

1 AN ACT concerning telecommunications taxes and fees.

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

4 Section 1. Short title. This Act may be cited as the
5 Municipal Telecommunications Tax Act.

6 Section 5. Legislative intent. The General Assembly has
7 authorized the corporate authorities of any municipality to
8 impose various fees and taxes on the privilege of originating
9 or receiving telecommunications, and on retailers engaged in
10 the business of transmitting such telecommunications, all of
11 which are remitted by such retailers directly to the imposing
12 municipality. To simplify the imposition and collection of
13 municipal telecommunications taxes and to reduce complication
14 and burden, the General Assembly is replacing the various
15 municipal telecommunications fees and taxes with a single tax
16 by replacing the municipal telecommunications tax, the
17 municipal tax on the occupation or privilege of transmitting
18 messages, and the municipal infrastructure maintenance fee
19 with this Municipal Telecommunications Tax Act which provides
20 for a single municipally imposed telecommunications tax
21 which, for municipalities with populations of less than
22 500,000, will be collected by the Department, but which, for
23 municipalities of 500,000 or more, will continue to be
24 collected by such municipalities. So as not to impose an
25 unnecessary burden on the municipalities that currently have
26 in place one or more of the taxes or fees being replaced, the
27 General Assembly will not require such municipalities to
28 adopt a new ordinance imposing the Municipal
29 Telecommunications Tax. Instead, the General Assembly will
30 replace the existing taxes and fees with the Municipal
31 Telecommunications Tax, which may be imposed at a rate

1 initially calculated to generate approximately the same
2 amount of revenue for the municipality as that which was
3 generated by the replaced taxes and fees; provided, however,
4 that the Municipal Telecommunications Tax shall be valid
5 whether or not it in fact generates approximately the same
6 amount of revenue as was generated by the previously imposed
7 taxes and fees. Municipalities that determine to impose the
8 Municipal Telecommunications Tax at an authorized rate other
9 than that established in Section 15, and municipalities that
10 do not currently have in place one or more of the taxes or
11 fees being replaced, may also adopt the Municipal
12 Telecommunications Tax by passage of an ordinance in
13 accordance with Section 20.

14 Section 7. Definitions. For purposes of the taxes
15 authorized by this Act:

16 "Amount paid" means the amount charged to the taxpayer's
17 service address in such municipality regardless of where such
18 amount is billed or paid.

19 "Department" means the Illinois Department of Revenue.

20 "Gross charge" means the amount paid for the act or
21 privilege of originating or receiving telecommunications in
22 such municipality and for all services and equipment provided
23 in connection therewith by a retailer, valued in money
24 whether paid in money or otherwise, including cash, credits,
25 services and property of every kind or nature, and shall be
26 determined without any deduction on account of the cost of
27 such telecommunications, the cost of the materials used,
28 labor or service costs or any other expense whatsoever. In
29 case credit is extended, the amount thereof shall be included
30 only as and when paid. "Gross charges" for private line
31 service shall include charges imposed at each channel point
32 within this State, charges for the channel mileage between
33 each channel point within this State, and charges for that

1 portion of the interstate inter-office channel provided
2 within Illinois. However, "gross charge" shall not include:

3 (1) any amounts added to a purchaser's bill because
4 of a charge made pursuant to: (i) the tax imposed by this
5 Act, (ii) the tax imposed by the Telecommunications
6 Excise Tax Act, (iii) the tax imposed by Section 4251 of
7 the Internal Revenue Code, (iv) 911 surcharges, or (v)
8 charges added to customers' bills pursuant to the
9 provisions of Section 9-221 or 9-222 of the Public
10 Utilities Act, as amended, or any similar charges added
11 to customers' bills by retailers who are not subject to
12 rate regulation by the Illinois Commerce Commission for
13 the purpose of recovering any of the tax liabilities or
14 other amounts specified in those provisions of the Public
15 Utilities Act;

16 (2) charges for a sent collect telecommunication
17 received outside of such municipality;

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

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

30 (5) charges to business enterprises certified as
31 exempt under Section 9-222.1 of the Public Utilities Act
32 to the extent of such exemption and during the period of
33 time specified by the Department of Commerce and
34 Community Affairs;

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

11 (7) bad debts ("bad debt" means any portion of a
12 debt that is related to a sale at retail for which gross
13 charges are not otherwise deductible or excludable that
14 has become worthless or uncollectible, as determined
15 under applicable federal income tax standards; if the
16 portion of the debt deemed to be bad is subsequently
17 paid, the retailer shall report and pay the tax on that
18 portion during the reporting period in which the payment
19 is made);

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

22 (9) amounts paid by telecommunications retailers
23 under the Telecommunications Infrastructure Maintenance
24 Fee Act.

25 "Interstate telecommunications" means all
26 telecommunications that either originate or terminate outside
27 this State.

28 "Intrastate telecommunications" means all
29 telecommunications that originate and terminate within this
30 State.

31 "Person" means any natural individual, firm, trust,
32 estate, partnership, association, joint stock company, joint
33 venture, corporation, limited liability company, or a
34 receiver, trustee, guardian, or other representative

1 appointed by order of any court, the Federal and State
2 governments, including State universities created by statute,
3 or any city, town, county, or other political subdivision of
4 this State.

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

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

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

33 "Sale at retail" means the transmitting, supplying or
34 furnishing of telecommunications and all services and

1 equipment provided in connection therewith for a
2 consideration, to persons other than the Federal and State
3 governments, and State universities created by statute and
4 other than between a parent corporation and its wholly owned
5 subsidiaries or between wholly owned subsidiaries for their
6 use or consumption and not for resale.

7 "Service address" means the location of
8 telecommunications equipment from which telecommunications
9 services are originated or at which telecommunications
10 services are received by a taxpayer. In the event this may
11 not be a defined location, as in the case of mobile phones,
12 paging systems, maritime systems, air-to-ground systems and
13 the like, "service address" shall mean the location of a
14 taxpayer's primary use of the telecommunications equipment as
15 defined by telephone number, authorization code, or location
16 in Illinois where bills are sent.

17 "Taxpayer" means a person who individually or through his
18 or her agents, employees, or permittees engages in the act or
19 privilege of originating or receiving telecommunications in a
20 municipality and who incurs a tax liability as authorized by
21 this Act.

22 "Telecommunications", in addition to the meaning
23 ordinarily and popularly ascribed to it, includes, without
24 limitation, messages or information transmitted through use
25 of local, toll, and wide area telephone service, private line
26 services, channel services, telegraph services,
27 teletypewriter, computer exchange services, cellular mobile
28 telecommunications service, specialized mobile radio,
29 stationary two-way radio, paging service, or any other form
30 of mobile and portable one-way or two-way communications, or
31 any other transmission of messages or information by
32 electronic or similar means, between or among points by wire,
33 cable, fiber optics, laser, microwave, radio, satellite, or
34 similar facilities. As used in this Act, "private line"

1 means a dedicated non-traffic sensitive service for a single
2 customer, that entitles the customer to exclusive or priority
3 use of a communications channel or group of channels, from
4 one or more specified locations to one or more other
5 specified locations. The definition of "telecommunications"
6 shall not include value added services in which computer
7 processing applications are used to act on the form, content,
8 code, and protocol of the information for purposes other than
9 transmission. "Telecommunications" shall not include
10 purchases of telecommunications by a telecommunications
11 service provider for use as a component part of the service
12 provided by such provider to the ultimate retail consumer who
13 originates or terminates the taxable end-to-end
14 communications. Carrier access charges, right of access
15 charges, charges for use of inter-company facilities, and all
16 telecommunications resold in the subsequent provision of,
17 used as a component of, or integrated into, end-to-end
18 telecommunications service shall be non-taxable as sales for
19 resale. Prepaid telephone calling arrangements shall not be
20 considered "telecommunications" subject to the tax imposed
21 under this Act. For purposes of this Section, "prepaid
22 telephone calling arrangements" means that term as defined in
23 Section 2-27 of the Retailers' Occupations Tax Act.

24 Section 10. Authority. The corporate authorities of any
25 municipality in this State may tax any or all of the
26 following acts or privileges:

27 (a) The act or privilege of originating in such
28 municipality or receiving in such municipality intrastate
29 telecommunications by a person. However, such tax is not
30 imposed on such act or privilege to the extent such act or
31 privilege may not, under the Constitution and statutes of the
32 United States, be made the subject of taxation by
33 municipalities in this State.

1 (b) The act or privilege of originating in such
2 municipality or receiving in such municipality interstate
3 telecommunications by a person. To prevent actual multi-state
4 taxation of the act or privilege that is subject to taxation
5 under this subsection, any taxpayer, upon proof that the
6 taxpayer has paid a tax in another state on such event, shall
7 be allowed a credit against any tax enacted pursuant to or
8 authorized by this Section to the extent of the amount of
9 such tax properly due and paid in such other state which was
10 not previously allowed as a credit against any other state or
11 local tax in this State. However, such tax is not imposed on
12 the act or privilege to the extent such act or privilege may
13 not, under the Constitution and statutes of the United
14 States, be made the subject of taxation by municipalities in
15 this State.

16 Section 15. Rates.

17 (a) For municipalities with a population of less than
18 500,000, the tax authorized by this Act may be imposed at a
19 rate not to exceed 6% of the gross charge for
20 telecommunications purchased at retail. If imposed, the tax
21 must be in increments of 0.25%.

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

27 Section 20. Imposition.

28 (a) On and after July 1, 2002, for municipalities with
29 populations of less than 500,000, the tax authorized by this
30 Act shall be imposed (except as provided in Section 25 of
31 this Act), amended, or repealed by an ordinance adopted by
32 the municipality, which ordinance shall be filed by the

1 municipality with the Department pursuant to the rules of the
2 Department.

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

8 (2) Any certified copy of an ordinance filed with
9 the Department prior to any October 1 or April 1 shall
10 be effective with respect to bills issued on or after the
11 following January 1 or July 1, respectively.

12 (b) On and after July 1, 2002, for municipalities with
13 populations of 500,000 or more, the tax authorized by this
14 Act shall be imposed, amended, or repealed, and any
15 authorized exemptions granted, by the adoption of an
16 ordinance.

17 Section 25. Existing telecommunications taxes and fees.

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

31 (b) In compiling the list described in this Section, the
32 Department shall collect information from retailers,
33 municipalities, the Illinois Commerce Commission, and other

1 sources deemed by the Department to be reliable.

2 (c) Any municipality appearing on the list published
3 pursuant to this Section shall not be required to adopt and
4 file an ordinance implementing the tax authorized by this
5 Act. The list shall be conclusive evidence of the imposition
6 of the tax authorized by this Act at the rate appearing on
7 such list. A municipality may alter such tax only by filing
8 an ordinance with the Department pursuant to Section 20 of
9 this Act, before April 1, 2002.

10 Section 30. Calculation of rates for certain
11 municipalities.

12 (a) For each municipality on the list described in
13 Section 25 of this Act, the rate of the taxes and fees
14 imposed by a municipality pursuant to item (1) of Section
15 8-11-2 of the Illinois Municipal Code, Section 8-11-17 of the
16 Illinois Municipal Code, or Section 20 of the
17 Telecommunications Infrastructure Maintenance Fee Act which
18 appears on the list shall be used by the Department in
19 calculating the rate of the Municipal Telecommunications Tax
20 for such municipality.

21 (b) The rate of the Municipal Telecommunications Tax for
22 municipalities on the list shall be equal to the sum of:

23 (1) The rate equal to 70% of the rate imposed by
24 such municipality pursuant to item (1) of Section 8-11-2
25 of the Illinois Municipal Code, rounded to the nearest
26 even 0.25% increment; plus

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

30 (3) The rate imposed by such municipality pursuant
31 to Section 20 of the Telecommunications Municipal
32 Infrastructure Maintenance Fee Act.

33 (c) The Department shall enter each of the rates

1 described in subdivisions (b)(1), (b)(2), and (b)(3) of this
2 Section 30, as well as the rate of the Municipal
3 Telecommunications Tax, on the list provided for in Section
4 25 of this Act.

5 Section 35. Rebates and exemptions. Any municipality may
6 implement the following rebates and exemptions:

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

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

25 (3) A municipality with a population of 500,000 or
26 more that imposes the tax authorized by this Act may, by
27 separate ordinance, exempt from the tax authorized by
28 this Act, charges for inbound toll-free
29 telecommunications service commonly known as "800",
30 "877", or "888" or for a similar service, to the extent
31 such municipality has passed an ordinance providing for
32 this exemption.

1 Section 40. Collection.

2 (a) For municipalities with populations of less than
3 500,000, the tax authorized by this Act shall be collected
4 from the taxpayer by a retailer maintaining a place of
5 business in this State within such municipalities and shall
6 be remitted by such retailer to the Department. Any tax
7 required to be collected pursuant to or as authorized by this
8 Act and any such tax collected by such retailer and required
9 to be remitted to the Department shall constitute a debt owed
10 by the retailer to the State. Retailers shall collect the tax
11 from the taxpayer by adding the tax to the gross charge for
12 the act or privilege of originating or receiving
13 telecommunications when sold for use, in the manner
14 prescribed by the Department. The tax authorized by this Act
15 shall constitute a debt of the taxpayer to the retailer until
16 paid, and, if unpaid, is recoverable at law in the same
17 manner as the original charge for such sale at retail. If
18 the retailer fails to collect the tax from the taxpayer, then
19 the taxpayer shall be required to pay the tax directly to the
20 Department in the manner provided by the Department.

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

1 unpaid, is recoverable at law in the same manner as the
2 original charge for the sale at retail. If the retailer
3 fails to collect the tax from the taxpayer, then the taxpayer
4 shall be required to pay the tax directly to such
5 municipality in the manner provided by such municipality.
6 The municipality imposing the tax shall provide for its
7 administration and enforcement.

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

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

21 Section 45. Resellers.

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

1 (b) Upon approval of the application, a municipality
2 with a population of 500,000 or more or the Department for
3 all other municipalities, shall assign a resale number to the
4 applicant and shall certify such number to the applicant. A
5 municipality with a population of 500,000 or more or the
6 Department for all other municipalities, may cancel any
7 number which is obtained through misrepresentation, or which
8 is used to send or receive such telecommunication tax-free
9 when such actions in fact are not for resale, or which no
10 longer applies because of the person's having discontinued
11 the making of resales.

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

22 Section 50. Returns to the Department.

23 (a) Commencing on August 1, 2002, each retailer
24 maintaining a place of business in this State within
25 municipalities with populations of less than 500,000, shall,
26 on or before the 30th day of each month, except for the month
27 of February, on or before the 28th day of February, make a
28 return to the Department for the preceding calendar month,
29 stating:

- 30 (1) Its name;
- 31 (2) The address of its principal place of business,
32 and the address of the principal place of business (if
33 that is a different address) from which it engages in the

1 business of transmitting telecommunications;

2 (3) Total amount of gross charges billed by it
3 during the preceding calendar month for providing
4 telecommunications during the calendar month;

5 (4) Total amount received by it during the
6 preceding calendar month on credit extended;

7 (5) Deductions allowed by law;

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

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

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

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

16 (b) Any retailer required to make payments under this
17 Section may make the payments by electronic funds transfer.
18 The Department shall adopt rules necessary to effectuate a
19 program of electronic funds transfer. Any retailer who has
20 average monthly tax billings due to the Department under this
21 Act and the Telecommunications Excise Tax Act that exceed
22 \$1,000 shall make all payments by electronic funds transfer
23 as required by rules of the Department.

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

1 30th of the following year.

2 (d) If the retailer is otherwise required to file a
3 monthly or quarterly return and if the retailer's average
4 monthly tax billings due to the Department under this Act and
5 the Telecommunications Excise Tax Act do not exceed \$400, the
6 Department may authorize such retailer's return to be filed
7 on an annual basis, with the return for a given year being
8 due by January 30th of the following year.

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

1 in excess of the minimum payments previously due.

2 (f) Notwithstanding any other provision of this Section
3 containing the time within which a retailer may file his or
4 her return, in the case of any retailer who ceases to engage
5 in a kind of business that makes him or her responsible for
6 filing returns under this Section, the retailer shall file a
7 final return under this Section with the Department not more
8 than one month after discontinuing such business.

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

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

20 (i) The retailer filing the return herein provided for
21 shall, at the time of filing the return, pay to the
22 Department the amounts due pursuant to this Act. The
23 Department shall immediately pay over to the State Treasurer,
24 ex officio, as trustee, 99.5% of all taxes, penalties, and
25 interest collected hereunder for deposit into the Municipal
26 Telecommunications Fund, which is hereby created. The
27 remaining 0.5% received by the Department pursuant to this
28 Act shall be deposited into the Tax Compliance and
29 Administration Fund and shall be used by the Department,
30 subject to appropriation, to cover the costs of the
31 Department. On or before the 25th day of each calendar month,
32 the Department shall prepare and certify to the Comptroller
33 the disbursement of stated sums of money to be paid to named
34 municipalities from the Municipal Telecommunications Fund for

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

28 (j) For municipalities with populations of less than
29 500,000, whenever the Department determines that a refund
30 shall be made under this Section to a claimant instead of
31 issuing a credit memorandum, the Department shall notify the
32 State Comptroller, who shall cause the order to be drawn for
33 the amount specified and to the person named in the
34 notification from the Department. The refund shall be paid

1 by the State Treasurer out of the Municipal
2 Telecommunications Fund.

3 Section 55. Pledged revenues. If a municipality has, by
4 contract, pledged or dedicated any or all of the revenues
5 collected under any of its taxes imposed pursuant to item (1)
6 of Section 8-11-2 of the Illinois Municipal Code, Section
7 8-11-17 of the Illinois Municipal Code, or Section 20 of the
8 Telecommunications Infrastructure Maintenance Fee Act as
9 shown on the list described in Section 25 of this Act, then
10 the equivalent portion of revenues collected from the tax
11 authorized by this Act shall be deemed pledged or dedicated
12 in a manner substantially similar to the pledge of the then
13 existing taxes so as to prevent disruption of such contract.

14 Section 60. Waiver of franchise fees.

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

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

23 (2) the municipality affirmatively waives such
24 fees; or

25 (3) the municipality is included in the list
26 described in Section 25 of this Act as having a municipal
27 infrastructure maintenance fee in place.

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

1 municipality.

2 (c) No portion of this Act shall be construed to have
3 repealed or amended the prohibition on franchise fees or
4 other charges set forth in Section 30 of the
5 Telecommunications Infrastructure Maintenance Fee Act.

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

29 Section 905. The State Revenue Sharing Act is amended by
30 changing Section 12 as follows:

31 (30 ILCS 115/12) (from Ch. 85, par. 616)

1 Sec. 12. Personal Property Tax Replacement Fund. There
2 is hereby created the Personal Property Tax Replacement Fund,
3 a special fund in the State Treasury into which shall be paid
4 all revenue realized:

5 (a) all amounts realized from the additional personal
6 property tax replacement income tax imposed by subsections
7 (c) and (d) of Section 201 of the Illinois Income Tax Act,
8 except for those amounts deposited into the Income Tax Refund
9 Fund pursuant to subsection (c) of Section 901 of the
10 Illinois Income Tax Act; and

11 (b) all amounts realized from the additional personal
12 property replacement invested capital taxes imposed by
13 Section 2a.1 of the Messages Tax Act, Section 2a.1 of the Gas
14 Revenue Tax Act, Section 2a.1 of the Public Utilities
15 Revenue Act, and Section 3 of the Water Company Invested
16 Capital Tax Act, and amounts payable to the Department of
17 Revenue under the Telecommunications Municipal Infrastructure
18 Maintenance Fee Act.

19 As soon as may be after the end of each month, the
20 Department of Revenue shall certify to the Treasurer and the
21 Comptroller the amount of all refunds paid out of the General
22 Revenue Fund through the preceding month on account of
23 overpayment of liability on taxes paid into the Personal
24 Property Tax Replacement Fund. Upon receipt of such
25 certification, the Treasurer and the Comptroller shall
26 transfer the amount so certified from the Personal Property
27 Tax Replacement Fund into the General Revenue Fund.

28 The payments of revenue into the Personal Property Tax
29 Replacement Fund shall be used exclusively for distribution
30 to taxing districts as provided in this Section, payment of
31 the expenses of the Department of Revenue incurred in
32 administering the collection and distribution of monies paid
33 into the Personal Property Tax Replacement Fund and transfers
34 due to refunds to taxpayers for overpayment of liability for

1 taxes paid into the Personal Property Tax Replacement Fund.

2 As soon as may be after the effective date of this
3 amendatory Act of 1980, the Department of Revenue shall
4 certify to the Treasurer the amount of net replacement
5 revenue paid into the General Revenue Fund prior to that
6 effective date from the additional tax imposed by Section
7 2a.1 of the Messages Tax Act; Section 2a.1 of the Gas Revenue
8 Tax Act; Section 2a.1 of the Public Utilities Revenue Act;
9 Section 3 of the Water Company Invested Capital Tax Act;
10 amounts collected by the Department of Revenue under the
11 Telecommunications Municipal Infrastructure Maintenance Fee
12 Act; and the additional personal property tax replacement
13 income tax imposed by the Illinois Income Tax Act, as amended
14 by Public Act 81-1st Special Session-1. Net replacement
15 revenue shall be defined as the total amount paid into and
16 remaining in the General Revenue Fund as a result of those
17 Acts minus the amount outstanding and obligated from the
18 General Revenue Fund in state vouchers or warrants prior to
19 the effective date of this amendatory Act of 1980 as refunds
20 to taxpayers for overpayment of liability under those Acts.

21 All interest earned by monies accumulated in the Personal
22 Property Tax Replacement Fund shall be deposited in such
23 Fund. All amounts allocated pursuant to this Section are
24 appropriated on a continuing basis.

25 Prior to December 31, 1980, as soon as may be after the
26 end of each quarter beginning with the quarter ending
27 December 31, 1979, and on and after December 31, 1980, as
28 soon as may be after January 1, March 1, April 1, May 1, July
29 1, August 1, October 1 and December 1 of each year, the
30 Department of Revenue shall allocate to each taxing district
31 as defined in Section 1-150 of the Property Tax Code, in
32 accordance with the provisions of paragraph (2) of this
33 Section the portion of the funds held in the Personal
34 Property Tax Replacement Fund which is required to be

1 distributed, as provided in paragraph (1), for each quarter.
2 Provided, however, under no circumstances shall any taxing
3 district during each of the first two years of distribution
4 of the taxes imposed by this amendatory Act of 1979 be
5 entitled to an annual allocation which is less than the funds
6 such taxing district collected from the 1978 personal
7 property tax. Provided further that under no circumstances
8 shall any taxing district during the third year of
9 distribution of the taxes imposed by this amendatory Act of
10 1979 receive less than 60% of the funds such taxing district
11 collected from the 1978 personal property tax. In the event
12 that the total of the allocations made as above provided for
13 all taxing districts, during either of such 3 years, exceeds
14 the amount available for distribution the allocation of each
15 taxing district shall be proportionately reduced. Except as
16 provided in Section 13 of this Act, the Department shall then
17 certify, pursuant to appropriation, such allocations to the
18 State Comptroller who shall pay over to the several taxing
19 districts the respective amounts allocated to them.

20 Any township which receives an allocation based in whole
21 or in part upon personal property taxes which it levied
22 pursuant to Section 6-507 or 6-512 of the Illinois Highway
23 Code and which was previously required to be paid over to a
24 municipality shall immediately pay over to that municipality
25 a proportionate share of the personal property replacement
26 funds which such township receives.

27 Any municipality or township, other than a municipality
28 with a population in excess of 500,000, which receives an
29 allocation based in whole or in part on personal property
30 taxes which it levied pursuant to Sections 3-1, 3-4 and 3-6
31 of the Illinois Local Library Act and which was previously
32 required to be paid over to a public library shall
33 immediately pay over to that library a proportionate share of
34 the personal property tax replacement funds which such

1 municipality or township receives; provided that if such a
2 public library has converted to a library organized under The
3 Illinois Public Library District Act, regardless of whether
4 such conversion has occurred on, after or before January 1,
5 1988, such proportionate share shall be immediately paid over
6 to the library district which maintains and operates the
7 library. However, any library that has converted prior to
8 January 1, 1988, and which hitherto has not received the
9 personal property tax replacement funds, shall receive such
10 funds commencing on January 1, 1988.

11 Any township which receives an allocation based in whole
12 or in part on personal property taxes which it levied
13 pursuant to Section 1c of the Public Graveyards Act and which
14 taxes were previously required to be paid over to or used for
15 such public cemetery or cemeteries shall immediately pay over
16 to or use for such public cemetery or cemeteries a
17 proportionate share of the personal property tax replacement
18 funds which the township receives.

19 Any taxing district which receives an allocation based in
20 whole or in part upon personal property taxes which it levied
21 for another governmental body or school district in Cook
22 County in 1976 or for another governmental body or school
23 district in the remainder of the State in 1977 shall
24 immediately pay over to that governmental body or school
25 district the amount of personal property replacement funds
26 which such governmental body or school district would receive
27 directly under the provisions of paragraph (2) of this
28 Section, had it levied its own taxes.

29 (1) The portion of the Personal Property Tax Replacement
30 Fund required to be distributed as of the time allocation is
31 required to be made shall be the amount available in such
32 Fund as of the time allocation is required to be made.

33 The amount available for distribution shall be the total
34 amount in the fund at such time minus the necessary

1 administrative expenses as limited by the appropriation and
2 the amount determined by: (a) \$2.8 million for fiscal year
3 1981; (b) for fiscal year 1982, .54% of the funds distributed
4 from the fund during the preceding fiscal year; (c) for
5 fiscal year 1983 through fiscal year 1988, .54% of the funds
6 distributed from the fund during the preceding fiscal year
7 less .02% of such fund for fiscal year 1983 and less .02% of
8 such funds for each fiscal year thereafter, or (d) for fiscal
9 year 1989 and beyond no more than 105% of the actual
10 administrative expenses of the prior fiscal year. Such
11 portion of the fund shall be determined after the transfer
12 into the General Revenue Fund due to refunds, if any, paid
13 from the General Revenue Fund during the preceding quarter.
14 If at any time, for any reason, there is insufficient amount
15 in the Personal Property Tax Replacement Fund for payment of
16 costs of administration or for transfers due to refunds at
17 the end of any particular month, the amount of such
18 insufficiency shall be carried over for the purposes of
19 transfers into the General Revenue Fund and for purposes of
20 costs of administration to the following month or months.
21 Net replacement revenue held, and defined above, shall be
22 transferred by the Treasurer and Comptroller to the Personal
23 Property Tax Replacement Fund within 10 days of such
24 certification.

25 (2) Each quarterly allocation shall first be apportioned
26 in the following manner: 51.65% for taxing districts in Cook
27 County and 48.35% for taxing districts in the remainder of
28 the State.

29 The Personal Property Replacement Ratio of each taxing
30 district outside Cook County shall be the ratio which the Tax
31 Base of that taxing district bears to the Downstate Tax Base.
32 The Tax Base of each taxing district outside of Cook County
33 is the personal property tax collections for that taxing
34 district for the 1977 tax year. The Downstate Tax Base is

1 the personal property tax collections for all taxing
2 districts in the State outside of Cook County for the 1977
3 tax year. The Department of Revenue shall have authority to
4 review for accuracy and completeness the personal property
5 tax collections for each taxing district outside Cook County
6 for the 1977 tax year.

7 The Personal Property Replacement Ratio of each Cook
8 County taxing district shall be the ratio which the Tax Base
9 of that taxing district bears to the Cook County Tax Base.
10 The Tax Base of each Cook County taxing district is the
11 personal property tax collections for that taxing district
12 for the 1976 tax year. The Cook County Tax Base is the
13 personal property tax collections for all taxing districts in
14 Cook County for the 1976 tax year. The Department of Revenue
15 shall have authority to review for accuracy and completeness
16 the personal property tax collections for each taxing
17 district within Cook County for the 1976 tax year.

18 For all purposes of this Section 12, amounts paid to a
19 taxing district for such tax years as may be applicable by a
20 foreign corporation under the provisions of Section 7-202 of
21 the Public Utilities Act, as amended, shall be deemed to be
22 personal property taxes collected by such taxing district for
23 such tax years as may be applicable. The Director shall
24 determine from the Illinois Commerce Commission, for any tax
25 year as may be applicable, the amounts so paid by any such
26 foreign corporation to any and all taxing districts. The
27 Illinois Commerce Commission shall furnish such information
28 to the Director. For all purposes of this Section 12, the
29 Director shall deem such amounts to be collected personal
30 property taxes of each such taxing district for the
31 applicable tax year or years.

32 Taxing districts located both in Cook County and in one
33 or more other counties shall receive both a Cook County
34 allocation and a Downstate allocation determined in the same

1 way as all other taxing districts.

2 If any taxing district in existence on July 1, 1979
3 ceases to exist, or discontinues its operations, its Tax Base
4 shall thereafter be deemed to be zero. If the powers, duties
5 and obligations of the discontinued taxing district are
6 assumed by another taxing district, the Tax Base of the
7 discontinued taxing district shall be added to the Tax Base
8 of the taxing district assuming such powers, duties and
9 obligations.

10 If two or more taxing districts in existence on July 1,
11 1979, or a successor or successors thereto shall consolidate
12 into one taxing district, the Tax Base of such consolidated
13 taxing district shall be the sum of the Tax Bases of each of
14 the taxing districts which have consolidated.

15 If a single taxing district in existence on July 1, 1979,
16 or a successor or successors thereto shall be divided into
17 two or more separate taxing districts, the tax base of the
18 taxing district so divided shall be allocated to each of the
19 resulting taxing districts in proportion to the then current
20 equalized assessed value of each resulting taxing district.

21 If a portion of the territory of a taxing district is
22 disconnected and annexed to another taxing district of the
23 same type, the Tax Base of the taxing district from which
24 disconnection was made shall be reduced in proportion to the
25 then current equalized assessed value of the disconnected
26 territory as compared with the then current equalized
27 assessed value within the entire territory of the taxing
28 district prior to disconnection, and the amount of such
29 reduction shall be added to the Tax Base of the taxing
30 district to which annexation is made.

31 If a community college district is created after July 1,
32 1979, beginning on the effective date of this amendatory Act
33 of 1995, its Tax Base shall be 3.5% of the sum of the
34 personal property tax collected for the 1977 tax year within

1 the territorial jurisdiction of the district.

2 The amounts allocated and paid to taxing districts
3 pursuant to the provisions of this amendatory Act of 1979
4 shall be deemed to be substitute revenues for the revenues
5 derived from taxes imposed on personal property pursuant to
6 the provisions of the "Revenue Act of 1939" or "An Act for
7 the assessment and taxation of private car line companies",
8 approved July 22, 1943, as amended, or Section 414 of the
9 Illinois Insurance Code, prior to the abolition of such taxes
10 and shall be used for the same purposes as the revenues
11 derived from ad valorem taxes on real estate.

12 Monies received by any taxing districts from the Personal
13 Property Tax Replacement Fund shall be first applied toward
14 payment of the proportionate amount of debt service which was
15 previously levied and collected from extensions against
16 personal property on bonds outstanding as of December 31,
17 1978 and next applied toward payment of the proportionate
18 share of the pension or retirement obligations of the taxing
19 district which were previously levied and collected from
20 extensions against personal property. For each such
21 outstanding bond issue, the County Clerk shall determine the
22 percentage of the debt service which was collected from
23 extensions against real estate in the taxing district for
24 1978 taxes payable in 1979, as related to the total amount of
25 such levies and collections from extensions against both real
26 and personal property. For 1979 and subsequent years' taxes,
27 the County Clerk shall levy and extend taxes against the real
28 estate of each taxing district which will yield the said
29 percentage or percentages of the debt service on such
30 outstanding bonds. The balance of the amount necessary to
31 fully pay such debt service shall constitute a first and
32 prior lien upon the monies received by each such taxing
33 district through the Personal Property Tax Replacement Fund
34 and shall be first applied or set aside for such purpose. In

1 counties having fewer than 3,000,000 inhabitants, the
2 amendments to this paragraph as made by this amendatory Act
3 of 1980 shall be first applicable to 1980 taxes to be
4 collected in 1981.

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

6 Section 910. The Telecommunications Excise Tax Act is
7 amended by changing Sections 2, 6, and 15 as follows:

8 (35 ILCS 630/2) (from Ch. 120, par. 2002)

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

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

27 (1) any amounts added to a purchaser's bill because
28 of a charge made pursuant to (i) the tax imposed by this
29 Article; (ii) charges added to customers' bills pursuant
30 to the provisions of Sections 9-221 or 9-222 of the
31 Public Utilities Act, as amended, or any similar charges
32 added to customers' bills by retailers who are not

1 subject to rate regulation by the Illinois Commerce
 2 Commission for the purpose of recovering any of the tax
 3 liabilities or other amounts specified in such provisions
 4 of such Act; ~~or~~ (iii) the tax imposed by Section 4251 of
 5 the Internal Revenue Code; (iv) 911 surcharges; or (v)
 6 the tax imposed by the Municipal Telecommunications Tax
 7 Act;

8 (2) charges for a sent collect telecommunication
 9 received outside of the State;

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

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

22 (5) charges to business enterprises certified under
 23 Section 9-222.1 of the Public Utilities Act, as amended,
 24 to the extent of such exemption and during the period of
 25 time specified by the Department of Commerce and
 26 Community Affairs;

27 (6) charges for telecommunications and all services
 28 and equipment provided in connection therewith between a
 29 parent corporation and its wholly owned subsidiaries or
 30 between wholly owned subsidiaries when the tax imposed
 31 under this Article has already been paid to a retailer
 32 and only to the extent that the charges between the
 33 parent corporation and wholly owned subsidiaries or
 34 between wholly owned subsidiaries represent expense

1 allocation between the corporations and not the
2 generation of profit for the corporation rendering such
3 service;

4 (7) bad debts. Bad debt means any portion of a debt
5 that is related to a sale at retail for which gross
6 charges are not otherwise deductible or excludable that
7 has become worthless or uncollectable, as determined
8 under applicable federal income tax standards. If the
9 portion of the debt deemed to be bad is subsequently
10 paid, the retailer shall report and pay the tax on that
11 portion during the reporting period in which the payment
12 is made;

13 (8) charges paid by inserting coins in
14 coin-operated telecommunication devices;

15 (9) amounts paid by telecommunications retailers
16 under the Telecommunications Municipal Infrastructure
17 Maintenance Fee Act.

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

21 (c) "Telecommunications", in addition to the meaning
22 ordinarily and popularly ascribed to it, includes, without
23 limitation, messages or information transmitted through use
24 of local, toll and wide area telephone service; private line
25 services; channel services; telegraph services;
26 teletypewriter; computer exchange services; cellular mobile
27 telecommunications service; specialized mobile radio;
28 stationary two way radio; paging service; or any other form
29 of mobile and portable one-way or two-way communications; or
30 any other transmission of messages or information by
31 electronic or similar means, between or among points by wire,
32 cable, fiber-optics, laser, microwave, radio, satellite or
33 similar facilities. As used in this Act, "private line" means
34 a dedicated non-traffic sensitive service for a single

1 customer, that entitles the customer to exclusive or priority
2 use of a communications channel or group of channels, from
3 one or more specified locations to one or more other
4 specified locations. The definition of "telecommunications"
5 shall not include value added services in which computer
6 processing applications are used to act on the form, content,
7 code and protocol of the information for purposes other than
8 transmission. "Telecommunications" shall not include
9 purchases of telecommunications by a telecommunications
10 service provider for use as a component part of the service
11 provided by him to the ultimate retail consumer who
12 originates or terminates the taxable end-to-end
13 communications. Carrier access charges, right of access
14 charges, charges for use of inter-company facilities, and all
15 telecommunications resold in the subsequent provision of,
16 used as a component of, or integrated into end-to-end
17 telecommunications service shall be non-taxable as sales for
18 resale.

19 (d) "Interstate telecommunications" means all
20 telecommunications that either originate or terminate outside
21 this State.

22 (e) "Intrastate telecommunications" means all
23 telecommunications that originate and terminate within this
24 State.

25 (f) "Department" means the Department of Revenue of the
26 State of Illinois.

27 (g) "Director" means the Director of Revenue for the
28 Department of Revenue of the State of Illinois.

29 (h) "Taxpayer" means a person who individually or
30 through his agents, employees or permittees engages in the
31 act or privilege of originating or receiving
32 telecommunications in this State and who incurs a tax
33 liability under this Article.

34 (i) "Person" means any natural individual, firm, trust,

1 estate, partnership, association, joint stock company, joint
2 venture, corporation, limited liability company, or a
3 receiver, trustee, guardian or other representative appointed
4 by order of any court, the Federal and State governments,
5 including State universities created by statute or any city,
6 town, county or other political subdivision of this State.

7 (j) "Purchase at retail" means the acquisition,
8 consumption or use of telecommunication through a sale at
9 retail.

10 (k) "Sale at retail" means the transmitting, supplying
11 or furnishing of telecommunications and all services and
12 equipment provided in connection therewith for a
13 consideration to persons other than the Federal and State
14 governments, and State universities created by statute and
15 other than between a parent corporation and its wholly owned
16 subsidiaries or between wholly owned subsidiaries for their
17 use or consumption and not for resale.

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

33 (m) "Retailer maintaining a place of business in this
34 State", or any like term, means and includes any retailer

1 having or maintaining within this State, directly or by a
2 subsidiary, an office, distribution facilities, transmission
3 facilities, sales office, warehouse or other place of
4 business, or any agent or other representative operating
5 within this State under the authority of the retailer or its
6 subsidiary, irrespective of whether such place of business or
7 agent or other representative is located here permanently or
8 temporarily, or whether such retailer or subsidiary is
9 licensed to do business in this State.

10 (n) "Service address" means the location of
11 telecommunications equipment from which the
12 telecommunications services are originated or at which
13 telecommunications services are received by a taxpayer. In
14 the event this may not be a defined location, as in the case
15 of mobile phones, paging systems, maritime systems,
16 air-to-ground systems and the like, service address shall
17 mean the location of a taxpayer's primary use of the
18 telecommunications equipment as defined by telephone number,
19 authorization code, or location in Illinois where bills are
20 sent.

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

1 acquires a different access number or authorization code.
 2 "Prepaid telephone calling arrangement" does not include an
 3 arrangement whereby a customer purchases a payment card and
 4 pursuant to which the service provider reflects the amount of
 5 such purchase as a credit on an invoice issued to that
 6 customer under an existing subscription plan.

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

8 (35 ILCS 630/6) (from Ch. 120, par. 2006)

9 Sec. 6. Except as provided hereinafter in this Section,
 10 on or before the 30th 15th day of each month, except for the
 11 month of February, on or before the 28th day of February,
 12 each retailer maintaining a place of business in this State
 13 shall make a return to the Department for the preceding
 14 calendar month, stating:

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

32 Any taxpayer required to make payments under this Section
 33 may make the payments by electronic funds transfer. The

1 Department shall adopt rules necessary to effectuate a
2 program of electronic funds transfer. Any taxpayer who has
3 average monthly tax billings due to the Department under this
4 Act and the Municipal Telecommunications Tax Act that exceed
5 \$1,000 shall make all payments by electronic funds transfer
6 as required by rules of the Department and shall file the
7 return required by this Section by electronic means as
8 required by rules of the Department.

9 If the retailer's average monthly tax billings due to the
10 Department under this Act and the Municipal
11 Telecommunications Tax Act do not exceed \$1,000 \$200, the
12 Department may authorize his returns to be filed on a quarter
13 annual basis, with the return for January, February and March
14 of a given year being due by April 30 15 of such year; with
15 the return for April, May and June of a given year being due
16 by July 30 15 of such year; with the return for July, August
17 and September of a given year being due by October 30 15 of
18 such year; and with the return of October, November and
19 December of a given year being due by January 30 15 of the
20 following year.

21 If the retailer is otherwise required to file a monthly
22 or quarterly return and if the retailer's average monthly tax
23 billings due to the Department under this Act and the
24 Municipal Telecommunications Tax Act do not exceed \$400 \$50,
25 the Department may authorize his or her return to be filed on
26 an annual basis, with the return for a given year being due
27 by January 30th 15th of the following year.

28 Notwithstanding any other provision of this Article
29 containing the time within which a retailer may file his
30 return, in the case of any retailer who ceases to engage in a
31 kind of business which makes him responsible for filing
32 returns under this Article, such retailer shall file a final
33 return under this Article with the Department not more than
34 one month after discontinuing such business.

1 In making such return, the retailer shall determine the
2 value of any consideration other than money received by him
3 and he shall include such value in his return. Such
4 determination shall be subject to review and revision by the
5 Department in the manner hereinafter provided for the
6 correction of returns.

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

34 ~~If the Director finds that the information required for~~

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

18 The retailer making the return herein provided for shall,
19 at the time of making such return, pay to the Department the
20 amount of tax herein imposed, less a commission of 1% which
21 is allowed to reimburse the retailer for the expenses
22 incurred in keeping records, billing the customer, preparing
23 and filing returns, remitting the tax, and supplying data to
24 the Department upon request. No commission may be claimed by
25 a retailer for taxes not timely remitted. On and after the
26 effective date of this Article of 1985, \$1,000,000 of the
27 moneys received by the Department of Revenue pursuant to this
28 Article shall be paid each month into the Common School Fund
29 and the remainder into the General Revenue Fund. On and after
30 February 1, 1998, however, of the moneys received by the
31 Department of Revenue pursuant to the additional taxes
32 imposed by this amendatory Act of 1997 one-half shall be
33 deposited into the School Infrastructure Fund and one-half
34 shall be deposited into the Common School Fund. On and after

1 the effective date of this amendatory Act of the 91st General
2 Assembly, if in any fiscal year the total of the moneys
3 deposited into the School Infrastructure Fund under this Act
4 is less than the total of the moneys deposited into that Fund
5 from the additional taxes imposed by Public Act 90-548 during
6 fiscal year 1999, then, as soon as possible after the close
7 of the fiscal year, the Comptroller shall order transferred
8 and the Treasurer shall transfer from the General Revenue
9 Fund to the School Infrastructure Fund an amount equal to the
10 difference between the fiscal year total deposits and the
11 total amount deposited into the Fund in fiscal year 1999.

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

14 (35 ILCS 630/15) (from Ch. 120, par. 2015)

15 Sec. 15. Confidential information. All information
16 received by the Department from returns filed under this
17 Article, or from any investigations conducted under this
18 Article, shall be confidential, except for official purposes,
19 and any person who divulges any such information in any
20 manner, except in accordance with a proper judicial order or
21 as otherwise provided by law, shall be guilty of a Class B
22 misdemeanor.

23 Provided, that nothing contained in this Article shall
24 prevent the Director from publishing or making available to
25 the public the names and addresses of retailers or taxpayers
26 filing returns under this Article, or from publishing or
27 making available reasonable statistics concerning the
28 operation of the tax wherein the contents of returns are
29 grouped into aggregates in such a way that the information
30 contained in any individual return shall not be disclosed.

31 And provided, that nothing contained in this Article
32 shall prevent the Director from making available to the
33 United States Government or the government of any other

1 state, or any officer or agency thereof, for exclusively
2 official purposes, information received by the Department in
3 the administration of this Article, if such other
4 governmental agency agrees to divulge requested tax
5 information to the Department.

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

10 The furnishing of financial information to a municipality
11 that has imposed a tax under the Municipal Telecommunications
12 Tax Act, upon request of the chief executive thereof, is an
13 official purpose within the meaning of this Section, provided
14 that the municipality agrees in writing to the requirements
15 of this Section. Information so provided shall be subject to
16 all confidentiality provisions of this Section. The written
17 agreement shall provide for reciprocity, limitations on
18 access, disclosure, and procedures for requesting
19 information.

20 The Director shall make available for public inspection
21 in the Department's principal office and for publication, at
22 cost, administrative decisions issued on or after January 1,
23 1995. These decisions are to be made available in a manner so
24 that the following taxpayer information is not disclosed:

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

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

32 The Director shall determine the appropriate extent of
33 the deletions allowed in paragraph (2). In the event the
34 taxpayer does not submit deletions, the Director shall make

1 only the deletions specified in paragraph (1).

2 The Director shall make available for public inspection
3 and publication an administrative decision within 180 days
4 after the issuance of the administrative decision. The term
5 "administrative decision" has the same meaning as defined in
6 Section 3-101 of Article III of the Code of Civil Procedure.
7 Costs collected under this Section shall be paid into the Tax
8 Compliance and Administration Fund.

9 Nothing contained in this Act shall prevent the Director
10 from divulging information to any person pursuant to a
11 request or authorization made by the taxpayer or by an
12 authorized representative of the taxpayer.

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

14 Section 915. The Telecommunications Municipal
15 Infrastructure Maintenance Fee Act is amended by changing
16 Sections 1, 5, 10, 15, 25, 27, 27.35, and 30 as follows:

17 (35 ILCS 635/1)

18 Sec. 1. Short title. This Act may be cited as the
19 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee
20 Act.

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

22 (35 ILCS 635/5)

23 Sec. 5. Legislative intent.

24 (a) The General Assembly imposed a tax on invested
25 capital of utilities to partially replace the personal
26 property tax that was abolished by the Illinois Constitution
27 of 1970. Since that tax was imposed, telecommunications
28 retailers have evolved from utility status into an
29 increasingly competitive industry serving the public.

30 (b) This Act is intended to abolish the invested capital
31 tax on telecommunications retailers (that is, persons engaged

1 in the business of transmitting messages and acting as a
2 retailer of telecommunications as defined in Section 2 of the
3 Telecommunications Excise Tax Act). Cellular
4 telecommunications retailers have already been excluded from
5 application of the invested capital tax by earlier
6 legislative action.

7 (c) This Act is also intended to abolish municipal
8 franchise fees with respect to telecommunications retailers,
9 create-a-uniform-system-for-the-collection--and--distribution
10 of--fees--associated--with-the-privilege-of-use-of-the-public
11 right-of-way-for-telecommunications-activity, and to provide
12 municipalities with a new source of revenue to compensate for
13 the loss of municipal franchise fees. It is the intent of
14 the General Assembly that the rate of a municipal
15 infrastructure maintenance fee permitted under this Act is
16 subject only to the limits prescribed in Section 20 and need
17 not relate to use of the public rights-of-way or the costs
18 associated with maintaining and regulating the use of the
19 public rights-of-way. It is also the intent of the General
20 Assembly that proceeds of the municipal infrastructure
21 maintenance fee may be used for any lawful corporate purpose,
22 and any proceeds collected prior to the effective date of
23 these changes to Subsection (c) may also be used for any
24 lawful purpose. These changes to this Subsection (c) made by
25 this amendatory Act of the 91st General Assembly are
26 declarative of existing law.

27 (d) On and after July 1, 2002, the enactment by the
28 General Assembly of the Municipal Telecommunications Tax Act
29 creates a replacement source of revenue for municipalities in
30 substitution for, among other things, the municipal
31 infrastructure maintenance fee and the optional
32 infrastructure maintenance fee. This amendatory Act of the
33 91st General Assembly is intended to repeal both the
34 municipal infrastructure maintenance fee and the optional

1 infrastructure maintenance fee a--comprehensive--method-of
 2 compensation-for-telecommunications--activity--including--the
 3 recovery--of--reasonable--costs--of-regulating-the-use-of-the
 4 public-rights-of-way-for-telecommunications-activity.

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

6 (35 ILCS 635/10)

7 Sec. 10. Definitions.

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

- 29 (1) any amounts added to a purchaser's bill because
 30 of a charge made under: (i) the fee imposed by this
 31 Section, (ii) additional charges added to a purchaser's
 32 bill under Section 9-221 or 9-222 of the Public Utilities
 33 Act, (iii) amounts-collected-under-Section-8-11-17-of-the

1 Illinois--Municipal--Code,--(iv) the tax imposed by the
 2 Telecommunications Excise Tax Act, (iv) (v) 911
 3 surcharges, or (v) (vi) the tax imposed by Section 4251
 4 of the Internal Revenue Code;

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

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

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

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

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

1 rendering such services;

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

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

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

16 (a-5) "Department" means the Illinois Department of
17 Revenue.

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

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

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

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

1 adequate security to insure collection and payment of the
2 fee. When so authorized, it shall be the duty of such
3 retailer to pay the fee upon all of the gross charges for
4 telecommunications in the same manner and subject to the same
5 requirements as a retailer maintaining a place of business
6 within this the State ~~or municipality imposing the fee~~.

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

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

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

1 the location in Illinois where bills are sent.

2 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
3 91-870, eff. 6-22-00.)

4 (35 ILCS 635/15)

5 Sec. 15. State telecommunications infrastructure
6 maintenance fees.

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

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

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

1 on--the--application--for--certificate--of--registration.--If-a
 2 telecommunications-retailer--elects--to--pay--this--fee--with
 3 respect----to----the----gross----charges---charged---by---the
 4 telecommunications--retailer--to--service--addresses---in---a
 5 particular--municipality,--such-election-shall-remain-in-full
 6 force-and-effect-until-such-time-as-the-municipality--imposes
 7 a-municipal-infrastructure-maintenance-fee.

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

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

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

19 (35 ILCS 635/25)

20 Sec. 25. Collection, enforcement, and administration of
 21 telecommunications infrastructure maintenance fees.

22 (a) A telecommunications retailer shall charge each
 23 customer an additional charge equal to the sum--of--(1)--an
 24 amount--equal--to--the State infrastructure maintenance fee
 25 attributable to that customer's service address and--(2)--an
 26 amount--equal-to-the-optional-infrastructure-maintenance-fee,
 27 if-any,--attributable-to-that-customer's-service--address--and
 28 (3)---an---amount---equal--to--the--municipal--infrastructure
 29 maintenance-fee,--if--any,--attributable--to--that--customer's
 30 service--address. Such additional charge shall be shown
 31 separately on the bill to each customer.

32 (b) The State infrastructure maintenance fee and--the
 33 optional--infrastructure--maintenance-fee shall be designated

1 as a replacement for the personal property tax and shall be
 2 remitted by the telecommunications retailer to the Illinois
 3 Department of Revenue; provided, however, that the
 4 telecommunications retailer may retain an amount not to
 5 exceed 2% of the State infrastructure maintenance fee and the
 6 optional infrastructure maintenance fee, if any, paid to the
 7 Department, with a timely paid and timely filed return to
 8 reimburse itself for expenses incurred in collecting,
 9 accounting for, and remitting the fee. All amounts herein
 10 remitted to the Department shall be transferred to the
 11 Personal Property Tax Replacement Fund in the State Treasury.

12 (c) The municipal infrastructure maintenance fee shall
 13 be remitted by the telecommunications retailer to the
 14 municipality imposing the municipal infrastructure
 15 maintenance fee; provided, however, that the
 16 telecommunications retailer may retain an amount not to
 17 exceed 2% of the municipal infrastructure maintenance fee
 18 collected by it to reimburse itself for expenses incurred in
 19 accounting for and remitting the fee. The municipality
 20 imposing the municipal infrastructure maintenance fee shall
 21 collect, enforce, and administer the fee.

22 (d) Except as provided in subsection (c), during any
 23 period of time when a municipality receives any compensation
 24 other than the municipal infrastructure maintenance fee set
 25 forth in Section 20, for a telecommunications retailer's use
 26 of the public right of way, no municipal infrastructure
 27 maintenance fee may be imposed by such municipality pursuant
 28 to this Act.

29 (e) A municipality that, pursuant to a franchise
 30 agreement in existence on the effective date of this Act,
 31 receives compensation from a telecommunications retailer for
 32 the use of the public right of way, may impose a municipal
 33 infrastructure maintenance fee pursuant to this Act only on
 34 the condition that such municipality (1) waives its right to

1 receive--all--fees,--charges-and-other-compensation-under-all
 2 existing--franchise---agreements---or---the---like---with
 3 telecommunications---retailers---during--the--time--that--the
 4 municipality-imposes-a-municipal--infrastructure--maintenance
 5 fee--and--(2)--imposes-by-ordinance-(or-other-proper-means)-a
 6 municipal--infrastructure--maintenance--fee---which---becomes
 7 effective--no-sooner-than-90-days-after-such-municipality-has
 8 provided--written--notice---by---certified--mail---to---each
 9 telecommunications-retailer-with-whom-the-municipality-has-an
 10 existing--franchise--agreement,--that-the-municipality-waives
 11 all-compensation-under-such-existing-franchise-agreement.

12 (Source: P.A. 90-154, eff. 1-1-98; 90-562, eff. 12-16-97;
 13 90-655, eff. 7-30-98.)

14 (35 ILCS 635/27)

15 Sec. 27. Returns by telecommunications retailer;
 16 extensions. Except as provided hereinafter in this Section,
 17 on or before the 30th day of each month each
 18 telecommunications retailer maintaining a place of business
 19 in this State shall make a return and payment of fees to the
 20 Department for the preceding calendar month on a form
 21 prescribed and furnished by the Department. The return shall
 22 be signed by the telecommunications retailer under penalties
 23 of perjury and shall contain the following information:

- 24 1. His or her name;
- 25 2. The address of his or her principal place of
 26 business, and the address of the principal place of
 27 business (if that is a different address) from which he
 28 or she engages in the business of transmitting
 29 telecommunications;
- 30 3. The total amount of gross charges charged by him
 31 or her during the preceding calendar month for providing
 32 telecommunications during such calendar month;
- 33 4. The total amount received by him or her during

1 the preceding calendar month on credit extended;

2 5. Deductions allowed by law;

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

7 7. (Blank) ~~Gross charges that were charged by him~~
8 ~~or her during the preceding calendar month and upon the~~
9 ~~basis of which the optional infrastructure maintenance~~
10 ~~fee, if any, is imposed for each particular municipality;~~

11 8. Amounts of fees due;

12 9. Such other reasonable information as the
13 Department may require.

14 If the telecommunications retailer's average monthly
15 liability to the Department does not exceed \$100, the
16 Department may authorize his or her returns to be filed on a
17 quarter annual basis, with the return for January, February,
18 and March of a given year being due by April 15 of such year;
19 with the return for April, May, and June of a given year
20 being due by July 15 of such year; with the return for July,
21 August, and September of a given year being due by October 15
22 of such year; and with the return of October, November, and
23 December of a given year being due by January 15 of the
24 following year.

25 Notwithstanding any other provision of this Act
26 concerning the time within which a telecommunications
27 retailer may file his or her return, in the case of any
28 telecommunications retailer who ceases to engage in a kind of
29 business which makes him or her responsible for filing
30 returns under this Act, such telecommunications retailer
31 shall file a final return under this Act with the Department
32 not more than one month after discontinuing such business.

33 In making such return, the telecommunications retailer
34 shall determine the value of any consideration other than

1 money received by him or her and he or she shall include such
 2 value in his or her return. Such determination shall be
 3 subject to review and revision by the Department in the
 4 manner hereinafter provided for the correction of returns.

5 If any payment provided for in this Section exceeds the
 6 telecommunications retailer's liabilities under this Act, as
 7 shown on an original monthly return, the Department may
 8 authorize the telecommunications retailer to credit such
 9 excess payment against liability subsequently to be remitted
 10 to the Department under this Act, in accordance with
 11 reasonable rules and regulations prescribed by the
 12 Department. If the Department subsequently determines that
 13 all or any part of the credit taken was not actually due to
 14 the telecommunications retailer, the telecommunications
 15 retailer's 2% discount shall be reduced by 2% of the
 16 difference between the credit taken and that actually due,
 17 and that telecommunications retailer shall be liable for
 18 penalties and interest on such difference.

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

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

5 Any telecommunications retailer required to make payments
 6 under this Section may make the payments by electronic funds
 7 transfer. The Department shall adopt rules necessary to
 8 effectuate a program of electronic funds transfer.

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

10 (35 ILCS 635/27.35)

11 Sec. 27.35. Rules and regulations; notice to
 12 telecommunications retailer; hearings. The Department may
 13 make, promulgate, and enforce such reasonable rules and
 14 regulations relating to the administration and enforcement of
 15 only the State infrastructure maintenance fee and the
 16 optional infrastructure maintenance fee authorized by this
 17 Act. Such rules and regulations shall not apply to the
 18 administration and enforcement of the municipal
 19 infrastructure maintenance fee authorized by this Act.

20 Whenever notice to a telecommunications retailer is
 21 required by this Act, such notice may be given by United
 22 States certified or registered mail, addressed to the
 23 telecommunications retailer concerned at his or her last
 24 known address, and proof of such mailing shall be sufficient
 25 for the purposes of this Act. In the case of a notice of
 26 hearing, such notice shall be mailed not less than 7 days
 27 prior to the day fixed for the hearing.

28 All hearings provided for in this Act with respect to a
 29 telecommunications retailer having his or her principal place
 30 of business other than in Cook County shall be held at the
 31 Department's office nearest to the location of the
 32 telecommunications retailer's principal place of business:
 33 Provided that if the telecommunications retailer has his or

1 her principal place of business in Cook County, such hearing
 2 shall be held in Cook County; and provided further that if
 3 the telecommunications retailer does not have his principal
 4 place of business in this State, such hearings shall be held
 5 in Sangamon County.

6 Whenever any proceeding provided by this Act has been
 7 begun by the Department or by a person subject thereto and
 8 such person thereafter dies or becomes a person under legal
 9 disability before the proceeding has been concluded, the
 10 legal representative of the deceased person or a person under
 11 legal disability shall notify the Department of such death or
 12 legal disability. The legal representative, as such, shall
 13 then be substituted by the Department in place of and for the
 14 person. Within 20 days after notice to the legal
 15 representative of the time fixed for that purpose, the
 16 proceeding may proceed in all respects and with like effect
 17 as though the person had not died or become a person under
 18 legal disability.

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

20 (35 ILCS 635/30)

21 Sec. 30. Validity of existing franchise fees and
 22 agreements.

23 ~~(a) Upon the effective date of this Act, the municipal~~
 24 ~~infrastructure maintenance fee authorized by this Act shall~~
 25 ~~be the only fee or compensation for recovering the reasonable~~
 26 ~~costs of regulating the use of the public rights-of-way and~~
 27 ~~for the use of public rights-of-way that may be levied by or~~
 28 ~~otherwise required by ordinance, resolution, or contract to~~
 29 ~~be paid to a municipality for the use of its public way by~~
 30 ~~telecommunications retailers. No new franchise fees or other~~
 31 ~~charges for the use of the public rights-of-way, including~~
 32 ~~those for the recovery of reasonable costs of regulating the~~
 33 ~~use of the public rights-of-way, shall be imposed upon,~~

1 levied on, or otherwise required of telecommunications
2 retailers by ordinance, resolution, or contract, or other
3 charges required from telecommunications retailers by
4 municipalities from and after the effective date of this Act.
5 ~~No telecommunications retailer paying either the applicable~~
6 ~~municipal infrastructure maintenance fee or the optional~~
7 ~~infrastructure maintenance fee authorized by this Act may be~~
8 ~~denied the use, directly or indirectly, of the public way of~~
9 ~~the municipality either imposing the municipal infrastructure~~
10 ~~maintenance fee or to which the optional infrastructure~~
11 ~~maintenance fee relates, as the case may be, as authorized~~
12 ~~under the Telephone Company Act.~~ Nothing in this Act shall
13 excuse any person or entity from obligations imposed under
14 any law concerning generally applicable taxes or standards
15 for construction on, over, under, or within, use of or repair
16 of the public rights-of-way, including standards relating to
17 free standing towers and other structures upon the public
18 way, nor shall any person or entity be excused from any
19 liability imposed by any such law for the failure to comply
20 with such generally applicable taxes or standards governing
21 construction on, over, under, or within, use of or repair of
22 the public rights-of-way.

23 (b) Agreements between telecommunications retailers and
24 municipalities entered into before the effective date of this
25 Act regarding use of the public ways shall remain valid
26 according to and for their stated terms, except as to fees or
27 charges waived under Section 60 of the Municipal
28 Telecommunications Tax Act. ~~If, following the effective date~~
29 ~~of this Act, such an agreement is renewed automatically or by~~
30 ~~agreement of the parties, the compensation or fee under the~~
31 ~~agreement shall be equal to the maximum amount of the~~
32 ~~municipal infrastructure maintenance fee which the~~
33 ~~municipality could impose under Section 20 of this Act.~~

34 (c) The regulation of the terms and conditions upon

1 which poles, conduits, and other facilities located in the
 2 public way may be shared by or between telecommunications
 3 retailers shall be committed exclusively to the jurisdiction
 4 of the Illinois Commerce Commission and the Federal
 5 Communications Commission, and such regulation shall not be
 6 among the home rule powers and functions described in
 7 subsection (h) of Section 6 of Article VII of the Illinois
 8 Constitution. Moreover, no municipality may enter into any
 9 contract or agreement with a telecommunications retailer with
 10 respect to the terms and conditions upon which poles,
 11 conduits, and other facilities located in the public way may
 12 be shared by or between telecommunications retailers.

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

14 (35 ILCS 635/20 rep.)

15 Section 917. The Telecommunications Municipal
 16 Infrastructure Maintenance Fee Act is amended by repealing
 17 Section 20.

18 Section 920. The Emergency Telephone System Act is
 19 amended by changing Section 15.3 as follows:

20 (50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

21 Sec. 15.3. (a) The corporate authorities of any
 22 municipality or any county may, subject to the limitations of
 23 subsections (c), (d), and (h), and in addition to any tax
 24 levied pursuant to the Municipal Telecommunications Tax Act
 25 ~~Section--8-11-2--of--the--Illinois--Municipal--Code~~, impose a
 26 monthly surcharge on billed subscribers of network connection
 27 provided by telecommunication carriers engaged in the
 28 business of transmitting messages by means of electricity
 29 originating within the corporate limits of the municipality
 30 or county imposing the surcharge at a rate per network
 31 connection determined in accordance with subsection (c). A

1 municipality may enter into an intergovernmental agreement
2 with any county in which it is partially located, when the
3 county has adopted an ordinance to impose a surcharge as
4 provided in subsection (c), to include that portion of the
5 municipality lying outside the county in that county's
6 surcharge referendum. If the county's surcharge referendum
7 is approved, the portion of the municipality identified in
8 the intergovernmental agreement shall automatically be
9 disconnected from the county in which it lies and connected
10 to the county which approved the referendum for purposes of a
11 surcharge on telecommunications carriers.

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

26 (c) Upon the passage of an ordinance to impose a
27 surcharge under this Section the clerk of the municipality or
28 county shall certify the question of whether the surcharge
29 may be imposed to the proper election authority who shall
30 submit the public question to the electors of the
31 municipality or county in accordance with the general
32 election law; provided that such question shall not be
33 submitted at a consolidated primary election. The public
34 question shall be in substantially the following form:

1 a binding contract or letter of intent with a
2 telecommunications carrier to provide sophisticated 9-1-1
3 service through municipal funds.

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

8 (f) The surcharge authorized by this Section shall be
9 collected from the subscriber by the telecommunications
10 carrier providing the subscriber the network connection as a
11 separately stated item on the subscriber's bill.

12 (g) The amount of surcharge collected by the
13 telecommunications carrier shall be paid to the particular
14 municipality or county or Joint Emergency Telephone System
15 Board not later than 30 days after the surcharge is
16 collected, net of any network or other 9-1-1 or sophisticated
17 9-1-1 system charges then due the particular
18 telecommunications carrier, as shown on an itemized bill.
19 The telecommunications carrier collecting the surcharge shall
20 also be entitled to deduct 3% of the gross amount of
21 surcharge collected to reimburse the telecommunications
22 carrier for the expense of accounting and collecting the
23 surcharge.

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

27 (i) Any municipality or county or joint emergency
28 telephone system board that has imposed a surcharge pursuant
29 to this Section prior to the effective date of this
30 amendatory Act of 1990 shall hereafter impose the surcharge
31 in accordance with subsection (b) of this Section.

32 (j) The corporate authorities of any municipality or
33 county may issue, in accordance with Illinois law, bonds,
34 notes or other obligations secured in whole or in part by the

1 proceeds of the surcharge described in this Section.
 2 Notwithstanding any change in law subsequent to the issuance
 3 of any bonds, notes or other obligations secured by the
 4 surcharge, every municipality or county issuing such bonds,
 5 notes or other obligations shall be authorized to impose the
 6 surcharge as though the laws relating to the imposition of
 7 the surcharge in effect at the time of issuance of the bonds,
 8 notes or other obligations were in full force and effect
 9 until the bonds, notes or other obligations are paid in full.
 10 The State of Illinois pledges and agrees that it will not
 11 limit or alter the rights and powers vested in municipalities
 12 and counties by this Section to impose the surcharge so as to
 13 impair the terms of or affect the security for bonds, notes
 14 or other obligations secured in whole or in part with the
 15 proceeds of the surcharge described in this Section.

16 (k) Any surcharge collected by or imposed on a
 17 telecommunications carrier pursuant to this Section shall be
 18 held to be a special fund in trust for the municipality,
 19 county or Joint Emergency Telephone Board imposing the
 20 surcharge. Except for the 3% deduction provided in
 21 subsection (g) above, the special fund shall not be subject
 22 to the claims of creditors of the telecommunication carrier.
 23 (Source: P.A. 86-101; 86-1344.)

24 Section 925. The Illinois Municipal Code is amended by
 25 changing Section 8-11-2 as follows:

26 (65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)
 27 Sec. 8-11-2. The corporate authorities of any
 28 municipality may tax any or all of the following occupations
 29 or privileges:
 30 1. (Blank). ~~Persons--engaged--in--the--business--of~~
 31 ~~transmitting--messages--by--means--of--electricity--or--radio~~
 32 ~~magnetic-waves,--or--fiber-optics,--at--a--rate--not--to--exceed~~

1 5%--of--the-gross-receipts-from-that-business-originating
 2 within--the--corporate--limits---of---the---municipality.
 3 Beginning--January--1,--2001,--prepaid--telephone-calling
 4 arrangements-shall-not-be--subject--to--the--tax--imposed
 5 under--this--Section.---For--purposes--of--this--Section,
 6 "prepaid--telephone-calling-arrangements"-means-that-term
 7 as-defined-in-Section-2-27-of-the--Retailers'-Occupation
 8 Tax-Act.

9 2. Persons engaged in the business of distributing,
 10 supplying, furnishing, or selling gas for use or
 11 consumption within the corporate limits of a municipality
 12 of 500,000 or fewer population, and not for resale, at a
 13 rate not to exceed 5% of the gross receipts therefrom.

14 2a. Persons engaged in the business of
 15 distributing, supplying, furnishing, or selling gas for
 16 use or consumption within the corporate limits of a
 17 municipality of over 500,000 population, and not for
 18 resale, at a rate not to exceed 8% of the gross receipts
 19 therefrom. If imposed, this tax shall be paid in monthly
 20 payments.

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

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

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

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

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

34 (v) For the next 500,000 kilowatt-hours used or

1 consumed in a month; 0.34 cents per kilowatt-hour;

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

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

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

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

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

13 If a municipality imposes a tax at rates lower than
14 either the maximum rates specified in this Section or the
15 alternative maximum rates promulgated by the Illinois
16 Commerce Commission, as provided below, the tax rates
17 shall be imposed upon the kilowatt hour categories set
18 forth above with the same proportional relationship as
19 that which exists among such maximum rates.
20 Notwithstanding the foregoing, until December 31, 2008,
21 no municipality shall establish rates that are in excess
22 of rates reasonably calculated to produce revenues that
23 equal the maximum total revenues such municipality could
24 have received under the tax authorized by this
25 subparagraph in the last full calendar year prior to the
26 effective date of Section 65 of this amendatory Act of
27 1997; provided that this shall not be a limitation on the
28 amount of tax revenues actually collected by such
29 municipality.

30 Upon the request of the corporate authorities of a
31 municipality, the Illinois Commerce Commission shall,
32 within 90 days after receipt of such request, promulgate
33 alternative rates for each of these kilowatt-hour
34 categories that will reflect, as closely as reasonably

1 practical for that municipality, the distribution of the
2 tax among classes of purchasers as if the tax were based
3 on a uniform percentage of the purchase price of
4 electricity. A municipality that has adopted an
5 ordinance imposing a tax pursuant to subparagraph 3 as it
6 existed prior to the effective date of Section 65 of this
7 amendatory Act of 1997 may, rather than imposing the tax
8 permitted by this amendatory Act of 1997, continue to
9 impose the tax pursuant to that ordinance with respect to
10 gross receipts received from residential customers
11 through July 31, 1999, and with respect to gross receipts
12 from any non-residential customer until the first bill
13 issued to such customer for delivery services in
14 accordance with Section 16-104 of the Public Utilities
15 Act but in no case later than the last bill issued to
16 such customer before December 31, 2000. No ordinance
17 imposing the tax permitted by this amendatory Act of 1997
18 shall be applicable to any non-residential customer until
19 the first bill issued to such customer for delivery
20 services in accordance with Section 16-104 of the Public
21 Utilities Act but in no case later than the last bill
22 issued to such non-residential customer before December
23 31, 2000.

24 4. Persons engaged in the business of distributing,
25 supplying, furnishing, or selling water for use or
26 consumption within the corporate limits of the
27 municipality, and not for resale, at a rate not to exceed
28 5% of the gross receipts therefrom.

29 None of the taxes authorized by this Section may be
30 imposed with respect to any transaction in interstate
31 commerce or otherwise to the extent to which the business or
32 privilege may not, under the constitution and statutes of the
33 United States, be made the subject of taxation by this State
34 or any political sub-division thereof; nor shall any persons

1 engaged in the business of distributing, supplying,
2 furnishing, selling or transmitting gas, water, or
3 electricity, ~~or engaged in the business of transmitting~~
4 ~~messages,~~ or using or consuming electricity acquired in a
5 purchase at retail, be subject to taxation under the
6 provisions of this Section for those transactions that are or
7 may become subject to taxation under the provisions of the
8 "Municipal Retailers' Occupation Tax Act" authorized by
9 Section 8-11-1; nor shall any tax authorized by this Section
10 be imposed upon any person engaged in a business or on any
11 privilege unless the tax is imposed in like manner and at the
12 same rate upon all persons engaged in businesses of the same
13 class in the municipality, whether privately or municipally
14 owned or operated, or exercising the same privilege within
15 the municipality.

16 Any of the taxes enumerated in this Section may be in
17 addition to the payment of money, or value of products or
18 services furnished to the municipality by the taxpayer as
19 compensation for the use of its streets, alleys, or other
20 public places, or installation and maintenance therein,
21 thereon or thereunder of poles, wires, pipes or other
22 equipment used in the operation of the taxpayer's business.

23 (a) If the corporate authorities of any home rule
24 municipality have adopted an ordinance that imposed a tax on
25 public utility customers, between July 1, 1971, and October
26 1, 1981, on the good faith belief that they were exercising
27 authority pursuant to Section 6 of Article VII of the 1970
28 Illinois Constitution, that action of the corporate
29 authorities shall be declared legal and valid,
30 notwithstanding a later decision of a judicial tribunal
31 declaring the ordinance invalid. No municipality shall be
32 required to rebate, refund, or issue credits for any taxes
33 described in this paragraph, and those taxes shall be deemed
34 to have been levied and collected in accordance with the

1 Constitution and laws of this State.

2 (b) In any case in which (i) prior to October 19, 1979,
3 the corporate authorities of any municipality have adopted an
4 ordinance imposing a tax authorized by this Section (or by
5 the predecessor provision of the "Revised Cities and Villages
6 Act") and have explicitly or in practice interpreted gross
7 receipts to include either charges added to customers' bills
8 pursuant to the provision of paragraph (a) of Section 36 of
9 the Public Utilities Act or charges added to customers' bills
10 by taxpayers who are not subject to rate regulation by the
11 Illinois Commerce Commission for the purpose of recovering
12 any of the tax liabilities or other amounts specified in such
13 paragraph (a) of Section 36 of that Act, and (ii) on or after
14 October 19, 1979, a judicial tribunal has construed gross
15 receipts to exclude all or part of those charges, then
16 neither those municipality nor any taxpayer who paid the tax
17 shall be required to rebate, refund, or issue credits for any
18 tax imposed or charge collected from customers pursuant to
19 the municipality's interpretation prior to October 19, 1979.
20 This paragraph reflects a legislative finding that it would
21 be contrary to the public interest to require a municipality
22 or its taxpayers to refund taxes or charges attributable to
23 the municipality's more inclusive interpretation of gross
24 receipts prior to October 19, 1979, and is not intended to
25 prescribe or limit judicial construction of this Section. The
26 legislative finding set forth in this subsection does not
27 apply to taxes imposed after the effective date of this
28 amendatory Act of 1995.

29 (c) The tax authorized by subparagraph 3 shall be
30 collected from the purchaser by the person maintaining a
31 place of business in this State who delivers the electricity
32 to the purchaser. This tax shall constitute a debt of the
33 purchaser to the person who delivers the electricity to the
34 purchaser and if unpaid, is recoverable in the same manner as

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

30 (d) For the purpose of the taxes enumerated in this
31 Section:

32 "Gross receipts" means the consideration received for the
33 ~~transmission--of--messages,~~~~7--the--consideration--received--for~~
34 distributing, supplying, furnishing or selling gas for use or

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

24 For utility bills issued on or after May 1, 1996, but
25 before May 1, 1997, and for receipts from those utility
26 bills, "gross receipts" does not include one-third of (i)
27 amounts added to customers' bills under Section 9-222 of the
28 Public Utilities Act, or (ii) amounts added to customers'
29 bills by taxpayers who are not subject to rate regulation by
30 the Illinois Commerce Commission for the purpose of
31 recovering any of the tax liabilities described in Section
32 9-222 of the Public Utilities Act. For utility bills issued
33 on or after May 1, 1997, but before May 1, 1998, and for
34 receipts from those utility bills, "gross receipts" does not

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

16 For purposes of this Section "gross receipts" shall not
 17 include (i) amounts added to customers' bills under Section
 18 9-221 of the Public Utilities Act, ~~or (ii) charges added to~~
 19 ~~customers' bills to recover the surcharge imposed under the~~
 20 ~~Emergency Telephone System Act.~~ This paragraph is not
 21 intended to nor does it make any change in the meaning of
 22 "gross receipts" for the purposes of this Section, but is
 23 intended to remove possible ambiguities, thereby confirming
 24 the existing meaning of "gross receipts" prior to the
 25 effective date of this amendatory Act of 1995.

26 ~~The words "transmitting messages", in addition to the~~
 27 ~~usual and popular meaning of person-to-person communication,~~
 28 ~~shall include the furnishing, for a consideration, of~~
 29 ~~services or facilities (whether owned or leased), or both, to~~
 30 ~~persons in connection with the transmission of messages where~~
 31 ~~these persons do not, in turn, receive any consideration in~~
 32 ~~connection therewith, but shall not include such furnishing~~
 33 ~~of services or facilities to persons for the transmission of~~
 34 ~~messages to the extent that any such services or facilities~~

1 ~~for---the--transmission--of--messages--are--furnished--for--a~~
2 ~~consideration,--by--those--persons--to--other--persons,--for--the~~
3 ~~transmission--of--messages.~~

4 "Person" as used in this Section means any natural
5 individual, firm, trust, estate, partnership, association,
6 joint stock company, joint adventure, corporation, limited
7 liability company, municipal corporation, the State or any of
8 its political subdivisions, any State university created by
9 statute, or a receiver, trustee, guardian or other
10 representative appointed by order of any court.

11 "Person maintaining a place of business in this State"
12 shall mean any person having or maintaining within this
13 State, directly or by a subsidiary or other affiliate, an
14 office, generation facility, distribution facility,
15 transmission facility, sales office or other place of
16 business, or any employee, agent, or other representative
17 operating within this State under the authority of the person
18 or its subsidiary or other affiliate, irrespective of whether
19 such place of business or agent or other representative is
20 located in this State permanently or temporarily, or whether
21 such person, subsidiary or other affiliate is licensed or
22 qualified to do business in this State.

23 "Public utility" shall have the meaning ascribed to it in
24 Section 3-105 of the Public Utilities Act and shall include
25 ~~telecommunications-carriers-as-defined-in-Section--13-202--of~~
26 ~~that-Act-and~~ alternative retail electric suppliers as defined
27 in Section 16-102 of that Act.

28 "Purchase at retail" shall mean any acquisition of
29 electricity by a purchaser for purposes of use or
30 consumption, and not for resale, but shall not include the
31 use of electricity by a public utility directly in the
32 generation, production, transmission, delivery or sale of
33 electricity.

34 "Purchaser" shall mean any person who uses or consumes,

1 within the corporate limits of the municipality, electricity
2 acquired in a purchase at retail.

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

20 (e) Any municipality that imposes taxes upon public
21 utilities or upon the privilege of using or consuming
22 electricity pursuant to this Section whose territory includes
23 any part of an enterprise zone or federally designated
24 Foreign Trade Zone or Sub-Zone may, by a majority vote of its
25 corporate authorities, exempt from those taxes for a period
26 not exceeding 20 years any specified percentage of gross
27 receipts of public utilities received from, or electricity
28 used or consumed by, business enterprises that:

- 29 (1) either (i) make investments that cause the
30 creation of a minimum of 200 full-time equivalent jobs in
31 Illinois, (ii) make investments of at least \$175,000,000
32 that cause the creation of a minimum of 150 full-time
33 equivalent jobs in Illinois, or (iii) make investments
34 that cause the retention of a minimum of 1,000 full-time

1 jobs in Illinois; and

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

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

10 Upon adoption of the ordinance authorizing the exemption,
11 the municipal clerk shall transmit a copy of that ordinance
12 to the Department of Commerce and Community Affairs. The
13 Department of Commerce and Community Affairs shall determine
14 whether the business enterprises located in the municipality
15 meet the criteria prescribed in this paragraph. If the
16 Department of Commerce and Community Affairs determines that
17 the business enterprises meet the criteria, it shall grant
18 certification. The Department of Commerce and Community
19 Affairs shall act upon certification requests within 30 days
20 after receipt of the ordinance.

21 Upon certification of the business enterprise by the
22 Department of Commerce and Community Affairs, the Department
23 of Commerce and Community Affairs shall notify the Department
24 of Revenue of the certification. The Department of Revenue
25 shall notify the public utilities of the exemption status of
26 the gross receipts received from, and the electricity used or
27 consumed by, the certified business enterprises. Such
28 exemption status shall be effective within 3 months after
29 certification.

30 (f) A municipality that imposes taxes upon public
31 utilities or upon the privilege of using or consuming
32 electricity under this Section and whose territory includes
33 part of another unit of local government or a school district
34 may by ordinance exempt the other unit of local government or

1 school district from those taxes.

2 (g) The amendment of this Section by Public Act 84-127
3 shall take precedence over any other amendment of this
4 Section by any other amendatory Act passed by the 84th
5 General Assembly before the effective date of Public Act
6 84-127.

7 (h) In any case in which, before July 1, 1992, a person
8 engaged in the business of transmitting messages through the
9 use of mobile equipment, such as cellular phones and paging
10 systems, has determined the municipality within which the
11 gross receipts from the business originated by reference to
12 the location of its transmitting or switching equipment, then

13 (i) neither the municipality to which tax was paid on that
14 basis nor the taxpayer that paid tax on that basis shall be
15 required to rebate, refund, or issue credits for any such tax
16 or charge collected from customers to reimburse the taxpayer
17 for the tax and (ii) no municipality to which tax would have
18 been paid with respect to those gross receipts if the
19 provisions of this amendatory Act of 1991 had been in effect
20 before July 1, 1992, shall have any claim against the
21 taxpayer for any amount of the tax.

22 (Source: P.A. 90-16, eff. 6-16-97; 90-561, eff. 8-1-98;
23 90-562, eff. 12-16-97; 90-655, eff. 7-30-98; 91-870, eff.
24 6-22-00.)

25 (65 ILCS 5/8-11-17 rep.)

26 Section 927. The Illinois Municipal Code is amended by
27 repealing Section 8-11-17.

28 Section 930. The Public Utilities Act is amended by
29 changing Sections 2-202 and 13-511 as follows:

30 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

31 Sec. 2-202. (a) It is declared to be the public policy of

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

17 (b) All of the ordinary and contingent expenses of the
18 Commission incident to the administration of this Act shall
19 be paid out of the Public Utility Fund except the
20 compensation of the members of the Commission which shall be
21 paid from the General Revenue Fund. Notwithstanding other
22 provisions of this Act to the contrary, the ordinary and
23 contingent expenses of the Commission incident to the
24 administration of the Illinois Commercial Transportation Law
25 may be paid from appropriations from the Public Utility Fund
26 through the end of fiscal year 1986.

27 (c) A tax is imposed upon each public utility subject to
28 the provisions of this Act equal to .08% of its gross revenue
29 for each calendar year commencing with the calendar year
30 beginning January 1, 1982, except that the Commission may, by
31 rule, establish a different rate no greater than 0.1%. For
32 purposes of this Section, "gross revenue" shall not include
33 revenue from the production, transmission, distribution,
34 sale, delivery, or furnishing of electricity. "Gross revenue"

1 shall not include amounts paid by telecommunications
2 retailers under the Telecommunications Municipal
3 Infrastructure Maintenance Fee Act.

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

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

25 (2) Beginning January 1, 1993, the requirements of
26 paragraph (1) of this subsection (d) shall not apply to
27 any public utility in any calendar year for which the
28 total tax the public utility owes under this Section is
29 less than \$1,000. For such public utilities with respect
30 to such years, the public utility shall file with the
31 Commission, on or before January 31 of the following
32 year, an annual gross revenue return for the year and a
33 statement of the amount of tax due for that year on the
34 basis of such a return. Forms and instructions for such

1 returns and corrected returns shall be devised and
2 supplied by the Commission.

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

18 (f) (1) For all public utilities subject to paragraph
19 (1) of subsection (d), at least one quarter of the annual
20 amount of tax due under subsection (c) shall be paid to the
21 Commission on or before the tenth day of January, April,
22 July, and October of the calendar year subject to tax. In
23 the event that an adjustment in the amount of tax due should
24 be necessary as a result of the filing of an amended or
25 corrected return under subsection (d) or subsection (e) of
26 this Section, the amount of any deficiency shall be paid by
27 the public utility together with the amended or corrected
28 return and the amount of any excess shall, after the filing
29 of a claim for credit by the public utility, be returned to
30 the public utility in the form of a credit memorandum in the
31 amount of such excess or be refunded to the public utility in
32 accordance with the provisions of subsection (k) of this
33 Section. However, if such deficiency or excess is less than
34 \$1, then the public utility need not pay the deficiency and

1 may not claim a credit.

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

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

22 (1) \$25 for each month or portion of a month that
23 the installment or required payment is unpaid or

24 (2) an amount equal to the difference between what
25 should have been paid on the due date, based upon the
26 most recently filed estimate, and what was actually paid,
27 times 1%, for each month or portion of a month that the
28 installment or required payment goes unpaid. This
29 penalty may be assessed as soon as the installment or
30 required payment becomes delinquent.

31 The underestimation penalty shall apply to those public
32 utilities subject to paragraph (1) of subsection (d) and
33 shall be calculated after the filing of the amended return.
34 It shall be imposed if the amount actually paid on any of the

1 dates specified in subsection (f) is not equal to at least
2 one-fourth of the amount actually due for the year, and shall
3 equal the greater of:

4 (1) \$25 for each month or portion of a month that
5 the amount due is unpaid or

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

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

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

32 (1) determine the amount of all moneys deposited in
33 the Public Utility Fund during the preceding fiscal
34 biennium plus the balance, if any, in that fund at the

1 beginning of that biennium;

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

3 (A) all moneys expended or obligated against
4 appropriations made from the Public Utility Fund during
5 the preceding fiscal biennium, plus (B) the sum of the
6 credit memoranda then outstanding against the Public
7 Utility Fund, if any; and

8 (3) determine the amount, if any, by which the sum
9 determined as provided in item (1) exceeds the amount
10 determined as provided in item (2).

11 If the amount determined as provided in item (3) of this
12 subsection exceeds \$2,500,000, the Commission shall then
13 compute the proportionate amount, if any, which (x) the tax
14 paid hereunder by each utility during the preceding biennium,
15 and (y) the amount paid into the Public Utility Fund during
16 the preceding biennium by the Department of Revenue pursuant
17 to Sections 2-9 and 2-11 of the Electricity Excise Tax Law,
18 bears to the difference between the amount determined as
19 provided in item (3) of this subsection (i) and \$2,500,000.
20 The Commission shall cause the proportionate amount
21 determined with respect to payments made under the
22 Electricity Excise Tax Law to be transferred into the General
23 Revenue Fund in the State Treasury, and notify each public
24 utility that it may file during the 3 month period after the
25 date of notification a claim for credit for the proportionate
26 amount determined with respect to payments made hereunder by
27 the public utility. If the proportionate amount is less than
28 \$10, no notification will be sent by the Commission, and no
29 right to a claim exists as to that amount. Upon the filing of
30 a claim for credit within the period provided, the Commission
31 shall issue a credit memorandum in such amount to such public
32 utility. Any claim for credit filed after the period provided
33 for in this Section is void.

34 (j) Credit memoranda issued pursuant to subsection (f)

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

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

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

18 (220 ILCS 5/13-511)

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

20 Sec. 13-511. Telecommunications ~~Municipal~~ Infrastructure
 21 Maintenance Fee Act; rate adjustments. With respect to any
 22 telecommunications retailer that is regulated by the Illinois
 23 Commerce Commission, the Commission shall order such rate
 24 adjustments as shall be necessary to assure that the
 25 implementation of the Telecommunications ~~Municipal~~
 26 Infrastructure Maintenance Fee Act, ~~including-the-payment-of~~
 27 ~~the---State---infrastructure---maintenance---fee,---optional~~
 28 ~~infrastructure--maintenance-fee,--and-municipal-infrastructure~~
 29 ~~maintenance-fee,--if-any,~~ net of (1) the termination of any
 30 fee, license fee, rent, or lease payment subject to the
 31 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee
 32 Act, and (2) the repeal of any invested capital tax subject
 33 to the Telecommunications ~~Municipal~~ Infrastructure

1 Maintenance Fee Act, shall have no significant impact on the
2 net income of each such telecommunications retailer.
3 Beginning with the effective date of the Telecommunications
4 ~~Municipal~~ Infrastructure Maintenance Fee Act, each such
5 telecommunications retailer shall maintain such records and
6 accounts as will enable the Commission to make such findings
7 and determinations as are necessary to such order.
8 (Source: P.A. 90-154, eff. 1-1-98.)

9 Section 935. The Telephone Company Act is amended by
10 changing Section 4 as follows:

11 (220 ILCS 65/4) (from Ch. 134, par. 20)
12 Sec. 4. Right of condemnation. Every telecommunications
13 ~~telecommunications~~ carrier as defined in the
14 Telecommunications ~~Municipal~~ Infrastructure Maintenance Fee
15 Act may, when it shall be necessary for the construction,
16 maintenance, alteration or extension of its
17 telecommunications system, or any part thereof, enter upon,
18 take or damage private property in the manner provided for
19 in, and the compensation therefor shall be ascertained and
20 made in conformity to the provisions of the Telegraph Act and
21 every telecommunications carrier is authorized to construct,
22 maintain, alter and extend its poles, wires, and other
23 appliances as a proper use of highways, along, upon, under
24 and across any highway, street, alley, public right-of-way
25 dedicated or commonly used for utility purposes, or water in
26 this State, but so as not to incommode the public in the use
27 thereof: Provided, that nothing in this act shall interfere
28 with the control now vested in cities, incorporated towns and
29 villages in relation to the regulation of the poles, wires,
30 cables and other appliances, and provided, that before any
31 such lines shall be constructed along any such highway,
32 street, alley, public right-of-way dedicated or commonly used

1 for utility purposes, or water it shall be the duty of the
2 telecommunications carrier proposing to construct any such
3 line, to give (in the case of cities, villages, and
4 incorporated towns) to the corporate authorities of the
5 municipality or their designees (hereinafter, municipal
6 corporate authorities) or (in other cases) to the highway
7 commissioners having jurisdiction and control over the road
8 or part thereof along and over which such line is proposed to
9 be constructed, notice in writing in the form of plans,
10 specifications, and documentation of the purpose and
11 intention of the company to construct such line over and
12 along the highway, street, alley, public right-of-way
13 dedicated or commonly used for utility purposes, or water,
14 which notice shall be served at least 10 days before the line
15 shall be placed or constructed over and along the highway,
16 street, alley, public right-of-way dedicated or commonly used
17 for utility purposes, or water (30 days in the case of any
18 notice providing for excavation relating to new construction
19 in a public highway, street, alley, public right-of-way
20 dedicated or commonly used for utility purposes, or water);
21 and upon the giving of the notice it shall be the duty of the
22 municipal corporate authorities or the highway commissioners
23 to specify the portion of such highway, street, alley, public
24 right-of-way dedicated or commonly used for utility purposes,
25 or water upon which the line may be placed, used, and
26 constructed, and it shall thereupon be the duty of the
27 telecommunications retailer to provide the municipal
28 authorities or highway commissioners with any and all plans,
29 specifications, and documentation available and to construct
30 its line in accordance with such specifications; but in the
31 event that the municipal corporate authorities or the highway
32 commissioners fail to provide such specification within 10
33 days after the service of such notice, (25 days in the case
34 of excavation relating to new construction) then the

1 telecommunications retailer, without such specification
2 having been made, may proceed to place and erect its line
3 along the highway, street, alley, public right-of-way
4 dedicated or commonly used for utility purposes, or water by
5 placing its posts, poles and abutments so as not to interfere
6 with other proper uses of the highway, street, alley, public
7 right-of-way dedicated or commonly used for utility purposes,
8 or water. The telecommunications carrier proposing to
9 construct any such line shall comply with the provisions of
10 Section 9-113 of the Illinois Highway Code. Provided, that
11 the telecommunications carrier shall not have the right to
12 condemn any portion of the right-of-way of any railroad
13 company except as much thereof as is necessary to cross the
14 same.

15 The Illinois Commerce Commission may adopt reasonable
16 rules governing the negotiation procedures that are used by a
17 telecommunications carrier during precondemnation
18 negotiations for the purchase of land rights-of-way and
19 easements, including procedures for providing information to
20 the public and affected landowners concerning the project and
21 the right-of-way easements sought in connection therewith.

22 Such rules may be made applicable to interstate,
23 competitive intrastate and noncompetitive intrastate
24 facilities, without regard to whether such facilities or the
25 telecommunications carrier proposing to construct and operate
26 them would otherwise be subject to the Illinois Commerce
27 Commission's jurisdiction under The Public Utilities Act, as
28 now or hereafter amended. However, as to facilities used to
29 provide exclusively interstate services or competitive
30 intrastate services or both, nothing in this Section confers
31 any power upon the Commission (i) to require the disclosure
32 of proprietary, competitively sensitive, or cost information
33 or information not known to the telecommunications carrier,
34 (ii) to determine whether, or conduct hearings regarding

1 whether, any proposed fiber optic or other facilities should
2 or should not be constructed and operated, or (iii) to
3 determine or specify, or conduct hearings concerning, the
4 price or other terms or conditions of the purchase of the
5 right-of-way easements sought. With respect to facilities
6 used to provide any intrastate services classified in the
7 condemnor's tariff as noncompetitive under Section 13-502 of
8 The Public Utilities Act, the rulemaking powers conferred
9 upon the Commission under this Section are in addition to any
10 rulemaking powers arising under The Public Utilities Act.

11 No telecommunications carrier shall exercise the power to
12 condemn private property until it has first substantially
13 complied with such rules with respect to the property sought
14 to be condemned. If such rules call for providing notice or
15 information before or during negotiations, a failure to
16 provide such notice or information shall not constitute a
17 waiver of the rights granted in this Section, but the
18 telecommunications carrier shall be liable for all reasonable
19 attorney's fees of that landowner resulting from such
20 failure.

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

22 Section 999. Effective date. This Act takes effect on
23 January 1, 2002, except that this Section and the changes
24 made to Section 5 of the Telecommunications Municipal
25 Infrastructure Maintenance Fee Act take effect upon becoming
26 law, and except that the changes made to the State Revenue
27 Sharing Act, the Telecommunications Excise Tax Act, the
28 Telecommunications Municipal Infrastructure Maintenance Fee
29 Act, the Emergency Telephone System Act, the Illinois
30 Municipal Code, the Public Utilities Act, and the Telephone
31 Company Act take effect on July 1, 2002.

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