribed  
 2 by the municipality. Persons delivering electricity who file  
 3 returns pursuant to this paragraph (c) shall, at the time of  
 4 filing such return, pay the municipality the amount of the  
 5 tax collected pursuant to subparagraph 3.

6 (d) For the purpose of the taxes enumerated in this  
 7 Section:

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

34 For utility bills issued on or after May 1, 1996, but

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

26 For purposes of this Section "gross receipts" shall not  
27 include (i) amounts added to customers' bills under Section  
28 9-221 of the Public Utilities Act, ~~or (ii) charges added to~~  
29 ~~customers' bills to recover the surcharge imposed under the~~  
30 ~~Emergency Telephone System Act.~~ This paragraph is not  
31 intended to nor does it make any change in the meaning of  
32 "gross receipts" for the purposes of this Section, but is  
33 intended to remove possible ambiguities, thereby confirming  
34 the existing meaning of "gross receipts" prior to the

1 effective date of this amendatory Act of 1995.

2       The--words--"transmitting--messages",--in--addition--to--the  
3 usual--and--popular--meaning--of--person--to--person--communication,  
4 shall---include--the--furnishing,  
5 services--or--facilities--(whether--owned--or--leased),  
6 persons--in--connection--with--the--transmission--of--messages--where  
7 these--persons--do--not,  
8 connection--therewith,  
9 of--services--or--facilities--to--persons--for--the--transmission--of  
10 messages--to--the--extent--that--any--such--services--or--facilities  
11 for--the--transmission--of--messages--are--furnished--for---a  
12 consideration,  
13 transmission--of--messages--

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

21       "Person maintaining a place of business in this State"  
22 shall mean any person having or maintaining within this  
23 State, directly or by a subsidiary or other affiliate, an  
24 office, generation facility, distribution facility,  
25 transmission facility, sales office or other place of  
26 business, or any employee, agent, or other representative  
27 operating within this State under the authority of the person  
28 or its subsidiary or other affiliate, irrespective of whether  
29 such place of business or agent or other representative is  
30 located in this State permanently or temporarily, or whether  
31 such person, subsidiary or other affiliate is licensed or  
32 qualified to do business in this State.

33       "Public utility" shall have the meaning ascribed to it in  
34 Section 3-105 of the Public Utilities Act and shall include



1 telecommunications--carriers--as-defined-in-Section-13-202-of  
2 that-Act-and alternative retail electric suppliers as defined  
3 in Section 16-102 of that Act.

4 "Purchase at retail" shall mean any acquisition of  
5 electricity by a purchaser for purposes of use or  
6 consumption, and not for resale, but shall not include the  
7 use of electricity by a public utility directly in the  
8 generation, production, transmission, delivery or sale of  
9 electricity.

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

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

30 (e) Any municipality that imposes taxes upon public  
31 utilities or upon the privilege of using or consuming  
32 electricity pursuant to this Section whose territory includes  
33 any part of an enterprise zone or federally designated  
34 Foreign Trade Zone or Sub-Zone may, by a majority vote of its

1 corporate authorities, exempt from those taxes for a period  
2 not exceeding 20 years any specified percentage of gross  
3 receipts of public utilities received from, or electricity  
4 used or consumed by, business enterprises that:

5 (1) either (i) make investments that cause the  
6 creation of a minimum of 200 full-time equivalent jobs in  
7 Illinois, (ii) make investments of at least \$175,000,000  
8 that cause the creation of a minimum of 150 full-time  
9 equivalent jobs in Illinois, or (iii) make investments  
10 that cause the retention of a minimum of 1,000 full-time  
11 jobs in Illinois; and

12 (2) are either (i) located in an Enterprise Zone  
13 established pursuant to the Illinois Enterprise Zone Act  
14 or (ii) Department of Commerce and Community Affairs  
15 designated High Impact Businesses located in a federally  
16 designated Foreign Trade Zone or Sub-Zone; and

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

20 Upon adoption of the ordinance authorizing the exemption,  
21 the municipal clerk shall transmit a copy of that ordinance  
22 to the Department of Commerce and Community Affairs. The  
23 Department of Commerce and Community Affairs shall determine  
24 whether the business enterprises located in the municipality  
25 meet the criteria prescribed in this paragraph. If the  
26 Department of Commerce and Community Affairs determines that  
27 the business enterprises meet the criteria, it shall grant  
28 certification. The Department of Commerce and Community  
29 Affairs shall act upon certification requests within 30 days  
30 after receipt of the ordinance.

31 Upon certification of the business enterprise by the  
32 Department of Commerce and Community Affairs, the Department  
33 of Commerce and Community Affairs shall notify the Department  
34 of Revenue of the certification. The Department of Revenue

1 shall notify the public utilities of the exemption status of  
2 the gross receipts received from, and the electricity used or  
3 consumed by, the certified business enterprises. Such  
4 exemption status shall be effective within 3 months after  
5 certification.

6 (f) A municipality that imposes taxes upon public  
7 utilities or upon the privilege of using or consuming  
8 electricity under this Section and whose territory includes  
9 part of another unit of local government or a school district  
10 may by ordinance exempt the other unit of local government or  
11 school district from those taxes.

12 (g) The amendment of this Section by Public Act 84-127  
13 shall take precedence over any other amendment of this  
14 Section by any other amendatory Act passed by the 84th  
15 General Assembly before the effective date of Public Act  
16 84-127.

17 (h) In any case in which, before July 1, 1992, a person  
18 engaged in the business of transmitting messages through the  
19 use of mobile equipment, such as cellular phones and paging  
20 systems, has determined the municipality within which the  
21 gross receipts from the business originated by reference to  
22 the location of its transmitting or switching equipment, then  
23 (i) neither the municipality to which tax was paid on that  
24 basis nor the taxpayer that paid tax on that basis shall be  
25 required to rebate, refund, or issue credits for any such tax  
26 or charge collected from customers to reimburse the taxpayer  
27 for the tax and (ii) no municipality to which tax would have  
28 been paid with respect to those gross receipts if the  
29 provisions of this amendatory Act of 1991 had been in effect  
30 before July 1, 1992, shall have any claim against the  
31 taxpayer for any amount of the tax.

32 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;  
33 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.  
34 6-22-00.)

1 (65 ILCS 5/8-11-17 rep.)

2 Section 90-30. The Illinois Municipal Code is amended by  
3 repealing Section 8-11-17.

4 Section 90-35. The Public Utilities Act is amended by  
5 changing Sections 2-202 and 13-511 as follows:

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

7 Sec. 2-202. (a) It is declared to be the public policy of  
8 this State that in order to maintain and foster the effective  
9 regulation of public utilities under this Act in the  
10 interests of the People of the State of Illinois and the  
11 public utilities as well, the public utilities subject to  
12 regulation under this Act and which enjoy the privilege of  
13 operating as public utilities in this State, shall bear the  
14 expense of administering this Act by means of a tax on such  
15 privilege measured by the annual gross revenue of such public  
16 utilities in the manner provided in this Section. For  
17 purposes of this Section, "expense of administering this Act"  
18 includes any costs incident to studies, whether made by the  
19 Commission or under contract entered into by the Commission,  
20 concerning environmental pollution problems caused or  
21 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.

24 (b) All of the ordinary and contingent expenses of the  
25 Commission incident to the administration of this Act shall  
26 be paid out of the Public Utility Fund except the  
27 compensation of the members of the Commission which shall be  
28 paid from the General Revenue Fund. Notwithstanding other  
29 provisions of this Act to the contrary, the ordinary and  
30 contingent expenses of the Commission incident to the  
31 administration of the Illinois Commercial Transportation Law  
32 may be paid from appropriations from the Public Utility Fund

1 through the end of fiscal year 1986.

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

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

15 (1) Except as provided in paragraph (2) of this  
16 subsection (d), on or before January 10 of each year each  
17 public utility subject to the provisions of this Act  
18 shall file with the Commission an estimated annual gross  
19 revenue return containing an estimate of the amount of  
20 its gross revenue for the calendar year commencing  
21 January 1 of said year and a statement of the amount of  
22 tax due for said calendar year on the basis of that  
23 estimate. Public utilities may also file revised returns  
24 containing updated estimates and updated amounts of tax  
25 due during the calendar year. These revised returns, if  
26 filed, shall form the basis for quarterly payments due  
27 during the remainder of the calendar year. In addition,  
28 on or before February 15 of each year, each public  
29 utility shall file an amended return showing the actual  
30 amount of gross revenues shown by the company's books and  
31 records as of December 31 of the previous year. Forms and  
32 instructions for such estimated, revised, and amended  
33 returns shall be devised and supplied by the Commission.

34 (2) Beginning January 1, 1993, the requirements of

1 paragraph (1) of this subsection (d) shall not apply to  
2 any public utility in any calendar year for which the  
3 total tax the public utility owes under this Section is  
4 less than \$1,000. For such public utilities with respect  
5 to such years, the public utility shall file with the  
6 Commission, on or before January 31 of the following  
7 year, an annual gross revenue return for the year and a  
8 statement of the amount of tax due for that year on the  
9 basis of such a return. Forms and instructions for such  
10 returns and corrected returns shall be devised and  
11 supplied by the Commission.

12 (e) All returns submitted to the Commission by a public  
13 utility as provided in this subsection (e) or subsection (d)  
14 of this Section shall contain or be verified by a written  
15 declaration by an appropriate officer of the public utility  
16 that the return is made under the penalties of perjury. The  
17 Commission may audit each such return submitted and may,  
18 under the provisions of Section 5-101 of this Act, take such  
19 measures as are necessary to ascertain the correctness of the  
20 returns submitted. The Commission has the power to direct the  
21 filing of a corrected return by any utility which has filed  
22 an incorrect return and to direct the filing of a return by  
23 any utility which has failed to submit a return. A  
24 taxpayer's signing a fraudulent return under this Section is  
25 perjury, as defined in Section 32-2 of the Criminal Code of  
26 1961.

27 (f) (1) For all public utilities subject to paragraph  
28 (1) of subsection (d), at least one quarter of the annual  
29 amount of tax due under subsection (c) shall be paid to the  
30 Commission on or before the tenth day of January, April,  
31 July, and October of the calendar year subject to tax. In  
32 the event that an adjustment in the amount of tax due should  
33 be necessary as a result of the filing of an amended or  
34 corrected return under subsection (d) or subsection (e) of

1 this Section, the amount of any deficiency shall be paid by  
2 the public utility together with the amended or corrected  
3 return and the amount of any excess shall, after the filing  
4 of a claim for credit by the public utility, be returned to  
5 the public utility in the form of a credit memorandum in the  
6 amount of such excess or be refunded to the public utility in  
7 accordance with the provisions of subsection (k) of this  
8 Section. However, if such deficiency or excess is less than  
9 \$1, then the public utility need not pay the deficiency and  
10 may not claim a credit.

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

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

31 (1) \$25 for each month or portion of a month that  
32 the installment or required payment is unpaid or

33 (2) an amount equal to the difference between what  
34 should have been paid on the due date, based upon the

1 most recently filed estimate, and what was actually paid,  
2 times 1%, for each month or portion of a month that the  
3 installment or required payment goes unpaid. This  
4 penalty may be assessed as soon as the installment or  
5 required payment becomes delinquent.

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

13 (1) \$25 for each month or portion of a month that  
14 the amount due is unpaid or

15 (2) an amount equal to the difference between what  
16 should have been paid, based on the amended return, and  
17 what was actually paid as of the date specified in  
18 subsection (f), times a percentage equal to 1/12 of the  
19 sum of 10% and the percentage most recently established  
20 by the Commission for interest to be paid on customer  
21 deposits under 83 Ill. Adm. Code 280.70(e)(1), for each  
22 month or portion of a month that the amount due goes  
23 unpaid, except that no underestimation penalty shall be  
24 assessed if the amount actually paid on each of the dates  
25 specified in subsection (f) was based on an estimate of  
26 gross revenues at least equal to the actual gross  
27 revenues for the previous year. The Commission may  
28 enforce the collection of any delinquent installment or  
29 payment, or portion thereof by legal action or in any  
30 other manner by which the collection of debts due the  
31 State of Illinois may be enforced under the laws of this  
32 State. The executive director or his designee may excuse  
33 the payment of an assessed penalty if he determines that  
34 enforced collection of the penalty would be unjust.



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

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

7 (1) determine the amount of all moneys deposited in  
8 the Public Utility Fund during the preceding fiscal  
9 biennium plus the balance, if any, in that fund at the  
10 beginning of that biennium;

11 (2) determine the sum total of the following items:

12 (A) all moneys expended or obligated against  
13 appropriations made from the Public Utility Fund during  
14 the preceding fiscal biennium, plus (B) the sum of the  
15 credit memoranda then outstanding against the Public  
16 Utility Fund, if any; and

17 (3) determine the amount, if any, by which the sum  
18 determined as provided in item (1) exceeds the amount  
19 determined as provided in item (2).

20 If the amount determined as provided in item (3) of this  
21 subsection exceeds \$2,500,000, the Commission shall then  
22 compute the proportionate amount, if any, which (x) the tax  
23 paid hereunder by each utility during the preceding biennium,  
24 and (y) the amount paid into the Public Utility Fund during  
25 the preceding biennium by the Department of Revenue pursuant  
26 to Sections 2-9 and 2-11 of the Electricity Excise Tax Law,  
27 bears to the difference between the amount determined as  
28 provided in item (3) of this subsection (i) and \$2,500,000.  
29 The Commission shall cause the proportionate amount  
30 determined with respect to payments made under the  
31 Electricity Excise Tax Law to be transferred into the General  
32 Revenue Fund in the State Treasury, and notify each public  
33 utility that it may file during the 3 month period after the  
34 date of notification a claim for credit for the proportionate

1 amount determined with respect to payments made hereunder by  
2 the public utility. If the proportionate amount is less than  
3 \$10, no notification will be sent by the Commission, and no  
4 right to a claim exists as to that amount. Upon the filing of  
5 a claim for credit within the period provided, the Commission  
6 shall issue a credit memorandum in such amount to such public  
7 utility. Any claim for credit filed after the period provided  
8 for in this Section is void.

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

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

25 (Source: P.A. 90-561, eff. 8-1-98; 90-562, 12-16-97; 90-655,  
26 eff. 7-30-98.)

27 (220 ILCS 5/13-511)

28 (Section scheduled to be repealed on July 1, 2001)

29 Sec. 13-511. Telecommunications ~~Municipal~~ Infrastructure  
30 Maintenance Fee Act; rate adjustments. With respect to any  
31 telecommunications retailer that is regulated by the Illinois  
32 Commerce Commission, the Commission shall order such rate  
33 adjustments as shall be necessary to assure that the

1 implementation of the Telecommunications Municipal  
 2 Infrastructure Maintenance Fee Act, ~~including the payment of~~  
 3 ~~the State infrastructure maintenance fee, and optional~~  
 4 ~~infrastructure maintenance fee, and municipal infrastructure~~  
 5 ~~maintenance fee, if any,~~ net of (1) the termination of any  
 6 fee, license fee, rent, or lease payment subject to the  
 7 Telecommunications Municipal Infrastructure Maintenance Fee  
 8 Act, and (2) the repeal of any invested capital tax subject  
 9 to the Telecommunications Municipal Infrastructure  
 10 Maintenance Fee Act, shall have no significant impact on the  
 11 net income of each such telecommunications retailer.  
 12 Beginning with the effective date of the Telecommunications  
 13 Municipal Infrastructure Maintenance Fee Act, each such  
 14 telecommunications retailer shall maintain such records and  
 15 accounts as will enable the Commission to make such findings  
 16 and determinations as are necessary to such order.

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

18 Section 90-40. The Telephone Company Act is amended by  
 19 changing Section 4 as follows:

20 (220 ILCS 65/4) (from Ch. 134, par. 20)

21 Sec. 4. Right of condemnation. Every telecommunications  
 22 ~~telecommunications~~ carrier as defined in the  
 23 Telecommunications Municipal Infrastructure Maintenance Fee  
 24 Act may, when it shall be necessary for the construction,  
 25 maintenance, alteration or extension of its  
 26 telecommunications system, or any part thereof, enter upon,  
 27 take or damage private property in the manner provided for  
 28 in, and the compensation therefor shall be ascertained and  
 29 made in conformity to the provisions of the Telegraph Act and  
 30 every telecommunications carrier is authorized to construct,  
 31 maintain, alter and extend its poles, wires, and other  
 32 appliances as a proper use of highways, along, upon, under

1 and across any highway, street, alley, public right-of-way  
2 dedicated or commonly used for utility purposes, or water in  
3 this State, but so as not to incommode the public in the use  
4 thereof: Provided, that nothing in this act shall interfere  
5 with the control now vested in cities, incorporated towns and  
6 villages in relation to the regulation of the poles, wires,  
7 cables and other appliances, and provided, that before any  
8 such lines shall be constructed along any such highway,  
9 street, alley, public right-of-way dedicated or commonly used  
10 for utility purposes, or water it shall be the duty of the  
11 telecommunications carrier proposing to construct any such  
12 line, to give (in the case of cities, villages, and  
13 incorporated towns) to the corporate authorities of the  
14 municipality or their designees (hereinafter, municipal  
15 corporate authorities) or (in other cases) to the highway  
16 commissioners having jurisdiction and control over the road  
17 or part thereof along and over which such line is proposed to  
18 be constructed, notice in writing in the form of plans,  
19 specifications, and documentation of the purpose and  
20 intention of the company to construct such line over and  
21 along the highway, street, alley, public right-of-way  
22 dedicated or commonly used for utility purposes, or water,  
23 which notice shall be served at least 10 days before the line  
24 shall be placed or constructed over and along the highway,  
25 street, alley, public right-of-way dedicated or commonly used  
26 for utility purposes, or water (30 days in the case of any  
27 notice providing for excavation relating to new construction  
28 in a public highway, street, alley, public right-of-way  
29 dedicated or commonly used for utility purposes, or water);  
30 and upon the giving of the notice it shall be the duty of the  
31 municipal corporate authorities or the highway commissioners  
32 to specify the portion of such highway, street, alley, public  
33 right-of-way dedicated or commonly used for utility purposes,  
34 or water upon which the line may be placed, used, and

1 constructed, and it shall thereupon be the duty of the  
2 telecommunications retailer to provide the municipal  
3 authorities or highway commissioners with any and all plans,  
4 specifications, and documentation available and to construct  
5 its line in accordance with such specifications; but in the  
6 event that the municipal corporate authorities or the highway  
7 commissioners fail to provide such specification within 10  
8 days after the service of such notice, (25 days in the case  
9 of excavation relating to new construction) then the  
10 telecommunications retailer, without such specification  
11 having been made, may proceed to place and erect its line  
12 along the highway, street, alley, public right-of-way  
13 dedicated or commonly used for utility purposes, or water by  
14 placing its posts, poles and abutments so as not to interfere  
15 with other proper uses of the highway, street, alley, public  
16 right-of-way dedicated or commonly used for utility purposes,  
17 or water. The telecommunications carrier proposing to  
18 construct any such line shall comply with the provisions of  
19 Section 9-113 of the Illinois Highway Code. Provided, that  
20 the telecommunications carrier shall not have the right to  
21 condemn any portion of the right-of-way of any railroad  
22 company except as much thereof as is necessary to cross the  
23 same.

24 The Illinois Commerce Commission may adopt reasonable  
25 rules governing the negotiation procedures that are used by a  
26 telecommunications carrier during precondemnation  
27 negotiations for the purchase of land rights-of-way and  
28 easements, including procedures for providing information to  
29 the public and affected landowners concerning the project and  
30 the right-of-way easements sought in connection therewith.

31 Such rules may be made applicable to interstate,  
32 competitive intrastate and noncompetitive intrastate  
33 facilities, without regard to whether such facilities or the  
34 telecommunications carrier proposing to construct and operate

1 them would otherwise be subject to the Illinois Commerce  
2 Commission's jurisdiction under The Public Utilities Act, as  
3 now or hereafter amended. However, as to facilities used to  
4 provide exclusively interstate services or competitive  
5 intrastate services or both, nothing in this Section confers  
6 any power upon the Commission (i) to require the disclosure  
7 of proprietary, competitively sensitive, or cost information  
8 or information not known to the telecommunications carrier,  
9 (ii) to determine whether, or conduct hearings regarding  
10 whether, any proposed fiber optic or other facilities should  
11 or should not be constructed and operated, or (iii) to  
12 determine or specify, or conduct hearings concerning, the  
13 price or other terms or conditions of the purchase of the  
14 right-of-way easements sought. With respect to facilities  
15 used to provide any intrastate services classified in the  
16 condemnor's tariff as noncompetitive under Section 13-502 of  
17 The Public Utilities Act, the rulemaking powers conferred  
18 upon the Commission under this Section are in addition to any  
19 rulemaking powers arising under The Public Utilities Act.

20 No telecommunications carrier shall exercise the power to  
21 condemn private property until it has first substantially  
22 complied with such rules with respect to the property sought  
23 to be condemned. If such rules call for providing notice or  
24 information before or during negotiations, a failure to  
25 provide such notice or information shall not constitute a  
26 waiver of the rights granted in this Section, but the  
27 telecommunications carrier shall be liable for all reasonable  
28 attorney's fees of that landowner resulting from such  
29 failure.

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

31 ARTICLE 99

32 Section 99-99. Effective date. This Act takes effect

1 upon becoming law, except that (i) Article 5 of this Act  
2 takes effect on January 1, 2002, (ii) the changes made to  
3 Sections 1, 10, 15, 20, 25, 27, 27.35, 30 and 35 of the  
4 Telecommunications Municipal Infrastructure Maintenance Fee  
5 Act and Sections 90-5, 90-10, 90-20, 90-25, 90-30, 90-35, and  
6 90-40 of this Act take effect on July 1, 2002, and (iii)  
7 Article 10 and Sections 90-11 and 90-21 of this Act take  
8 effect on August 1, 2002."