



SENATE JOURNAL

STATE OF ILLINOIS

ONE HUNDREDTH GENERAL ASSEMBLY

52ND LEGISLATIVE DAY

WEDNESDAY, MAY 24, 2017

12:29 O'CLOCK P.M.

SENATE
Daily Journal Index
52nd Legislative Day

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The Senate met pursuant to adjournment.
Senator Terry Link, Waukegan, Illinois, presiding.
Prayer by Pastor Ronald Young, Impact Church St. Louis, Swansea, Illinois.
Senator Cunningham led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Tuesday, May 23, 2017, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

University of Illinois Board of Trustees Transaction Report for the period July 1, 2012-June 30, 2014, submitted by the University of Illinois.

The foregoing report was ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Amendment No. 1 to House Bill 688
Amendment No. 1 to House Bill 1125
Amendment No. 2 to House Bill 1954
Amendment No. 1 to House Bill 2977

The following Floor amendment to the Senate Resolution listed below has been filed with the Secretary and referred to the Committee on Assignments:

Floor Amendment No. 2 to Senate Joint Resolution 37

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

May 24, 2017

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby extend the committee deadline to May 31, 2017, for the following Senate bills:

704

[May 24, 2017]

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Republican Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

May 24, 2017

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby extend the 3rd Reading deadline to May 31, 2017, for the following Senate bills:

483

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Republican Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

May 24, 2017

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby extend the committee deadline to May 31, 2017, for the following House bills:

189, 2453, 2802, 3005, 3163, 3240

Sincerely,
s/John J. Cullerton
John J. Cullerton

[May 24, 2017]

Senate President

cc: Senate Republican Leader Christine Radogno

PRESENTATION OF RESOLUTIONS

Senator Murphy offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 534

WHEREAS, The Americans with Disabilities Act (ADA) became law in 1990 prohibiting discrimination against individuals with disabilities in all areas of public life; and

WHEREAS, Increased ADA awareness promotes equality and fairness within the United States for those who live life with a disability; and

WHEREAS, One of the largest provisions of the ADA is to provide access to public facilities so those with disabilities are able to fully participate and enjoy the facilities without concern about accessibility; and

WHEREAS, In 1979, Illinois created the Illinois Human Rights Act forbidding discrimination based on sex, age, race, color, religion, arrest record, marital status, sexual orientation, physical and mental disability, citizenship status (with regard to employment), national origin, ancestry, unfavorable military discharge, familial status (with respect to real estate transactions), military status, sexual harassment, and orders of protection; and

WHEREAS, Illinois is committed to fighting discrimination, creating the Illinois Human Rights Commission to make impartial determinations of whether there has been unlawful discrimination as defined by the Illinois Human Rights Act; and

WHEREAS, Illinois has approximately 1.4 million people with a reported disability; and

WHEREAS, Providing access to seating and parking for those with disabilities creates ease of access to attend events and enjoy the facilities across the State; and

WHEREAS, Ensuring access to public locations benefits all citizens by promoting inclusivity and diversity; therefore, be it

RESOLVED, BY THE SENATE OF THE ONE HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we encourage the State of Illinois and all public facilities to faithfully follow federal Americans with Disabilities Act laws and the Illinois Human Rights Act to ensure that events are accessible to all people with disabilities across the State.

Senator Righter offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 535

WHEREAS, The Department of Human Services (DHS) contracts with dedicated community providers to deliver direct care and services to individuals with intellectual or developmental disabilities across the State; and

WHEREAS, DHS and its providers strive to provide for the health, safety, and happiness of each individual while promoting integrated living in their community; and

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WHEREAS, In an effort to streamline DHS oversight, it is important to periodically review the regulatory systems of State government to identify potential duplications of responsibilities; and

WHEREAS, Community providers for individuals with intellectual or developmental disabilities are licensed by the Bureau of Accreditation, Licensure and Certification housed within DHS; and

WHEREAS, The care and services administered by community providers for individuals with intellectual or developmental disabilities are audited and monitored for quality by the Bureau of Quality Management located in the Division of Developmental Disabilities within DHS; and

WHEREAS, Identifying and eliminating any redundant efforts or duties between these two bureaus may potentially serve to improve service delivery and relieve duplicative administrative obligations; therefore, be it

RESOLVED, BY THE SENATE OF THE ONE HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that within one year of the adoption of this resolution the Department of Human Services shall prepare a report that identifies any duplicative activities or inefficiencies in licensing and oversight of community agencies that serve individuals with intellectual or developmental disabilities; and be it further

RESOLVED, That the report shall include a quality assessment of the feasibility of combining the functions of the Division of Developmental Disabilities' Bureau of Quality Management and the Department of Human Services' Bureau of Accreditation, Licensure and Certification; and be it further

RESOLVED, That upon the report's completion, the Department of Human Services shall post the report on its website and submit the report to the General Assembly and the Governor.

REPORTS FROM STANDING COMMITTEES

Senator Bush, Chairperson of the Committee on Government Reform, to which was referred **House Bill No. 2439**, reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred **Senate Joint Resolutions numbered 32, 37 and 39**, reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **Senate Joint Resolutions numbered 32, 37 and 39** were placed on the Secretary's Desk.

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1556; Motion to Concur in House Amendment 1 to Senate Bill 1694

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred **House Bills Numbered 2953 and 3004**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Sandoval, Chairperson of the Committee on Transportation, to which was referred **House Joint Resolutions numbered 40 and 42**, reported the same back with the recommendation that the resolutions be adopted.

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Under the rules, **House Joint Resolutions numbered 40 and 42** were placed on the Secretary's Desk.

Senator Hastings, Chairperson of the Committee on Criminal Law, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 552
Senate Amendment No. 5 to Senate Bill 2021
Senate Amendment No. 4 to Senate Bill 2185

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Hastings, Chairperson of the Committee on Criminal Law, to which was referred **House Bills Numbered 1764 and 3803**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Hastings, Chairperson of the Committee on Criminal Law, to which was referred **House Bill No. 3817**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Hastings, Chairperson of the Committee on Criminal Law, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 786
Senate Amendment No. 1 to House Bill 2641

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Harris, Chairperson of the Committee on Agriculture, to which was referred **Senate Resolution No. 492**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 492** was placed on the Secretary's Desk.

Senator Harris, Chairperson of the Committee on Agriculture, to which was referred **House Bill No. 2028**, reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator E. Jones III, Chairperson of the Committee on Local Government, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2057

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator E. Jones III, Chairperson of the Committee on Local Government, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 1896

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator T. Cullerton, Chairperson of the Committee on Veterans Affairs, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

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Senate Amendment No. 1 to House Bill 3261

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Van Pelt, Chairperson of the Committee on Public Health, to which was referred **Senate Resolution No. 493**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 493** was placed on the Secretary's Desk.

Senator Bertino-Tarrant, Chairperson of the Committee on Education, to which was referred **Senate Bill No. 704**, reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Bertino-Tarrant, Chairperson of the Committee on Education, to which was referred **House Bill No. 2977**, reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Bertino-Tarrant, Chairperson of the Committee on Education, to which was referred **House Bill No. 3745**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Koehler, Chairperson of the Committee on Environment and Conservation, to which was referred **House Bill No. 3922**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Koehler, Chairperson of the Committee on Environment and Conservation, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 3014

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Hunter, Chairperson of the Committee on Energy and Public Utilities, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 3656

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Cunningham, Chairperson of the Committee on Telecommunications and Information Technology, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 1381

Senate Amendment No. 3 to Senate Bill 1451

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Van Pelt, **House Bill No. 243** was taken up, read by title a second time and ordered to a third reading.

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On motion of Senator Bennett, **House Bill No. 261** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Barickman, **House Bill No. 466** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bush, **House Bill No. 2461** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bush, **House Bill No. 2568** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator T. Cullerton, **House Bill No. 2647** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 2762** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator McGuire, **House Bill No. 2907** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Van Pelt, **House Bill No. 2950** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 3368** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Van Pelt, **House Bill No. 3369** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 3437** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bush, **House Bill No. 3502** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Biss, **House Bill No. 3539** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Manar, **House Bill No. 3656** having been printed, was taken up and read by title a second time.

Senator Manar offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 3656

AMENDMENT NO. 1. Amend House Bill 3656 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Flue Gas Desulfurization (FGD) Task Force Act.

Section 5. Definitions. As used in this Act:

"FGD" means flue gas desulfurization and other technologies that can be used to lower sulfur dioxide emissions.

"Task Force" means the FGD Task Force

Section 10. The FGD Task Force.

(a) The FGD Task Force is hereby created to increase the amount of Illinois Basin coal use in generation units. The FGD Task Force shall identify and evaluate the costs, benefits, and barriers of new and modified FGD, or other post-combustion sulfur dioxide emission control technologies, and other capital

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improvements, that would be necessary for generation units to comply with the sulfur dioxide National Ambient Air Quality Standards (NAAQS) while improving the ability of those generation units to meet the effluent limitation guidelines (ELGs) for wastewater discharges and enhancing the marketability of the generation units' FGD byproducts.

(b) The membership of the Task Force shall be as follows:

- (1) Two members of the Senate appointed by the President of the Senate.
- (2) Two members of the Senate appointed by the Minority Leader of the Senate.
- (3) Two members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (4) Two members of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(5) Three members appointed by the Governor, two with expertise in Illinois coal, coal mining, emission reduction, or energy production; and one representative of an electricity generator that owns multiple coal-fueled electric generation plants with FGD or similar technologies.

(6) The Director of Natural Resources, or his or her designee.

(7) The Director of the Environmental Protection Agency, or his or her designee.

(c) Task Force members shall serve without compensation but shall be reimbursed for travel expenses incurred in performing their duties.

(d) The Task Force shall report their findings and recommendations to the General Assembly by December 31, 2017.

Section 15. Administrative support. The Department of Natural Resources and the Illinois Environmental Protection Agency shall provide administrative and other support to the Task Force.

Section 20. Repeal. This Act is repealed on January 1, 2019.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Bush, **House Bill No. 3718** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **House Bill No. 1797** was taken up, read by title a second time and ordered to a third reading.

At the hour of 12:55 o'clock p.m., Senator Trotter, presiding.

On motion of Senator Link, **House Bill No. 123** was taken up, read by title a second time and ordered to a third reading.

At the hour of 12:56 o'clock p.m., Senator Link, presiding.

On motion of Senator Althoff, **House Bill No. 821** was taken up, read by title a second time and ordered to a third reading.

Senator Silverstein asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Althoff asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 12:59 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 1:54 o'clock p.m., the Senate resumed consideration of business. Senator Muñoz, presiding, and the Chair announced the Senate stand at ease.

AT EASE

At the hour of 2:13 o'clock p.m., the Senate resumed consideration of business.

REPORTS FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Commerce and Economic Development: **Floor Amendment No. 1 to House Bill 1560; Floor Amendment No. 2 to House Bill 1560.**

Criminal Law: **Committee Amendment No. 2 to House Bill 2723.**

Education: **Floor Amendment No. 1 to House Bill 213; Floor Amendment No. 2 to House Bill 370; Floor Amendment No. 1 to House Bill 760; Floor Amendment No. 1 to House Bill 2527.**

Executive: **Committee Amendment No. 1 to House Bill 3488.**

Human Services: **Floor Amendment No. 1 to Senate Bill 1748.**

Insurance: **Floor Amendment No. 1 to Senate Bill 328; Floor Amendment No. 1 to House Bill 2721; Committee Amendment No. 1 to House Bill 3244.**

Judiciary: **Floor Amendment No. 2 to Senate Bill 556; Floor Amendment No. 4 to House Bill 3449; Floor Amendment No. 5 to House Bill 3449; HOUSE BILLS 189, 2525 and 2622.**

Labor: **Floor Amendment No. 2 to House Bill 2771.**

Licensed Activities and Pensions: **Floor Amendment No. 1 to House Bill 313.**

Licensed Activities and Pensions Subcommittee on Special Issues: **Committee Amendment No. 1 to Senate Bill 1814.**

Public Health: **Floor Amendment No. 3 to Senate Bill 2038; Floor Amendment No. 1 to House Bill 2820; Floor Amendment No. 2 to House Bill 2820.**

Revenue: **Floor Amendment No. 1 to House Bill 1542.**

State Government: **Floor Amendment No. 1 to Senate Bill 1453; Floor Amendment No. 1 to House Bill 3904; Floor Amendment No. 2 to House Bill 4011; HOUSE BILL 3005.**

Transportation: **HOUSE BILLS 2453, 2802 and 3240.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committee of the Senate:

[May 24, 2017]

Transportation: **Senate Joint Resolutions Numbered 35 and 36.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported that the Committee recommends that **House Joint Resolution No. 24** be re-referred from the Committee on Education to the Committee on Assignments.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported that the following Legislative Measures have been approved for consideration:

Floor Amendment No. 1 to House Bill 173

Floor Amendment No. 2 to Senate Bill 478

Floor Amendment No. 1 to Senate Bill 482

Floor Amendment No. 4 to Senate Bill 1451

Floor Amendment No. 4 to Senate Bill 1871

Floor Amendment No. 2 to Senate Joint Resolution 37

The foregoing floor amendments were placed on the Secretary's Desk.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported that the following Legislative Measure has been approved for consideration:

House Joint Resolution No. 43

The foregoing resolution was placed on the Secretary's Desk.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, to which was referred **Senate Bills Numbered 483 and 484** on April 25, 2017, reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **Senate Bills Numbered 483 and 484** were returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, to which was referred **House Bill No. 3163** on May 19, 2017, pursuant to Senate Rule 3-9(a), reported that the Committee recommends that the bill be approved for consideration.

The report of the Committee was concurred in.

Under the rules, the bill was ordered to a second reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committee of the Senate:

State Government: **Committee Amendment No. 1 to House Bill 3005**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported that the following Legislative Measure has been approved for consideration:

House Joint Resolution Numbered 24

The foregoing resolution was placed on the Secretary's Desk.

[May 24, 2017]

At the hour of 2:16 o'clock p.m., Senator Harmon, presiding.

POSTING NOTICES WAIVED

Senator Mulroe moved to waive the six-day posting requirement on **House Bills numbered 1332 and 3244** so that the measures may be heard in the Committee on Insurance that is scheduled to meet May 25, 2017.

The motion prevailed.

Senator Collins moved to waive the six-day posting requirement on **House Bill No. 3005** so that the measure may be heard in the Committee on State Government that is scheduled to meet this afternoon.

The motion prevailed.

Senator Stadelman moved to waive the six-day posting requirement on **House Bills numbered 2453, 2802 and 3240** so that the measures may be heard in the Committee on Transportation that is scheduled to meet this afternoon.

The motion prevailed.

Senator Stadelman moved to waive the six-day posting requirement on **Senate Joint Resolutions numbered 35 and 36** so that the measures may be heard in the Committee on Transportation that is scheduled to meet this evening.

The motion prevailed.

Senator Munóz moved to waive the six-day posting requirement on **House Bill No. 3488** so that the measure may be heard in the Committee on Executive that is scheduled to meet May 25, 2017.

The motion prevailed.

Senator Raoul moved to waive the six-day posting requirement on **House Bills numbered 189, 2525, 2622 and 3001** so that the measures may be heard in the Committee on Judiciary that is scheduled to meet this afternoon.

The motion prevailed.

Senator Hutchinson moved to waive the six-day posting requirement on **House Bill No. 481** so that the measure may be heard in the Committee on Public Health that is scheduled to meet May 25, 2017.

The motion prevailed.

Senator Althoff moved to waive the six-day posting requirement on **Senate Resolution No. 483** so that the measure may be heard in the Committee on State Government that is scheduled to meet this afternoon.

The motion prevailed.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 764

A bill for AN ACT concerning education.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 764

Passed the House, as amended, May 24, 2017.

TIMOTHY D. MAPES, Clerk of the House

[May 24, 2017]

AMENDMENT NO. 1 TO SENATE BILL 764

AMENDMENT NO. 1. Amend Senate Bill 764 as follows:

on page 1, line 13, by replacing "shall" with "may"; and

on page 15, line 8, by replacing "shall" with "may".

Under the rules, the foregoing **Senate Bill No. 764**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 768

A bill for AN ACT concerning regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 2 to SENATE BILL NO. 768

Passed the House, as amended, May 24, 2017.

TIMOTHY D. MAPES, Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 768

AMENDMENT NO. 2. Amend Senate Bill 768 on page 7, line 12, after "Act", by inserting "consistent with and reflecting the requirements of this Act and rules adopted pursuant to this Act".

Under the rules, the foregoing **Senate Bill No. 768**, with House Amendment No. 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1544

A bill for AN ACT concerning public aid.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1544

Passed the House, as amended, May 24, 2017.

TIMOTHY D. MAPES, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1544

AMENDMENT NO. 1. Amend Senate Bill 1544 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-5 as follows:

(305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of and the rate of reimbursement for the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: (1) inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and X-ray services; (4) skilled nursing home services; (5) physicians' services whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; (6) medical care, or any other type of remedial care furnished by licensed practitioners; (7) home health care services; (8) private duty nursing service; (9) clinic services; (10) dental services, including prevention and treatment of periodontal disease and dental caries disease for pregnant women, provided by an individual licensed to practice dentistry or dental surgery; for purposes of this item

[May 24, 2017]

(10), "dental services" means diagnostic, preventive, or corrective procedures provided by or under the supervision of a dentist in the practice of his or her profession; (11) physical therapy and related services; (12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select; (13) other diagnostic, screening, preventive, and rehabilitative services, including to ensure that the individual's need for intervention or treatment of mental disorders or substance use disorders or co-occurring mental health and substance use disorders is determined using a uniform screening, assessment, and evaluation process inclusive of criteria, for children and adults; for purposes of this item (13), a uniform screening, assessment, and evaluation process refers to a process that includes an appropriate evaluation and, as warranted, a referral; "uniform" does not mean the use of a singular instrument, tool, or process that all must utilize; (14) transportation and such other expenses as may be necessary; (15) medical treatment of sexual assault survivors, as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act, for injuries sustained as a result of the sexual assault, including examinations and laboratory tests to discover evidence which may be used in criminal proceedings arising from the sexual assault; (16) the diagnosis and treatment of sickle cell anemia; and (17) any other medical care, and any other type of remedial care recognized under the laws of this State, but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures are necessary for the preservation of the life of the woman seeking such treatment, or except an induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. The Illinois Department, by rule, shall prohibit any physician from providing medical assistance to anyone eligible therefor under this Code where such physician has been found guilty of performing an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was performed. The term "any other type of remedial care" shall include nursing care and nursing home service for persons who rely on treatment by spiritual means alone through prayer for healing.

Notwithstanding any other provision of this Section, a comprehensive tobacco use cessation program that includes purchasing prescription drugs or prescription medical devices approved by the Food and Drug Administration shall be covered under the medical assistance program under this Article for persons who are otherwise eligible for assistance under this Article.

Notwithstanding any other provision of this Code, the Illinois Department may not require, as a condition of payment for any laboratory test authorized under this Article, that a physician's handwritten signature appear on the laboratory test order form. The Illinois Department may, however, impose other appropriate requirements regarding laboratory test order documentation.

Upon receipt of federal approval of an amendment to the Illinois Title XIX State Plan for this purpose, the Department shall authorize the Chicago Public Schools (CPS) to procure a vendor or vendors to manufacture eyeglasses for individuals enrolled in a school within the CPS system. CPS shall ensure that its vendor or vendors are enrolled as providers in the medical assistance program and in any capitated Medicaid managed care entity (MCE) serving individuals enrolled in a school within the CPS system. Under any contract procured under this provision, the vendor or vendors must serve only individuals enrolled in a school within the CPS system. Claims for services provided by CPS's vendor or vendors to recipients of benefits in the medical assistance program under this Code, the Children's Health Insurance Program, or the Covering ALL KIDS Health Insurance Program shall be submitted to the Department or the MCE in which the individual is enrolled for payment and shall be reimbursed at the Department's or the MCE's established rates or rate methodologies for eyeglasses.

On and after July 1, 2012, the Department of Healthcare and Family Services may provide the following services to persons eligible for assistance under this Article who are participating in education, training or employment programs operated by the Department of Human Services as successor to the Department of Public Aid:

- (1) dental services provided by or under the supervision of a dentist; and
- (2) eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select.

Notwithstanding any other provision of this Code and subject to federal approval, the Department may adopt rules to allow a dentist who is volunteering his or her service at no cost to render dental services through an enrolled not-for-profit health clinic without the dentist personally enrolling as a participating provider in the medical assistance program. A not-for-profit health clinic shall include a public health clinic or Federally Qualified Health Center or other enrolled provider, as determined by the Department, through which dental services covered under this Section are performed. The Department shall establish a process for payment of claims for reimbursement for covered dental services rendered under this provision.

The Illinois Department, by rule, may distinguish and classify the medical services to be provided only in accordance with the classes of persons designated in Section 5-2.

The Department of Healthcare and Family Services must provide coverage and reimbursement for amino acid-based elemental formulas, regardless of delivery method, for the diagnosis and treatment of (i) eosinophilic disorders and (ii) short bowel syndrome when the prescribing physician has issued a written order stating that the amino acid-based elemental formula is medically necessary.

The Illinois Department shall authorize the provision of, and shall authorize payment for, screening by low-dose mammography for the presence of occult breast cancer for women 35 years of age or older who are eligible for medical assistance under this Article, as follows:

(A) A baseline mammogram for women 35 to 39 years of age.

(B) An annual mammogram for women 40 years of age or older.

(C) A mammogram at the age and intervals considered medically necessary by the woman's health care provider for women under 40 years of age and having a family history of breast cancer, prior personal history of breast cancer, positive genetic testing, or other risk factors.

(D) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or dense breast tissue, when medically necessary as determined by a physician licensed to practice medicine in all of its branches.

(E) A screening MRI when medically necessary, as determined by a physician licensed to practice medicine in all of its branches.

All screenings shall include a physical breast exam, instruction on self-examination and information regarding the frequency of self-examination and its value as a preventative tool. For purposes of this Section, "low-dose mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, and image receptor, with an average radiation exposure delivery of less than one rad per breast for 2 views of an average size breast. The term also includes digital mammography and includes breast tomosynthesis. As used in this Section, the term "breast tomosynthesis" means a radiologic procedure that involves the acquisition of projection images over the stationary breast to produce cross-sectional digital three-dimensional images of the breast. If, at any time, the Secretary of the United States Department of Health and Human Services, or its successor agency, promulgates rules or regulations to be published in the Federal Register or publishes a comment in the Federal Register or issues an opinion, guidance, or other action that would require the State, pursuant to any provision of the Patient Protection and Affordable Care Act (Public Law 111-148), including, but not limited to, 42 U.S.C. 18031(d)(3)(B) or any successor provision, to defray the cost of any coverage for breast tomosynthesis outlined in this paragraph, then the requirement that an insurer cover breast tomosynthesis is inoperative other than any such coverage authorized under Section 1902 of the Social Security Act, 42 U.S.C. 1396a, and the State shall not assume any obligation for the cost of coverage for breast tomosynthesis set forth in this paragraph.

On and after January 1, 2016, the Department shall ensure that all networks of care for adult clients of the Department include access to at least one breast imaging Center of Imaging Excellence as certified by the American College of Radiology.

On and after January 1, 2012, providers participating in a quality improvement program approved by the Department shall be reimbursed for screening and diagnostic mammography at the same rate as the Medicare program's rates, including the increased reimbursement for digital mammography.

The Department shall convene an expert panel including representatives of hospitals, free-standing mammography facilities, and doctors, including radiologists, to establish quality standards for mammography.

On and after January 1, 2017, providers participating in a breast cancer treatment quality improvement program approved by the Department shall be reimbursed for breast cancer treatment at a rate that is no lower than 95% of the Medicare program's rates for the data elements included in the breast cancer treatment quality program.

The Department shall convene an expert panel, including representatives of hospitals, free standing breast cancer treatment centers, breast cancer quality organizations, and doctors, including breast surgeons, reconstructive breast surgeons, oncologists, and primary care providers to establish quality standards for breast cancer treatment.

Subject to federal approval, the Department shall establish a rate methodology for mammography at federally qualified health centers and other encounter-rate clinics. These clinics or centers may also collaborate with other hospital-based mammography facilities. By January 1, 2016, the Department shall report to the General Assembly on the status of the provision set forth in this paragraph.

The Department shall establish a methodology to remind women who are age-appropriate for screening mammography, but who have not received a mammogram within the previous 18 months, of the

importance and benefit of screening mammography. The Department shall work with experts in breast cancer outreach and patient navigation to optimize these reminders and shall establish a methodology for evaluating their effectiveness and modifying the methodology based on the evaluation.

The Department shall establish a performance goal for primary care providers with respect to their female patients over age 40 receiving an annual mammogram. This performance goal shall be used to provide additional reimbursement in the form of a quality performance bonus to primary care providers who meet that goal.

The Department shall devise a means of case-managing or patient navigation for beneficiaries diagnosed with breast cancer. This program shall initially operate as a pilot program in areas of the State with the highest incidence of mortality related to breast cancer. At least one pilot program site shall be in the metropolitan Chicago area and at least one site shall be outside the metropolitan Chicago area. On or after July 1, 2016, the pilot program shall be expanded to include one site in western Illinois, one site in southern Illinois, one site in central Illinois, and 4 sites within metropolitan Chicago. An evaluation of the pilot program shall be carried out measuring health outcomes and cost of care for those served by the pilot program compared to similarly situated patients who are not served by the pilot program.

The Department shall require all networks of care to develop a means either internally or by contract with experts in navigation and community outreach to navigate cancer patients to comprehensive care in a timely fashion. The Department shall require all networks of care to include access for patients diagnosed with cancer to at least one academic commission on cancer-accredited cancer program as an in-network covered benefit.

Any medical or health care provider shall immediately recommend, to any pregnant woman who is being provided prenatal services and is suspected of drug abuse or is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act, referral to a local substance abuse treatment provider licensed by the Department of Human Services or to a licensed hospital which provides substance abuse treatment services. The Department of Healthcare and Family Services shall assure coverage for the cost of treatment of the drug abuse or addiction for pregnant recipients in accordance with the Illinois Medicaid Program in conjunction with the Department of Human Services.

All medical providers providing medical assistance to pregnant women under this Code shall receive information from the Department on the availability of services under the Drug Free Families with a Future or any comparable program providing case management services for addicted women, including information on appropriate referrals for other social services that may be needed by addicted women in addition to treatment for addiction.

The Illinois Department, in cooperation with the Departments of Human Services (as successor to the Department of Alcoholism and Substance Abuse) and Public Health, through a public awareness campaign, may provide information concerning treatment for alcoholism and drug abuse and addiction, prenatal health care, and other pertinent programs directed at reducing the number of drug-affected infants born to recipients of medical assistance.

Neither the Department of Healthcare and Family Services nor the Department of Human Services shall sanction the recipient solely on the basis of her substance abuse.

The Illinois Department shall establish such regulations governing the dispensing of health services under this Article as it shall deem appropriate. The Department should seek the advice of formal professional advisory committees appointed by the Director of the Illinois Department for the purpose of providing regular advice on policy and administrative matters, information dissemination and educational activities for medical and health care providers, and consistency in procedures to the Illinois Department.

The Illinois Department may develop and contract with Partnerships of medical providers to arrange medical services for persons eligible under Section 5-2 of this Code. Implementation of this Section may be by demonstration projects in certain geographic areas. The Partnership shall be represented by a sponsor organization. The Department, by rule, shall develop qualifications for sponsors of Partnerships. Nothing in this Section shall be construed to require that the sponsor organization be a medical organization.

The sponsor must negotiate formal written contracts with medical providers for physician services, inpatient and outpatient hospital care, home health services, treatment for alcoholism and substance abuse, and other services determined necessary by the Illinois Department by rule for delivery by Partnerships. Physician services must include prenatal and obstetrical care. The Illinois Department shall reimburse medical services delivered by Partnership providers to clients in target areas according to provisions of this Article and the Illinois Health Finance Reform Act, except that:

- (1) Physicians participating in a Partnership and providing certain services, which shall be determined by the Illinois Department, to persons in areas covered by the Partnership may receive an additional surcharge for such services.
- (2) The Department may elect to consider and negotiate financial incentives to encourage

the development of Partnerships and the efficient delivery of medical care.

(3) Persons receiving medical services through Partnerships may receive medical and case management services above the level usually offered through the medical assistance program.

Medical providers shall be required to meet certain qualifications to participate in Partnerships to ensure the delivery of high quality medical services. These qualifications shall be determined by rule of the Illinois Department and may be higher than qualifications for participation in the medical assistance program. Partnership sponsors may prescribe reasonable additional qualifications for participation by medical providers, only with the prior written approval of the Illinois Department.

Nothing in this Section shall limit the free choice of practitioners, hospitals, and other providers of medical services by clients. In order to ensure patient freedom of choice, the Illinois Department shall immediately promulgate all rules and take all other necessary actions so that provided services may be accessed from therapeutically certified optometrists to the full extent of the Illinois Optometric Practice Act of 1987 without discriminating between service providers.

The Department shall apply for a waiver from the United States Health Care Financing Administration to allow for the implementation of Partnerships under this Section.

The Illinois Department shall require health care providers to maintain records that document the medical care and services provided to recipients of Medical Assistance under this Article. Such records must be retained for a period of not less than 6 years from the date of service or as provided by applicable State law, whichever period is longer, except that if an audit is initiated within the required retention period then the records must be retained until the audit is completed and every exception is resolved. The Illinois Department shall require health care providers to make available, when authorized by the patient, in writing, the medical records in a timely fashion to other health care providers who are treating or serving persons eligible for Medical Assistance under this Article. All dispensers of medical services shall be required to maintain and retain business and professional records sufficient to fully and accurately document the nature, scope, details and receipt of the health care provided to persons eligible for medical assistance under this Code, in accordance with regulations promulgated by the Illinois Department. The rules and regulations shall require that proof of the receipt of prescription drugs, dentures, prosthetic devices and eyeglasses by eligible persons under this Section accompany each claim for reimbursement submitted by the dispenser of such medical services. No such claims for reimbursement shall be approved for payment by the Illinois Department without such proof of receipt, unless the Illinois Department shall have put into effect and shall be operating a system of post-payment audit and review which shall, on a sampling basis, be deemed adequate by the Illinois Department to assure that such drugs, dentures, prosthetic devices and eyeglasses for which payment is being made are actually being received by eligible recipients. Within 90 days after September 16, 1984 (the effective date of Public Act 83-1439), the Illinois Department shall establish a current list of acquisition costs for all prosthetic devices and any other items recognized as medical equipment and supplies reimbursable under this Article and shall update such list on a quarterly basis, except that the acquisition costs of all prescription drugs shall be updated no less frequently than every 30 days as required by Section 5-5.12.

The rules and regulations of the Illinois Department shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for abortions, or induced miscarriages or premature births. This statement shall indicate what procedures were used in providing such medical services.

Notwithstanding any other law to the contrary, the Illinois Department shall, within 365 days after July 22, 2013 (the effective date of Public Act 98-104), establish procedures to permit skilled care facilities licensed under the Nursing Home Care Act to submit monthly billing claims for reimbursement purposes. Following development of these procedures, the Department shall, by July 1, 2016, test the viability of the new system and implement any necessary operational or structural changes to its information technology platforms in order to allow for the direct acceptance and payment of nursing home claims.

Notwithstanding any other law to the contrary, the Illinois Department shall, within 365 days after August 15, 2014 (the effective date of Public Act 98-963), establish procedures to permit ID/DD facilities licensed under the ID/DD Community Care Act and MC/DD facilities licensed under the MC/DD Act to submit monthly billing claims for reimbursement purposes. Following development of these procedures, the Department shall have an additional 365 days to test the viability of the new system and to ensure that any necessary operational or structural changes to its information technology platforms are implemented.

The Illinois Department shall require all dispensers of medical services, other than an individual practitioner or group of practitioners, desiring to participate in the Medical Assistance program established under this Article to disclose all financial, beneficial, ownership, equity, surety or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services in this State under this Article.

The Illinois Department may require that all dispensers of medical services desiring to participate in the medical assistance program established under this Article disclose, under such terms and conditions as the Illinois Department may by rule establish, all inquiries from clients and attorneys regarding medical bills paid by the Illinois Department, which inquiries could indicate potential existence of claims or liens for the Illinois Department.

Enrollment of a vendor shall be subject to a provisional period and shall be conditional for one year. During the period of conditional enrollment, the Department may terminate the vendor's eligibility to participate in, or may disenroll the vendor from, the medical assistance program without cause. Unless otherwise specified, such termination of eligibility or disenrollment is not subject to the Department's hearing process. However, a disenrolled vendor may reapply without penalty.

The Department has the discretion to limit the conditional enrollment period for vendors based upon category of risk of the vendor.

Prior to enrollment and during the conditional enrollment period in the medical assistance program, all vendors shall be subject to enhanced oversight, screening, and review based on the risk of fraud, waste, and abuse that is posed by the category of risk of the vendor. The Illinois Department shall establish the procedures for oversight, screening, and review, which may include, but need not be limited to: criminal and financial background checks; fingerprinting; license, certification, and authorization verifications; unscheduled or unannounced site visits; database checks; prepayment audit reviews; audits; payment caps; payment suspensions; and other screening as required by federal or State law.

The Department shall define or specify the following: (i) by provider notice, the "category of risk of the vendor" for each type of vendor, which shall take into account the level of screening applicable to a particular category of vendor under federal law and regulations; (ii) by rule or provider notice, the maximum length of the conditional enrollment period for each category of risk of the vendor; and (iii) by rule, the hearing rights, if any, afforded to a vendor in each category of risk of the vendor that is terminated or disenrolled during the conditional enrollment period.

To be eligible for payment consideration, a vendor's payment claim or bill, either as an initial claim or as a resubmitted claim following prior rejection, must be received by the Illinois Department, or its fiscal intermediary, no later than 180 days after the latest date on the claim on which medical goods or services were provided, with the following exceptions:

- (1) In the case of a provider whose enrollment is in process by the Illinois Department, the 180-day period shall not begin until the date on the written notice from the Illinois Department that the provider enrollment is complete.
- (2) In the case of errors attributable to the Illinois Department or any of its claims processing intermediaries which result in an inability to receive, process, or adjudicate a claim, the 180-day period shall not begin until the provider has been notified of the error.
- (3) In the case of a provider for whom the Illinois Department initiates the monthly billing process.
- (4) In the case of a provider operated by a unit of local government with a population exceeding 3,000,000 when local government funds finance federal participation for claims payments.

For claims for services rendered during a period for which a recipient received retroactive eligibility, claims must be filed within 180 days after the Department determines the applicant is eligible. For claims for which the Illinois Department is not the primary payer, claims must be submitted to the Illinois Department within 180 days after the final adjudication by the primary payer.

In the case of long term care facilities, within 45 calendar days ~~5 days of receipt by the facility of required prescreening information, data for new admissions shall be entered into the Medical Electronic Data Interchange (MEDI) or the Recipient Eligibility Verification (REV) System or successor system, and within 15 days of receipt by the facility of required prescreening information, new admissions with associated admission documents shall be submitted through the Medical Electronic Data Interchange (MEDI) or the Recipient Eligibility Verification (REV) System~~ MEDI or REV or shall be submitted directly to the Department of Human Services using required admission forms. Effective September 1, 2014, admission documents, including all prescreening information, must be submitted through MEDI or REV. Confirmation numbers assigned to an accepted transaction shall be retained by a facility to verify timely submittal. Once an admission transaction has been completed, all resubmitted claims following prior rejection are subject to receipt no later than 180 days after the admission transaction has been completed.

Claims that are not submitted and received in compliance with the foregoing requirements shall not be eligible for payment under the medical assistance program, and the State shall have no liability for payment of those claims.

To the extent consistent with applicable information and privacy, security, and disclosure laws, State and federal agencies and departments shall provide the Illinois Department access to confidential and other information and data necessary to perform eligibility and payment verifications and other Illinois Department functions. This includes, but is not limited to: information pertaining to licensure; certification; earnings; immigration status; citizenship; wage reporting; unearned and earned income; pension income; employment; supplemental security income; social security numbers; National Provider Identifier (NPI) numbers; the National Practitioner Data Bank (NPDB); program and agency exclusions; taxpayer identification numbers; tax delinquency; corporate information; and death records.

The Illinois Department shall enter into agreements with State agencies and departments, and is authorized to enter into agreements with federal agencies and departments, under which such agencies and departments shall share data necessary for medical assistance program integrity functions and oversight. The Illinois Department shall develop, in cooperation with other State departments and agencies, and in compliance with applicable federal laws and regulations, appropriate and effective methods to share such data. At a minimum, and to the extent necessary to provide data sharing, the Illinois Department shall enter into agreements with State agencies and departments, and is authorized to enter into agreements with federal agencies and departments, including but not limited to: the Secretary of State; the Department of Revenue; the Department of Public Health; the Department of Human Services; and the Department of Financial and Professional Regulation.

Beginning in fiscal year 2013, the Illinois Department shall set forth a request for information to identify the benefits of a pre-payment, post-adjudication, and post-edit claims system with the goals of streamlining claims processing and provider reimbursement, reducing the number of pending or rejected claims, and helping to ensure a more transparent adjudication process through the utilization of: (i) provider data verification and provider screening technology; and (ii) clinical code editing; and (iii) pre-pay, pre- or post-adjudicated predictive modeling with an integrated case management system with link analysis. Such a request for information shall not be considered as a request for proposal or as an obligation on the part of the Illinois Department to take any action or acquire any products or services.

The Illinois Department shall establish policies, procedures, standards and criteria by rule for the acquisition, repair and replacement of orthotic and prosthetic devices and durable medical equipment. Such rules shall provide, but not be limited to, the following services: (1) immediate repair or replacement of such devices by recipients; and (2) rental, lease, purchase or lease-purchase of durable medical equipment in a cost-effective manner, taking into consideration the recipient's medical prognosis, the extent of the recipient's needs, and the requirements and costs for maintaining such equipment. Subject to prior approval, such rules shall enable a recipient to temporarily acquire and use alternative or substitute devices or equipment pending repairs or replacements of any device or equipment previously authorized for such recipient by the Department. Notwithstanding any provision of Section 5-5f to the contrary, the Department may, by rule, exempt certain replacement wheelchair parts from prior approval and, for wheelchairs, wheelchair parts, wheelchair accessories, and related seating and positioning items, determine the wholesale price by methods other than actual acquisition costs.

The Department shall require, by rule, all providers of durable medical equipment to be accredited by an accreditation organization approved by the federal Centers for Medicare and Medicaid Services and recognized by the Department in order to bill the Department for providing durable medical equipment to recipients. No later than 15 months after the effective date of the rule adopted pursuant to this paragraph, all providers must meet the accreditation requirement.

The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department on Aging, to effect the following: (i) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (ii) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped; and (iii) notwithstanding any other provision of law, subject to federal approval, on and after July 1, 2012, an increase in the determination of need (DON) scores from 29 to 37 for applicants for institutional and home and community-based long term care; if and only if federal approval is not granted, the Department may, in conjunction with other affected agencies, implement utilization controls or changes in benefit packages to effectuate a similar savings amount for this population; and (iv) no later than July 1, 2013, minimum level of care eligibility criteria for institutional and home and community-based long term care; and (v) no later than October 1, 2013, establish procedures to permit long term care providers access to eligibility scores for individuals with an admission date who are seeking or receiving services from the long term care provider. In order to select the minimum level of care eligibility criteria, the Governor shall establish a workgroup that includes affected agency representatives and stakeholders representing the institutional and home and community-based long term care interests. This Section shall not restrict the Department from implementing lower

level of care eligibility criteria for community-based services in circumstances where federal approval has been granted.

The Illinois Department shall develop and operate, in cooperation with other State Departments and agencies and in compliance with applicable federal laws and regulations, appropriate and effective systems of health care evaluation and programs for monitoring of utilization of health care services and facilities, as it affects persons eligible for medical assistance under this Code.

The Illinois Department shall report annually to the General Assembly, no later than the second Friday in April of 1979 and each year thereafter, in regard to:

- (a) actual statistics and trends in utilization of medical services by public aid recipients;
- (b) actual statistics and trends in the provision of the various medical services by medical vendors;
- (c) current rate structures and proposed changes in those rate structures for the various medical vendors; and
- (d) efforts at utilization review and control by the Illinois Department.

The period covered by each report shall be the 3 years ending on the June 30 prior to the report. The report shall include suggested legislation for consideration by the General Assembly. The filing of one copy of the report with the Speaker, one copy with the Minority Leader and one copy with the Clerk of the House of Representatives, one copy with the President, one copy with the Minority Leader and one copy with the Secretary of the Senate, one copy with the Legislative Research Unit, and such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act shall be deemed sufficient to comply with this Section.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

On and after July 1, 2012, the Department shall reduce any rate of reimbursement for services or other payments or alter any methodologies authorized by this Code to reduce any rate of reimbursement for services or other payments in accordance with Section 5-5e.

Because kidney transplantation can be an appropriate, cost effective alternative to renal dialysis when medically necessary and notwithstanding the provisions of Section 1-11 of this Code, beginning October 1, 2014, the Department shall cover kidney transplantation for noncitizens with end-stage renal disease who are not eligible for comprehensive medical benefits, who meet the residency requirements of Section 5-3 of this Code, and who would otherwise meet the financial requirements of the appropriate class of eligible persons under Section 5-2 of this Code. To qualify for coverage of kidney transplantation, such person must be receiving emergency renal dialysis services covered by the Department. Providers under this Section shall be prior approved and certified by the Department to perform kidney transplantation and the services under this Section shall be limited to services associated with kidney transplantation.

Notwithstanding any other provision of this Code to the contrary, on or after July 1, 2015, all FDA approved forms of medication assisted treatment prescribed for the treatment of alcohol dependence or treatment of opioid dependence shall be covered under both fee for service and managed care medical assistance programs for persons who are otherwise eligible for medical assistance under this Article and shall not be subject to any (1) utilization control, other than those established under the American Society of Addiction Medicine patient placement criteria, (2) prior authorization mandate, or (3) lifetime restriction limit mandate.

On or after July 1, 2015, opioid antagonists prescribed for the treatment of an opioid overdose, including the medication product, administration devices, and any pharmacy fees related to the dispensing and administration of the opioid antagonist, shall be covered under the medical assistance program for persons who are otherwise eligible for medical assistance under this Article. As used in this Section, "opioid antagonist" means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration.

Upon federal approval, the Department shall provide coverage and reimbursement for all drugs that are approved for marketing by the federal Food and Drug Administration and that are recommended by the federal Public Health Service or the United States Centers for Disease Control and Prevention for pre-exposure prophylaxis and related pre-exposure prophylaxis services, including, but not limited to, HIV and sexually transmitted infection screening, treatment for sexually transmitted infections, medical

monitoring, assorted labs, and counseling to reduce the likelihood of HIV infection among individuals who are not infected with HIV but who are at high risk of HIV infection.

(Source: P.A. 98-104, Article 9, Section 9-5, eff. 7-22-13; 98-104, Article 12, Section 12-20, eff. 7-22-13; 98-303, eff. 8-9-13; 98-463, eff. 8-16-13; 98-651, eff. 6-16-14; 98-756, eff. 7-16-14; 98-963, eff. 8-15-14; 99-78, eff. 7-20-15; 99-180, eff. 7-29-15; 99-236, eff. 8-3-15; 99-407 (see Section 20 of P.A. 99-588 for the effective date of P.A. 99-407); 99-433, eff. 8-21-15; 99-480, eff. 9-9-15; 99-588, eff. 7-20-16; 99-642, eff. 7-28-16; 99-772, eff. 1-1-17; 99-895, eff. 1-1-17; revised 9-20-16.)"

Under the rules, the foregoing **Senate Bill No. 1544**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1811

A bill for AN ACT concerning regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1811

Passed the House, as amended, May 24, 2017.

TIMOTHY D. MAPES, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1811

AMENDMENT NO. 1. Amend Senate Bill 1811 on page 1, line 8, by deleting "and"; and

on page 1, line 9, after "Illinois", by inserting ", and mental health professionals and clinicians authorized by Illinois law to provide mental health services"; and

on page 1, line 14, after "telemedicine", by inserting "and the delivery of health care services provided by way of an interactive telecommunications system, as defined in subsection (a) of Section 356z.22 of the Illinois Insurance Code"; and

on page 1, line 15, by replacing "Licensure" with "Practice authority"; and

on page 1, line 17, after "licensed" by inserting "or authorized to practice".

Under the rules, the foregoing **Senate Bill No. 1811**, with House Amendment No. 1, was referred to the Secretary's Desk.

SENATE BILL RECALLED

On motion of Senator Cunningham, **Senate Bill No. 1381** was recalled from the order of third reading to the order of second reading.

Senator Cunningham offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1381

AMENDMENT NO. 1. Amend Senate Bill 1381 as follows:

on page 1, line 8, after "13-103,", by inserting "13-301.1,"; and

on page 6, immediately below line 18, by inserting the following:

"(220 ILCS 5/13-301.1) (from Ch. 111 2/3, par. 13-301.1)

(Section scheduled to be repealed on July 1, 2017)

Sec. 13-301.1. Universal Telephone Service Assistance Program.

(a) The Commission shall by rule or regulation establish a Universal Telephone Service Assistance Program for low income residential customers. The program shall provide for a reduction of access line

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charges, a reduction of connection charges, or any other alternative assistance or program to increase accessibility to telephone service and broadband Internet access service that the Commission deems advisable subject to the availability of funds for the program as provided in subsections (d) and (e). The Commission shall establish eligibility requirements for benefits under the program.

(b) The Commission shall adopt rules providing for enhanced enrollment for eligible consumers to receive lifeline service. Enhanced enrollment may include, but is not limited to, joint marketing, joint application, or joint processing with the Low-Income Home Energy Assistance Program, the Medicaid Program, and the Food Stamp Program. The Department of Human Services, the Department of Healthcare and Family Services, and the Department of Commerce and Economic Opportunity, upon request of the Commission, shall assist in the adoption and implementation of those rules. The Commission and the Department of Human Services, the Department of Healthcare and Family Services, and the Department of Commerce and Economic Opportunity may enter into memoranda of understanding establishing the respective duties of the Commission and the Departments in relation to enhanced enrollment.

(c) In this Section: †

"Lifeline ~~lifeline~~ service" means a retail local service offering described by 47 CFR C.F.R. Section 54.401(a), as amended.

(d) The Commission shall require by rule or regulation that each telecommunications carrier providing local exchange telecommunications services notify its customers that if the customer wishes to participate in the funding of the Universal Telephone Service Assistance Program he may do so by electing to contribute, on a monthly basis, a fixed amount that will be included in the customer's monthly bill. The customer may cease contributing at any time upon providing notice to the telecommunications carrier providing local exchange telecommunications services. The notice shall state that any contribution made will not reduce the customer's bill for telecommunications services. Failure to remit the amount of increased payment will reduce the contribution accordingly. The Commission shall specify the monthly fixed amount or amounts that customers wishing to contribute to the funding of the Universal Telephone Service Assistance Program may choose from in making their contributions. Every telecommunications carrier providing local exchange telecommunications services shall remit the amounts contributed in accordance with the terms of the Universal Telephone Service Assistance Program.

(e) Amounts collected and remitted under subsection (d) may, to the extent the Commission deems advisable, be used for funding a program to be administered by the entity designated by the Commission as administrator of the Universal Telephone Service Assistance Program for educating and assisting low-income residential customers with a transition to Internet protocol-based networks and services. This program may include, but need not be limited to, measures designed to notify and educate residential customers regarding the availability of alternative voice services with access to 9-1-1, access to and use of broadband Internet access service, and pricing options.

(Source: P.A. 94-793, eff. 5-19-06; 95-331, eff. 8-21-07.); and

by replacing line 25 on page 7 through line 18 on page 16 with the following:

"(220 ILCS 5/13-406.1 new)

Sec. 13-406.1. Large Electing Provider transition to IP-based networks and service.

(a) As used in this Section:

"Alternative voice service" means service that includes all of the applicable functionalities for voice telephony services described in 47 CFR 54.101(a).

"Existing customer" means a residential customer of the Large Electing Provider who is subscribing to a telecommunications service on the date the Large Electing Provider sends its notice under paragraph (1) of subsection (c) of this Section of its intent to cease offering and providing service. For purposes of this Section, a residential customer of the Large Electing Provider whose service has been temporarily suspended, but not finally terminated as of the date that the Large Electing Provider sends such notice, shall be deemed to be an "existing customer".

"Large Electing Provider" means an Electing Provider, as defined in Section 13-506.2 of this Act, that reported in its annual competition report for the year 2016 filed with the Commission under Section 13-407 of this Act and 83 Ill. Adm. Code 793 that it provided at least 700,000 access lines to end users.

"New customer" means a residential customer who is not subscribing to a telecommunications service provided by the Large Electing Provider on the date the Large Electing Provider sends its notice under paragraph (1) of subsection (c) of this Section of its intent to cease offering and providing such service.

"Provider" includes every corporation, company, association, firm, partnership, and individual and their lessees, trustees, or receivers appointed by any court that sell or offer to sell an alternative voice service.

"Reliable access to 9-1-1" means access to 9-1-1 that complies with the applicable rules, regulations, and guidelines established by the Federal Communications Commission and the applicable provisions of the Emergency Telephone System Act and implementing rules.

"Willing provider" means a provider that voluntarily participates in the request for service process.

(b) Beginning June 30, 2017, a Large Electing Provider may, to the extent permitted by and consistent with federal law, including, as applicable, approval by the Federal Communications Commission of the discontinuance of the interstate-access component of a telecommunications service, cease to offer and provide a telecommunications service to an identifiable class or group of customers, other than voice telecommunications service to residential customers, upon 60 days' notice to the Commission and affected customers.

(c) Beginning June 30, 2017, a Large Electing Provider may, to the extent permitted by and consistent with federal law, cease to offer and provide voice telecommunications service to an identifiable class or group of residential customers, which, for the purposes of this subsection (c), shall be referred to as "requested service", subject to compliance with the following requirements:

(1) No less than 255 days prior to providing notice to the Federal Communications Commission of its intent to discontinue the interstate-access component of the requested service, the Large Electing Provider shall:

(A) file a notice of the proposed cessation of the requested service with the Commission; and

(B) provide notice of the proposed cessation of the requested service to each of the Large Electing Provider's existing customers within the affected geographic area by first-class mail separate from customer bills. If the customer has elected to receive electronic billing, the notice shall be sent electronically and by first-class mail separate from customer bills. The notice provided under this subparagraph (B) must describe the requested service, identify the earliest date on which the Large Electing Provider intends to cease offering or providing the telecommunications service, provide a telephone number by which the existing customer may contact a service representative of the Large Electing Provider, and provide a telephone number by which the existing customer may contact the Commission's Consumer Services Division. The notice shall also include the following statement:

"If you do not believe that an alternative voice service including reliable access to 9-1-1 is available to you, from either [name of Large Electing Provider] or another provider of wired or wireless voice service where you live, you have the right to request the Illinois Commerce Commission to investigate the availability of alternative voice service including reliable access to 9-1-1. To do so, you must submit such a request in either writing or by signing and returning a copy of this notice, no later than (insert date), 60 days after the date of the notice to the following address:

Chief Clerk of the Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62706

You must include in your request a reference to the notice you received from [Large Electing Provider's name] and the date of notice."

Thirty days following the date of notice, the Large Electing Provider shall provide each customer to which the notice was sent a follow-up notice containing the same information and reminding customers of the deadline for requesting the Commission to investigate alternative voice service with access to 9-1-1.

(2) After June 30, 2017, and only in a geographic area for which a Large Electing Provider has provided notice of proposed cessation of the requested service to existing customers under paragraph (1) of this subsection (c), an existing customer of that provider may, within 60 days after issuance of such notice, request the Commission to investigate the availability of alternative voice service including reliable access to 9-1-1 to that customer. For the purposes of this paragraph (2), existing customers who make such a request are referred to as "requesting existing customers". The Large Electing Provider may cease to offer or provide the requested service to existing customers who do not make a request for investigation beginning 30 days after issuance of the notice required by paragraph (5) of this subsection (c).

(A) In response to all requests and investigations under this paragraph (2), the Commission shall conduct a single investigation to be commenced 75 days after the receipt of notice under paragraph (1) of this subsection (c), and completed within 135 days after commencement. The Commission shall, within 135 days after commencement of the investigation, make one of the findings described in subdivisions (i) and (ii) of this subparagraph (A) for each requesting existing customer.

(i) If, as a result of the investigation, the Commission finds that service from at least one provider offering alternative voice service including reliable access to 9-1-1 through any technology or medium is available to one or more requesting existing customers, the Commission shall declare by order that, with respect to each requesting existing customer for which such a finding is made, the Large Electing Provider

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may cease to offer or provide the requested service beginning 30 days after the issuance of the notice required by paragraph (5) of this subsection (c).

(ii) If, as a result of the investigation, the Commission finds that service from at least one provider offering alternative voice service, including reliable access to 9-1-1, through any technology or medium is not available to one or more requesting existing customers, the Commission shall declare by order that an emergency exists with respect to each requesting existing customer for which such a finding is made.

(B) If the Commission declares an emergency under subdivision (ii) of subparagraph (A) of this paragraph (2) with respect to one or more requesting existing customers, the Commission shall conduct a request for service process to identify a willing provider of alternative voice service including reliable access to 9-1-1. A provider shall not be required to participate in the request for service process. The willing provider may utilize any form of technology that is capable of providing alternative voice service including reliable access to 9-1-1, including, without limitation, Voice over Internet Protocol services and wireless services. The Commission shall, within 45 days after the issuance of an order finding that an emergency exists, make one of the determinations described in subdivisions (i) and (ii) of this subparagraph (B) for each requesting existing customer for which an emergency has been declared.

(i) If the Commission determines that another provider is willing and capable of providing alternative voice service including reliable access to 9-1-1 to one or more requesting existing customers for which an emergency has been declared, the Commission shall declare by order that, with respect to each requesting existing customer for which such a determination is made, the Large Electing Provider may cease to offer or provide the requested service beginning 30 days after the issuance of the notice required by paragraph (5) of this Section.

(ii) If the Commission determines that for one or more of the requesting existing customers for which an emergency has been declared there is no other provider willing and capable of providing alternative voice service including reliable access to 9-1-1, the Commission shall issue an order requiring the Large Electing Provider to provide alternative voice service including reliable access to 9-1-1 to each such requesting existing customer utilizing any form of technology capable of providing alternative voice service including reliable access to 9-1-1, including, without limitation, continuation of the requested service, Voice over Internet Protocol services, and wireless services, until another willing provider is available. A Large Electing Provider may fulfill the requirement through an affiliate or another provider. The Large Electing Provider may request that such an order be rescinded upon a showing that an alternative voice service including reliable access to 9-1-1 has become available to the requesting existing customer from another provider.

(3) If the Commission receives no requests for investigation from any existing customer under paragraph (2) of this subsection (c) within 60 days after issuance of the notice under paragraph (1) of this subsection (c), the Commission shall provide written notice to the Large Electing Provider of that fact no later than 75 days after receipt of notice under paragraph (1) of this subsection (c). Notwithstanding any provision of this subsection (c) to the contrary, if no existing customer requests an investigation under paragraph (2) of this subsection (c), the Large Electing Provider may immediately provide the notice to the Federal Communications Commission as described in paragraph (4) of this subsection (c).

(4) At the same time that it provides notice to the Federal Communications Commission of its intent to discontinue the interstate-access component of the requested service, the Large Electing Provider shall:

(A) file a notice of proposal to cease to offer and provide the requested service with the Commission; and

(B) provide a notice of proposal to cease to offer and provide the requested service to existing customers and new customers receiving the service at the time of the notice within each affected geographic area, with the notice made by first-class mail or within customer bills delivered by mail or equivalent means of notice, including electronic means if the customer has elected to receive electronic billing. The notice provided under this subparagraph (B) must include a brief description of the requested service, the date on which the Large Electing Provider intends to cease offering or providing the telecommunications service, and a statement as required by 47 CFR 63.71 that describes the process by which the customer may submit comments to the Federal Communications Commission.

(5) Upon approval by the Federal Communications Commission of its request to discontinue the interstate-access component of the requested service and subject to the requirements of any order issued by the Commission under subdivision (ii) of subparagraph (B) of paragraph (2) of this subsection (c), the Large Electing Provider may immediately cease to offer the requested service to all customers not receiving the service on the date of the Federal Communications Commission's approval and may cease to offer and provide the requested service to all customers receiving the service at the time of the Federal Communications Commission's approval upon 30 days' notice to the Commission and affected customers.

Notice to affected customers under this paragraph (5) shall be provided by first-class mail separate from customer bills. The notice provided under this paragraph (5) must describe the requested service, identify the date on which the Large Electing Provider intends to cease offering or providing the telecommunications service, and provide a telephone number by which the existing customer may contact a service representative of the Large Electing Provider.

(6) The notices provided for in paragraph (1) of this subsection (c) are not required as a prerequisite for the Large Electing Provider to cease to offer or provide a telecommunications service in a geographic area where there are no residential customers taking service from the Large Electing Provider on the date that the Large Electing Provider files notice to the Federal Communications Commission of its intent to discontinue the interstate-access component of the requested service in such a geographic area.

(7) For a period of 45 days following the date of a notice issued pursuant to paragraph (5) of this Section, any existing customer (i) who is located in the affected geographic area subject to that notice; (ii) who was receiving the requested service as of the date of the Federal Communications Commission's approval of the Large Electing Provider's request to discontinue the interstate-access component of the requested service; (iii) who did not make a timely request for investigation pursuant to paragraph (2) of this Section; and (iv) whose service will be or has been discontinued pursuant paragraph (5), may request assistance from the Large Electing Provider in identifying providers of alternative voice service including reliable access to 9-1-1. Within 15 days of the request, the Large Electing Provider shall provide the customer with a list of alternative voice service providers.

(8) Notwithstanding any other provision of this Act, except as expressly authorized by this subsection (c), the Commission may not, upon its own motion or upon complaint, investigate, suspend, disapprove, condition, or otherwise regulate the cessation of a telecommunications service to an identifiable class or group of customers once initiated by a Large Electing Provider under subsection (b) or this subsection (c)."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Cunningham, **Senate Bill No. 1381** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS 2.

The following voted in the affirmative:

Althoff	Harmon	McConchie	Sandoval
Anderson	Harris	McConnaughay	Schimpf
Aquino	Hastings	McGuire	Silverstein
Barickman	Holmes	Morrison	Stadelman
Bennett	Hunter	Mulroe	Stears
Bertino-Tarrant	Hutchinson	Muñoz	Syverson
Bivins	Jones, E.	Murphy	Tracy
Brady	Koehler	Nybo	Trotter
Bush	Landek	Oberweis	Van Pelt
Castro	Lightford	Radogno	Weaver
Clayborne	Link	Raoul	Mr. President
Connelly	Manar	Rezin	
Cullerton, T.	Martinez	Righter	
Cunningham	McCann	Rooney	
Fowler	McCarter	Rose	

The following voted in the negative:

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Biss
Collins

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator McGuire, **Senate Bill No. 1871** was recalled from the order of third reading to the order of second reading.

Senator McGuire offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1871

AMENDMENT NO. 3. Amend Senate Bill 1871, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Use Tax Act is amended by changing Sections 3-55, 3-61, and 10 as follows:

(35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

Sec. 3-55. Multistate exemption. To prevent actual or likely multistate taxation, the tax imposed by this Act does not apply to the use of tangible personal property in this State under the following circumstances:

(a) The use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by the individual for his or her own use while temporarily within this State or while passing through this State.

(b) ~~(Blank). The use, in this State, of tangible personal property by an interstate carrier for hire as rolling stock moving in interstate commerce or by lessors under a lease of one year or longer executed or in effect at the time of purchase of tangible personal property by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.~~

(c) The use, in this State, by owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d) The use, in this State, of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another State in respect to the sale, purchase, or use of that property, to the extent of the amount of the tax properly due and paid in the other State.

(e) The temporary storage, in this State, of tangible personal property that is acquired outside this State and that, after being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing, or shaping, and, as altered, is used solely outside this State.

(f) The temporary storage in this State of building materials and fixtures that are acquired either in this State or outside this State by an Illinois registered combination retailer and construction contractor, and that the purchaser thereafter uses outside this State by incorporating that property into real estate located outside this State.

(g) The use or purchase of tangible personal property by a common carrier by rail or motor that receives the physical possession of the property in Illinois, and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(h) Except as provided in subsection (h-1), the use, in this State, of a motor vehicle that was sold in this State to a nonresident, even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as

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provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred shall be prima facie evidence that the motor vehicle will not be titled in this State.

(h-1) The exemption under subsection (h) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for the use in that state of a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this subsection shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this subsection (h-1) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(h-2) The following exemptions apply with respect to certain aircraft:

(1) Beginning on July 1, 2007, no tax is imposed under this Act on the purchase of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(A) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the purchase of the aircraft or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(B) the aircraft is not based or registered in this State after the purchase of the aircraft; and

(C) the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this item (1) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

(2) Beginning on July 1, 2007, no tax is imposed under this Act on the use of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, that is temporarily located in this State for the purpose of a prepurchase evaluation if all of the following conditions are met:

(A) the aircraft is not based or registered in this State after the prepurchase evaluation; and

(B) the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this item (2) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

(3) Beginning on July 1, 2007, no tax is imposed under this Act on the use of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, that is temporarily located in this State for the purpose of a post-sale customization if all of the following conditions are met:

(A) the aircraft leaves this State within 15 days after the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(B) the aircraft is not based or registered in this State either before or after the post-sale customization; and

(C) the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this item (3) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

If tax becomes due under this subsection (h-2) because of the purchaser's use of the aircraft in this State, the purchaser shall file a return with the Department and pay the tax on the fair market value of the aircraft. This return and payment of the tax must be made no later than 30 days after the aircraft is used in a taxable manner in this State. The tax is based on the fair market value of the aircraft on the date that it is first used in a taxable manner in this State.

For purposes of this subsection (h-2):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Post-sale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.

"Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This subsection (h-2) is exempt from the provisions of Section 3-90.

(i) Beginning July 1, 1999, the use, in this State, of fuel acquired outside this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce. This subsection is exempt from the provisions of Section 3-90.

(j) Beginning on January 1, 2002 and through June 30, 2016, the use of tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this subsection (j). The permit issued under this subsection (j) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(Source: P.A. 97-73, eff. 6-30-11.)

(35 ILCS 105/3-61)

Sec. 3-61. Motor vehicles; trailers; use as rolling stock definition.

(a) ~~(Blank). Through June 30, 2003, "use as rolling stock moving in interstate commerce" in subsections (b) and (c) of Section 3-55 means for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.~~

~~(b) (Blank). On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (b) and (c) of Section 3-55 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois shall not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips shall be included in total trips taken.~~

~~(c) This subsection (c) applies to motor vehicles, other than limousines, purchased through June 30, 2017. For motor vehicles, other than limousines, purchased on or after July 1, 2017, subsection (d-5) applies. This subsection (c) applies to limousines purchased before, on, or after July 1, 2017. "Use Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraph paragraphs (b) and (c) of Section 3-55 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make~~

an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for the following vehicles: (i) motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds; and (ii) limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code. Through June 30, 2017, this ~~This~~ definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof. On and after July 1, 2017, this definition applies to property purchased for the purpose of being attached to limousines as a part thereof.

~~(d) For purchases made through June 30, 2017~~ Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in ~~paragraph~~ paragraphs (b) and (c) of Section 3-55 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(d-5) For motor vehicles and trailers purchased on or after July 1, 2017, "use as rolling stock moving in interstate commerce" means that:

(1) the motor vehicle or trailer is used to transport persons or property for hire;

(2) for purposes of the exemption under subsection (c) of Section 3-55, the purchaser who is an owner, lessor, or shipper claiming the exemption certifies that the motor vehicle or trailer will be utilized, from the time of purchase and continuing through the statute of limitations for issuing a notice of tax liability under this Act, by an interstate carrier or carriers for hire who hold, and are required by Federal Motor Carrier Safety Administration regulations to hold, an active USDOT Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire"; and

(3) for motor vehicles, the gross vehicle weight rating exceeds 16,000 pounds.

The definition of "use as rolling stock moving in interstate commerce" in this subsection (d-5) applies to all property purchased on or after July 1, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof, regardless of whether the motor vehicle or trailer was purchased before, on, or after July 1, 2017.

If an item ceases to meet requirements (1) through (3) under this subsection (d-5), then the tax is imposed on the selling price, allowing for a reasonable depreciation for the period during which the item qualified for the exemption.

For purposes of this subsection (d-5):

"Motor vehicle" excludes limousines, but otherwise means that term as defined in Section 1-146 of the Illinois Vehicle Code.

"Trailer" means (i) "trailer", as defined in Section 1-209 of the Illinois Vehicle Code, (ii) "semitrailer", as defined in Section 1-187 of the Illinois Vehicle Code, and (iii) "pole trailer" as defined in Section 1-161 of the Illinois Vehicle Code.

(e) For aircraft and watercraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" in ~~paragraph (b) and~~ (c) of Section 3-55 occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in this subsection. For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in this subsection.

Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft or watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in this subsection (e), regardless of when the aircraft or watercraft was purchased. Persons who purchased aircraft or watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce under this subsection (e).

(f) The election to use either the trips or mileage method made under the provisions of subsections (c), (d), or (e) of this Section will remain in effect for the duration of the purchaser's ownership of that item. (Source: P.A. 98-584, eff. 8-27-13.)

(35 ILCS 105/10) (from Ch. 120, par. 439.10)

Sec. 10. Except as to motor vehicles, aircraft, watercraft, and trailers, and except as to cigarettes as defined in the Cigarette Use Tax Act, when tangible personal property is purchased from a retailer for use in this State by a purchaser who did not pay the tax imposed by this Act to the retailer, and who does not file returns with the Department as a retailer under Section 9 of this Act, such purchaser (by the last day of the month following the calendar month in which such purchaser makes any payment upon the selling price of such property) shall, except as otherwise provided in this Section, file a return with the Department and pay the tax upon that portion of the selling price so paid by the purchaser during the preceding calendar month. ~~When tangible personal property, including but not limited to motor vehicles and aircraft, is purchased by a lessor, under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire, who did not pay the tax imposed by this Act to the retailer, such lessor (by the last day of the month following the calendar month in which such property reverts to the use of such lessor) shall file a return with the Department and pay the tax upon the fair market value of such property on the date of such reversion. However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property that was paid by the lessor at the time of purchase. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require. Such return and payment from the purchaser shall be submitted to the Department sooner than the last day of the month after the month in which the purchase is made to the extent that that may be necessary in order to secure the title to a motor vehicle or the certificate of registration for an aircraft. However, except as to motor vehicles and aircraft, and except as to cigarettes as defined in the Cigarette Use Tax Act, if the purchaser's annual use tax liability does not exceed \$600, the purchaser may file the return on an annual basis on or before April 15th of the year following the year use tax liability was incurred. Individual purchasers with an annual use~~

tax liability that does not exceed \$600 may, in lieu of the filing and payment requirements in this Section, file and pay in compliance with Section 502.1 of the Illinois Income Tax Act.

If cigarettes, as defined in the Cigarette Use Tax Act, are purchased from a retailer for use in this State by a purchaser who did not pay the tax imposed by this Act to the retailer, and who does not file returns with the Department as a retailer under Section 9 of this Act, such purchaser must, within 30 days after acquiring the cigarettes, file a return with the Department and pay the tax upon that portion of the selling price so paid by the purchaser for the cigarettes.

In addition with respect to motor vehicles, aircraft, watercraft, and trailers, a purchaser of such tangible personal property for use in this State, who purchases such tangible personal property from an out-of-state retailer, shall file with the Department, upon a form to be prescribed and supplied by the Department, a return for each such item of tangible personal property purchased, except that if, in the same transaction, (i) a purchaser of motor vehicles, aircraft, watercraft, or trailers who is a retailer of motor vehicles, aircraft, watercraft, or trailers purchases more than one motor vehicle, aircraft, watercraft, or trailer for the purpose of resale or (ii) a purchaser of motor vehicles, aircraft, watercraft, or trailers purchases more than one motor vehicle, aircraft, watercraft, or trailer for use as qualifying rolling stock as provided in Section 3-55 of this Act, then the purchaser may report the purchase of all motor vehicles, aircraft, watercraft, or trailers involved in that transaction to the Department on a single return prescribed by the Department. Such return in the case of motor vehicles and aircraft must show the name and address of the seller, the name, address of purchaser, the amount of the selling price including the amount allowed by the retailer for traded in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the purchaser with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such return shall be filed not later than 30 days after such motor vehicle or aircraft is brought into this State for use.

For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

The return and tax remittance or proof of exemption from the tax that is imposed by this Act may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

With each such return, the purchaser shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

When a purchaser pays a tax imposed by this Act directly to the Department, the Department (upon request therefor from such purchaser) shall issue an appropriate receipt to such purchaser showing that he has paid such tax to the Department. Such receipt shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer.

A user who is liable to pay use tax directly to the Department only occasionally and not on a frequently recurring basis, and who is not required to file returns with the Department as a retailer under Section 9 of this Act, or under the "Retailers' Occupation Tax Act", or as a registrant with the Department under the "Service Occupation Tax Act" or the "Service Use Tax Act", need not register with the Department. However, if such a user has a frequently recurring direct use tax liability to pay to the Department, such user shall be required to register with the Department on forms prescribed by the Department and to obtain and display a certificate of registration from the Department. In that event, all of the provisions of Section 9 of this Act concerning the filing of regular monthly, quarterly or annual tax returns and all of the provisions of Section 2a of the "Retailers' Occupation Tax Act" concerning the requirements for registrants to post bond or other security with the Department, as the provisions of such sections now exist or may hereafter be amended, shall apply to such users to the same extent as if such provisions were included herein.

(Source: P.A. 96-520, eff. 8-14-09; 96-1000, eff. 7-2-10; 96-1388, eff. 7-29-10.)

Section 10. The Service Use Tax Act is amended by changing Sections 2 and 3-51 as follows:
(35 ILCS 110/2) (from Ch. 120, par. 439.32)

Sec. 2. Definitions.

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

"Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.

"Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.

"Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him or her by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of service" means any transaction except:

(1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(3) except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body, or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(4) ~~(blank), a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or by lessors under a lease of one year or longer, executed or in effect at the time of purchase of personal property, to interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by such interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.~~

(4a) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors, or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common

carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a-5) on and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax. The exemption provided by this paragraph (5) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this exemption.

(5a) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property to a destination outside Illinois, for use outside Illinois.

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(6) until July 1, 2003, a sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(7) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (5) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (3) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of service or of tangible personal property within the meaning of this Act.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman:

1. having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here

permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

1.1. having a contract with a person located in this State under which the person, for a commission or other consideration based on the sale of service by the serviceman, directly or indirectly refers potential customers to the serviceman by providing to the potential customers a promotional code or other mechanism that allows the serviceman to track purchases referred by such persons. Examples of mechanisms that allow the serviceman to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph 1.1 shall apply only if the cumulative gross receipts from sales of service by the serviceman to customers who are referred to the serviceman by all persons in this State under such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December; a serviceman meeting the requirements of this paragraph 1.1 shall be presumed to be maintaining a place of business in this State but may rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods;

1.2. beginning July 1, 2011, having a contract with a person located in this State under which:

A. the serviceman sells the same or substantially similar line of services as the person located in this State and does so using an identical or substantially similar name, trade name, or trademark as the person located in this State; and

B. the serviceman provides a commission or other consideration to the person located in this State based upon the sale of services by the serviceman.

The provisions of this paragraph 1.2 shall apply only if the cumulative gross receipts from sales of service by the serviceman to customers in this State under all such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December;

2. soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;

3. pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

4. soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

5. being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

6. having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

7. pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State; or

8. engaging in activities in Illinois, which activities in the state in which the supply business engaging in such activities is located would constitute maintaining a place of business in that state.

(Source: P.A. 98-583, eff. 1-1-14; 98-1089, eff. 1-1-15.)

(35 ILCS 110/3-51)

Sec. 3-51. Motor vehicles; trailers; use as rolling stock definition.

(a) (Blank). Through June 30, 2003, "use as rolling stock moving in interstate commerce" in subsection (b) of Section 3-45 means for motor vehicles, as defined in Section 1-46 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.

(b) ~~(Blank). On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and subsection (b) of Section 3-45 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois shall not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips shall be included in total trips taken.~~

(c) This subsection (c) applies to motor vehicles, other than limousines, purchased through June 30, 2017. For motor vehicles, other than limousines, purchased on or after July 1, 2017, subsection (d-5) applies. This subsection (c) applies to limousines purchased before, on, or after July 1, 2017. "Use Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraph paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and subsection (b) of Section 3-45 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for the following vehicles: (i) motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds; and (ii) limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code. Through June 30, 2017, this This definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof. On and after July 1, 2017, this definition applies to property purchased for the purpose of being attached to limousines as a part thereof.

(d) For purchases made through June 30, 2017 Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraph paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and subsection (b) of Section 3-45 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of

motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(d-5) For motor vehicles and trailers purchased on or after July 1, 2017, "use as rolling stock moving in interstate commerce" means that:

(1) the motor vehicle or trailer is used to transport persons or property for hire;

(2) for purposes of the exemption under paragraph (4a) of the definition of "sale of service" in Section 2, the purchaser who is an owner, lessor, or shipper claiming the exemption certifies that the motor vehicle or trailer will be utilized, from the time of purchase and continuing through the statute of limitations for issuing a notice of tax liability under this Act, by an interstate carrier or carriers for hire who hold, and are required by Federal Motor Carrier Safety Administration regulations to hold, an active USDOT Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire"; and

(3) for motor vehicles, the gross vehicle weight rating exceeds 16,000 pounds.

The definition of "use as rolling stock moving in interstate commerce" in this subsection (d-5) applies to all property purchased on or after July 1, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof, regardless of whether the motor vehicle or trailer was purchased before, on, or after July 1, 2017.

If an item ceases to meet requirements (1) through (3) under this subsection (d-5), then the tax is imposed on the selling price, allowing for a reasonable depreciation for the period during which the item qualified for the exemption.

For purposes of this subsection (d-5):

"Motor vehicle" excludes limousines, but otherwise means that term as defined in Section 1-146 of the Illinois Vehicle Code.

"Trailer" means (i) "trailer", as defined in Section 1-209 of the Illinois Vehicle Code, (ii) "semitrailer", as defined in Section 1-187 of the Illinois Vehicle Code, and (iii) "pole trailer", as defined in Section 1-161 of the Illinois Vehicle Code.

(e) For aircraft and watercraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" in (i) ~~paragraph~~ paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and (ii) subsection (b) of Section 3-45 occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in this subsection. For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in this subsection.

Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft or watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in this subsection (e), regardless of when the aircraft or watercraft was purchased. Persons who purchased aircraft or watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce under this subsection (e).

(f) The election to use either the trips or mileage method made under the provisions of subsections (c), (d), or (e) of this Section will remain in effect for the duration of the purchaser's ownership of that item. (Source: P.A. 98-584, eff. 8-27-13.)

Section 15. The Service Occupation Tax Act is amended by changing Sections 2 and 2d as follows:
(35 ILCS 115/2) (from Ch. 120, par. 439.102)

[May 24, 2017]

Sec. 2. "Transfer" means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.

"Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of Service" means any transaction except:

(a) A retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(c) Except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

~~(d) (Blank). A sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.~~

(d-1) A sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d-1.1) On and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(d-2) The repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-3) A sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares

with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-4) Until January 1, 1997, a sale, by a registered serviceman paying tax under this Act to the Department, of special order printed materials delivered outside Illinois and which are not returned to this State, if delivery is made by the seller or agent of the seller, including an agent who causes the product to be delivered outside Illinois by a common carrier or the U.S. postal service.

(e) A sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax. The exemption provided by this paragraph (e) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this exemption.

(f) Until July 1, 2003, the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(g) At the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (e) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of exemption (e), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3)

"machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

Except as provided in Section 2d of this Act, the rolling stock exemption applies to rolling stock used by an interstate carrier for hire, even just between points in Illinois, if such rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (e) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (c) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at Retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

(Source: P.A. 98-583, eff. 1-1-14.)

(35 ILCS 115/2d)

Sec. 2d. Motor vehicles; trailers; use as rolling stock definition.

(a) ~~(Blank). Through June 30, 2003, "use as rolling stock moving in interstate commerce" in subsections (d) and (d-1) of the definition of "sale of service" in Section 2 means for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.~~

~~(b) (Blank). On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (d) and (d-1) of the definition of "sale of service" in Section 2 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois will not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips will be included in total trips taken.~~

~~(c) This subsection (c) applies to motor vehicles, other than limousines, purchased through June 30, 2017. For motor vehicles, other than limousines, purchased on or after July 1, 2017, subsection (d-5) applies. This subsection (c) applies to limousines purchased before, on, or after July 1, 2017. "Use Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraph paragraphs (d) and (d-1) of the definition of "sale of service" in Section 2 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor~~

vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for the following vehicles: (i) motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds; and (ii) limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code. Through June 30, 2017, this ~~This~~ definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof. On and after July 1, 2017, this definition applies to property purchased for the purpose of being attached to limousines as a part thereof.

~~(d) For purchases made through June 30, 2017~~ Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in ~~paragraph (d) and (d-1)~~ paragraphs (d) and (d-1) of the definition of "sale of service" in Section 2 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

- (1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.
- (2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.
- (3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(d-5) For motor vehicles and trailers purchased on or after July 1, 2017, "use as rolling stock moving in interstate commerce" means that:

- (1) the motor vehicle or trailer is used to transport persons or property for hire;
- (2) for purposes of the exemption under paragraph (d-1) of the definition of "sale of service" in Section 2, the purchaser who is an owner, lessor, or shipper claiming the exemption certifies that the motor vehicle or trailer will be utilized, from the time of purchase and continuing through the statute of limitations for issuing a notice of tax liability under this Act, by an interstate carrier or carriers for hire who hold, and are required by Federal Motor Carrier Safety Administration regulations to hold, an active USDOT Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire"; and

(3) for motor vehicles, the gross vehicle weight rating exceeds 16,000 pounds.

The definition of "use as rolling stock moving in interstate commerce" in this subsection (d-5) applies to all property purchased on or after July 1, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof, regardless of whether the motor vehicle or trailer was purchased before, on, or after July 1, 2017.

If an item ceases to meet requirements (1) through (3) under this subsection (d-5), then the tax is imposed on the selling price, allowing for a reasonable depreciation for the period during which the item qualified for the exemption.

For purposes of this subsection (d-5):

"Motor vehicle" excludes limousines, but otherwise means that term as defined in Section 1-146 of the Illinois Vehicle Code.

"Trailer" means (i) "trailer", as defined in Section 1-209 of the Illinois Vehicle Code, (ii) "semitrailer", as defined in Section 1-187 of the Illinois Vehicle Code, and (iii) "pole trailer", as defined in Section 1-161 of the Illinois Vehicle Code.

(e) For aircraft and watercraft purchased on or after January 1 2014, "use as rolling stock moving in interstate commerce" in ~~paragraph (d)~~ and (d-1) of the definition of "sale of service" in Section 2 occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in this subsection. For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in this subsection.

Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft or watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in this subsection (e), regardless of when the aircraft or watercraft was purchased. Persons who purchased aircraft or watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce under this subsection (e).

(f) The election to use either the trips or mileage method made under the provisions of subsections (c), (d), or (e) of this Section will remain in effect for the duration of the purchaser's ownership of that item. (Source: P.A. 98-584, eff. 8-27-13.)

Section 20. The Retailers' Occupation Tax Act is amended by changing Sections 2-5 and 2-51 as follows:

(35 ILCS 120/2-5)

Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil

testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (2) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department.

~~(12) (Blank). Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.~~

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial

purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (14) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption.

(15) Proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(22) Until June 30, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed

on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor

who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (40) by Public Act 98-534 are declarative of existing law.

(41) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 2-70.

(42) Beginning January 1, 2017, menstrual pads, tampons, and menstrual cups. (Source: P.A. 98-104, eff. 7-22-13; 98-422, eff. 8-16-13; 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-574, eff. 1-1-14; 98-583, eff. 1-1-14; 98-756, eff. 7-16-14; 99-180, eff. 7-29-15; 99-855, eff. 8-19-16.)

(35 ILCS 120/2-51)

Sec. 2-51. Motor vehicles; trailers; use as rolling stock definition.

(a) (Blank). Through June 30, 2003, "use as rolling stock moving in interstate commerce" in paragraphs (12) and (13) of Section 2-5 means for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose

journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.

(b) (Blank). On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (12) and (13) of Section 2-5 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois shall not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips shall be included in total trips taken.

(c) This subsection (c) applies to motor vehicles, other than limousines, purchased through June 30, 2017. For motor vehicles, other than limousines, purchased on or after July 1, 2017, subsection (d-5) applies. This subsection (c) applies to limousines purchased before, on, or after July 1, 2017. "Use Beginning July 1, 2004," use as rolling stock moving in interstate commerce" in paragraph paragraphs (12) and (13) of Section 2-5 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for the following vehicles: (i) motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds; and (ii) limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code. Through June 30, 2017, this ~~This~~ definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof. On and after July 1, 2017, this definition applies to property purchased for the purpose of being attached to limousines as a part thereof.

(d) For purchases made through June 30, 2017 ~~Beginning July 1, 2004,~~ "use as rolling stock moving in interstate commerce" in paragraph paragraphs (12) and (13) of Section 2-5 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of

motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(d-5) For motor vehicles and trailers purchased on or after July 1, 2017, "use as rolling stock moving in interstate commerce" means that:

(1) the motor vehicle or trailer is used to transport persons or property for hire;

(2) for purposes of the exemption under paragraph (13) of Section 2-5, the purchaser who is an owner, lessor, or shipper claiming the exemption certifies that the motor vehicle or trailer will be utilized, from the time of purchase and continuing through the statute of limitations for issuing a notice of tax liability under this Act, by an interstate carrier or carriers for hire who hold, and are required by Federal Motor Carrier Safety Administration regulations to hold, an active USDOT Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire"; and

(3) for motor vehicles, the gross vehicle weight rating exceeds 16,000 pounds.

The definition of "use as rolling stock moving in interstate commerce" in this subsection (d-5) applies to all property purchased on or after July 1, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof, regardless of whether the motor vehicle or trailer was purchased before, on, or after July 1, 2017.

If an item ceases to meet requirements (1) through (3) under this subsection (d-5), then the tax is imposed on the selling price, allowing for a reasonable depreciation for the period during which the item qualified for the exemption.

For purposes of this subsection (d-5):

"Motor vehicle" excludes limousines, but otherwise means that term as defined in Section 1-146 of the Illinois Vehicle Code.

"Trailer" means (i) "trailer", as defined in Section 1-209 of the Illinois Vehicle Code, (ii) "semitrailer", as defined in Section 1-187 of the Illinois Vehicle Code, and (iii) "pole trailer", as defined in Section 1-161 of the Illinois Vehicle Code.

(e) For aircraft and watercraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" in ~~paragraph paragraphs~~ (12) and (13) of Section 2-5 occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in this subsection. For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in this subsection.

Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft or watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in this subsection (e), regardless of when the aircraft or watercraft was purchased. Persons who purchased aircraft or watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce under this subsection (e).

(f) The election to use either the trips or mileage method made under the provisions of subsections (c), (d), or (e) of this Section will remain in effect for the duration of the purchaser's ownership of that item. (Source: P.A. 98-584, eff. 8-27-13.)

Section 99. Effective date. This Act takes effect July 1, 2017."

The motion prevailed.

[May 24, 2017]

And the amendment was adopted and ordered printed.

Senator McGuire offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 1871

AMENDMENT NO. 4. Amend Senate Bill 1871, AS AMENDED, with reference to the page and line numbers in Senate Amendment No. 3, as follows:

on page 15, line 15, after "hire";, by inserting "except that this paragraph (2) does not apply to a motor vehicle or trailer used at an airport to support the operation of an aircraft moving in interstate commerce, as long as (i) in the case of a motor vehicle, the motor vehicle meets paragraphs (1) and (3) of this subsection (d-5) or (ii) in the case of a trailer, the trailer meets paragraph (1) of this subsection (d-5);"; and

on page 43, line 12, after "hire";, by inserting "except that this paragraph (2) does not apply to a motor vehicle or trailer used at an airport to support the operation of an aircraft moving in interstate commerce, as long as (i) in the case of a motor vehicle, the motor vehicle meets paragraphs (1) and (3) of this subsection (d-5) or (ii) in the case of a trailer, the trailer meets paragraph (1) of this subsection (d-5);"; and

on page 61, line 12, after "hire";, by inserting "except that this paragraph (2) does not apply to a motor vehicle or trailer used at an airport to support the operation of an aircraft moving in interstate commerce, as long as (i) in the case of a motor vehicle, the motor vehicle meets paragraphs (1) and (3) of this subsection (d-5) or (ii) in the case of a trailer, the trailer meets paragraph (1) of this subsection (d-5);"; and

on page 88, line 25, after "hire";, by inserting "except that this paragraph (2) does not apply to a motor vehicle or trailer used at an airport to support the operation of an aircraft moving in interstate commerce, as long as (i) in the case of a motor vehicle, the motor vehicle meets paragraphs (1) and (3) of this subsection (d-5) or (ii) in the case of a trailer, the trailer meets paragraph (1) of this subsection (d-5);".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 3 and 4 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator McGuire, **Senate Bill No. 1871** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Cunningham	McCann	Rooney
Anderson	Fowler	McCarter	Rose
Aquino	Harmon	McConchie	Sandoval
Barickman	Harris	McConnaughay	Schimpf
Bennett	Hastings	McGuire	Silverstein
Bertino-Tarrant	Holmes	Morrison	Steans
Biss	Hunter	Mulroe	Syverson
Bivins	Hutchinson	Muñoz	Tracy
Brady	Jones, E.	Murphy	Trotter
Bush	Koehler	Nybo	Van Pelt
Castro	Landek	Oberweis	Weaver
Clayborne	Lightford	Radogno	Mr. President
Collins	Link	Raoul	
Connelly	Manar	Rezin	
Cullerton, T.	Martinez	Righter	

[May 24, 2017]

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Manar, **Senate Bill No. 2185** was recalled from the order of third reading to the order of second reading.

Floor Amendment Nos. 2 and 3 were held in the Committee on Criminal Law.

Senator Manar offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2185

AMENDMENT NO. 4. Amend Senate Bill 2185 by replacing everything after the enacting clause with the following:

"Section 1. This Act may be referred to as Conon's Law.

Section 5. The Department of State Police Law of the Civil Administrative Code of Illinois is amended by adding Section 2605-54 as follows:

(20 ILCS 2605/2605-54 new)

Sec. 2605-54. Training policy; persons arrested while under the influence of alcohol or drugs. The Department shall adopt a policy and provide training to State Police officers concerning response and care for persons under the influence of alcohol or drugs. The policy shall be consistent with the Alcoholism and Other Drug Abuse and Dependency Act and shall provide guidance for the arrest of persons under the influence of alcohol or drugs, proper medical attention if warranted, and care and release of those persons from custody. The policy shall provide guidance concerning the release of persons arrested under the influence of alcohol or drugs who are under the age of 21 years of age which shall include, but not be limited to, language requiring the arresting officer to make a reasonable attempt to contact a responsible adult who is willing to take custody of the person who is under the influence of alcohol or drugs.

Section 10. The Illinois Police Training Act is amended by adding Section 10.17-5 as follows:

(50 ILCS 705/10.17-5 new)

Sec. 10.17-5. Training policy; persons arrested while under the influence of alcohol or drugs. The Board shall create a model policy to train law enforcement officers to respond to a person arrested who is under the influence of alcohol or drugs and the eventual release of that person from custody. The Board shall create a separate model policy for the release of persons arrested under the influence of alcohol or drugs who are under the age of 21 years of age. This policy shall include, but not be limited to, language requiring the arresting officer to make a reasonable attempt to contact a responsible adult who is willing to take custody of the person who is under the influence of alcohol or drugs.

Section 15. The Illinois Vehicle Code is amended by changing Section 4-203 as follows:

(625 ILCS 5/4-203) (from Ch. 95 1/2, par. 4-203)

Sec. 4-203. Removal of motor vehicles or other vehicles; towing or hauling away.

(a) When a vehicle is abandoned, or left unattended, on a toll highway, interstate highway, or expressway for 2 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(b) When a vehicle is abandoned on a highway in an urban district 10 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(c) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for 24 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(d) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

(e) Whenever a peace officer reasonably believes that a person under arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance is likely, upon release, to commit a subsequent violation of Section 11-501, or a similar provision of a local ordinance, the arresting officer shall have the vehicle which the person was operating at the time of the arrest impounded for a period of ~~not more than~~ 12 hours after the time of arrest. However, such vehicle may be released by the arresting law enforcement agency prior to the end of the impoundment period if:

(1) the vehicle was not owned by the person under arrest, and the lawful owner requesting such release possesses a valid operator's license, proof of ownership, and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of this Code; or

(2) the vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such vehicle, provided however, that the other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or who would otherwise, by operating such motor vehicle, be in violation of this Code.

(e-5) Whenever a registered owner of a vehicle is taken into custody for operating the vehicle in violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code, a law enforcement officer may have the vehicle immediately impounded for a period not less than:

(1) 24 hours for a second violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses; or

(2) 48 hours for a third violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses.

The vehicle may be released sooner if the vehicle is owned by the person under arrest and the person under arrest gives permission to another person to operate the vehicle and that other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or would otherwise, by operating the motor vehicle, be in violation of this Code.

(f) Except as provided in Chapter 18a of this Code, the owner or lessor of privately owned real property within this State, or any person authorized by such owner or lessor, or any law enforcement agency in the case of publicly owned real property may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation or storage or damage caused by such removal, transportation or storage. The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of the vehicle is subject to compliance with the following conditions and restrictions:

1. Any towed or removed vehicle must be stored at the site of the towing service's place of business. The site must be open during business hours, and for the purpose of redemption of vehicles, during the time that the person or firm towing such vehicle is open for towing purposes.

2. The towing service shall within 30 minutes of completion of such towing or removal, notify the law enforcement agency having jurisdiction of such towing or removal, and the make, model, color and license plate number of the vehicle, and shall obtain and record the name of the person at the law enforcement agency to whom such information was reported.

3. If the registered owner or legally authorized person entitled to possession of the vehicle shall arrive at the scene prior to actual removal or towing of the vehicle, the vehicle shall be disconnected from the tow truck and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one half the posted rate of the towing service as provided in paragraph 6 of this subsection, for which a receipt shall be given.

4. The rebate or payment of money or any other valuable consideration from the towing service or its owners, managers or employees to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited. Any individual who violates this paragraph shall be guilty of a Class A misdemeanor.

5. Except for property appurtenant to and obviously a part of a single family residence, and except for instances where notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and they are subject to being removed at the owner or operator's expense, any property owner or lessor, prior to towing or removing any vehicle from private property without the

consent of the owner or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:

a. Except as otherwise provided in subparagraph a.1 of this subdivision (f)5, the notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one sign each 100 feet of lot frontage.

a.1. In a municipality with a population of less than 250,000, as an alternative to the requirement of subparagraph a of this subdivision (f)5, the notice for a parking lot contained within property used solely for a 2-family, 3-family, or 4-family residence may be prominently placed at the perimeter of the parking lot, in a position where the notice is visible to the occupants of vehicles entering the lot.

b. The notice must indicate clearly, in not less than 2 inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense.

c. The notice must also provide the name and current telephone number of the towing service towing or removing the vehicle.

d. The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than 4 feet above ground level, and must be continuously maintained on the property for not less than 24 hours prior to the towing or removing of any vehicle.

6. Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize them to remove vehicles as provided in this Section. The towing and storage charges, however, shall not exceed the maximum allowed by the Illinois Commerce Commission under Section 18a-200.

7. No person shall engage in the removal of vehicles from private property as described in this Section without filing a notice of intent in each community where he intends to do such removal, and such notice shall be filed at least 7 days before commencing such towing.

8. No removal of a vehicle from private property shall be done except upon express written instructions of the owners or persons in charge of the private property upon which the vehicle is said to be trespassing.

9. Vehicle entry for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damages occasioned to the vehicle if such entry is not in accordance with the standards of reasonable care.

9.5. Except as authorized by a law enforcement officer, no towing service shall engage in the removal of a commercial motor vehicle that requires a commercial driver's license to operate by operating the vehicle under its own power on a highway.

10. When a vehicle has been towed or removed pursuant to this Section, it must be released to its owner or custodian within one half hour after requested, if such request is made during business hours. Any vehicle owner or custodian or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the towing service from liability for damages incurred during the towing and storage may be required from any vehicle owner or other legally authorized person as a condition of release of the vehicle. A detailed, signed receipt showing the legal name of the towing service must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

This Section shall not apply to law enforcement, firefighting, rescue, ambulance, or other emergency vehicles which are marked as such or to property owned by any governmental entity.

When an authorized person improperly causes a motor vehicle to be removed, such person shall be liable to the owner or lessee of the vehicle for the cost or removal, transportation and storage, any damages resulting from the removal, transportation and storage, attorney's fee and court costs.

Any towing or storage charges accrued shall be payable by the use of any major credit card, in addition to being payable in cash.

11. Towing companies shall also provide insurance coverage for areas where vehicles towed under the provisions of this Chapter will be impounded or otherwise stored, and shall adequately cover loss by fire, theft or other risks.

Any person who fails to comply with the conditions and restrictions of this subsection shall be guilty of a Class C misdemeanor and shall be fined not less than \$100 nor more than \$500.

(g)(1) When a vehicle is determined to be a hazardous dilapidated motor vehicle pursuant to Section 11-40-3.1 of the Illinois Municipal Code or Section 5-12002.1 of the Counties Code, its removal and impoundment by a towing service may be authorized by a law enforcement agency with appropriate jurisdiction.

(2) When a vehicle removal from either public or private property is authorized by a law enforcement agency, the owner of the vehicle shall be responsible for all towing and storage charges.

(3) Vehicles removed from public or private property and stored by a commercial vehicle relocater or any other towing service authorized by a law enforcement agency in compliance with this Section and Sections 4-201 and 4-202 of this Code, or at the request of the vehicle owner or operator, shall be subject to a possessor lien for services pursuant to the Labor and Storage Lien (Small Amount) Act. The provisions of Section 1 of that Act relating to notice and implied consent shall be deemed satisfied by compliance with Section 18a-302 and subsection (6) of Section 18a-300. In no event shall such lien be greater than the rate or rates established in accordance with subsection (6) of Section 18a-200 of this Code. In no event shall such lien be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act. Every such lien shall be payable by use of any major credit card, in addition to being payable in cash.

(4) Any personal property belonging to the vehicle owner in a vehicle subject to a lien under this subsection (g) shall likewise be subject to that lien, excepting only: child restraint systems as defined in Section 4 of the Child Passenger Protection Act and other child booster seats; eyeglasses; food; medicine; perishable property; any operator's licenses; any cash, credit cards, or checks or checkbooks; any wallet, purse, or other property containing any operator's license or other identifying documents or materials, cash, credit cards, checks, or checkbooks; and any personal property belonging to a person other than the vehicle owner if that person provides adequate proof that the personal property belongs to that person. The spouse, child, mother, father, brother, or sister of the vehicle owner may claim personal property excepted under this paragraph (4) if the person claiming the personal property provides the commercial vehicle relocater or towing service with the authorization of the vehicle owner.

(5) This paragraph (5) applies only in the case of a vehicle that is towed as a result of being involved in an accident. In addition to the personal property excepted under paragraph (4), all other personal property in a vehicle subject to a lien under this subsection (g) is exempt from that lien and may be claimed by the vehicle owner if the vehicle owner provides the commercial vehicle relocater or towing service with proof that the vehicle owner has an insurance policy covering towing and storage fees. The spouse, child, mother, father, brother, or sister of the vehicle owner may claim personal property in a vehicle subject to a lien under this subsection (g) if the person claiming the personal property provides the commercial vehicle relocater or towing service with the authorization of the vehicle owner and proof that the vehicle owner has an insurance policy covering towing and storage fees. The regulation of liens on personal property and exceptions to those liens in the case of vehicles towed as a result of being involved in an accident are exclusive powers and functions of the State. A home rule unit may not regulate liens on personal property and exceptions to those liens in the case of vehicles towed as a result of being involved in an accident. This paragraph (5) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(6) No lien under this subsection (g) shall: exceed \$2,000 in its total amount; or be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act.

(h) Whenever a peace officer issues a citation to a driver for a violation of subsection (a) of Section 11-506 of this Code, the arresting officer may have the vehicle which the person was operating at the time of the arrest impounded for a period of 5 days after the time of arrest. An impounding agency shall release a motor vehicle impounded under this subsection (h) to the registered owner of the vehicle under any of the following circumstances:

(1) If the vehicle is a stolen vehicle; or

(2) If the person ticketed for a violation of subsection (a) of Section 11-506 of this Code was not authorized by the registered owner of the vehicle to operate the vehicle at the time of the violation; or

(3) If the registered owner of the vehicle was neither the driver nor a passenger in the vehicle at the time of the violation or was unaware that the driver was using the vehicle to engage in street racing; or

(4) If the legal owner or registered owner of the vehicle is a rental car agency; or

(5) If, prior to the expiration of the impoundment period specified above, the citation is dismissed or the defendant is found not guilty of the offense.

(i) Except for vehicles exempted under subsection (b) of Section 7-601 of this Code, whenever a law enforcement officer issues a citation to a driver for a violation of Section 3-707 of this Code, and the driver

has a prior conviction for a violation of Section 3-707 of this Code in the past 12 months, the arresting officer shall authorize the removal and impoundment of the vehicle by a towing service. (Source: P.A. 99-438, eff. 1-1-16.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 4 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Manar, **Senate Bill No. 2185** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS None; Present 2.

The following voted in the affirmative:

Althoff	Fowler	McCann	Rooney
Aquino	Harmon	McConchie	Sandoval
Barickman	Harris	McConnaughay	Schimpf
Bennett	Hastings	McGuire	Silverstein
Bertino-Tarrant	Holmes	Morrison	Steans
Biss	Hunter	Mulroe	Syverson
Brady	Hutchinson	Muñoz	Tracy
Bush	Jones, E.	Murphy	Trotter
Castro	Koehler	Nybo	Van Pelt
Clayborne	Landek	Oberweis	Mr. President
Collins	Lightford	Radogno	
Connelly	Link	Raoul	
Cullerton, T.	Manar	Rezin	
Cunningham	Martinez	Righter	

The following voted present:

Bivins
McCarter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 1451** was recalled from the order of third reading to the order of second reading.

Floor Amendment Nos. 1 and 2 were held in the Committee on Assignments.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1451

AMENDMENT NO. 3. Amend Senate Bill 1451 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Small Wireless Facilities Deployment Act.

[May 24, 2017]

Section 5. Legislative intent. Small wireless facilities are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to homes, businesses, and schools in Illinois. Because of the integral role that the delivery of wireless technology plays in the economic vitality of the State of Illinois and in the lives of its citizens, the General Assembly has determined that a law addressing the deployment of wireless technology is of vital interest to the State. To ensure that public and private Illinois consumers continue to benefit from these services as soon as possible and to ensure that providers of wireless access have a fair and predictable process for the deployment of small wireless facilities in a manner consistent with the character of the area in which the small wireless facilities are deployed, the General Assembly is enacting this Act, which specifies how local authorities may regulate the collocation of small wireless facilities.

Section 7. Applicability. This Act does not apply to a municipality with a population of 1,000,000 or more.

Section 10. Definitions. As used in this Act:

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

"Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

"Applicant" means any person who submits an application and is a wireless provider.

"Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities as well as any applicable fee for the review of such application.

"Authority" means a unit of local government that has jurisdiction and control for use of public rights-of-way as provided by the Illinois Highway Code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way.

"Authority utility pole" means a utility pole owned or operated by an authority in public rights-of-way.

"Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

"Communications service" means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(33), as amended; or wireless service other than mobile service.

"Communications service provider" means a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

"FCC" means the Federal Communications Commission of the United States.

"Fee" means a one-time charge.

"Law" means a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

"Micro wireless facility" means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

"Permit" means a written authorization required by an authority to perform an action or initiate, continue, or complete a project.

"Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

"Rate" means a recurring charge.

"Right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. "Right-of-way" does not include authority aerial lines.

"Small wireless facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements,

telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

"Utility pole" means a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, signage, or a similar function.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

"Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the State, that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles, but that is not a wireless services provider.

"Wireless provider" means a wireless infrastructure provider or a wireless services provider.

"Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

"Wireless services provider" means a person who provides wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole.

Section 15. Regulation of small wireless facilities.

(a) This Section applies to activities of a wireless provider within or outside rights-of-way.

(b) Except as provided in this Section, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities.

(c) Small wireless facilities shall be classified as permitted uses and not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zone, or (ii) outside rights-of-way in property not zoned primarily for residential use.

(d) An authority may require an applicant to obtain one or more permits to collocate a small wireless facility, provided that the permits are of general applicability. An authority shall receive applications for, process, and issue permits subject to the following requirements:

(1) An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority on the wireless provider's utility pole. An authority may reserve space on authority utility poles for future public safety uses or for the authority's electric utility uses, but a reservation of space may not preclude the collocation of a small wireless facility if the authority utility pole can accommodate both uses.

(2) An applicant shall not be required to provide more information to obtain a permit than the authority requires of a communications service provider that is not a wireless provider that requests to attach facilities to a structure; however, a wireless provider may be required to provide the following information when seeking a permit to collocate small wireless facilities on an authority utility pole:

(A) site specific structural integrity and make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

(B) the location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed;

(C) specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

(D) a proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and

(E) certification that the collocation complies with paragraph (6) to the best of the applicant's knowledge.

(3) Subject to paragraph (6), an authority may not require the placement of small wireless facilities on any specific utility pole, or category of poles, or require multiple antenna systems on a single utility pole; however, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, an authority may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 50 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

(4) Subject to paragraph (6), an authority may not limit the placement of pole-mounted small wireless facilities by minimum horizontal separation distances.

(5) An authority may limit the maximum height of a small wireless facility to 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated. Subject to any exception process in an authority's zoning ordinance, the authority may limit the height of new or replacement utility poles or wireless support structures on which small wireless facilities are collocated to the higher of: (i) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the authority, that is located within 500 feet of the new or replacement wireless support structure and that is in the same right of way within the jurisdictional boundary of the authority; or (ii) 45 feet above ground level.

(6) An authority may require that:

(A) the wireless provider's operation of the small wireless facilities in the right-of-way does not interfere with the frequencies used by the authority's public safety communications;

(B) the wireless provider comply with requirements that are imposed by a contract between an authority and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way;

(C) the wireless provider comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning, or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances;

(D) the wireless provider comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right of way without prior approval if the requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles;

(E) the wireless provider comply with generally applicable standards adopted by an authority for construction in the rights-of-way; and

(F) a wireless provider not collocate small wireless facilities on authority utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole; however, the antenna and support equipment of the small wireless facility may be located in the communications space on the pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole; for purposes of this subparagraph (F), the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

(7) Within 30 days after receiving an application, an authority must determine whether the application is complete and notify the applicant. If an application is incomplete, an authority must specifically identify the missing information. An application shall be deemed complete if the authority fails to provide notification to the applicant within 30 days after when all documents, information, and fees specifically enumerated in the authority's permit application form are submitted by the applicant to the authority. Processing deadlines are tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information.

(8) An application shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within 90 days; however, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the authority in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed

approved notice by the authority. The receipt of the deemed approved notice shall not preclude the authority's denial of the permit request within the time limits as provided under this Act.

(9) An authority shall approve an application unless the application does not meet the applicable codes, local code provisions or regulations that concern public safety, written design standards that are generally applicable for decorative utility poles or reasonable stealth and concealment requirements, and the requirements of paragraph (6). If an authority determines that applicable codes, local code provisions or regulations, or the requirements of paragraph (6) require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure. The authority must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The authority shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved; however, the applicant must notify the authority in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial.

(10) The time period for applications may be further tolled by:

(A) the express agreement in writing by both the applicant and the authority; or

(B) a local, State, or federal disaster declaration or similar emergency that causes the delay.

(11) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, the authority may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The authority may issue separate permits for each collocation that is approved in a consolidated application.

(12) Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the authority and the wireless provider agree to extend this period or a delay is caused by make-ready work for an authority utility pole or by the lack of commercial power or backhaul availability at the site. Otherwise, the permit shall be void unless the authority grants an extension in writing to the applicant.

(13) The duration of a permit shall be for a period of not less than 10 years, and the permit shall be renewed for equivalent durations unless the authority makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes or local code provisions or regulations in paragraphs (6) and (9).

(14) An authority may not prohibit, either expressly or de facto, the (i) filing, receiving, or processing applications, or (ii) issuing of permits or other approvals, if any, for the collocation of small wireless facilities unless there has been a local, State, or federal disaster declaration or similar emergency that causes the delay.

(15) Applicants shall submit applications, supporting information, and notices by personal delivery or as otherwise required by the authority. An authority may require that permits, supporting information, and notices be submitted by personal delivery at the authority's designated place of business, by regular mail postmarked on the date due, or by any other commonly used means, including electronic mail, as required by the authority.

(e) Application fees are subject to the following requirements:

(1) An authority may charge an application fee only if the fee is required for similar types of commercial development within the authority's jurisdiction.

(2) An authority shall only charge fees for the actual, direct, and reasonable costs incurred by the authority relating to the granting or processing of an application. The fees shall be reasonably related in time to the incurring of such costs.

(3) A fee may not include: (i) travel expenses incurred by a third party in its review of an application; or (ii) direct payment or reimbursement of fees charged on a contingency basis or a result-based arrangement.

(4) Total application fees, where permitted, shall not exceed the lesser of: (i) the

amount charged by the authority for a building permit for any similar commercial construction, activity, or land use development; or (ii) \$350 for each small wireless facility addressed in the application.

(f) An authority shall not require an application, approval, or permit, or require any fees or other charges, by a communications service provider authorized to occupy the rights-of-way, for: (i) routine maintenance; (ii) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller; or (iii) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes. However, an authority may require a permit to work within rights-of-way for activities that affect traffic patterns or require lane closures. Any permits for work within rights-of-way shall be subject to the requirements provided in this Section.

(g) Nothing in this Act authorizes a person to collocate small wireless facilities on: (1) private property or a privately owned utility pole or wireless support structure without the consent of the property owner; (2) property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation, or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or (3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Act do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed, and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act. For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act.

(h) Agreements between authorities and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, that are in effect before the wireless provider accepts rates or fees under this Act remain in effect for all small wireless facilities collocated on the authority's utility poles pursuant to applications submitted to the authority before the effective date of this Act, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms provided under this Act for the collocation of small wireless facilities that are the subject of an application submitted after the rates, fees, and terms become effective.

(i) An authority shall allow the collocation of small wireless facilities on authority utility poles subject to the following:

(1) An authority may not enter into an exclusive arrangement with any person for the right to attach small wireless facilities to authority utility poles.

(2) The rates and fees for collocations on authority utility poles shall be nondiscriminatory regardless of the services provided by the collocating person.

(3) An authority may charge an annual recurring rate to collocate a small wireless facility on an authority utility pole that equals (i) \$200 per year or (ii) the actual, direct, and reasonable costs related to the wireless provider's use of space on the authority utility pole. In any controversy concerning the appropriateness of a cost-based rate for an authority utility pole, the authority shall have the burden of proving that the rate does not exceed the actual, direct, and reasonable costs for the applicant's proposed use of the pole. Nothing in this paragraph (3) prohibits a wireless provider and an authority from mutually agreeing to an annual recurring rate of less than \$200 to collocate a small wireless facility on an authority utility pole.

(4) If an authority has an existing pole attachment rate, fee, or other term that does not comply with the requirements in this Section, the authority shall, no later than 6 months after the effective date of this Act, reform the rate, fee, or term in compliance with this Section.

(5) Authorities or other persons owning or controlling authority utility poles shall offer rates, fees, and other terms that comply with subparagraphs (A) through (D) of this paragraph (5). Within 6 months after the effective date of this Act or 3 months after receiving a request to collocate its first small wireless facility on an authority utility pole, whichever is later, a person owning or controlling authority utility poles shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small wireless facilities on such poles that comply with subparagraphs (A) through (D) of this paragraph (5).

(A) The rates, fees, and terms must be nondiscriminatory, competitively neutral, and commercially reasonable and must comply with this subsection (i).

(B) For authority utility poles that support aerial facilities used to provide communications services or electric service, wireless providers shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations, and the authority shall

follow a substantially similar process for make-ready work except to the extent that the timing requirements are otherwise addressed in this Act. The good-faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation shall include pole replacement, if necessary.

(C) For authority utility poles that do not support aerial facilities used to provide communications services or electric service, the authority shall provide a good-faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including pole replacement, if necessary, within 90 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. Alternatively, if the authority determines that applicable codes or public safety regulations require the authority utility pole to be replaced to support the requested collocation, the authority may require the wireless provider to replace the authority utility pole.

(D) The authority shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to communications service providers for similar work and shall not include any consultants' fees or expenses for authority utility poles that do not support aerial facilities used to provide communications services or electric service.

(j) An authority shall authorize the collocation of small wireless facilities on utility poles owned or controlled by the authority that are not located within rights-of-way to the same extent the authority permits access to utility poles for other commercial projects or uses. The collocations shall be subject to reasonable and nondiscriminatory rates, fees, and terms as provided in an agreement between the authority and the wireless provider.

(k) Nothing in this Section precludes an authority from adopting reasonable rules with respect to the removal of abandoned small wireless facilities. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of the facility must remove the small wireless facility within 90 days after receipt of written notice from the authority notifying the owner of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the authority to the owner at the last known address of the owner.

(l) Nothing in this Section requires an authority to install or maintain any specific utility pole or to continue to install or maintain utility poles in any location if the authority makes a non-discriminatory decision to eliminate above-ground utility poles of a particular type generally, such as electric utility poles, in all or a significant portion of its geographic jurisdiction. For authority utility poles with collocated small wireless facilities in place when an authority makes a decision to eliminate above-ground utility poles of a particular type generally, the authority shall either (i) continue to maintain the authority utility pole or install and maintain a reasonable alternative utility pole or wireless support structure for the collocation of the small wireless facility, or (ii) offer to sell the utility pole to the wireless provider at a reasonable cost or allow the wireless provider to install its own utility pole so it can maintain service from that location.

Section 20. Local authority. Subject to this Act and applicable federal law, an authority may continue to exercise zoning, land use, planning, and permitting authority within its territorial boundaries, including with respect to wireless support structures and utility poles; except that no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not otherwise owned or controlled by the authority, other than to comply with applicable codes and local code provisions concerning public safety. Nothing in this Act authorizes the State or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.

Section 25. Dispute resolution. A circuit court has jurisdiction to resolve all disputes arising under this Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority utility poles, the authority shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per utility pole, with rates to be determined upon final resolution of the dispute.

Section 30. Indemnification. A wireless provider shall indemnify and hold an authority harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the authority improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the authority or its

employees or agents. A wireless provider shall further waive any claims that they may have against an authority with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Section 35. Insurance.

(a) During the period in which the wireless provider's facilities are located on the authority improvements or rights-of-way, the authority may require the wireless provider to carry, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; or (iii) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage. An authority may require a wireless provider to include the authority as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the authority in a commercial general liability policy as reasonably required by the authority.

(b) A wireless provider may self-insure all or a portion of the insurance coverage and limit requirements required by an authority. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the naming of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the authority evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limits required by the authority.

Section 40. Home rule. A home rule unit may not regulate small wireless facilities in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 90. Repeal. This Act is repealed on June 1, 2020.

Section 100. The Counties Code is amended by changing Section 5-12001.2 as follows:
(55 ILCS 5/5-12001.2)

Sec. 5-12001.2. Regulation of telecommunications facilities; Lake County pilot project. In addition to any other requirements under this Division concerning the regulation of telecommunications facilities and except as provided by the Small Wireless Facilities Deployment Act, the following applies to any new telecommunications facilities in Lake County that are not AM telecommunications towers or facilities:

(a) For every new wireless telecommunications facility requiring a new tower structure, a telecommunications carrier shall provide the county with documentation consisting of the proposed location, a site plan, and an elevation that sufficiently describes a proposed wireless facility location.

(b) The county shall have 7 days to review the facility proposal and contact the telecommunications carrier in writing via e-mail or other written means as specified by the telecommunications carrier. This written communication shall either approve the proposed location or request a meeting to review other possible alternative locations. If requested, the meeting shall take place within 7 days after the date of the written communication.

(c) At the meeting, the telecommunications carrier shall provide the county documentation consisting of radio frequency engineering criteria and a corresponding telecommunications facility search ring map, together with documentation of the carrier's efforts to site the proposed facility within the telecommunications facility search ring.

(d) Within 21 days after receipt of the carrier's documentation, the county shall propose either an alternative site within the telecommunications facility search ring, or an alternative site outside of the telecommunications search ring that meets the radio frequency engineering criteria provided by the telecommunications carrier and that will not materially increase the construction budget beyond what was estimated on the original carrier proposed site.

(e) If the county's proposed alternative site meets the radio frequency engineering criteria provided by the telecommunications carrier, and will not materially increase the construction budget beyond what was estimated on the original carrier proposed site, then the telecommunications carrier shall agree to build the facility at the alternative location, subject to the negotiation of a lease with commercially reasonable terms and the obtainment of the customary building permits.

(f) If the telecommunications carrier can demonstrate that: (i) the county's proposed alternative site does not meet the radio frequency engineering criteria, (ii) the county's proposed alternative site will materially increase the construction budget beyond what was estimated on the

original carrier proposed site, (iii) the county has failed to provide an alternative site, or (iv) after a period of 90 days after receipt of the alternative site, the telecommunications carrier has failed, after acting in good faith and with due diligence, to obtain a lease or, at a minimum, a letter of intent to lease the alternative site at lease rates not materially greater than the lease rate for the original proposed site; then the carrier can proceed to permit and construct the site under the provisions and standards of Section 5-12001.1 of this Code.

(Source: P.A. 98-197, eff. 8-9-13; 98-756, eff. 7-16-14.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 1451

AMENDMENT NO. 4. Amend Senate Bill 1451, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 3, on page 4, line 13, by replacing "authority" with "authority-owned"; and

on page 16, line 18, by replacing "by" with "from"; and

on page 17, lines 3 and 4, by deleting "Any permits for work within rights-of-way shall be subject to the requirements provided in this Section."; and

on page 18, line 2, after "Act.", by inserting "Nothing in this Act shall be construed to relieve any person from any requirement (1) to obtain a franchise or a state-issued authorization to offer cable service or video service or (2) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Act."; and

on page 24, line 18, by replacing "During" with "Except for a wireless provider with an existing franchise to occupy and operate in the rights-of-way, during".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 3 and 4 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 1451** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 47; NAYS 8.

The following voted in the affirmative:

Althoff	Cullerton, T.	Martinez	Righter
Anderson	Cunningham	McCann	Rose
Aquino	Fowler	McConchie	Sandoval
Barickman	Harmon	McConnaughay	Silverstein
Bennett	Harris	McGuire	Steans
Bertino-Tarrant	Hastings	Morrison	Syverson
Biss	Hunter	Mulroe	Tracy
Brady	Hutchinson	Muñoz	Trotter
Bush	Jones, E.	Oberweis	Van Pelt
Clayborne	Koehler	Radogno	Weaver
Collins	Lightford	Raoul	Mr. President
Connelly	Link	Rezin	

[May 24, 2017]

The following voted in the negative:

Bivins	Landek	Rooney
Castro	McCarter	Schimpf
Holmes	Nybo	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet at 4:00 o'clock p.m.:

Higher Education in Room 212

The Chair announced the following committee to meet at 5:30 o'clock p.m.:

Transportation in Room 212

COMMITTEE MEETING ANNOUNCEMENTS FOR MAY 25, 2017

The Chair announced the following committees to meet at 9:30 o'clock a.m.:

Education in Room 212
Public Health in Room 400

The Chair announced the following committee to meet at 10:15 o'clock a.m.:

Labor in Room 212

The Chair announced the following committees to meet at 11:00 o'clock a.m.:

Revenue in Room 212
Insurance in Room 400

At the hour of 3:06 o'clock p.m., the Chair announced that the Senate stand at ease. Senator Link, presiding.

AT EASE

At the hour of 3:14 o'clock p.m., the Senate resumed consideration of business.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2017 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Insurance: **HOUSE BILL 2959; Floor Amendment No. 2 to House Bill 1954.**

Public Health: **HOUSE BILL 481.**

[May 24, 2017]

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Hastings, **Senate Bill No. 2021** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Criminal Law, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2021

AMENDMENT NO. 1. Amend Senate Bill 2021 by replacing everything after the enacting clause with the following:

"Section 5. The Juvenile Court Act of 1987 is amended by changing Sections 1-7, 1-8, and 5-915 as follows:

(705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

Sec. 1-7. Confidentiality of law enforcement, municipal ordinance violation, and traffic records.

(A) All juvenile records which have not been expunged are sealed and may never be disclosed to the general public or otherwise made widely available. Sealed records may be obtained only under this Section and Section 1-8 and 5-915 of this Act, when their use is needed for good cause and with the approval of the juvenile court, as required. Inspection and copying of law enforcement records maintained by law enforcement agencies or records of municipal ordinance or traffic violations maintained by any State, local, or municipal agency that relate to a minor who has been investigated, arrested, or taken into custody before his or her 18th birthday shall be restricted to the following:

(1) Any local, State or federal law enforcement officers of any jurisdiction or agency when necessary for the discharge of their official duties during the investigation or prosecution of a crime or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang, or, when necessary for the discharge of its official duties in connection with a particular investigation of the conduct of a law enforcement officer, an independent agency or its staff created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers. For purposes of this Section, "criminal street gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(2) Prosecutors, probation officers, social workers, or other individuals assigned by the court to conduct a pre-adjudication or pre-disposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court, when essential to performing their responsibilities.

(3) Prosecutors and probation officers:

(a) in the course of a trial when institution of criminal proceedings has been permitted or required under Section 5-805; or

(b) when institution of criminal proceedings has been permitted or required under Section 5-805 and such minor is the subject of a proceeding to determine the amount of bail; or

(c) when criminal proceedings have been permitted or required under Section 5-805 and such minor is the subject of a pre-trial investigation, pre-sentence investigation, fitness hearing, or proceedings on an application for probation.

(4) Adult and Juvenile Prisoner Review Board.

(5) Authorized military personnel.

(6) Persons engaged in bona fide research, with the permission of the Presiding Judge of the Juvenile Court and the chief executive of the respective law enforcement agency; provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the minor's record.

(7) Department of Children and Family Services child protection investigators acting in their official capacity.

(8) The appropriate school official only if the agency or officer believes that there is an imminent threat of physical harm to students, school personnel, or others who are present in the school or on school grounds.

(A) Inspection and copying shall be limited to law enforcement records transmitted to the appropriate school official or officials whom the school has determined to have a legitimate educational or safety interest by a local law enforcement agency under a reciprocal reporting system established and maintained between the school district and the local law enforcement agency under

[May 24, 2017]

Section 10-20.14 of the School Code concerning a minor enrolled in a school within the school district who has been arrested or taken into custody for any of the following offenses:

- (i) any violation of Article 24 of the Criminal Code of 1961 or the Criminal Code of 2012;
- (ii) a violation of the Illinois Controlled Substances Act;
- (iii) a violation of the Cannabis Control Act;
- (iv) a forcible felony as defined in Section 2-8 of the Criminal Code of 1961 or the Criminal Code of 2012;
- (v) a violation of the Methamphetamine Control and Community Protection Act;
- (vi) a violation of Section 1-2 of the Harassing and Obscene Communications Act;
- (vii) a violation of the Hazing Act; or
- (viii) a violation of Section 12-1, 12-2, 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5, 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the Criminal Code of 1961 or the Criminal Code of 2012.

The information derived from the law enforcement records shall be kept separate from and shall not become a part of the official school record of that child and shall not be a public record. The information shall be used solely by the appropriate school official or officials whom the school has determined to have a legitimate educational or safety interest to aid in the proper rehabilitation of the child and to protect the safety of students and employees in the school. If the designated law enforcement and school officials deem it to be in the best interest of the minor, the student may be referred to in-school or community based social services if those services are available. "Rehabilitation services" may include interventions by school support personnel, evaluation for eligibility for special education, referrals to community-based agencies such as youth services, behavioral healthcare service providers, drug and alcohol prevention or treatment programs, and other interventions as deemed appropriate for the student.

(B) Any information provided to appropriate school officials whom the school has determined to have a legitimate educational or safety interest by local law enforcement officials about a minor who is the subject of a current police investigation that is directly related to school safety shall consist of oral information only, and not written law enforcement records, and shall be used solely by the appropriate school official or officials to protect the safety of students and employees in the school and aid in the proper rehabilitation of the child. The information derived orally from the local law enforcement officials shall be kept separate from and shall not become a part of the official school record of the child and shall not be a public record. This limitation on the use of information about a minor who is the subject of a current police investigation shall in no way limit the use of this information by prosecutors in pursuing criminal charges arising out of the information disclosed during a police investigation of the minor. For purposes of this paragraph, "investigation" means an official systematic inquiry by a law enforcement agency into actual or suspected criminal activity.

(9) Mental health professionals on behalf of the Illinois Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting, or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act relating to a person who is the subject of juvenile law enforcement records or the respondent to a petition brought under the Sexually Violent Persons Commitment Act who is the subject of the juvenile law enforcement records sought. Any records and any information obtained from those records under this paragraph (9) may be used only in sexually violent persons commitment proceedings.

(10) The president of a park district. Inspection and copying shall be limited to law enforcement records transmitted to the president of the park district by the Illinois State Police under Section 8-23 of the Park District Code or Section 16a-5 of the Chicago Park District Act concerning a person who is seeking employment with that park district and who has been adjudicated a juvenile delinquent for any of the offenses listed in subsection (c) of Section 8-23 of the Park District Code or subsection (c) of Section 16a-5 of the Chicago Park District Act.

(B)(1) Except as provided in paragraph (2), no law enforcement officer or other person or agency may knowingly transmit to the Department of Corrections or the Department of State Police or to the Federal Bureau of Investigation any fingerprint or photograph relating to a minor who has been arrested or taken into custody before his or her 18th birthday, unless the court in proceedings under this Act authorizes the transmission or enters an order under Section 5-805 permitting or requiring the institution of criminal proceedings.

(2) Law enforcement officers or other persons or agencies shall transmit to the Department of State Police copies of fingerprints and descriptions of all minors who have been arrested or taken into custody before their 18th birthday for the offense of unlawful use of weapons under Article

24 of the Criminal Code of 1961 or the Criminal Code of 2012, a Class X or Class 1 felony, a forcible felony as defined in Section 2-8 of the Criminal Code of 1961 or the Criminal Code of 2012, or a Class 2 or greater felony under the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or Chapter 4 of the Illinois Vehicle Code, pursuant to Section 5 of the Criminal Identification Act. Information reported to the Department pursuant to this Section may be maintained with records that the Department files pursuant to Section 2.1 of the Criminal Identification Act. Nothing in this Act prohibits a law enforcement agency from fingerprinting a minor taken into custody or arrested before his or her 18th birthday for an offense other than those listed in this paragraph (2).

(C) ~~The records of law enforcement officers, or of an independent agency created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers, concerning all minors under 18 years of age must be maintained separate from the records of arrests and may not be open to public inspection or their contents disclosed to the public except by order of the court presiding over matters pursuant to this Act or when the institution of criminal proceedings has been permitted or required under Section 5-805 or such a person has been convicted of a crime and is the subject of pre-sentence investigation or proceedings on an application for probation or when provided by law. For purposes of obtaining documents pursuant to this Section, a civil subpoena is not an order of the court.~~

~~(1) In cases where the law enforcement, or independent agency, records concern a pending juvenile court case, the party seeking to inspect the records shall provide actual notice to the attorney or guardian ad litem of the minor whose records are sought.~~

~~(2) In cases where the records concern a juvenile court case that is no longer pending, the party seeking to inspect the records shall provide actual notice to the minor or the minor's parent or legal guardian, and the matter shall be referred to the chief judge presiding over matters pursuant to this Act.~~

~~(3) In determining whether the records should be available for inspection, the court shall consider the minor's interest in confidentiality and rehabilitation over the moving party's interest in obtaining the information. Any records obtained in violation of this subsection (C) shall not be admissible in any criminal or civil proceeding, or operate to disqualify a minor from subsequently holding public office or securing employment, or operate as a forfeiture of any public benefit, right, privilege, or right to receive any license granted by public authority.~~

(D) Nothing contained in subsection (C) of this Section shall prohibit the inspection or disclosure to victims and witnesses of photographs contained in the records of law enforcement agencies when the inspection and disclosure is conducted in the presence of a law enforcement officer for the purpose of the identification or apprehension of any person subject to the provisions of this Act or for the investigation or prosecution of any crime.

(E) Law enforcement officers, and personnel of an independent agency created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers, may not disclose the identity of any minor in releasing information to the general public as to the arrest, investigation or disposition of any case involving a minor.

(F) Nothing contained in this Section shall prohibit law enforcement agencies from communicating with each other by letter, memorandum, teletype or intelligence alert bulletin or other means the identity or other relevant information pertaining to a person under 18 years of age if there are reasonable grounds to believe that the person poses a real and present danger to the safety of the public or law enforcement officers. The information provided under this subsection (F) shall remain confidential and shall not be publicly disclosed, except as otherwise allowed by law.

(G) Nothing in this Section shall prohibit the right of a Civil Service Commission or appointing authority of any state, county or municipality examining the character and fitness of an applicant for employment with a law enforcement agency, correctional institution, or fire department from obtaining and examining the records of any law enforcement agency relating to any record of the applicant having been arrested or taken into custody before the applicant's 18th birthday.

(H) The changes made to this Section by Public Act 98-61 apply to law enforcement records of a minor who has been arrested or taken into custody on or after January 1, 2014 (the effective date of Public Act 98-61).

(I) Any person found to be in violation of this Section is guilty of a Class B misdemeanor and subject to a fine of \$1,000 per violation. This subsection (I) shall not apply to the person who is the subject of the record.

(J) A person convicted of violating this Section is liable for damages in the amount of \$1,000 or actual damages, whichever is greater.

(Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-298, eff. 8-6-15.)

(705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

Sec. 1-8. Confidentiality and accessibility of juvenile court records.

(A) A juvenile adjudication shall never be considered a conviction nor shall an adjudicated individual be considered a criminal. A juvenile adjudication shall not operate to impose upon the individual any of the civil disabilities ordinarily imposed by or resulting from conviction. Adjudications shall not prejudice or disqualify the individual in any civil service application or appointment, from holding public office, or from receiving any license granted by public authority. All juvenile records which have not been expunged are sealed and may never be disclosed to the general public or otherwise made widely available. Sealed records may be obtained only under this Section and Section 1-7 and Section 5-915 of this Act, when their use is needed for good cause and with the approval of the juvenile court, as required. Inspection and copying of juvenile court records relating to a minor who is the subject of a proceeding under this Act shall be restricted to the following:

(1) The minor who is the subject of record, his parents, guardian and counsel.

(2) Law enforcement officers and law enforcement agencies when such information is essential to executing an arrest or search warrant or other compulsory process, or to conducting an ongoing investigation or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang.

Before July 1, 1994, for the purposes of this Section, "criminal street gang" means any ongoing organization, association, or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts and that has a common name or common identifying sign, symbol or specific color apparel displayed, and whose members individually or collectively engage in or have engaged in a pattern of criminal activity.

Beginning July 1, 1994, for purposes of this Section, "criminal street gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(3) Judges, hearing officers, prosecutors, probation officers, social workers or other individuals assigned by the court to conduct a pre-adjudication or predisposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court when essential to performing their responsibilities.

(4) Judges, prosecutors and probation officers:

(a) in the course of a trial when institution of criminal proceedings has been permitted or required under Section 5-805; or

(b) when criminal proceedings have been permitted or required under Section 5-805 and a minor is the subject of a proceeding to determine the amount of bail; or

(c) when criminal proceedings have been permitted or required under Section 5-805 and a minor is the subject of a pre-trial investigation, pre-sentence investigation or fitness hearing, or proceedings on an application for probation; or

(d) when a minor becomes 18 years of age or older, and is the subject of criminal proceedings, including a hearing to determine the amount of bail, a pre-trial investigation, a pre-sentence investigation, a fitness hearing, or proceedings on an application for probation.

(5) Adult and Juvenile Prisoner Review Boards.

(6) Authorized military personnel.

(7) Victims, their subrogees and legal representatives; however, such persons shall have access only to the name and address of the minor and information pertaining to the disposition or alternative adjustment plan of the juvenile court.

(8) Persons engaged in bona fide research, with the permission of the presiding judge of the juvenile court and the chief executive of the agency that prepared the particular records; provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record.

(9) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 of the Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers.

(10) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court.

(11) Mental health professionals on behalf of the Illinois Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting, or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act relating to a person who is the subject of juvenile court records or the respondent to a petition brought under the

Sexually Violent Persons Commitment Act, who is the subject of juvenile court records sought. Any records and any information obtained from those records under this paragraph (11) may be used only in sexually violent persons commitment proceedings.

(A-1) Findings and exclusions of paternity entered in proceedings occurring under Article II of this Act shall be disclosed, in a manner and form approved by the Presiding Judge of the Juvenile Court, to the Department of Healthcare and Family Services when necessary to discharge the duties of the Department of Healthcare and Family Services under Article X of the Illinois Public Aid Code.

(B) A minor who is the victim in a juvenile proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record.

(C) ~~Juvenile~~ ~~Except as otherwise provided in this subsection (C),~~ juvenile court records shall not be made available to the general public. Subject to the limitations in paragraphs (0.1) through (0.4) of this subsection (C), the judge presiding over a juvenile court proceeding brought under this Act, in his or her discretion, may order that juvenile court records of an individual case be made available for inspection upon request by a representative of an agency, association, or news media entity or by a properly interested person. For purposes of inspecting documents under this subsection (C), a civil subpoena is not an order of the court.

(0.1) In cases where the records concern a pending juvenile court case, the requesting party seeking to inspect the juvenile court records shall provide actual notice to the attorney or guardian ad litem of the minor whose records are sought.

(0.2) In cases where the records concern a juvenile court case that is no longer pending, the requesting party seeking to inspect the juvenile court records shall provide actual notice to the minor or the minor's parent or legal guardian, and the matter shall be referred to the chief judge presiding over matters pursuant to this Act.

(0.3) In determining whether records should be made available for inspection and whether inspection should be limited to certain parts of the file, the court shall consider the minor's interest in confidentiality and rehabilitation over the requesting party's interest in obtaining the information. The State's Attorney, the minor, and the minor's parents, guardian, and counsel shall at all times have the right to examine court files and records.

(0.4) Any records obtained in violation of this subsection (C) shall not be admissible in any criminal or civil proceeding, or operate to disqualify a minor from subsequently holding public office, or operate as a forfeiture of any public benefit, right, privilege, or right to receive any license granted by public authority.

(1) The court shall allow the general public to have access to the name, address, and offense of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(A) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

(B) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (i) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an act involving the use of a firearm in the commission of a felony, (iii) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (iv) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, (v) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult, (vi) an act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act, or (vii) an act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act.

(2) The court shall allow the general public to have access to the name, address, and offense of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-4, under either of the following circumstances:

(A) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(B) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (i) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an offense involving the use of a firearm in the commission of a felony, (iii) a Class X felony offense under or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (iv) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, (v) an offense under

~~Section 401 of the Illinois Controlled Substances Act, (vi) an act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act, or (vii) an act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act.~~

(D) Pending or following any adjudication of delinquency for any offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, the victim of any such offense shall receive the rights set out in Sections 4 and 6 of the Bill of Rights for Victims and Witnesses of Violent Crime Act; and the juvenile who is the subject of the adjudication, notwithstanding any other provision of this Act, shall be treated as an adult for the purpose of affording such rights to the victim.

(E) Nothing in this Section shall affect the right of a Civil Service Commission or appointing authority of any state, county or municipality examining the character and fitness of an applicant for employment with a law enforcement agency, correctional institution, or fire department to ascertain whether that applicant was ever adjudicated to be a delinquent minor and, if so, to examine the records of disposition or evidence which were made in proceedings under this Act.

(F) Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the Criminal Code of 2012, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, shall provide a copy of the dispositional order to the principal or chief administrative officer of the school. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him.

(G) Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

(H) When a Court hearing a proceeding under Article II of this Act becomes aware that an earlier proceeding under Article II had been heard in a different county, that Court shall request, and the Court in which the earlier proceedings were initiated shall transmit, an authenticated copy of the Court record, including all documents, petitions, and orders filed therein and the minute orders, transcript of proceedings, and docket entries of the Court.

(I) The Clerk of the Circuit Court shall report to the Department of State Police, in the form and manner required by the Department of State Police, the final disposition of each minor who has been arrested or taken into custody before his or her 18th birthday for those offenses required to be reported under Section 5 of the Criminal Identification Act. Information reported to the Department under this Section may be maintained with records that the Department files under Section 2.1 of the Criminal Identification Act.

(J) The changes made to this Section by Public Act 98-61 apply to law enforcement records of a minor who has been arrested or taken into custody on or after January 1, 2014 (the effective date of Public Act 98-61).

(K) Any person found to be in violation of this Section is guilty of a Class B misdemeanor and subject to a fine of \$1,000 per violation. This subsection (K) shall not apply to the person who is the subject of the record.

(L) A person convicted of violating this Section is liable for damages in the amount of \$1,000 or actual damages, whichever is greater.

(Source: P.A. 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14; 98-552, eff. 8-27-13; 98-756, eff. 7-16-14.)

(705 ILCS 405/5-915)

Sec. 5-915. Expungement of juvenile law enforcement and court records.

(0.05) For purposes of this Section ~~and Section 5-622:~~

"Dissemination" or "disseminate" means to publish, produce, print, manufacture, distribute, sell, lease, exhibit, broadcast, display, transmit, or otherwise share information in any format so as to make the information accessible to others.

"Expunge" means to physically destroy the records and to obliterate the minor's name ~~and juvenile court records~~

from any official index, ~~or~~ public record, or electronic database ~~both~~. No evidence of the juvenile court records may be retained by any law enforcement agency, the juvenile court, or by any municipal, county, or State agency or department. Nothing in this Act shall require the physical destruction of the internal office records, files, or databases maintained by a State's Attorney's Office or other prosecutor.

"Juvenile court record" includes, but is not limited to:

(a) all documents filed in or maintained by the juvenile court pertaining to a specific incident, proceeding, or individual;

(b) all documents relating to a specific incident, proceeding, or individual made available to or maintained by probation officers, social workers, or other individuals assigned by the court to conduct a pre-adjudication or predisposition investigation, or by individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court;

(c) all documents, video or audio tapes, photographs, and exhibits admitted into evidence at juvenile court hearings; or

(d) all documents, transcripts, records, reports or other evidence prepared by, maintained by, or released by any municipal, county, or state agency or department, in any format, if indicating involvement with the juvenile court relating to a specific incident, proceeding, or individual.

"Law enforcement record" includes but is not limited to records of arrest, station

adjustments, fingerprints, probation adjustments, the issuance of a notice to appear, or any other records or documents maintained by any a law enforcement agency relating to a minor suspected of committing an offense or evidence of interaction with law enforcement.

(0.1) (a) The Department of State Police and all law enforcement agencies within the State shall automatically expunge, on or before January 1 of each year, all law enforcement records relating to events occurring before an individual's 18th birthday if:

(1) one year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records;

(2) no petition for delinquency or criminal charges were filed with the clerk of the circuit court relating to the arrest or law enforcement interaction documented in the records; and

(3) 6 months have elapsed without an additional subsequent arrest or filing of a petition for delinquency or criminal charges whether related or not to the arrest or law enforcement interaction documented in the records.

(b) If the individual is unable to satisfy conditions (2) and (3) of this subsection (0.1), records that satisfy condition (1) of this subsection (0.1) shall be automatically expunged if the records relate to an offense that if committed by an adult would not be an offense classified as Class 2 felony or higher, an offense under Article 11 of the Criminal Code of 1961 or Criminal Code of 2012, or an offense under 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961.

(0.2) (a) Upon dismissal of a petition alleging delinquency or upon a finding of not delinquent, the court shall order all agencies named in the juvenile's court and probation files, including each law enforcement agency, other municipal, county, or State agencies who may have records of the juvenile's adjudication, public or private correctional, detention, treatment facilities, and each individual who provided treatment or rehabilitation services for the juvenile under an order of the court, to send that person's juvenile records to the court within 5 business days. The court shall then destroy the paper and electronic records and mail an affidavit of expungement to the person. Each law enforcement agency shall affirm in an affidavit of expungement to the court that it destroyed all paper and electronic copies of the expunged records, except as provided in subdivision (0.2)(b) of this Section.

(b) If the chief law enforcement officer of the agency, or his or her designee, certifies in writing that certain information is needed for a pending investigation involving the commission of a felony, that information, and information identifying the juvenile, may be retained in an intelligence file until the investigation is terminated or for one additional year, whichever is sooner. Retention of a portion of a juvenile's law enforcement record does not disqualify the remainder of his or her record from immediate automatic expungement.

(0.3) (a) Upon an adjudication of delinquency based on any offense except first degree murder, the juvenile court shall automatically order the expungement of the juvenile records 2 years after the juvenile's case was closed if no delinquency or criminal proceeding is pending and the person has had no subsequent delinquency adjudication or criminal conviction. This requires no application or action on the part of the person. Upon receipt of the court order, all agencies named in the juvenile's court and probation files, including each law enforcement agency, other municipal, county or state agencies who may have records of the juvenile's adjudication, public or private correctional, detention, and treatment facilities and each individual who provided treatment or rehabilitation services for the juvenile under an order of the court, to send that person's juvenile records to the court within 5 business days. The court shall then destroy the paper and electronic records and mail an affidavit of expungement to the person. Additionally, each law enforcement agency shall also affirm in an affidavit of expungement to the court that it destroyed all paper and electronic copies of the expunged records, except as provided in subdivision (0.3)(b).

(b) If the chief law enforcement officer of the agency, or his or her designee, certifies in writing that certain information is needed for a pending investigation involving the commission of a felony, that

information, and information identifying the juvenile, may be retained in an intelligence file until the investigation is terminated or for one additional year, whichever is sooner. Retention of a portion of a juvenile's law enforcement record does not disqualify the remainder of his or her record from immediate expungement.

(1) Nothing in this subsection (1) precludes an eligible minor from obtaining expungement under subsections (0.1), (0.2), or (0.3). Whenever a person has been arrested, charged, or adjudicated delinquent for an incident occurring before his or her 18th birthday that if committed by an adult would be an offense, and that person's records are not eligible for automatic expungement under subsections (0.1), (0.2), or (0.3), the person may petition the court at any time for expungement of law enforcement records and juvenile court records relating to the incident and upon termination of all juvenile court proceedings relating to that incident, the court shall order the expungement of all records in the possession of the Department of State Police, the clerk of the circuit court, and law enforcement agencies relating to the incident, but only in any of the following circumstances:

- (a) the minor was arrested and no petition for delinquency was filed with the clerk of the circuit court;
- (a-5) the minor was charged with an offense and the petition or petitions were dismissed without a finding of delinquency;
- (b) the minor was charged with an offense and was found not delinquent of that offense;
- (c) the minor was placed under supervision pursuant to Section 5-615, and the order of supervision has since been successfully terminated; or
- (d) the minor was adjudicated for an offense which would be a Class B misdemeanor, Class C misdemeanor, or a petty or business offense if committed by an adult.

(1.5) (Blank). Commencing 180 days after the effective date of this amendatory Act of the 98th General Assembly, the Department of State Police shall automatically expunge, on or before January 1 of each year, a person's law enforcement records which are not subject to subsection (1) relating to incidents occurring before his or her 18th birthday in the Department's possession or control and which contains the final disposition which pertain to the person when arrested as a minor if:

- (a) the minor was arrested for an eligible offense and no petition for delinquency was filed with the clerk of the circuit court; and
- (b) the person attained the age of 18 years during the last calendar year; and
- (c) since the date of the minor's most recent arrest, at least 6 months have elapsed without an additional arrest, filing of a petition for delinquency whether related or not to a previous arrest, or filing of charges not initiated by arrest.

The Department of State Police shall allow a person to use the Access and Review process, established in the Department of State Police, for verifying that his or her law enforcement records relating to incidents occurring before his or her 18th birthday eligible under this subsection have been expunged as provided in subsection (0.1) of this Section this subsection.

The Department of State Police shall provide by rule the process for access, review, and automatic expungement:

(1.6) (Blank). Commencing on the effective date of this amendatory Act of the 98th General Assembly, a person whose law enforcement records are not subject to subsection (1) or (1.5) of this Section and who has attained the age of 18 years may use the Access and Review process, established in the Department of State Police, for verifying his or her law enforcement records relating to incidents occurring before his or her 18th birthday in the Department's possession or control which pertain to the person when arrested as a minor, if the incident occurred no earlier than 30 years before the effective date of this amendatory Act of the 98th General Assembly. If the person identifies a law enforcement record of an eligible offense that meets the requirements of this subsection, paragraphs (a) and (c) of subsection (1.5) of this Section, and all juvenile court proceedings related to the person have been terminated, the person may file a Request for Expungement of Juvenile Law Enforcement Records, in the form and manner prescribed by the Department of State Police, with the Department and the Department shall consider expungement of the record as otherwise provided for automatic expungement under subsection (1.5) of this Section. The person shall provide notice and a copy of the Request for Expungement of Juvenile Law Enforcement Records to the arresting agency, prosecutor charged with the prosecution of the minor, or the State's Attorney of the county that prosecuted the minor. The Department of State Police shall provide by rule the process for access, review, and Request for Expungement of Juvenile Law Enforcement Records.

(1.7) (Blank). Nothing in subsections (1.5) and (1.6) of this Section precludes a person from filing a petition under subsection (1) for expungement of records subject to automatic expungement under that subsection (1) or subsection (1.5) or (1.6) of this Section.

(1.8) (Blank). For the purposes of subsections (1.5) and (1.6) of this Section, "eligible offense" means records relating to an arrest or incident occurring before the person's 18th birthday that if committed by an adult is not an offense classified as a Class 2 felony or higher offense, an offense under Article 11 of the Criminal Code of 1961 or the Criminal Code of 2012, or an offense under Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961.

(2) Any person whose delinquency adjudications are not eligible for automatic expungement under subsections (0.1), (0.2), or (0.3) may petition the court to expunge all law enforcement records relating to any incidents occurring before his or her 18th birthday which did not result in proceedings in criminal court and all juvenile court records with respect to any adjudications except those based upon first degree murder; and sex offenses which would be felonies if committed by an adult; if the person for whom expungement is sought has had no convictions for any crime since his or her 18th birthday and:

(a) (blank); or has attained the age of 21 years; or

(b) 2 5 years have elapsed since all juvenile court proceedings relating to him or her have been terminated or his or her commitment to the Department of Juvenile Justice under pursuant to this Act has been terminated ;

whichever is later of (a) or (b). Nothing in this Section 5-915 precludes a minor from obtaining expungement under Section 5-622.

(2.5) If a minor is arrested and no petition for delinquency is filed with the clerk of the circuit court as provided in paragraph (a) of subsection (1) at the time the minor is released from custody, the youth officer, if applicable, or other designated person from the arresting agency, shall notify verbally and in writing to the minor or the minor's parents or guardians that the minor has a right to petition to have his or her arrest record expunged when all juvenile court proceedings relating to that minor have been terminated and that unless a petition to expunge is filed, the minor shall have an arrest record and shall provide the minor and the minor's parents or guardians with an expungement information packet, information regarding this State's expungement laws including a petition to expunge juvenile records obtained from the clerk of the circuit court.

(2.6) If a minor is referred to court charged with an offense and is found not delinquent of that offense; or if a minor is placed under supervision under Section 5-615, and the order of supervision is successfully terminated; or if a minor is adjudicated for an offense that would be a Class B misdemeanor, a Class C misdemeanor, or a business or petty offense if committed by an adult; or if a minor has incidents occurring before his or her 18th birthday that have not resulted in proceedings in criminal court, or resulted in proceedings in juvenile court, and the adjudications were not based upon first degree murder or sex offenses that would be felonies if committed by an adult; then at the time of sentencing or dismissal of the case, or successful completion of supervision, the judge shall inform the delinquent minor of his or her rights regarding expungement right to petition for expungement as provided by law, and the clerk of the circuit court shall provide an expungement information packet to the delinquent minor, written in plain language, including information regarding this State's expungement laws and a petition for expungement, a sample of a completed petition, expungement instructions that shall include information informing the minor that (i) once the case is expunged, it shall be treated as if it never occurred, (ii) he or she may apply to have petition fees waived, (iii) once he or she obtains an expungement, he or she may not be required to disclose that he or she had a juvenile record, and (iv) if petitioning he or she may file the petition on his or her own or with the assistance of an attorney. The failure of the judge to inform the delinquent minor of his or her right to petition for expungement as provided by law does not create a substantive right, nor is that failure grounds for: (i) a reversal of an adjudication of delinquency, (ii) a new trial; or (iii) an appeal.

(2.7) (Blank). For counties with a population over 3,000,000, the clerk of the circuit court shall send a "Notification of a Possible Right to Expungement" post card to the minor at the address last received by the clerk of the circuit court on the date that the minor attains the age of 18 based on the birthdate provided to the court by the minor or his or her guardian in cases under paragraphs (b), (c), and (d) of subsection (1); and when the minor attains the age of 21 based on the birthdate provided to the court by the minor or his or her guardian in cases under subsection (2).

(2.8) The petition for expungement for subsection (1) and (2) may include multiple offenses on the same petition and shall be substantially in the following form:

IN THE CIRCUIT COURT OF, ILLINOIS
..... JUDICIAL CIRCUIT

IN THE INTEREST OF) NO.

)
)
.....)

(Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS
(705 ILCS 405/5-915 (SUBSECTION 1 AND 2))

Now comes, petitioner, and respectfully requests that this Honorable Court enter an order expunging all juvenile law enforcement and court records of petitioner and in support thereof states that: ~~Petitioner has attained the age of, his/her birth date being, or all Juvenile Court proceedings terminated as of, whichever occurred later.~~ Petitioner was arrested on by the Police Department for the offense or offenses of, and:

(Check All That Apply:)

- a. no petition or petitions were filed with the Clerk of the Circuit Court.
- b. was charged with and was found not delinquent of the offense or offenses.
- c. a petition or petitions were filed and the petition or petitions were dismissed without a finding of delinquency on
- d. on placed under supervision pursuant to Section 5-615 of the Juvenile Court Act of 1987 and such order of supervision successfully terminated on
- e. was adjudicated for the offense or offenses and 2 years have passed since the adjudication ~~which would have been a Class B misdemeanor, a Class C misdemeanor, or a petty offense or business offense if committed by an adult.~~

Petitioner has has not been arrested on charges in this or any county other than the charges listed above. If petitioner has been arrested on additional charges, please list the charges below:

Charge(s):

Arresting Agency or Agencies:

Disposition/Result: (choose from a. through e., above):

WHEREFORE, the petitioner respectfully requests this Honorable Court to (1) order all law enforcement agencies to expunge all records of petitioner to this incident or incidents, and (2) to order the Clerk of the Court to expunge all records concerning the petitioner regarding this incident or incidents.

.....
Petitioner (Signature)

.....
Petitioner's Street Address

.....
City, State, Zip Code

.....
Petitioner's Telephone Number

Pursuant to the penalties of perjury under the Code of Civil Procedure, 735 ILCS 5/1-109, I hereby certify that the statements in this petition are true and correct, or on information and belief I believe the same to be true.

.....
Petitioner (Signature)

The Petition for Expungement for subsection (2) shall be substantially in the following form:

IN THE CIRCUIT COURT OF, ILLINOIS
..... JUDICIAL CIRCUIT

IN THE INTEREST OF) NO.

_____)

_____)

.....)

(Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS
(705 ILCS 405/5-915 (SUBSECTION 2))

(Please prepare a separate petition for each offense)

Now comes, petitioner, and respectfully requests that this Honorable Court enter an order expunging all Juvenile Law Enforcement and Court records of petitioner and in support thereof states that: The incident for which the Petitioner seeks expungement occurred before the Petitioner's 18th birthday and did not result in proceedings in criminal court and the Petitioner has not had any convictions for any crime since his/her 18th birthday; and

The incident for which the Petitioner seeks expungement occurred before the Petitioner's 18th birthday and the adjudication was not based upon first degree murder or sex offenses which would be felonies if committed by an adult, and the Petitioner has not had any convictions for any crime since his/her 18th birthday.

Petitioner was arrested on by the Police Department for the offense of, and:

(Check whichever one occurred the latest:)

(-) a. The Petitioner has attained the age of 21 years, his/her birthday being

(-) b. 5 years have elapsed since all juvenile court proceedings relating to the Petitioner have been terminated; or the Petitioner's commitment to the Department of Juvenile Justice pursuant to the expungement of juvenile law enforcement and court records provisions of the Juvenile Court Act of 1987 has been terminated. Petitioner ...has ...has not been arrested on charges in this or any other county other than the charge listed above. If petitioner has been arrested on additional charges, please list the charges below:

Charge(s):

Arresting Agency or Agencies:

Disposition/Result: (choose from a or b, above):

WHEREFORE, the petitioner respectfully requests this Honorable Court to (1) order all law enforcement agencies to expunge all records of petitioner related to this incident, and (2) to order the Clerk of the Court to expunge all records concerning the petitioner regarding this incident.

.....
Petitioner (Signature)

.....
Petitioner's Street Address

.....
City, State, Zip Code

.....
Petitioner's Telephone Number

Pursuant to the penalties of perjury under the Code of Civil Procedure, 735 ILCS 5/1-109, I hereby certify that the statements in this petition are true and correct, or on information and belief I believe the same to be true.

.....
Petitioner (Signature)

(3) The chief judge of the circuit in which an arrest was made or a charge was brought or any judge of that circuit designated by the chief judge may, upon verified petition of a person who is the subject of an arrest or a juvenile court proceeding under subsection (1) or (2) of this Section, order the law enforcement records or official court file, or both, to be expunged from the official records of the arresting authority, the clerk of the circuit court and the Department of State Police. The person whose records are to be expunged shall petition the court using the appropriate form containing his or her current address and shall promptly notify the clerk of the circuit court of any change of address. Notice of the petition shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, and the arresting agency or agencies by the clerk of the circuit court. If an objection is filed within 45 days of the notice of the petition, the clerk of the circuit court shall set a date for hearing after the 45-day 45-day objection period. At the hearing the court shall hear evidence on whether the expungement should or should not be granted. Unless the State's Attorney or prosecutor, the Department of State Police, or an arresting agency objects to the expungement within 45 days of the notice, the court may enter an order granting expungement. The clerk shall forward a certified copy of the order to the Department of State Police and deliver a certified copy of the order to the arresting agency.

(3.1) The Notice of Expungement shall be in substantially the following form:

IN THE CIRCUIT COURT OF, ILLINOIS
.... JUDICIAL CIRCUIT

IN THE INTEREST OF) NO.

)
)
.....)
(Name of Petitioner)

NOTICE

TO: State's Attorney
TO: Arresting Agency

.....
.....
.....
.....

TO: Illinois State Police

.....
.....

ATTENTION: Expungement

You are hereby notified that on, at, in courtroom, located at, before the Honorable, Judge, or any judge sitting in his/her stead, I shall then and there present a Petition to Expunge Juvenile records in the above-entitled matter, at which time and place you may appear.

.....
Petitioner's Signature

.....
Petitioner's Street Address

.....
City, State, Zip Code

.....
Petitioner's Telephone Number

PROOF OF SERVICE

On the day of, 20..., I on oath state that I served this notice and true and correct copies of the above-checked documents by:

(Check One:)

delivering copies personally to each entity to whom they are directed;

or

by mailing copies to each entity to whom they are directed by depositing the same in the U.S. Mail, proper postage fully prepaid, before the hour of 5:00 p.m., at the United States Postal Depository located at

Signature

.....
Clerk of the Circuit Court or Deputy Clerk

Printed Name of Delinquent Minor/Petitioner:

Address:

Telephone Number:

(3.2) The Order of Expungement shall be in substantially the following form:

IN THE CIRCUIT COURT OF, ILLINOIS
.... JUDICIAL CIRCUIT

IN THE INTEREST OF) NO.

)
)
.....)
(Name of Petitioner)

DOB

Arresting Agency/Agencies

ORDER OF EXPUNGEMENT
(705 ILCS 405/5-915 (SUBSECTION 3))

This matter having been heard on the petitioner's motion and the court being fully advised in the premises does find that the petitioner is indigent or has presented reasonable cause to waive all costs in this matter, IT IS HEREBY ORDERED that:

[May 24, 2017]

- 1. Clerk of Court and Department of State Police costs are hereby waived in this matter.
- 2. The Illinois State Police Bureau of Identification and the following law enforcement agencies expunge all records of petitioner relating to an arrest dated for the offense of

Law Enforcement Agencies:

.....
.....

3. IT IS FURTHER ORDERED that the Clerk of the Circuit Court expunge all records regarding the above-captioned case.

ENTER:

JUDGE

DATED:

Name:

Attorney for:

Address: City/State/Zip:

Attorney Number:

(3.3) The Notice of Objection shall be in substantially the following form:

IN THE CIRCUIT COURT OF, ILLINOIS
..... JUDICIAL CIRCUIT

IN THE INTEREST OF) NO.

)
)
.....)
(Name of Petitioner)

NOTICE OF OBJECTION

TO:(Attorney, Public Defender, Minor)

.....
.....

TO:(Illinois State Police)

.....
.....

TO:(Clerk of the Court)

.....
.....

TO:(Judge)

.....
.....

TO:(Arresting Agency/Agencies)

.....
.....

ATTENTION: You are hereby notified that an objection has been filed by the following entity regarding the above-named minor's petition for expungement of juvenile records:

- State's Attorney's Office;
- Prosecutor (other than State's Attorney's Office) charged with the duty of prosecuting the offense sought to be expunged;
- Department of Illinois State Police; or
- Arresting Agency or Agencies.

The agency checked above respectfully requests that this case be continued and set for hearing on whether the expungement should or should not be granted.

DATED:

Name:

Attorney For:

Address:

City/State/Zip:

Telephone:

Attorney No.:

FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

This matter has been set for hearing on the foregoing objection, on in room, located at, before the Honorable, Judge, or any judge sitting in his/her stead. (Only one hearing shall be set, regardless of the number of Notices of Objection received on the same case).

A copy of this completed Notice of Objection containing the court date, time, and location, has been sent via regular U.S. Mail to the following entities. (If more than one Notice of Objection is received on the same case, each one must be completed with the court date, time and location and mailed to the following entities):

- () Attorney, Public Defender or Minor;
- () State's Attorney's Office;
- () Prosecutor (other than State's Attorney's Office) charged with the duty of prosecuting the offense sought to be expunged;
- () Department of Illinois State Police; and
- () Arresting agency or agencies.

Date:

Initials of Clerk completing this section:

(4)(a) Upon entry of an order expunging records or files, the offense, which the records or files concern shall be treated as if it never occurred. Law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the person.

(a-5) The Department of State Police and local arresting agency shall send written notice to the minor of the expungement of any records within 60 days of automatic expungement or the date of service of an expungement order, whichever applies. If a minor's court file has been expunged, the clerk of the circuit court shall send written notice to the minor of the expungement of any records within 60 days of automatic expungement or the date of service of an expungement order, whichever applies.

(b) Except with respect to authorized military personnel, an expunged juvenile record may not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. Applications for employment within the State must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest. Employers may not ask, in any format or context, if an applicant has had a juvenile record expunged. Information about an expunged record obtained by a potential employer, even inadvertently, from an employment application that does not contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest, shall be treated as dissemination of an expunged record by the employer.

(c) A person whose juvenile records have been expunged is not entitled to remission of any fines, costs, or other money paid as a consequence of expungement.

(5) (Blank). Records which have not been expunged are sealed, and may be obtained only under the provisions of Sections 5-901, 5-905 and 5-915.

(5.5) (a) Whether or not expunged, records eligible for automatic expungement under subdivision (0.1)(a), (0.2)(a), or (0.3)(a) may be treated as expunged by the individual subject to the records.

(b) Whether or not expunged, dissemination by any law enforcement officer or agency, an official of the juvenile court, any municipal, county or State agency or department subject to an order of expungement or any individual employed by an agency or department of any information contained in records eligible for automatic expungement under subdivision (0.1)(a), (0.2)(a), or (0.3)(a) shall be treated as dissemination of expunged records.

(6) Nothing in this Section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the individual offender. This information may only be used for anonymous statistical and bona fide research purposes.

~~(6.5) (Blank). The Department of State Police or any employee of the Department shall be immune from civil or criminal liability for failure to expunge any records of arrest that are subject to expungement under subsection (1.5) or (1.6) of this Section because of inability to verify a record. Nothing in subsection (1.5) or (1.6) of this Section shall create Department of State Police liability or responsibility for the expungement of law enforcement records it does not possess.~~

(7)(a) The State Appellate Defender shall establish, maintain, and carry out, by December 31, 2004, a juvenile expungement program to provide information and assistance to minors eligible to have their juvenile records expunged.

(b) The State Appellate Defender shall develop brochures, pamphlets, and other materials in printed form and through the agency's World Wide Web site. The pamphlets and other materials shall include at a minimum the following information:

(i) An explanation of the State's juvenile expungement laws, including both automatic expungement and expungement by petition process;

(ii) The circumstances under which juvenile expungement may occur;

(iii) The juvenile offenses that may be expunged;

(iv) The steps necessary to initiate and complete the juvenile expungement process; and

(v) Directions on how to contact the State Appellate Defender.

(c) The State Appellate Defender shall establish and maintain a statewide toll-free telephone number that a person may use to receive information or assistance concerning the expungement of juvenile records. The State Appellate Defender shall advertise the toll-free telephone number statewide. The State Appellate Defender shall develop an expungement information packet that may be sent to eligible persons seeking expungement of their juvenile records, which may include, but is not limited to, a pre-printed expungement petition with instructions on how to complete the petition and a pamphlet containing information that would assist individuals through the juvenile expungement process.

(d) The State Appellate Defender shall compile a statewide list of volunteer attorneys willing to assist eligible individuals through the juvenile expungement process.

(e) This Section shall be implemented from funds appropriated by the General Assembly to the State Appellate Defender for this purpose. The State Appellate Defender shall employ the necessary staff and adopt the necessary rules for implementation of this Section.

(7.5) (a) Dissemination of any information contained in an expunged record shall be treated as a Class B Misdemeanor and punishable by a fine of \$1,000. Dissemination by an employee of any municipal, county, or State agency, including law enforcement, shall be grounds for unpaid suspension upon the first offense, and dismissal upon any subsequent offense.

(b) Dissemination for financial gain of any information contained in an expunged record shall be treated as a Class 4 felony. Dissemination for financial gain by an employee of any municipal, county, or State agency, including law enforcement, shall result in immediate termination.

(c) The person whose record was expunged has a right of action against any person who intentionally disseminates an expunged record. In the proceeding, punitive damages up to an amount of \$1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled to costs and reasonable attorney fees.

(d) The punishments for dissemination of an expunged record shall never apply to the person whose record was expunged.

~~(8)(a) An Except with respect to law enforcement agencies, the Department of Corrections, State's Attorneys, or other prosecutors, an expunged juvenile record may not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. Applications for employment must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication, conviction, or arrest. Employers may not ask if an applicant has had a juvenile record expunged. Effective January 1, 2005, the Department of Labor shall develop a link on the Department's website to inform employers that employers may not ask if an applicant had a juvenile record expunged and that application for employment must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication, arrest, or conviction.~~

~~(b) A person whose juvenile records have been expunged is not entitled to remission of any fines, costs, or other money paid as a consequence of expungement. This amendatory Act of the 93rd General Assembly does not affect the right of the victim of a crime to prosecute or defend a civil action for damages.~~

~~(c) The expungement of juvenile records under Section 5-622 shall be funded by the additional fine imposed under Section 5-9-1.17 of the Unified Code of Corrections and additional appropriations made by the General Assembly for such purpose.~~

~~(9) (Blank). The changes made to this Section by Public Act 98-61 apply to law enforcement records of a minor who has been arrested or taken into custody on or after January 1, 2014 (the effective date of Public Act 98-61).~~

~~(10) (Blank). The changes made in subsection (1.5) of this Section by this amendatory Act of the 98th General Assembly apply to law enforcement records of a minor who has been arrested or taken into custody on or after January 1, 2015. The changes made in subsection (1.6) of this Section by this amendatory Act of the 98th General Assembly apply to law enforcement records of a minor who has been arrested or taken into custody before January 1, 2015.~~

(Source: P.A. 98-61, eff. 1-1-14; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14; 99-835, eff. 1-1-17; 99-881, eff. 1-1-17; revised 9-2-16.)

(705 ILCS 405/5-622 rep.)

Section 10. The Juvenile Court Act of 1987 is amended by repealing Section 5-622".

Floor Amendment Nos. 2 and 3 were postponed in the Committee on Criminal Law.

Floor Amendment No. 4 was held in the Committee on Criminal Law.

Senator Hastings offered the following amendment and moved its adoption:

AMENDMENT NO. 5 TO SENATE BILL 2021

AMENDMENT NO. 5. Amend Senate Bill 2021, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 110-14 as follows:

(725 ILCS 5/110-14) (from Ch. 38, par. 110-14)

Sec. 110-14. Credit for Incarceration on Bailable Offense.

(a) Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of ~~the such~~ offense shall be allowed a credit of ~~\$30~~ \$5 for each day so incarcerated upon application of the defendant. However, in no case shall the amount so allowed or credited exceed the amount of the fine.

(b) Subsection (a) does not apply to a person incarcerated for sexual assault as defined in paragraph (1) of subsection (a) of Section 5-9-1.7 of the Unified Code of Corrections.

(Source: P.A. 93-699, eff. 1-1-05.)

Section 10. The Unified Code of Corrections is amended by changing Section 5-8-4 as follows:

(730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

Sec. 5-8-4. Concurrent and consecutive terms of imprisonment.

(a) Concurrent terms; multiple or additional sentences. When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) Concurrent terms; misdemeanor and felony. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) Consecutive terms; permissive. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(2) If one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 (aggravated false personation of a peace officer) of the Criminal Code of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision (b)(5) or (b)(6) of Section 17-2 of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/17-2) and the offense was committed in attempting or committing a forcible felony.

(d) Consecutive terms; mandatory. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 11-1.20 or 12-13 (criminal sexual assault), 11-1.30 or 12-14 (aggravated criminal sexual assault), or 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/11-20.1, 5/11-20.1B, 5/11-20.3, 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or 5/12-14.1).

(2.5) The defendant was convicted of a violation of paragraph (1), (2), (3), (4), (5),

or (7) of subsection (a) of Section 11-20.1 (child pornography) or of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1B or 11-20.3 (aggravated child pornography) of the Criminal Code of 1961 or the Criminal Code of 2012; or the defendant was convicted of a violation of paragraph (6) of subsection (a) of Section 11-20.1 (child pornography) or of paragraph (6) of subsection (a) of

Section 11-20.1B or 11-20.3 (aggravated child pornography) of the Criminal Code of 1961 or the Criminal Code of 2012, when the child depicted is under the age of 13.

(3) The defendant was convicted of armed violence based upon the predicate offense of any of the following: solicitation of murder, solicitation of murder for hire, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act (720 ILCS 550/5), cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), a violation of the Methamphetamine Control and Community Protection Act (720 ILCS 646/), calculated criminal drug conspiracy, or streetgang criminal drug conspiracy.

(4) The defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless homicide under Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/9-3), or (C) both an offense described in item (A) and an offense described in item (B).

(5) The defendant was convicted of a violation of Section 9-3.1 or Section 9-3.4 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/9-3.1 or 5/12-20.5).

(5.5) The defendant was convicted of a violation of Section 24-3.7 (use of a stolen firearm in the commission of an offense) of the Criminal Code of 1961 or the Criminal Code of 2012.

(6) If the defendant was in the custody of the Department of Corrections at the time of the commission of the offense, the sentence shall be served consecutive to the sentence under which the defendant is held by the Department of Corrections. If, however, the defendant is sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which the defendant may be held by the Department.

(7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4) for escape or attempted escape shall be served consecutive to the terms under which the offender is held by the Department of Corrections.

(8) If a person charged with a felony commits a separate felony while on pretrial release or in pretrial detention in a county jail facility or county detention facility, then the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered. Mandatory consecutive sentencing under this paragraph (8) does not apply to a violation of a condition of electronic home monitoring under Section 5-8A-4.1 of this Code, except upon the third or subsequent conviction, in which mandatory consecutive sentencing shall be imposed.

(8.5) If a person commits a battery against a county correctional officer or sheriff's employee while serving a sentence or in pretrial detention in a county jail facility, then the sentence imposed upon conviction of the battery shall be served consecutively with the sentence imposed upon conviction of the earlier misdemeanor or felony, regardless of the order in which the judgments of conviction are entered.

(9) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, then any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained. Mandatory consecutive sentencing under this paragraph (9) does not apply to a violation of a condition of electronic home monitoring under Section 5-8A-4.1 of this Code, except upon the third or subsequent conviction, in which mandatory consecutive sentencing shall be imposed.

(10) If a person is found to be in possession of an item of contraband, as defined in Section 31A-0.1 of the Criminal Code of 2012, while serving a sentence in a county jail or while in pretrial detention in a county jail, the sentence imposed upon conviction for the offense of possessing contraband in a penal institution shall be served consecutively to the sentence imposed for the offense in which the person is serving sentence in the county jail or serving pretrial detention, regardless of the order in which the judgments of conviction are entered.

(11) If a person is sentenced for a violation of bail bond under Section 32-10 of the

Criminal Code of 1961 or the Criminal Code of 2012, any sentence imposed for that violation shall be served consecutive to the sentence imposed for the charge for which bail had been granted and with respect to which the defendant has been convicted.

(e) Consecutive terms; subsequent non-Illinois term. If an Illinois court has imposed a sentence of imprisonment on a defendant and the defendant is subsequently sentenced to a term of imprisonment by a court of another state or a federal court, then the Illinois sentence shall run consecutively to the sentence imposed by the court of the other state or the federal court. That same Illinois court, however, may order that the Illinois sentence run concurrently with the sentence imposed by the court of the other state or the federal court, but only if the defendant applies to that same Illinois court within 30 days after the sentence imposed by the court of the other state or the federal court is finalized.

(f) Consecutive terms; aggregate maximums and minimums. The aggregate maximum and aggregate minimum of consecutive sentences shall be determined as follows:

(1) For sentences imposed under law in effect prior to February 1, 1978, the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall not exceed the highest minimum term authorized under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Article 4.5 of Chapter V for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(g) Consecutive terms; manner served. In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the defendant as though he or she had been committed for a single term subject to each of the following:

(1) The maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate sentences for felonies, plus the aggregate of the imposed determinate sentences for misdemeanors, subject to subsection (f) of this Section.

(2) The parole or mandatory supervised release term shall be as provided in paragraph (e) of Section 5-4.5-50 (730 ILCS 5/5-4.5-50) for the most serious of the offenses involved.

(3) The minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to subsection (f) of this Section.

(4) The defendant shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 (730 ILCS 5/3-6-3).

(Source: P.A. 97-475, eff. 8-22-11; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-437, eff. 1-1-14.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 5 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

POSTING NOTICE WAIVED

Senator Mulroe moved to waive the six-day posting requirement on **House Bill No. 2959** so that the measure may be heard in the Committee on Insurance that is scheduled to meet May 25, 2017.

The motion prevailed.

[May 24, 2017]

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 1544

LEGISLATIVE MEASURES FILED

The following Committee amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Amendment No. 1 to House Bill 2525
Amendment No. 1 to House Bill 2802
Amendment No. 1 to House Bill 3005

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Amendment No. 1 to House Bill 159

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Amendment No. 1 to Senate Bill 483

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet immediately upon adjournment:

Executive in Room 212

The Chair announced the following committee to meet at 4:00 o'clock p.m.:

Judiciary in Room 212

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

May 24, 2017

Mr. Tim Anderson
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Mr. Secretary:

[May 24, 2017]

Pursuant to Rule 3-2(c), I hereby appoint Senator Terry Link to temporarily replace Senator William Haine as a member of the Senate Judiciary Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Judiciary Committee.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 69

A bill for AN ACT concerning civil law.

SENATE BILL NO. 71

A bill for AN ACT concerning regulation.

SENATE BILL NO. 666

A bill for AN ACT concerning local government.

SENATE BILL NO. 858

A bill for AN ACT concerning employment.

SENATE BILL NO. 860

A bill for AN ACT concerning employment.

SENATE BILL NO. 1254

A bill for AN ACT concerning regulation.

SENATE BILL NO. 1670

A bill for AN ACT concerning State government.

Passed the House, May 24, 2017.

TIMOTHY D. MAPES, Clerk of the House

A message from the House by

Mr. Mapes, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 1739

A bill for AN ACT concerning education.

SENATE BILL NO. 1880

A bill for AN ACT concerning General Assembly operations.

SENATE BILL NO. 1898

A bill for AN ACT concerning business.

SENATE BILL NO. 2028

A bill for AN ACT concerning transportation.

SENATE BILL NO. 2066

A bill for AN ACT concerning local government.

Passed the House, May 24, 2017.

TIMOTHY D. MAPES, Clerk of the House

At the hour of 3:17 o'clock p.m., the Chair announced the Senate stand adjourned until Thursday, May 25, 2017, at 12:00 o'clock noon.

[May 24, 2017]