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1 AN ACT concerning State government.

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

4 ARTICLE 1. GENERAL PROVISIONS

5 Section 1-1. Short title. This Act may be cited as the  
6 FY2019 Budget Implementation Act.

7 Section 1-5. Purpose. It is the purpose of this Act to make  
8 changes in State programs that are necessary to implement the  
9 State budget.

10 ARTICLE 5. AMENDATORY PROVISIONS

11 Section 5-5. The Election Code is amended by adding Section  
12 1A-55 as follows:

13 (10 ILCS 5/1A-55 new)

14 Sec. 1A-55. Cyber security efforts. The State Board of  
15 Elections shall provide by rule, after at least 2 public  
16 hearings of the Board and in consultation with the election  
17 authorities, a Cyber Navigator Program to support the efforts  
18 of election authorities to defend against cyber breaches and  
19 detect and recover from cyber attacks. The rules shall include

\* \* \*

1 Section 70-10. The Compensation Review Act is amended by  
2 adding Section 6.6 as follows:

3 (25 ILCS 120/6.6 new)

4 Sec. 6.6. FY19 COLAs prohibited. Notwithstanding any  
5 former or current provision of this Act, any other law, any  
6 report of the Compensation Review Board, or any resolution of  
7 the General Assembly to the contrary, members of the General  
8 Assembly, elected executive branch constitutional officers of  
9 State government, and persons in certain appointed offices of  
10 State government, including the membership of State  
11 departments, agencies, boards, and commissions, whose annual  
12 compensation previously was recommended or determined by the  
13 Compensation Review Board, are prohibited from receiving and  
14 shall not receive any increase in compensation that would  
15 otherwise apply based on a cost of living adjustment, as  
16 authorized by Senate Joint Resolution 192 of the 86th General  
17 Assembly, for or during the fiscal year beginning July 1, 2018.

18 ARTICLE 75. TAX PROVISIONS

19 Section 75-5. The Illinois Income Tax Act is amended by  
20 changing Sections 223 and 227 as follows:

21 (35 ILCS 5/223)

1           Sec. 223. Hospital credit.

2           (a) For tax years ending on or after December 31, 2012 and  
3 ending on or before December 31, 2022, a taxpayer that is the  
4 owner of a hospital licensed under the Hospital Licensing Act,  
5 but not including an organization that is exempt from federal  
6 income taxes under the Internal Revenue Code, is entitled to a  
7 credit against the taxes imposed under subsections (a) and (b)  
8 of Section 201 of this Act in an amount equal to the lesser of  
9 the amount of real property taxes paid during the tax year on  
10 real property used for hospital purposes during the prior tax  
11 year or the cost of free or discounted services provided during  
12 the tax year pursuant to the hospital's charitable financial  
13 assistance policy, measured at cost.

14           (b) If the taxpayer is a partnership or Subchapter S  
15 corporation, the credit is allowed to the partners or  
16 shareholders in accordance with the determination of income and  
17 distributive share of income under Sections 702 and 704 and  
18 Subchapter S of the Internal Revenue Code. A transfer of this  
19 credit may be made by the taxpayer earning the credit within  
20 one year after the credit is earned in accordance with rules  
21 adopted by the Department. The Department shall prescribe rules  
22 to enforce and administer provisions of this Section. If the  
23 amount of the credit exceeds the tax liability for the year,  
24 then the excess credit may be carried forward and applied to  
25 the tax liability of the 5 taxable years following the excess  
26 credit year. The credit shall be applied to the earliest year

1 for which there is a tax liability. If there are credits from  
2 more than one tax year that are available to offset a  
3 liability, the earlier credit shall be applied first. In no  
4 event shall a credit under this Section reduce the taxpayer's  
5 liability to less than zero.

6 (Source: P.A. 97-688, eff. 6-14-12.)

7 (35 ILCS 5/227 new)

8 Sec. 227. Adoption credit.

9 (a) Beginning with tax years ending on or after December  
10 31, 2018, in the case of an individual taxpayer there shall be  
11 allowed a credit against the tax imposed by subsections (a) and  
12 (b) of Section 201 in an amount equal to the amount of the  
13 federal adoption tax credit received pursuant to Section 23 of  
14 the Internal Revenue Code with respect to the adoption of a  
15 qualifying dependent child, subject to the limitations set  
16 forth in this subsection and subsection (b). The aggregate  
17 amount of qualified adoption expenses which may be taken into  
18 account under this Section for all taxable years with respect  
19 to the adoption of a qualifying dependent child by the taxpayer  
20 shall not exceed \$2,000 (\$1,000 in the case of a married  
21 individual filing a separate return). The credit under this  
22 Section shall be allowed: (i) in the case of any expense paid  
23 or incurred before the taxable year in which such adoption  
24 becomes final, for the taxable year following the taxable year  
25 during which such expense is paid or incurred, and (ii) in the

1 case of an expense paid or incurred during or after the taxable  
2 year in which such adoption becomes final, for the taxable year  
3 in which such expense is paid or incurred. No credit shall be  
4 allowed under this Section for any expense to the extent that  
5 funds for such expense are received under any Federal, State,  
6 or local program. For purposes of this Section, spouses filing  
7 a joint return shall be considered one taxpayer.

8 For a non-resident or part-year resident, the amount of the  
9 credit under this Section shall be in proportion to the amount  
10 of income attributable to this State.

11 (b) Increased credit amount for resident children. With  
12 respect to the adoption of an eligible child who is at least  
13 one year old and resides in Illinois at the time the expenses  
14 are paid or incurred, subsection (a) shall be applied by  
15 substituting \$5,000 (\$2,500 in the case of a married individual  
16 filing a separate return) for \$2,000.

17 (c) In no event shall a credit under this Section reduce  
18 the taxpayer's liability to less than zero. If the amount of  
19 the credit exceeds the income tax liability for the applicable  
20 tax year, the excess may be carried forward and applied to the  
21 tax liability of the 5 taxable years following the excess  
22 credit year. The credit shall be applied to the earliest year  
23 for which there is a tax liability. If there are credits from  
24 more than one year that are available to offset a liability,  
25 the earlier credit shall be applied first.

26 (d) The term "qualified adoption expenses" shall have the

1 same meaning as under Section 23(d) of the Internal Revenue  
2 Code.

3 ARTICLE 80. MARKETPLACE FAIRNESS

4 Section 80-5. The Use Tax Act is amended by changing  
5 Section 2 as follows:

6 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

7 Sec. 2. Definitions.

8 "Use" means the exercise by any person of any right or  
9 power over tangible personal property incident to the ownership  
10 of that property, except that it does not include the sale of  
11 such property in any form as tangible personal property in the  
12 regular course of business to the extent that such property is  
13 not first subjected to a use for which it was purchased, and  
14 does not include the use of such property by its owner for  
15 demonstration purposes: Provided that the property purchased  
16 is deemed to be purchased for the purpose of resale, despite  
17 first being used, to the extent to which it is resold as an  
18 ingredient of an intentionally produced product or by-product  
19 of manufacturing. "Use" does not mean the demonstration use or  
20 interim use of tangible personal property by a retailer before  
21 he sells that tangible personal property. For watercraft or  
22 aircraft, if the period of demonstration use or interim use by  
23 the retailer exceeds 18 months, the retailer shall pay on the

\* \* \*

still VT § 2 (35 ILCS 105/2)

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1 bulk vending machine does not make such person a retailer  
2 hereunder. However, any person who is engaged in a business  
3 which is not subject to the tax imposed by the "Retailers'  
4 Occupation Tax Act" because of involving the sale of or a  
5 contract to sell real estate or a construction contract to  
6 improve real estate, but who, in the course of conducting such  
7 business, transfers tangible personal property to users or  
8 consumers in the finished form in which it was purchased, and  
9 which does not become real estate, under any provision of a  
10 construction contract or real estate sale or real estate sales  
11 agreement entered into with some other person arising out of or  
12 because of such nontaxable business, is a retailer to the  
13 extent of the value of the tangible personal property so  
14 transferred. If, in such transaction, a separate charge is made  
15 for the tangible personal property so transferred, the value of  
16 such property, for the purposes of this Act, is the amount so  
17 separately charged, but not less than the cost of such property  
18 to the transferor; if no separate charge is made, the value of  
19 such property, for the purposes of this Act, is the cost to the  
20 transferor of such tangible personal property.

21 "Retailer maintaining a place of business in this State",  
22 or any like term, means and includes any of the following  
23 retailers:

24 (1) ~~1-~~ A retailer having or maintaining within this  
25 State, directly or by a subsidiary, an office, distribution  
26 house, sales house, warehouse or other place of business,

\* \* \*

SAB 11 VT §2, definition of "retailer maintaining a place of business in this State"

1            (5) ~~5-~~ A retailer that is owned or controlled by the  
2 same interests that own or control any retailer engaging in  
3 business in the same or similar line of business in this  
4 State.

5            (6) ~~6-~~ A retailer having a franchisee or licensee  
6 operating under its trade name if the franchisee or  
7 licensee is required to collect the tax under this Section.

8            (7) ~~7-~~ A retailer, pursuant to a contract with a cable  
9 television operator located in this State, soliciting  
10 orders for tangible personal property by means of  
11 advertising which is transmitted or distributed over a  
12 cable television system in this State.

13           (8) ~~8-~~ A retailer engaging in activities in Illinois,  
14 which activities in the state in which the retail business  
15 engaging in such activities is located would constitute  
16 maintaining a place of business in that state.

17           (9) Beginning October 1, 2018, a retailer making sales  
18 of tangible personal property to purchasers in Illinois  
19 from outside of Illinois if:

20                    (A) the cumulative gross receipts from sales of  
21 tangible personal property to purchasers in Illinois  
22 are \$100,000 or more; or

23                    (B) the retailer enters into 200 or more separate  
24 transactions for the sale of tangible personal  
25 property to purchasers in Illinois.

26           The retailer shall determine on a quarterly basis,



1 ending on the last day of March, June, September, and  
2 December, whether he or she meets the criteria of either  
3 subparagraph (A) or (B) of this paragraph (9) for the  
4 preceding 12-month period. If the retailer meets the  
5 criteria of either subparagraph (A) or (B) for a 12-month  
6 period, he or she is considered a retailer maintaining a  
7 place of business in this State and is required to collect  
8 and remit the tax imposed under this Act and file returns  
9 for one year. At the end of that one-year period, the  
10 retailer shall determine whether the retailer met the  
11 criteria of either subparagraph (A) or (B) during the  
12 preceding 12-month period. If the retailer met the criteria  
13 in either subparagraph (A) or (B) for the preceding  
14 12-month period, he or she is considered a retailer  
15 maintaining a place of business in this State and is  
16 required to collect and remit the tax imposed under this  
17 Act and file returns for the subsequent year. If at the end  
18 of a one-year period a retailer that was required to  
19 collect and remit the tax imposed under this Act determines  
20 that he or she did not meet the criteria in either  
21 subparagraph (A) or (B) during the preceding 12-month  
22 period, the retailer shall subsequently determine on a  
23 quarterly basis, ending on the last day of March, June,  
24 September, and December, whether he or she meets the  
25 criteria of either subparagraph (A) or (B) for the  
26 preceding 12-month period.

1 "Bulk vending machine" means a vending machine, containing  
2 unsorted confections, nuts, toys, or other items designed  
3 primarily to be used or played with by children which, when a  
4 coin or coins of a denomination not larger than \$0.50 are  
5 inserted, are dispensed in equal portions, at random and  
6 without selection by the customer.

7 (Source: P.A. 98-628, eff. 1-1-15; 98-1080, eff. 8-26-14;  
8 98-1089, eff. 1-1-15; 99-78, eff. 7-20-15.)

9 Section 80-10. The Service Use Tax Act is amended by  
10 changing Section 2 as follows:

11 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

12 Sec. 2. Definitions. In this Act:

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

\* \* \*

Still SUT §2 (35 ILCS 110/2)

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

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

6 (1) ~~1-~~ having or maintaining within this State,  
7 directly or by a subsidiary, an office, distribution house,  
8 sales house, warehouse or other place of business, or any  
9 agent or other representative operating within this State  
10 under the authority of the serviceman or its subsidiary,  
11 irrespective of whether such place of business or agent or  
12 other representative is located here permanently or  
13 temporarily, or whether such serviceman or subsidiary is  
14 licensed to do business in this State;

15 (1.1) ~~1.1-~~ having a contract with a person located in  
16 this State under which the person, for a commission or  
17 other consideration based on the sale of service by the  
18 serviceman, directly or indirectly refers potential  
19 customers to the serviceman by providing to the potential  
20 customers a promotional code or other mechanism that allows  
21 the serviceman to track purchases referred by such persons.  
22 Examples of mechanisms that allow the serviceman to track  
23 purchases referred by such persons include but are not  
24 limited to the use of a link on the person's Internet  
25 website, promotional codes distributed through the  
26 person's hand-delivered or mailed material, and

\* \* \*

still SUT §2 - definition of "serviceman maintaining a place of business in this State."

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1           (6) ~~6-~~ having a franchisee or licensee operating under  
2           its trade name if the franchisee or licensee is required to  
3           collect the tax under this Section;

4           (7) ~~7-~~ pursuant to a contract with a cable television  
5           operator located in this State, soliciting orders for  
6           tangible personal property by means of advertising which is  
7           transmitted or distributed over a cable television system  
8           in this State; ~~or~~

9           (8) ~~8-~~ engaging in activities in Illinois, which  
10          activities in the state in which the supply business  
11          engaging in such activities is located would constitute  
12          maintaining a place of business in that state; ~~or~~

13          (9) beginning October 1, 2018, making sales of service  
14          to purchasers in Illinois from outside of Illinois if:

15               (A) the cumulative gross receipts from sales of  
16               service to purchasers in Illinois are \$100,000 or more;  
17               or

18               (B) the serviceman enters into 200 or more separate  
19               transactions for sales of service to purchasers in  
20               Illinois.

21          The serviceman shall determine on a quarterly basis,  
22          ending on the last day of March, June, September, and  
23          December, whether he or she meets the criteria of either  
24          subparagraph (A) or (B) of this paragraph (9) for the  
25          preceding 12-month period. If the serviceman meets the  
26          criteria of either subparagraph (A) or (B) for a 12-month

1 period, he or she is considered a serviceman maintaining a  
2 place of business in this State and is required to collect  
3 and remit the tax imposed under this Act and file returns  
4 for one year. At the end of that one-year period, the  
5 serviceman shall determine whether the serviceman met the  
6 criteria of either subparagraph (A) or (B) during the  
7 preceding 12-month period. If the serviceman met the  
8 criteria in either subparagraph (A) or (B) for the  
9 preceding 12-month period, he or she is considered a  
10 serviceman maintaining a place of business in this State  
11 and is required to collect and remit the tax imposed under  
12 this Act and file returns for the subsequent year. If at  
13 the end of a one-year period a serviceman that was required  
14 to collect and remit the tax imposed under this Act  
15 determines that he or she did not meet the criteria in  
16 either subparagraph (A) or (B) during the preceding  
17 12-month period, the serviceman subsequently shall  
18 determine on a quarterly basis, ending on the last day of  
19 March, June, September, and December, whether he or she  
20 meets the criteria of either subparagraph (A) or (B) for  
21 the preceding 12-month period.

22 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;  
23 revised 9-27-17.)

