

1 AN ACT concerning open access for Internet services.

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 Internet Access Enhancement Act.

6 Section 5. Legislative findings. The General Assembly  
7 declares that it is in the best interests of the people of  
8 the State of Illinois to ensure that no high-speed broadband  
9 Internet access transport provider with an affiliated  
10 Internet service provider has a monopoly; that customer  
11 choice of Internet Service Providers is available to members  
12 of the public who use the Internet; and that business  
13 transactions between Internet service providers and  
14 high-speed broadband Internet access transport providers  
15 concerning access to the Internet are conducted in such a way  
16 as to ensure high-speed broadband access to Internet service  
17 is granted in a fair, equitable, and non-discriminatory  
18 fashion.

19 Section 10. Definitions.

20 "Affiliate" means a person who, directly or indirectly,  
21 owns or controls, is owned or controlled by, or is under  
22 common ownership or control with, another person. For  
23 purposes of this definition, the term "own" means to own an  
24 equity or other financial interest (or the equivalent  
25 thereof) of more than 10% or any management interest.

26 "Cable operator" has the meaning set forth in 47 U.S.C.  
27 Section 522(5).

28 "High-speed broadband" means possessing the capability to  
29 transmit data upstream and downstream at a rate of 200  
30 kilobits per second or greater.

1 "High-speed broadband Internet access transport provider"  
2 means a person who provides high-speed broadband Internet  
3 access transport services, by aid of wire, cable, or other  
4 like connection over facilities owned by it or under its  
5 control directly or indirectly to the public for  
6 consideration (on a bundled or unbundled basis). The term  
7 also includes an Internet service provider who self-provides,  
8 over facilities owned by it or under its control, the  
9 high-speed wireline broadband transport of its services  
10 between itself and its users.

11 "High-speed broadband Internet access transport services"  
12 means the high-speed broadband transmission of data between a  
13 user and his or her Internet service provider's point of  
14 interconnection with the high-speed broadband Internet access  
15 transport provider's facilities.

16 "Internet" means collectively the myriad of computer and  
17 telecommunications facilities, including equipment and  
18 operating software, that comprise the interconnected  
19 world-wide network of networks that employ the Transmission  
20 Control Protocol/Internet Protocol, or any predecessor or  
21 successor protocols to such protocol, to communicate  
22 information of all kinds by wire or radio or any other means.

23 "Internet service provider" means a person who provides a  
24 service that enables users to access content, information,  
25 electronic mail, or other services offered over the Internet.

26 Section 15. Duty of high-speed broadband Internet access  
27 transport providers to provide equal access to services of  
28 Internet service providers. A high-speed broadband Internet  
29 access transport provider who is also a cable operator or  
30 affiliate of a high-speed broadband Internet access transport  
31 provider who is also a cable operator shall provide any  
32 requesting Internet service provider access to its high-speed  
33 broadband Internet access transport services (unbundled from

1 the provision of content) on rates, terms, and conditions  
2 that are at least as favorable as those on which it provides  
3 access to itself, to its affiliate, or to any other person.  
4 Access shall be provided at any technically feasible point  
5 selected by the requesting Internet service provider who is  
6 also a cable operator. A high-speed broadband Internet access  
7 transport provider or affiliate of a high-speed broadband  
8 Internet access transport provider may collect from an  
9 Internet service provider the reasonable costs associated  
10 with providing access as required under this Section. Failure  
11 to provide access to Internet service as required under this  
12 Section 15 is an unlawful practice.

13 Section 20. Exception established where high-speed  
14 broadband Internet access transport services are not provided  
15 to the public. The following are not providing high-speed  
16 broadband Internet access transport services to the public  
17 within the meaning of Section 15:

18 (1) federal, state, or local governmental entities  
19 that provide highspeed broadband Internet access  
20 transport services to their employees at their place of  
21 employment;

22 (2) institutions of higher education under the  
23 jurisdiction of the Board of Higher Education that  
24 provide high-speed broadband Internet access transport  
25 services to their students, faculty, or employees;

26 (3) businesses that provide high-speed broadband  
27 Internet access transport services to their employees at  
28 their place of employment; and

29 (4) real estate owners or managers that provide  
30 high-speed broadband Internet access transport services  
31 solely to their own tenants or residents without  
32 assessing a separate charge for this service to their  
33 tenants or residents.

1           Section 25. Home rule. The establishment of standards  
2 for the provision and enforcement of equal access to  
3 high-speed broadband Internet transport as provided in this  
4 Act is an exclusive power and function of the State. A home  
5 rule unit may not establish standards for the provision and  
6 enforcement of equal access to high-speed broadband Internet  
7 transport. This Act is a denial and limitation of home rule  
8 powers and functions under subsection (h) of Section 6 of  
9 Article VII of the Illinois Constitution.

10           Section 30. Attorney General; general powers. When it  
11 appears to the Attorney General that a person has engaged in  
12 or is engaging in any practice declared to be unlawful by  
13 this Act; when the Attorney General receives a written  
14 complaint from a consumer or Internet service provider of a  
15 practice declared to be unlawful under this Act; or when the  
16 Attorney General believes it to be in the public interest  
17 that an investigation should be made to ascertain whether a  
18 person, in fact, has engaged in or is engaging in any  
19 practice declared to be unlawful by this Act, the Attorney  
20 General may:

21           (1) require that person to file on such terms as  
22 the Attorney General prescribes a statement or report in  
23 writing under oath or otherwise, as to all information  
24 the Attorney General may consider necessary;

25           (2) examine under oath any person in connection  
26 with the practice;

27           (3) examine any record, book, document, account,  
28 paper, or other item as the Attorney General may consider  
29 necessary; and

30           (4) pursuant to an order of a circuit court,  
31 impound any record, book, document, account, paper, or  
32 other item that is produced in accordance with this Act  
33 and retain it in the Attorney General's possession until

1 the completion of all proceedings in connection with  
2 which it is produced.

3 Section 35. Attorney General; issuance of subpoenas and  
4 conduct of hearings; rules. To accomplish the objectives and  
5 to carry out the duties prescribed by this Act, the Attorney  
6 General, in addition to other powers conferred upon him by  
7 this Act, may issue subpoenas to any person, administer an  
8 oath or affirmation to any person, conduct hearings in aid of  
9 any investigation or inquiry, prescribe forms and promulgate  
10 such rules as may be necessary, which rules shall have the  
11 force of law.

12 Section 40. Notice; manner of service. Service by the  
13 Attorney General of any notice requiring a person to file a  
14 statement or report, or of a subpoena upon any person, shall  
15 be made in the manner provided in the Civil Practice Law.

16 Section 45. Failure to file report or obey subpoena. If  
17 a person fails or refuses to file any statement or report, or  
18 obey any subpoena issued by the Attorney General, the  
19 Attorney General may file a complaint in the circuit court  
20 for the (i) granting of injunctive relief or (ii) granting of  
21 such other relief as may be required, until the person files  
22 the statement or report, or obeys the subpoena.

23 Section 50. Injunctive and other relief.

24 (a) When the Attorney General has reason to believe that  
25 a person has engaged in or is engaging in a practice declared  
26 by this Act to be unlawful, he or she may bring an action in  
27 the name of the People of the State against the person to  
28 restrain by preliminary or permanent injunction the act or  
29 practice. The court, in its discretion, may exercise all  
30 powers necessary including, but not limited to, injunctive

1 relief.

2 (b) In addition to the remedy provided in subsection  
3 (a), the Attorney General may request, and the court may  
4 impose, a civil penalty in a sum not to exceed \$2,500 per  
5 offense and costs of investigation and prosecution against a  
6 person found by the Court to have engaged in any practice  
7 declared unlawful under this Act. Each day a person is found  
8 to be in violation of this Act shall constitute a separate  
9 offense.

10 Section 55. Private right of action. A person who has  
11 been aggrieved as a result of a violation of this Act may  
12 bring an action in the circuit court of the county in which  
13 either party is located. Upon a finding that a party has  
14 committed a violation of this Act, the court may award  
15 damages and injunctive relief.

16 Section 99. Effective date. This Act takes effect  
17 January 1, 2002.