



Sen. Steve Stadelman

**Filed: 5/21/2024**

10300SB3591sam001

LRB103 38953 SPS 73893 a

1 AMENDMENT TO SENATE BILL 3591

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3591 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Journalism Preservation Act.

6 Section 5. Findings.

7 (a) A free and diverse fourth estate was critical in the  
8 founding of our democracy and continues to be the lifeblood  
9 for a functioning democracy.

10 (b) Every day, journalism plays an essential role in  
11 Illinois and in local communities, and the ability of local  
12 news organizations to continue to provide the public with  
13 critical information about their communities and enabling  
14 publishers to receive fair market value for their content that  
15 is used by others will preserve and ensure the sustainability  
16 of local and diverse news outlets.

1 (c) Communities without newspapers lose touch with  
2 government, business, education, and neighbors. They operate  
3 without journalists working to keep them informed, uncover  
4 truth, expose corruption, and share common goals and  
5 experiences.

6 (d) Over the past 10 years, newspaper advertising has  
7 decreased 66%, and newsroom staff has declined 44%.

8 (e) Ethnic media has long been a distinctive genre of  
9 journalism and communications, informing, engaging, and  
10 advocating on behalf of communities underserved by both the  
11 for-profit and not-for-profit general media market. It plays a  
12 unique role in upholding the fourth estate in our democracy by  
13 facilitating cross-racial and cross-ethnic communications to  
14 facilitate social integration, promote civic engagement, and  
15 address inequalities among all of the underserved communities.

16 (f) Given the important role of ethnic media, it is  
17 critical to advance State policy that ensures their publishers  
18 are justly compensated for the content they create and  
19 distribute. An example is the historic preamble, "We Wish to  
20 Plead Our Own Cause," a document penned by the  
21 African-American journalist and abolitionist Samuel Cornish in  
22 1827. It marked a significant milestone in the history of the  
23 Black press as it highlighted the urgent need for African  
24 Americans to have their own platform to voice their  
25 grievances, advocate for their rights, and challenge racial  
26 inequality. This call to action spurred the establishment of

1 numerous Black-owned newspapers and publications, solidifying  
2 the role of the Black press as a powerful tool for empowerment  
3 and social change, and laid the groundwork in our country for  
4 other ethnic media to plead their own cause.

5 (g) Quality local journalism is key to sustaining civic  
6 society, strengthening communal ties, and providing  
7 information at a deeper level that national outlets cannot  
8 match.

9 (h) When surveyed, 73% of adults in the United States say  
10 they have confidence in their local newspaper.

11 Section 10. Definitions. As used in this Act:

12 "Access" means to acquire, to crawl, or to index content.

13 "Advertising revenue" means revenue generated through the  
14 sale of digital advertising impressions that are served to  
15 customers in this State through an online platform, regardless  
16 of whether those impressions are served on websites or  
17 accessed through online or mobile applications.

18 "Covered platform" means an online platform that, at any  
19 point during a 12-month period, either:

20 (1) has at least 50,000,000 United States-based  
21 monthly active users or subscribers on the online  
22 platform; or

23 (2) is owned or controlled by a person that either  
24 has:

25 (A) net annual sales in the United States or a

1 market capitalization greater than \$550,000,000,000,  
2 adjusted annually for inflation on the basis of the  
3 Consumer Price Index published by the United States  
4 Bureau of Labor Statistics; or

5 (B) at least 1,000,000,000 worldwide monthly  
6 active users on the online platform.

7 "Covered platform" does not mean an organization exempt  
8 from federal income taxation under Section 501(c)(3) of the  
9 Internal Revenue Code of 1986.

10 "Eligible broadcaster" means a person that:

11 (1) holds or operates under a license issued by the  
12 Federal Communications Commission under 47 U.S.C. 301 et  
13 seq.;

14 (2) engages professionals to create, edit, produce,  
15 and distribute original content concerning local,  
16 regional, national, or international matters of public  
17 interest through activities, including conducting  
18 interviews, observing current events, analyzing documents  
19 and other information, or fact checking through multiple  
20 firsthand or secondhand news sources;

21 (3) updates its content on at least a weekly basis;  
22 and

23 (4) uses an editorial process for error correction and  
24 clarification, including a transparent process for  
25 reporting errors or complaints to the station.

26 "Eligible digital journalism provider" means an eligible

1 publisher or eligible broadcaster that discloses its ownership  
2 to the public.

3 "Eligible publisher" means a person that publishes a  
4 qualifying publication.

5 "News journalist" means a natural person who:

6 (1) is employed for an average of at least 30 hours per  
7 week during a calendar year by an eligible digital  
8 journalism provider; and

9 (2) is responsible for gathering, developing,  
10 preparing, directing the recording of, producing,  
11 collecting, photographing, recording, writing, editing,  
12 reporting, designing, presenting, distributing, or  
13 publishing original news or information that concerns  
14 local, regional, national, or international matters of  
15 public interest.

16 "Notifying eligible digital journalism provider" means an  
17 entity that has provided notice to a covered platform as  
18 described in Section 15 that the entity is an eligible digital  
19 journalism provider.

20 "Online platform" means a website, online or mobile  
21 application, digital assistant, or online service that:

22 (1) accesses news articles, works of journalism, or  
23 other content, or portions thereof, generated, created,  
24 produced, or owned by an eligible digital journalism  
25 provider; and

26 (2) aggregates, displays, provides, distributes, or

1           directs users to content described in paragraph (1) of  
2           this definition.

3           "Qualifying publication" means a website, online or mobile  
4           application, or other digital service that:

5                   (1) does not primarily display, provide, distribute,  
6                   or offer content generated, created, produced, or owned by  
7                   an eligible broadcaster;

8                   (2) provides information to an audience in this State;

9                   (3) performs a public information function comparable  
10                  to that traditionally served by newspapers and other  
11                  periodical news publications;

12                  (4) engages professionals to create, edit, produce,  
13                  and distribute original content concerning local,  
14                  regional, national, or international matters of public  
15                  interest through activities, including conducting  
16                  interviews, observing current events, analyzing documents  
17                  and other information, or fact checking through multiple  
18                  firsthand or secondhand news sources;

19                  (5) updates its content at least 52 weeks in a  
20                  calendar year;

21                  (6) has an editorial process for error correction and  
22                  clarification, including a transparent process for  
23                  reporting errors or complaints to the publication; and

24                  (7) meets any of the following criteria:

25                           (A) generated at least \$100,000 in annual revenue  
26                           from its editorial content in the previous calendar

1 year;

2 (B) had an International Standard Serial Number  
3 assigned to an affiliated periodical before submitting  
4 notice to a covered platform under Section 15; or

5 (B) is owned or controlled by an organization  
6 exempt from federal income taxation under Section  
7 501(c)(3) of the Internal Revenue Code of 1986;

8 (8) has at least 25% of its editorial content  
9 consisting of information about topics of current local,  
10 regional, national, or international public interest; or

11 (9) is not controlled, or wholly or partially owned  
12 by, an entity that:

13 (A) is a foreign power or an agent of a foreign  
14 power, as those terms are defined in 50 U.S.C. 1801;

15 (2) is designated as a foreign terrorist  
16 organization under 8 U.S.C. 1189;

17 (3) is a terrorist organization, as defined in 8  
18 U.S.C. 1182;

19 (4) is designated as a specially designated global  
20 terrorist organization under federal Executive Order  
21 13224;

22 (5) is an affiliate of an entity described in  
23 subparagraph (1), (2), (3), or (4); and

24 (6) has been convicted of violating, or attempting  
25 to violate 18 U.S.C. 2331, 2332b, or 2339A.

26 "Representative" means a labor organization designated as

1 the exclusive bargaining representative of news journalists or  
2 support staff for the purposes of collective bargaining in  
3 accordance with State or federal law.

4 "Support staff" means a natural person who performs  
5 nonexecutive functions, including payroll, human resources,  
6 fundraising and grant support, advertising and sales,  
7 community events and partnerships, technical support,  
8 sanitation, and security.

9 Section 15. Notice requirements for journalism usage fee  
10 payments.

11 (a) On or before January 1, 2025, all eligible digital  
12 journalism providers that want to receive journalism usage fee  
13 payments under this Act shall submit notice to a covered  
14 platform as described in subsection (b). All eligible digital  
15 journalism providers that submit the notice shall receive  
16 journalism usage fee payments from covered platforms as  
17 described in Section 20 beginning no later than 30 days after  
18 the end of the arbitration process described in Section 25.  
19 Digital journalism providers may provide notice to a covered  
20 platform as described in subsection (b) after the initial  
21 arbitration has concluded; however, notice received from an  
22 eligible digital journalism provider after January 1, 2025,  
23 shall not prompt any adjustment to the percentage of  
24 advertising revenue that has previously been determined under  
25 the most recent arbitration proceeding conducted as described



1 in Section 25.

2 (b) The notice described in subsection (a) shall:

3 (1) identifies the eligible digital journalism  
4 provider and the authorized representative of the eligible  
5 digital journalism provider;

6 (2) certifies, not under penalty of perjury, that the  
7 eligible digital journalism provider reasonably believes  
8 that it is either an eligible broadcaster or an eligible  
9 publisher; and

10 (3) identifies the root uniform resource locators for  
11 the websites associated with the eligible digital  
12 journalism provider's digital content.

13 (c) No later than 30 days after submitting a notice  
14 described in subsection (b), the eligible digital journalism  
15 provider shall distribute a copy of the notice to the news  
16 journalists and support staff that it employs and their  
17 representatives, if any, and publish a copy of the notice  
18 online in a text-searchable format.

19 (d) No later than 30 days after the deadline described in  
20 subsection (a), or after receiving a notice as described in  
21 subsection (a), the covered platform shall send a reply notice  
22 to the authorized representative identified in subsection (b)  
23 to acknowledge the receipt of the notice.

24 (e) A covered platform that receives as described in  
25 paragraph (b) may, within 30 days after receiving the notice,  
26 challenge:

- 1           (1) the sufficiency of the notice; and  
2           (2) the noticing party's qualification as an eligible  
3 digital journalism provider.

4           Section 20. Compensation methods. A covered platform  
5 shall:

6           (1) annually compensate digital journalism providers  
7 for accessing the websites of the digital journalism  
8 providers, with the compensation annually adjusted for  
9 increases in the Consumer Price Index for All Urban  
10 Consumers for all items published by the United States  
11 Department of Labor and annually distributed to the  
12 digital journalism providers as follows:

13           (A) no less than 1% of this amount shall be paid to  
14 digital journalism providers that would receive less  
15 than \$25,000 under paragraph (B), to be distributed  
16 annually on a pro rate basis among those digital  
17 journalism providers, in addition to the amount those  
18 digital journalism providers would receive under to  
19 paragraph (B); and

20           (B) proportionally by the number of news  
21 journalists and, subject to Section 35, freelancers,  
22 who, in the previous calendar year, were employed by  
23 each qualifying publication for the purpose of  
24 producing content in Illinois that was accessed by a  
25 platform; or

1           (2) participate in a final arbitration process as  
2 described in Section 25 and fully pay the arbitration  
3 award, if any, within 30 days after the award.

4           Section 23. Distributions.

5           (a) A covered platform shall make distributions as  
6 described in Section 20 either by:

7           (1) selecting an approved claims administrator. In  
8 selecting an approved claims administrator the covered  
9 platform shall ensure that the approved claims  
10 administrator is well-qualified to perform the  
11 distribution and has administered multiple settlements in  
12 the State of Illinois that comply with complex civil  
13 litigation class action settlement guidelines in at least  
14 2 State or federal courts in Illinois. The costs of  
15 selecting an approved claims administrator to administer  
16 the distributions shall be in addition to the amount  
17 established in Section 20.

18           (2) distributing payments to digital journalism  
19 providers itself, the costs of which shall be in addition  
20 to the amount specified in Section 20.

21           (b) A final arbitration award under Section 25 to a  
22 jointly participating group of digital journalism providers  
23 shall be distributed proportionally by the number of news  
24 journalists and, subject to Section 35, freelancers, who, in  
25 the previous calendar year, were employed by each qualifying

1 publication for the purpose of producing content in Illinois  
2 that was accessed by a covered platform.

3 Section 25. Arbitration.

4 (a) The percentage of the covered platform's advertising  
5 revenue remitted to notifying eligible digital journalism  
6 providers shall be determined as described in this Section.  
7 Eligible digital journalism providers shall jointly  
8 participate in the final offer arbitration process described  
9 in this Section with each covered platform to determine a  
10 single percentage of advertising revenue from which the  
11 distributions described in Section 23 will be allotted.

12 (b) Within 10 days after the receipt of the reply notice  
13 required by subsection (d) of Section 15, an eligible digital  
14 journalism provider may initiate, under Rule R-4 of the  
15 American Arbitration Association's Commercial Arbitration  
16 Rules and Mediation Procedures, a final offer arbitration  
17 against the covered platform for an arbitration panel to  
18 determine the percentage of the covered platform's advertising  
19 revenue remitted to the notifying eligible digital journalism  
20 providers.

21 (c) The arbitration procedure authorized by this  
22 subsection shall commence 10 days after the receipt of the  
23 reply notice described in subsection (d) of Section 15.

24 (d) The arbitration procedure authorized by this  
25 subsection shall be decided by a panel of 3 arbitrators under

1 the American Arbitration Association's Commercial Arbitration  
2 Rules and Mediation Procedures and the American Arbitration  
3 Association-International Centre for Dispute Resolution Final  
4 Offer Arbitration Supplementary Rules, except to the extent  
5 they conflict with this Section.

6 (e) The covered platform and the eligible digital  
7 journalism providers shall each pay one-half of the cost of  
8 administering the arbitration proceeding, including arbitrator  
9 compensation, expenses, and administrative fees.

10 (f) The arbitrators shall be appointed in accordance with  
11 the American Arbitration Association's Commercial Arbitration  
12 Rules and Mediation Procedures.

13 (g) During a final offer arbitration proceeding under this  
14 Section, all of the following shall apply:

15 (1) Eligible digital journalism providers and the  
16 covered platform may demand the production of documents  
17 and information that are non-privileged, reasonably  
18 necessary, and reasonably accessible without undue  
19 expense. Documents and information shall be exchanged no  
20 later than 30 days after the date the demand is filed.

21 (2) Rules regarding the admissibility of evidence  
22 under the American Arbitration Association's Commercial  
23 Arbitration Rules and Mediation Procedures shall apply.

24 (3) Eligible digital journalism providers and the  
25 covered platform shall each submit a final offer proposal  
26 for the remuneration that the eligible digital journalism

1 providers should receive from the covered platform for  
2 access to the content of the eligible digital journalism  
3 providers during the period under arbitration based on the  
4 value that access provides to the platform. The final  
5 offer proposals shall include backup materials sufficient  
6 to permit the other party to replicate the proffered  
7 valuation.

8 (4) A final offer proposal under this Section shall  
9 not address whether or how the covered platform or any  
10 eligible digital journalism provider displays, ranks,  
11 distributes, suppresses, promotes, throttles, labels,  
12 filters, or curates the content of the eligible digital  
13 journalism providers or any other person.

14 (h) No later than 60 days after the date proceedings begin  
15 as described in subsection (c), the arbitration panel shall  
16 determine the percentage of the covered platform's advertising  
17 revenue remitted to notifying eligible digital journalism  
18 providers from a final offer from one of the parties without  
19 modification.

20 (1) In making a determination, the arbitration panel  
21 shall:

22 (A) refrain from considering any value conferred  
23 upon any eligible digital journalism provider by the  
24 covered platform for distributing or aggregating its  
25 content as an offset to the value created by that  
26 eligible digital journalism provider, unless the

1 covered platform does not automatically access and  
2 extract information from an eligible digital  
3 journalism provider's website;

4 (B) consider past incremental revenue  
5 contributions as a guide to the future incremental  
6 revenue contribution by any eligible digital  
7 journalism provider;

8 (C) consider the pricing, terms, and conditions of  
9 any available, comparable commercial agreements  
10 between parties granting access to digital content,  
11 including pricing, terms, and conditions relating to  
12 price, duration, territory, and the value of data  
13 generated directly or indirectly by the content  
14 accounting for any material disparities in negotiating  
15 power between the parties to those commercial  
16 agreements;

17 (D) if submitted with a final offer proposal,  
18 consider the eligible digital journalism provider's  
19 previous compliance with Section 40, if applicable;  
20 and

21 (E) issue a standard binding arbitration award of  
22 the percentage of the covered platform's advertising  
23 revenue remitted to notifying eligible digital  
24 journalism providers.

25 (2) Any party to the arbitration proceeding may elect  
26 to appeal the decision of the arbitration panel as

1 described in subsection (j) on the grounds of a procedural  
2 irregularity.

3 (i) If the covered platform and any eligible digital  
4 journalism providers have given notice under Section 15 reach  
5 a settlement in lieu of arbitration, the settlement shall not  
6 waive the eligible digital journalism provider's obligations  
7 as described in Section 40 and shall not settle for an amount  
8 other than the final offer proposals submitted by the parties  
9 as described in paragraph (3) of subsection (g).

10 (j) No fewer than 24 months after the end of an arbitration  
11 proceeding, any party to the proceeding may elect to restart  
12 the arbitration process.

13 Section 30. Non-retaliation.

14 (a) A covered platform shall not retaliate against an  
15 eligible digital journalism provider for asserting its rights  
16 under this Act by refusing to index content or changing the  
17 ranking, identification, modification, branding, or placement  
18 of the content of the eligible digital journalism provider on  
19 the covered platform.

20 (b) An eligible digital journalism provider that is  
21 retaliated against may bring a civil action against the  
22 covered platform.

23 (c) This Section does not prohibit a covered platform  
24 from, and does not impose liability on a covered platform for,  
25 enforcing its terms of service against an eligible journalism



1 provider.

2 Section 35. Funding for journalists and support staff.

3 (a) An eligible digital journalism provider shall spend at  
4 least 70% of funds received under this Act on news journalists  
5 and support staff employed by the eligible digital journalism  
6 provider, except that an eligible digital journalism provider  
7 with 5 or fewer employees shall spend at least 50% of funds  
8 received under this Act on news journalists and support staff  
9 employed by the eligible digital journalism provider.

10 (b) No later than 30 days after the end of an arbitration  
11 proceeding described in Section 25 or upon reaching a  
12 settlement in lieu of an arbitration proceeding, the eligible  
13 digital journalism provider shall provide notification in  
14 writing of its plan to comply with subsection (a) to the news  
15 journalists and support staff employed by the eligible digital  
16 journalism provider and any representatives of those news  
17 journalists or support staff.

18 (c) The eligible digital journalism provider's plan to  
19 comply with subsection (a) shall include a good faith estimate  
20 of the number of news journalists and support staff, if any,  
21 expected to be hired, details regarding proposed compensation  
22 adjustments, if any, and a disclosure if either hiring or  
23 compensation adjustments are not expected.

24 Section 40. Reporting requirements.

1 (a) No later than one year after the end of an arbitration  
2 proceeding described in Section 25 or reaching a settlement in  
3 lieu of an arbitration proceeding, and each year thereafter,  
4 the eligible digital journalism provider shall compile a  
5 report that includes:

6 (1) an attestation as to whether the eligible digital  
7 journalism provider has complied with subsection (a) of  
8 Section 35;

9 (2) the text of the digital journalism provider's plan  
10 to comply with subsection (a) of Section 35;

11 (3) the total number of journalism usage fees received  
12 from covered platforms;

13 (4) the name of each covered platform paying the  
14 eligible digital journalism provider a journalism usage  
15 fee and a description of how the eligible digital  
16 journalism provider spent the journalism usage fee  
17 payment, including any amount of journalism usage fees  
18 remaining unspent; and

19 (5) the total number of news journalists and support  
20 staff employed by the eligible digital journalism  
21 provider, including the number of news journalists and  
22 support staff hired or terminated during the previous  
23 year.

24 (b) No later than one year after the end of an arbitration  
25 proceeding described in Section 25 or reaching a settlement in  
26 lieu of an arbitration proceeding, and each year thereafter,

1 the eligible digital journalism provider shall publish a copy  
2 of the report described in subsection (a) online in a  
3 text-searchable format and provide a copy to the news  
4 journalists and support staff employed by the eligible digital  
5 journalism provider, any representatives of those news  
6 journalists or support staff, and the covered platforms paying  
7 journalism usage fees to the eligible digital journalism  
8 provider.

9 Section 45. Preservation of rights.

10 (a) Nothing in this Act shall be construed as amending or  
11 repealing the ability of an eligible digital journalism  
12 provider or a covered platform to seek a preliminary or  
13 permanent injunction or any other existing remedy at law or  
14 equity.

15 (b) This Act does not modify, impair, expand, or in any way  
16 alter rights pertaining to the federal Lanham Act (15 U.S.C.  
17 1051 et seq).

18 (c) This Act does not abridge or impair rights otherwise  
19 reserved by news journalists, support staff, or their  
20 representatives according to applicable law or existing  
21 collective bargaining agreements.

22 Section 50. Severability. The provisions of this Act are  
23 severable. If any provision of this act or its application is  
24 held invalid, that invalidity shall not affect other

1 provisions or applications that can be given effect without  
2 the invalid provision or application.".