



Rep. Michael J. Madigan

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1 AMENDMENT TO SENATE BILL 3196

2 AMENDMENT NO. _____. Amend Senate Bill 3196 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Use Tax Act is amended by changing Section
5 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

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

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

16 (b) The use, in this State, of tangible personal property
17 by an interstate carrier for hire as rolling stock moving in
18 interstate commerce or by lessors under a lease of one year or
19 longer executed or in effect at the time of purchase of
20 tangible personal property by interstate carriers for-hire for
21 use as rolling stock moving in interstate commerce as long as
22 so used by the interstate carriers for-hire, and equipment
23 operated by a telecommunications provider, licensed as a common
24 carrier by the Federal Communications Commission, which is

1 permanently installed in or affixed to aircraft moving in
2 interstate commerce.

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

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

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

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

32 (g) The use or purchase of tangible personal property by a
33 common carrier by rail or motor that receives the physical
34 possession of the property in Illinois, and that transports the

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

6 (h) Except as provided in subsection (h-1), the ~~The~~ use, in
7 this State, of a motor vehicle that was sold in this State to a
8 nonresident, even though the motor vehicle is delivered to the
9 nonresident in this State, if the motor vehicle is not to be
10 titled in this State, and if a drive-away permit is issued to
11 the motor vehicle as provided in Section 3-603 of the Illinois
12 Vehicle Code or if the nonresident purchaser has vehicle
13 registration plates to transfer to the motor vehicle upon
14 returning to his or her home state. The issuance of the
15 drive-away permit or having the out-of-state registration
16 plates to be transferred shall be prima facie evidence that the
17 motor vehicle will not be titled in this State.

18 (h-1) The exemption under subsection (h) does not apply if
19 the state in which the motor vehicle will be titled does not
20 allow a reciprocal exemption for the use in that state of a
21 motor vehicle sold and delivered in that state to an Illinois
22 resident but titled in Illinois. The tax collected under this
23 Act on the sale of a motor vehicle in this State to a resident
24 of another state that does not allow a reciprocal exemption
25 shall be imposed at a rate equal to the state's rate of tax on
26 taxable property in the state in which the purchaser is a
27 resident, except that the tax shall not exceed the tax that
28 would otherwise be imposed under this Act. At the time of the
29 sale, the purchaser shall execute a statement, signed under
30 penalty of perjury, of his or her intent to title the vehicle
31 in the state in which the purchaser is a resident within 30
32 days after the sale and of the fact of the payment to the State
33 of Illinois of tax in an amount equivalent to the state's rate
34 of tax on taxable property in his or her state of residence and

1 shall submit the statement to the appropriate tax collection
2 agency in his or her state of residence. In addition, the
3 retailer must retain a signed copy of the statement in his or
4 her records. Nothing in this subsection shall be construed to
5 require the removal of the vehicle from this state following
6 the filing of an intent to title the vehicle in the purchaser's
7 state of residence if the purchaser titles the vehicle in his
8 or her state of residence within 30 days after the date of
9 sale. The tax collected under this Act in accordance with this
10 subsection (h-1) shall be proportionately distributed as if the
11 tax were collected at the 6.25% general rate imposed under this
12 Act.

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

18 (j) Beginning on January 1, 2002, the use of tangible
19 personal property purchased from an Illinois retailer by a
20 taxpayer engaged in centralized purchasing activities in
21 Illinois who will, upon receipt of the property in Illinois,
22 temporarily store the property in Illinois (i) for the purpose
23 of subsequently transporting it outside this State for use or
24 consumption thereafter solely outside this State or (ii) for
25 the purpose of being processed, fabricated, or manufactured
26 into, attached to, or incorporated into other tangible personal
27 property to be transported outside this State and thereafter
28 used or consumed solely outside this State. The Director of
29 Revenue shall, pursuant to rules adopted in accordance with the
30 Illinois Administrative Procedure Act, issue a permit to any
31 taxpayer in good standing with the Department who is eligible
32 for the exemption under this subsection (j). The permit issued
33 under this subsection (j) shall authorize the holder, to the
34 extent and in the manner specified in the rules adopted under

1 this Act, to purchase tangible personal property from a
2 retailer exempt from the taxes imposed by this Act. Taxpayers
3 shall maintain all necessary books and records to substantiate
4 the use and consumption of all such tangible personal property
5 outside of the State of Illinois.

6 (Source: P.A. 92-16, eff. 6-28-01; 92-488, eff. 8-23-01;
7 92-680, eff. 7-16-02; 92-23, eff. 6-20-03.)

8 Section 10. The Retailers' Occupation Tax Act is amended by
9 changing Section 2-5 as follows:

10 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

14 (1) Farm chemicals.

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

1 tender is separately stated.

2 Farm machinery and equipment shall include precision
3 farming equipment that is installed or purchased to be
4 installed on farm machinery and equipment including, but not
5 limited to, tractors, harvesters, sprayers, planters, seeders,
6 or spreaders. Precision farming equipment includes, but is not
7 limited to, soil testing sensors, computers, monitors,
8 software, global positioning and mapping systems, and other
9 such equipment.

10 Farm machinery and equipment also includes computers,
11 sensors, software, and related equipment used primarily in the
12 computer-assisted operation of production agriculture
13 facilities, equipment, and activities such as, but not limited
14 to, the collection, monitoring, and correlation of animal and
15 crop data for the purpose of formulating animal diets and
16 agricultural chemicals. This item (7) is exempt from the
17 provisions of Section 2-70.

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

24 (4) Until July 1, 2003 and beginning again September 1,
25 2004, graphic arts machinery and equipment, including repair
26 and replacement parts, both new and used, and including that
27 manufactured on special order or purchased for lease, certified
28 by the purchaser to be used primarily for graphic arts
29 production. Equipment includes chemicals or chemicals acting
30 as catalysts but only if the chemicals or chemicals acting as
31 catalysts effect a direct and immediate change upon a graphic
32 arts product.

33 (5) A motor vehicle of the first division, a motor vehicle
34 of the second division that is a self-contained motor vehicle

1 designed or permanently converted to provide living quarters
2 for recreational, camping, or travel use, with direct walk
3 through access to the living quarters from the driver's seat,
4 or a motor vehicle of the second division that is of the van
5 configuration designed for the transportation of not less than
6 7 nor more than 16 passengers, as defined in Section 1-146 of
7 the Illinois Vehicle Code, that is used for automobile renting,
8 as defined in the Automobile Renting Occupation and Use Tax
9 Act.

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

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

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

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

34 (10) Personal property sold by a corporation, society,

1 association, foundation, institution, or organization, other
2 than a limited liability company, that is organized and
3 operated as a not-for-profit service enterprise for the benefit
4 of persons 65 years of age or older if the personal property
5 was not purchased by the enterprise for the purpose of resale
6 by the enterprise.

7 (11) Personal property sold to a governmental body, to a
8 corporation, society, association, foundation, or institution
9 organized and operated exclusively for charitable, religious,
10 or educational purposes, or to a not-for-profit corporation,
11 society, association, foundation, institution, or organization
12 that has no compensated officers or employees and that is
13 organized and operated primarily for the recreation of persons
14 55 years of age or older. A limited liability company may
15 qualify for the exemption under this paragraph only if the
16 limited liability company is organized and operated
17 exclusively for educational purposes. On and after July 1,
18 1987, however, no entity otherwise eligible for this exemption
19 shall make tax-free purchases unless it has an active
20 identification number issued by the Department.

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

30 (12-5) On and after July 1, 2003 and through June 30, 2004,
31 motor vehicles of the second division with a gross vehicle
32 weight in excess of 8,000 pounds that are subject to the
33 commercial distribution fee imposed under Section 3-815.1 of
34 the Illinois Vehicle Code. Beginning on July 1, 2004 and

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

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

21 (14) Machinery and equipment that will be used by the
22 purchaser, or a lessee of the purchaser, primarily in the
23 process of manufacturing or assembling tangible personal
24 property for wholesale or retail sale or lease, whether the
25 sale or lease is made directly by the manufacturer or by some
26 other person, whether the materials used in the process are
27 owned by the manufacturer or some other person, or whether the
28 sale or lease is made apart from or as an incident to the
29 seller's engaging in the service occupation of producing
30 machines, tools, dies, jigs, patterns, gauges, or other similar
31 items of no commercial value on special order for a particular
32 purchaser.

33 (15) Proceeds of mandatory service charges separately
34 stated on customers' bills for purchase and consumption of food

1 and beverages, to the extent that the proceeds of the service
2 charge are in fact turned over as tips or as a substitute for
3 tips to the employees who participate directly in preparing,
4 serving, hosting or cleaning up the food or beverage function
5 with respect to which the service charge is imposed.

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

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

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

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

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

1 (21) Until July 1, 2003, coal exploration, mining,
2 offhighway hauling, processing, maintenance, and reclamation
3 equipment, including replacement parts and equipment, and
4 including equipment purchased for lease, but excluding motor
5 vehicles required to be registered under the Illinois Vehicle
6 Code.

7 (22) Fuel and petroleum products sold to or used by an air
8 carrier, certified by the carrier to be used for consumption,
9 shipment, or storage in the conduct of its business as an air
10 common carrier, for a flight destined for or returning from a
11 location or locations outside the United States without regard
12 to previous or subsequent domestic stopovers.

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

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

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

1 (25-5) The exemption under item (25) does not apply if the
2 state in which the motor vehicle will be titled does not allow
3 a reciprocal exemption for a motor vehicle sold and delivered
4 in that state to an Illinois resident but titled in Illinois.
5 The tax collected under this Act on the sale of a motor vehicle
6 in this State to a resident of another state that does not
7 allow a reciprocal exemption shall be imposed at a rate equal
8 to the state's rate of tax on taxable property in the state in
9 which the purchaser is a resident, except that the tax shall
10 not exceed the tax that would otherwise be imposed under this
11 Act. At the time of the sale, the purchaser shall execute a
12 statement, signed under penalty of perjury, of his or her
13 intent to title the vehicle in the state in which the purchaser
14 is a resident within 30 days after the sale and of the fact of
15 the payment to the State of Illinois of tax in an amount
16 equivalent to the state's rate of tax on taxable property in
17 his or her state of residence and shall submit the statement to
18 the appropriate tax collection agency in his or her state of
19 residence. In addition, the retailer must retain a signed copy
20 of the statement in his or her records. Nothing in this item
21 shall be construed to require the removal of the vehicle from
22 this state following the filing of an intent to title the
23 vehicle in the purchaser's state of residence if the purchaser
24 titles the vehicle in his or her state of residence within 30
25 days after the date of sale. The tax collected under this Act
26 in accordance with this item (25-5) shall be proportionately
27 distributed as if the tax were collected at the 6.25% general
28 rate imposed under this Act.

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

31 (27) Horses, or interests in horses, registered with and
32 meeting the requirements of any of the Arabian Horse Club
33 Registry of America, Appaloosa Horse Club, American Quarter
34 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or
2 racing for prizes.

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

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

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

26 (31) Beginning with taxable years ending on or after
27 December 31, 1995 and ending with taxable years ending on or
28 before December 31, 2004, personal property that is used in the
29 performance of infrastructure repairs in this State, including
30 but not limited to municipal roads and streets, access roads,
31 bridges, sidewalks, waste disposal systems, water and sewer
32 line extensions, water distribution and purification
33 facilities, storm water drainage and retention facilities, and
34 sewage treatment facilities, resulting from a State or

1 federally declared disaster in Illinois or bordering Illinois
2 when such repairs are initiated on facilities located in the
3 declared disaster area within 6 months after the disaster.

4 (32) Beginning July 1, 1999, game or game birds sold at a
5 "game breeding and hunting preserve area" or an "exotic game
6 hunting area" as those terms are used in the Wildlife Code or
7 at a hunting enclosure approved through rules adopted by the
8 Department of Natural Resources. This paragraph is exempt from
9 the provisions of Section 2-70.

10 (33) A motor vehicle, as that term is defined in Section
11 1-146 of the Illinois Vehicle Code, that is donated to a
12 corporation, limited liability company, society, association,
13 foundation, or institution that is determined by the Department
14 to be organized and operated exclusively for educational
15 purposes. For purposes of this exemption, "a corporation,
16 limited liability company, society, association, foundation,
17 or institution organized and operated exclusively for
18 educational purposes" means all tax-supported public schools,
19 private schools that offer systematic instruction in useful
20 branches of learning by methods common to public schools and
21 that compare favorably in their scope and intensity with the
22 course of study presented in tax-supported schools, and
23 vocational or technical schools or institutes organized and
24 operated exclusively to provide a course of study of not less
25 than 6 weeks duration and designed to prepare individuals to
26 follow a trade or to pursue a manual, technical, mechanical,
27 industrial, business, or commercial occupation.

28 (34) Beginning January 1, 2000, personal property,
29 including food, purchased through fundraising events for the
30 benefit of a public or private elementary or secondary school,
31 a group of those schools, or one or more school districts if
32 the events are sponsored by an entity recognized by the school
33 district that consists primarily of volunteers and includes
34 parents and teachers of the school children. This paragraph

1 does not apply to fundraising events (i) for the benefit of
2 private home instruction or (ii) for which the fundraising
3 entity purchases the personal property sold at the events from
4 another individual or entity that sold the property for the
5 purpose of resale by the fundraising entity and that profits
6 from the sale to the fundraising entity. This paragraph is
7 exempt from the provisions of Section 2-70.

8 (35) Beginning January 1, 2000 and through December 31,
9 2001, new or used automatic vending machines that prepare and
10 serve hot food and beverages, including coffee, soup, and other
11 items, and replacement parts for these machines. Beginning
12 January 1, 2002 and through June 30, 2003, machines and parts
13 for machines used in commercial, coin-operated amusement and
14 vending business if a use or occupation tax is paid on the
15 gross receipts derived from the use of the commercial,
16 coin-operated amusement and vending machines. This paragraph
17 is exempt from the provisions of Section 2-70.

18 (35-5) Food for human consumption that is to be consumed
19 off the premises where it is sold (other than alcoholic
20 beverages, soft drinks, and food that has been prepared for
21 immediate consumption) and prescription and nonprescription
22 medicines, drugs, medical appliances, and insulin, urine
23 testing materials, syringes, and needles used by diabetics, for
24 human use, when purchased for use by a person receiving medical
25 assistance under Article 5 of the Illinois Public Aid Code who
26 resides in a licensed long-term care facility, as defined in
27 the Nursing Home Care Act.

28 (36) Beginning August 2, 2001, computers and
29 communications equipment utilized for any hospital purpose and
30 equipment used in the diagnosis, analysis, or treatment of
31 hospital patients sold to a lessor who leases the equipment,
32 under a lease of one year or longer executed or in effect at
33 the time of the purchase, to a hospital that has been issued an
34 active tax exemption identification number by the Department

1 under Section 1g of this Act. This paragraph is exempt from the
2 provisions of Section 2-70.

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

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

32 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
33 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
34 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.

1 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
2 7-30-04; 93-1033, eff. 9-3-04; revised 9-14-04.)

3 Section 12. The Uniform Penalty and Interest Act is amended
4 by changing Section 3-3 as follows:

5 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

6 Sec. 3-3. Penalty for failure to file or pay.

7 (a) This subsection (a) is applicable before January 1,
8 1996. A penalty of 5% of the tax required to be shown due on a
9 return shall be imposed for failure to file the tax return on
10 or before the due date prescribed for filing determined with
11 regard for any extension of time for filing (penalty for late
12 filing or nonfiling). If any unprocessable return is corrected
13 and filed within 21 days after notice by the Department, the
14 late filing or nonfiling penalty shall not apply. If a penalty
15 for late filing or nonfiling is imposed in addition to a
16 penalty for late payment, the total penalty due shall be the
17 sum of the late filing penalty and the applicable late payment
18 penalty. Beginning on the effective date of this amendatory Act
19 of 1995, in the case of any type of tax return required to be
20 filed more frequently than annually, when the failure to file
21 the tax return on or before the date prescribed for filing
22 (including any extensions) is shown to be nonfraudulent and has
23 not occurred in the 2 years immediately preceding the failure
24 to file on the prescribed due date, the penalty imposed by
25 Section 3-3(a) shall be abated.

26 (a-5) This subsection (a-5) is applicable to returns due on
27 and after January 1, 1996 and on or before December 31, 2000. A
28 penalty equal to 2% of the tax required to be shown due on a
29 return, up to a maximum amount of \$250, determined without
30 regard to any part of the tax that is paid on time or by any
31 credit that was properly allowable on the date the return was
32 required to be filed, shall be imposed for failure to file the

1 tax return on or before the due date prescribed for filing
2 determined with regard for any extension of time for filing.
3 However, if any return is not filed within 30 days after notice
4 of nonfiling mailed by the Department to the last known address
5 of the taxpayer contained in Department records, an additional
6 penalty amount shall be imposed equal to the greater of \$250 or
7 2% of the tax shown on the return. However, the additional
8 penalty amount may not exceed \$5,000 and is determined without
9 regard to any part of the tax that is paid on time or by any
10 credit that was properly allowable on the date the return was
11 required to be filed (penalty for late filing or nonfiling). If
12 any unprocessable return is corrected and filed within 30 days
13 after notice by the Department, the late filing or nonfiling
14 penalty shall not apply. If a penalty for late filing or
15 nonfiling is imposed in addition to a penalty for late payment,
16 the total penalty due shall be the sum of the late filing
17 penalty and the applicable late payment penalty. In the case of
18 any type of tax return required to be filed more frequently
19 than annually, when the failure to file the tax return on or
20 before the date prescribed for filing (including any
21 extensions) is shown to be nonfraudulent and has not occurred
22 in the 2 years immediately preceding the failure to file on the
23 prescribed due date, the penalty imposed by Section 3-3(a-5)
24 shall be abated.

25 (a-10) This subsection (a-10) is applicable to returns due
26 on and after January 1, 2001. A penalty equal to 2% of the tax
27 required to be shown due on a return, up to a maximum amount of
28 \$250, reduced by any tax that is paid on time or by any credit
29 that was properly allowable on the date the return was required
30 to be filed, shall be imposed for failure to file the tax
31 return on or before the due date prescribed for filing
32 determined with regard for any extension of time for filing.
33 However, if any return is not filed within 30 days after notice
34 of nonfiling mailed by the Department to the last known address

1 of the taxpayer contained in Department records, an additional
2 penalty amount shall be imposed equal to the greater of \$250 or
3 2% of the tax shown on the return. However, the additional
4 penalty amount may not exceed \$5,000 and is determined without
5 regard to any part of the tax that is paid on time or by any
6 credit that was properly allowable on the date the return was
7 required to be filed (penalty for late filing or nonfiling). If
8 any unprocessable return is corrected and filed within 30 days
9 after notice by the Department, the late filing or nonfiling
10 penalty shall not apply. If a penalty for late filing or
11 nonfiling is imposed in addition to a penalty for late payment,
12 the total penalty due shall be the sum of the late filing
13 penalty and the applicable late payment penalty. In the case of
14 any type of tax return required to be filed more frequently
15 than annually, when the failure to file the tax return on or
16 before the date prescribed for filing (including any
17 extensions) is shown to be nonfraudulent and has not occurred
18 in the 2 years immediately preceding the failure to file on the
19 prescribed due date, the penalty imposed by Section 3-3(a-10)
20 shall be abated.

21 (b) This subsection is applicable before January 1, 1998. A
22 penalty of 15% of the tax shown on the return or the tax
23 required to be shown due on the return shall be imposed for
24 failure to pay:

25 (1) the tax shown due on the return on or before the
26 due date prescribed for payment of that tax, an amount of
27 underpayment of estimated tax, or an amount that is
28 reported in an amended return other than an amended return
29 timely filed as required by subsection (b) of Section 506
30 of the Illinois Income Tax Act (penalty for late payment or
31 nonpayment of admitted liability); or

32 (2) the full amount of any tax required to be shown due
33 on a return and which is not shown (penalty for late
34 payment or nonpayment of additional liability), within 30

1 days after a notice of arithmetic error, notice and demand,
2 or a final assessment is issued by the Department. In the
3 case of a final assessment arising following a protest and
4 hearing, the 30-day period shall not begin until all
5 proceedings in court for review of the final assessment
6 have terminated or the period for obtaining a review has
7 expired without proceedings for a review having been
8 instituted. In the case of a notice of tax liability that
9 becomes a final assessment without a protest and hearing,
10 the penalty provided in this paragraph (2) shall be imposed
11 at the expiration of the period provided for the filing of
12 a protest.

13 (b-5) This subsection is applicable to returns due on and
14 after January 1, 1998 and on or before December 31, 2000. A
15 penalty of 20% of the tax shown on the return or the tax
16 required to be shown due on the return shall be imposed for
17 failure to pay:

18 (1) the tax shown due on the return on or before the
19 due date prescribed for payment of that tax, an amount of
20 underpayment of estimated tax, or an amount that is
21 reported in an amended return other than an amended return
22 timely filed as required by subsection (b) of Section 506
23 of the Illinois Income Tax Act (penalty for late payment or
24 nonpayment of admitted liability); or

25 (2) the full amount of any tax required to be shown due
26 on a return and which is not shown (penalty for late
27 payment or nonpayment of additional liability), within 30
28 days after a notice of arithmetic error, notice and demand,
29 or a final assessment is issued by the Department. In the
30 case of a final assessment arising following a protest and
31 hearing, the 30-day period shall not begin until all
32 proceedings in court for review of the final assessment
33 have terminated or the period for obtaining a review has
34 expired without proceedings for a review having been

1 instituted. In the case of a notice of tax liability that
2 becomes a final assessment without a protest and hearing,
3 the penalty provided in this paragraph (2) shall be imposed
4 at the expiration of the period provided for the filing of
5 a protest.

6 (b-10) This subsection (b-10) is applicable to returns due
7 on and after January 1, 2001 and on or before December 31,
8 2003. A penalty shall be imposed for failure to pay:

9 (1) the tax shown due on a return on or before the due
10 date prescribed for payment of that tax, an amount of
11 underpayment of estimated tax, or an amount that is
12 reported in an amended return other than an amended return
13 timely filed as required by subsection (b) of Section 506
14 of the Illinois Income Tax Act (penalty for late payment or
15 nonpayment of admitted liability). The amount of penalty
16 imposed under this subsection (b-10) (1) shall be 2% of any
17 amount that is paid no later than 30 days after the due
18 date, 5% of any amount that is paid later than 30 days
19 after the due date and not later than 90 days after the due
20 date, 10% of any amount that is paid later than 90 days
21 after the due date and not later than 180 days after the
22 due date, and 15% of any amount that is paid later than 180
23 days after the due date. If notice and demand is made for
24 the payment of any amount of tax due and if the amount due
25 is paid within 30 days after the date of the notice and
26 demand, then the penalty for late payment or nonpayment of
27 admitted liability under this subsection (b-10) (1) on the
28 amount so paid shall not accrue for the period after the
29 date of the notice and demand.

30 (2) the full amount of any tax required to be shown due
31 on a return and that is not shown (penalty for late payment
32 or nonpayment of additional liability), within 30 days
33 after a notice of arithmetic error, notice and demand, or a
34 final assessment is issued by the Department. In the case

1 of a final assessment arising following a protest and
2 hearing, the 30-day period shall not begin until all
3 proceedings in court for review of the final assessment
4 have terminated or the period for obtaining a review has
5 expired without proceedings for a review having been
6 instituted. The amount of penalty imposed under this
7 subsection (b-10) (2) shall be 20% of any amount that is not
8 paid within the 30-day period. In the case of a notice of
9 tax liability that becomes a final assessment without a
10 protest and hearing, the penalty provided in this
11 subsection (b-10) (2) shall be imposed at the expiration of
12 the period provided for the filing of a protest.

13 (b-15) This subsection (b-15) is applicable to returns due
14 on and after January 1, 2004 and on or before December 31,
15 2004. ~~(1)~~ A penalty shall be imposed for failure to pay the tax
16 shown due or required to be shown due on a return on or before
17 the due date prescribed for payment of that tax, an amount of
18 underpayment of estimated tax, or an amount that is reported in
19 an amended return other than an amended return timely filed as
20 required by subsection (b) of Section 506 of the Illinois
21 Income Tax Act (penalty for late payment or nonpayment of
22 admitted liability). The amount of penalty imposed under this
23 subsection (b-15) (1) shall be 2% of any amount that is paid no
24 later than 30 days after the due date, 10% of any amount that
25 is paid later than 30 days after the due date and not later
26 than 90 days after the due date, 15% of any amount that is paid
27 later than 90 days after the due date and not later than 180
28 days after the due date, and 20% of any amount that is paid
29 later than 180 days after the due date. If notice and demand is
30 made for the payment of any amount of tax due and if the amount
31 due is paid within 30 days after the date of this notice and
32 demand, then the penalty for late payment or nonpayment of
33 admitted liability under this subsection (b-15) (1) on the
34 amount so paid shall not accrue for the period after the date

1 of the notice and demand.

2 ~~(2) A penalty shall be imposed for failure to file a~~
3 ~~return or to show on a timely return the full amount of any~~
4 ~~tax required to be shown due. The amount of penalty imposed~~
5 ~~under this subsection (b-15)(2) shall be:~~

6 ~~(A) 5% of any amount of tax (other than an amount~~
7 ~~properly reported on an amended return timely filed as~~
8 ~~required by subsection (b) of Section 506 of the~~
9 ~~Illinois Income Tax Act) that is shown on a return or~~
10 ~~amended return filed prior to the date the Department~~
11 ~~has initiated an audit or investigation of the~~
12 ~~taxpayer;~~

13 ~~(B) 10% of any amount of tax (other than an amount~~
14 ~~properly reported on an amended return timely filed as~~
15 ~~required by subsection (b) of Section 506 of the~~
16 ~~Illinois Income Tax Act) that is shown on a return or~~
17 ~~amended return filed on or after the date the~~
18 ~~Department has initiated an audit or investigation of~~
19 ~~the taxpayer, but prior to the date any notice of~~
20 ~~deficiency, notice of tax liability, notice of~~
21 ~~assessment or notice of final assessment is issued by~~
22 ~~the Department with respect to any portion of such~~
23 ~~underreported amount; or~~

24 ~~(C) 20% of any amount that is not reported on a~~
25 ~~return or amended return filed prior to the date any~~
26 ~~notice of deficiency, notice of tax liability, notice~~
27 ~~of assessment or notice of final assessment is issued~~
28 ~~by the Department with respect to any portion of such~~
29 ~~underreported amount.~~

30 (b-20) This subsection (b-20) is applicable to returns due
31 on and after January 1, 2005.

32 (1) A penalty shall be imposed for failure to pay,
33 prior to the due date for payment, any amount of tax the
34 payment of which is required to be made prior to the filing

1 of a return or without a return (penalty for late payment
2 or nonpayment of estimated or accelerated tax). The amount
3 of penalty imposed under this paragraph (1) shall be 2% of
4 any amount that is paid no later than 30 days after the due
5 date and 10% of any amount that is paid later than 30 days
6 after the due date.

7 (2) A penalty shall be imposed for failure to pay the
8 tax shown due or required to be shown due on a return on or
9 before the due date prescribed for payment of that tax or
10 an amount that is reported in an amended return other than
11 an amended return timely filed as required by subsection
12 (b) of Section 506 of the Illinois Income Tax Act (penalty
13 for late payment or nonpayment of tax). The amount of
14 penalty imposed under this paragraph (2) shall be 2% of any
15 amount that is paid no later than 30 days after the due
16 date, 10% of any amount that is paid later than 30 days
17 after the due date and prior to the date the Department has
18 initiated an audit or investigation of the taxpayer, and
19 20% of any amount that is paid after the date the
20 Department has initiated an audit or investigation of the
21 taxpayer; provided that the penalty shall be reduced to 15%
22 if the entire amount due is paid not later than 30 days
23 after the Department has provided the taxpayer with an
24 amended return (following completion of an occupation,
25 use, or excise tax audit) or a form for waiver of
26 restrictions on assessment (following completion of an
27 income tax audit); provided further that the reduction to
28 15% shall be rescinded if the taxpayer makes any claim for
29 refund or credit of the tax, penalties, or interest
30 determined to be due upon audit, except in the case of a
31 claim filed pursuant to subsection (b) of Section 506 of
32 the Illinois Income Tax Act or to claim a carryover of a
33 loss or credit, the availability of which was not
34 determined in the audit. For purposes of this paragraph

1 (2), any overpayment reported on an original return that
2 has been allowed as a refund or credit to the taxpayer
3 shall be deemed to have not been paid on or before the due
4 date for payment and any amount paid under protest pursuant
5 to the provisions of the State Officers and Employees Money
6 Disposition Act shall be deemed to have been paid after the
7 Department has initiated an audit and more than 30 days
8 after the Department has provided the taxpayer with an
9 amended return (following completion of an occupation,
10 use, or excise tax audit) or a form for waiver of
11 restrictions on assessment (following completion of an
12 income tax audit).

13 (3) The penalty imposed under this subsection (b-20)
14 shall be deemed assessed at the time the tax upon which the
15 penalty is computed is assessed, except that, if the
16 reduction of the penalty imposed under paragraph (2) of
17 this section (b-20) to 15% is rescinded because a claim for
18 refund or credit has been filed, the increase in penalty
19 shall be deemed assessed at the time the claim for refund
20 or credit is filed.

21 (c) For purposes of the late payment penalties, the basis
22 of the penalty shall be the tax shown or required to be shown
23 on a return, whichever is applicable, reduced by any part of
24 the tax which is paid on time and by any credit which was
25 properly allowable on the date the return was required to be
26 filed.

27 (d) A penalty shall be applied to the tax required to be
28 shown even if that amount is less than the tax shown on the
29 return.

30 (e) This subsection (e) is applicable to returns due before
31 January 1, 2001. If both a subsection (b) (1) or (b-5) (1)
32 penalty and a subsection (b) (2) or (b-5) (2) penalty are
33 assessed against the same return, the subsection (b) (2) or
34 (b-5) (2) penalty shall be assessed against only the additional

1 tax found to be due.

2 (e-5) This subsection (e-5) is applicable to returns due on
3 and after January 1, 2001. If both a subsection (b-10)(1)
4 penalty and a subsection (b-10)(2) penalty are assessed against
5 the same return, the subsection (b-10)(2) penalty shall be
6 assessed against only the additional tax found to be due.

7 (f) If the taxpayer has failed to file the return, the
8 Department shall determine the correct tax according to its
9 best judgment and information, which amount shall be prima
10 facie evidence of the correctness of the tax due.

11 (g) The time within which to file a return or pay an amount
12 of tax due without imposition of a penalty does not extend the
13 time within which to file a protest to a notice of tax
14 liability or a notice of deficiency.

15 (h) No return shall be determined to be unprocessable
16 because of the omission of any information requested on the
17 return pursuant to Section 2505-575 of the Department of
18 Revenue Law (20 ILCS 2505/2505-575).

19 (i) If a taxpayer has a tax liability that is eligible for
20 amnesty under the Tax Delinquency Amnesty Act and the taxpayer
21 fails to satisfy the tax liability during the amnesty period
22 provided for in that Act, then the penalty imposed by the
23 Department under this Section shall be imposed in an amount
24 that is 200% of the amount that would otherwise be imposed
25 under this Section.

26 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,
27 eff. 6-20-03; revised 8-1-03.)

28 Section 15. The Local Mass Transit District Act is amended
29 by changing Section 5.01 as follows:

30 (70 ILCS 3610/5.01) (from Ch. 111 2/3, par. 355.01)

31 Sec. 5.01. Metro East Mass Transit District; use and
32 occupation taxes.

1 (a) The Board of Trustees of any Metro East Mass Transit
2 District may, by ordinance adopted with the concurrence of
3 two-thirds of the then trustees, impose throughout the District
4 any or all of the taxes and fees provided in this Section. All
5 taxes and fees imposed under this Section shall be used only
6 for public mass transportation systems, and the amount used to
7 provide mass transit service to unserved areas of the District
8 shall be in the same proportion to the total proceeds as the
9 number of persons residing in the unserved areas is to the
10 total population of the District. Except as otherwise provided
11 in this Act, taxes imposed under this Section and civil
12 penalties imposed incident thereto shall be collected and
13 enforced by the State Department of Revenue. The Department
14 shall have the power to administer and enforce the taxes and to
15 determine all rights for refunds for erroneous payments of the
16 taxes.

17 (b) The Board may impose a Metro East Mass Transit District
18 Retailers' Occupation Tax upon all persons engaged in the
19 business of selling tangible personal property at retail in the
20 district at a rate of 1/4 of 1%, or as authorized under
21 subsection (d-5) of this Section, of the gross receipts from
22 the sales made in the course of such business within the
23 district. The tax imposed under this Section and all civil
24 penalties that may be assessed as an incident thereof shall be
25 collected and enforced by the State Department of Revenue. The
26 Department shall have full power to administer and enforce this
27 Section; to collect all taxes and penalties so collected in the
28 manner hereinafter provided; and to determine all rights to
29 credit memoranda arising on account of the erroneous payment of
30 tax or penalty hereunder. In the administration of, and
31 compliance with, this Section, the Department and persons who
32 are subject to this Section shall have the same rights,
33 remedies, privileges, immunities, powers and duties, and be
34 subject to the same conditions, restrictions, limitations,

1 penalties, exclusions, exemptions and definitions of terms and
2 employ the same modes of procedure, as are prescribed in
3 Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65
4 (in respect to all provisions therein other than the State rate
5 of tax), 2c, 3 (except as to the disposition of taxes and
6 penalties collected), 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j,
7 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13, and 14 of the
8 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
9 Penalty and Interest Act, as fully as if those provisions were
10 set forth herein.

11 Persons subject to any tax imposed under the Section may
12 reimburse themselves for their seller's tax liability
13 hereunder by separately stating the tax as an additional
14 charge, which charge may be stated in combination, in a single
15 amount, with State taxes that sellers are required to collect
16 under the Use Tax Act, in accordance with such bracket
17 schedules as the Department may prescribe.

18 Whenever the Department determines that a refund should be
19 made under this Section to a claimant instead of issuing a
20 credit memorandum, the Department shall notify the State
21 Comptroller, who shall cause the warrant to be drawn for the
22 amount specified, and to the person named, in the notification
23 from the Department. The refund shall be paid by the State
24 Treasurer out of the Metro East Mass Transit District tax fund
25 established under paragraph (g) of this Section.

26 If a tax is imposed under this subsection (b), a tax shall
27 also be imposed under subsections (c) and (d) of this Section.

28 For the purpose of determining whether a tax authorized
29 under this Section is applicable, a retail sale, by a producer
30 of coal or other mineral mined in Illinois, is a sale at retail
31 at the place where the coal or other mineral mined in Illinois
32 is extracted from the earth. This paragraph does not apply to
33 coal or other mineral when it is delivered or shipped by the
34 seller to the purchaser at a point outside Illinois so that the

1 sale is exempt under the Federal Constitution as a sale in
2 interstate or foreign commerce.

3 No tax shall be imposed or collected under this subsection
4 on the sale of a motor vehicle in this State to a resident of
5 another state if that motor vehicle will not be titled in this
6 State.

7 Nothing in this Section shall be construed to authorize the
8 Metro East Mass Transit District to impose a tax upon the
9 privilege of engaging in any business which under the
10 Constitution of the United States may not be made the subject
11 of taxation by this State.

12 (c) If a tax has been imposed under subsection (b), a Metro
13 East Mass Transit District Service Occupation Tax shall also be
14 imposed upon all persons engaged, in the district, in the
15 business of making sales of service, who, as an incident to
16 making those sales of service, transfer tangible personal
17 property within the District, either in the form of tangible
18 personal property or in the form of real estate as an incident
19 to a sale of service. The tax rate shall be 1/4%, or as
20 authorized under subsection (d-5) of this Section, of the
21 selling price of tangible personal property so transferred
22 within the district. The tax imposed under this paragraph and
23 all civil penalties that may be assessed as an incident thereof
24 shall be collected and enforced by the State Department of
25 Revenue. The Department shall have full power to administer and
26 enforce this paragraph; to collect all taxes and penalties due
27 hereunder; to dispose of taxes and penalties so collected in
28 the manner hereinafter provided; and to determine all rights to
29 credit memoranda arising on account of the erroneous payment of
30 tax or penalty hereunder. In the administration of, and
31 compliance with this paragraph, the Department and persons who
32 are subject to this paragraph shall have the same rights,
33 remedies, privileges, immunities, powers and duties, and be
34 subject to the same conditions, restrictions, limitations,

1 penalties, exclusions, exemptions and definitions of terms and
2 employ the same modes of procedure as are prescribed in
3 Sections 1a-1, 2 (except that the reference to State in the
4 definition of supplier maintaining a place of business in this
5 State shall mean the Authority), 2a, 3 through 3-50 (in respect
6 to all provisions therein other than the State rate of tax), 4
7 (except that the reference to the State shall be to the
8 Authority), 5, 7, 8 (except that the jurisdiction to which the
9 tax shall be a debt to the extent indicated in that Section 8
10 shall be the District), 9 (except as to the disposition of
11 taxes and penalties collected, and except that the returned
12 merchandise credit for this tax may not be taken against any
13 State tax), 10, 11, 12 (except the reference therein to Section
14 2b of the Retailers' Occupation Tax Act), 13 (except that any
15 reference to the State shall mean the District), the first
16 paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service
17 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
18 Interest Act, as fully as if those provisions were set forth
19 herein.

20 Persons subject to any tax imposed under the authority
21 granted in this paragraph may reimburse themselves for their
22 serviceman's tax liability hereunder by separately stating the
23 tax as an additional charge, which charge may be stated in
24 combination, in a single amount, with State tax that servicemen
25 are authorized to collect under the Service Use Tax Act, in
26 accordance with such bracket schedules as the Department may
27 prescribe.

28 Whenever the Department determines that a refund should be
29 made under this paragraph to a claimant instead of issuing a
30 credit memorandum, the Department shall notify the State
31 Comptroller, who shall cause the warrant to be drawn for the
32 amount specified, and to the person named, in the notification
33 from the Department. The refund shall be paid by the State
34 Treasurer out of the Metro East Mass Transit District tax fund

1 established under paragraph (g) of this Section.

2 Nothing in this paragraph shall be construed to authorize
3 the District to impose a tax upon the privilege of engaging in
4 any business which under the Constitution of the United States
5 may not be made the subject of taxation by the State.

6 (d) If a tax has been imposed under subsection (b), a Metro
7 East Mass Transit District Use Tax shall also be imposed upon
8 the privilege of using, in the district, any item of tangible
9 personal property that is purchased outside the district at
10 retail from a retailer, and that is titled or registered with
11 an agency of this State's government, at a rate of 1/4%, or as
12 authorized under subsection (d-5) of this Section, of the
13 selling price of the tangible personal property within the
14 District, as "selling price" is defined in the Use Tax Act. The
15 tax shall be collected from persons whose Illinois address for
16 titling or registration purposes is given as being in the
17 District. The tax shall be collected by the Department of
18 Revenue for the Metro East Mass Transit District. The tax must
19 be paid to the State, or an exemption determination must be
20 obtained from the Department of Revenue, before the title or
21 certificate of registration for the property may be issued. The
22 tax or proof of exemption may be transmitted to the Department
23 by way of the State agency with which, or the State officer
24 with whom, the tangible personal property must be titled or
25 registered if the Department and the State agency or State
26 officer determine that this procedure will expedite the
27 processing of applications for title or registration.

28 The Department shall have full power to administer and
29 enforce this paragraph; to collect all taxes, penalties and
30 interest due hereunder; to dispose of taxes, penalties and
31 interest so collected in the manner hereinafter provided; and
32 to determine all rights to credit memoranda or refunds arising
33 on account of the erroneous payment of tax, penalty or interest
34 hereunder. In the administration of, and compliance with, this

1 paragraph, the Department and persons who are subject to this
2 paragraph shall have the same rights, remedies, privileges,
3 immunities, powers and duties, and be subject to the same
4 conditions, restrictions, limitations, penalties, exclusions,
5 exemptions and definitions of terms and employ the same modes
6 of procedure, as are prescribed in Sections 2 (except the
7 definition of "retailer maintaining a place of business in this
8 State"), 3 through 3-80 (except provisions pertaining to the
9 State rate of tax, and except provisions concerning collection
10 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
11 19 (except the portions pertaining to claims by retailers and
12 except the last paragraph concerning refunds), 20, 21 and 22 of
13 the Use Tax Act and Section 3-7 of the Uniform Penalty and
14 Interest Act, that are not inconsistent with this paragraph, as
15 fully as if those provisions were set forth herein.

16 Whenever the Department determines that a refund should be
17 made under this paragraph to a claimant instead of issuing a
18 credit memorandum, the Department shall notify the State
19 Comptroller, who shall cause the order to be drawn for the
20 amount specified, and to the person named, in the notification
21 from the Department. The refund shall be paid by the State
22 Treasurer out of the Metro East Mass Transit District tax fund
23 established under paragraph (g) of this Section.

24 (d-5) (A) The county board of any county participating in
25 the Metro East Mass Transit District may authorize, by
26 ordinance, a referendum on the question of whether the tax
27 rates for the Metro East Mass Transit District Retailers'
28 Occupation Tax, the Metro East Mass Transit District Service
29 Occupation Tax, and the Metro East Mass Transit District Use
30 Tax for the District should be increased from 0.25% to 0.75%.
31 Upon adopting the ordinance, the county board shall certify the
32 proposition to the proper election officials who shall submit
33 the proposition to the voters of the District at the next
34 election, in accordance with the general election law.

1 The proposition shall be in substantially the following
2 form:

3 Shall the tax rates for the Metro East Mass Transit
4 District Retailers' Occupation Tax, the Metro East Mass
5 Transit District Service Occupation Tax, and the Metro East
6 Mass Transit District Use Tax be increased from 0.25% to
7 0.75%?

8 (B) Two thousand five hundred electors of any Metro East
9 Mass Transit District may petition the Chief Judge of the
10 Circuit Court, or any judge of that Circuit designated by the
11 Chief Judge, in which that District is located to cause to be
12 submitted to a vote of the electors the question whether the
13 tax rates for the Metro East Mass Transit District Retailers'
14 Occupation Tax, the Metro East Mass Transit District Service
15 Occupation Tax, and the Metro East Mass Transit District Use
16 Tax for the District should be increased from 0.25% to 0.75%.

17 Upon submission of such petition the court shall set a date
18 not less than 10 nor more than 30 days thereafter for a hearing
19 on the sufficiency thereof. Notice of the filing of such
20 petition and of such date shall be given in writing to the
21 District and the County Clerk at least 7 days before the date
22 of such hearing.

23 If such petition is found sufficient, the court shall enter
24 an order to submit that proposition at the next election, in
25 accordance with general election law.

26 The form of the petition shall be in substantially the
27 following form: To the Circuit Court of the County of (name of
28 county):

29 We, the undersigned electors of the (name of transit
30 district), respectfully petition your honor to submit to a
31 vote of the electors of (name of transit district) the
32 following proposition:

33 Shall the tax rates for the Metro East Mass Transit
34 District Retailers' Occupation Tax, the Metro East Mass

1 Transit District Service Occupation Tax, and the Metro East
 2 Mass Transit District Use Tax be increased from 0.25% to
 3 0.75%?

4 Name Address, with Street and Number.
 5

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7

8 (C) The votes shall be recorded as "YES" or "NO". If a
 9 majority of all votes cast on the proposition are for the
 10 increase in the tax rates, the Metro East Mass Transit District
 11 shall begin imposing the increased rates in the District, and
 12 the Department of Revenue shall begin collecting the increased
 13 amounts, as provided under this Section. An ordinance imposing
 14 or discontinuing a tax hereunder or effecting a change in the
 15 rate thereof shall be adopted and a certified copy thereof
 16 filed with the Department on or before the first day of
 17 October, whereupon the Department shall proceed to administer
 18 and enforce this Section as of the first day of January next
 19 following the adoption and filing.

20 (D) If the voters have approved a referendum under this
 21 subsection, before November 1, 1994, to increase the tax rate
 22 under this subsection, the Metro East Mass Transit District
 23 Board of Trustees may adopt by a majority vote an ordinance at
 24 any time before January 1, 1995 that excludes from the rate
 25 increase tangible personal property that is titled or
 26 registered with an agency of this State's government. The
 27 ordinance excluding titled or registered tangible personal
 28 property from the rate increase must be filed with the
 29 Department at least 15 days before its effective date. At any
 30 time after adopting an ordinance excluding from the rate
 31 increase tangible personal property that is titled or
 32 registered with an agency of this State's government, the Metro
 East Mass Transit District Board of Trustees may adopt an

1 ordinance applying the rate increase to that tangible personal
2 property. The ordinance shall be adopted, and a certified copy
3 of that ordinance shall be filed with the Department, on or
4 before October 1, whereupon the Department shall proceed to
5 administer and enforce the rate increase against tangible
6 personal property titled or registered with an agency of this
7 State's government as of the following January 1. After
8 December 31, 1995, any reimposed rate increase in effect under
9 this subsection shall no longer apply to tangible personal
10 property titled or registered with an agency of this State's
11 government. Beginning January 1, 1996, the Board of Trustees of
12 any Metro East Mass Transit District may never reimpose a
13 previously excluded tax rate increase on tangible personal
14 property titled or registered with an agency of this State's
15 government.

16 (d-6) If the Board of Trustees of any Metro East Mass
17 Transit District has imposed a rate increase under subsection
18 (d-5) and filed an ordinance with the Department of Revenue
19 excluding titled property from the higher rate, then that Board
20 may, by ordinance adopted with the concurrence of two-thirds of
21 the then trustees, impose throughout the District a fee. The
22 fee on the excluded property shall not exceed \$20 per retail
23 transaction or an amount equal to the amount of tax excluded,
24 whichever is less, on tangible personal property that is titled
25 or registered with an agency of this State's government. No fee
26 shall be imposed or collected under this subsection on the sale
27 of a motor vehicle in this State to a resident of another state
28 if that motor vehicle will not be titled in this State.

29 (d-7) If a fee has been imposed under subsection (d-6), a
30 fee shall also be imposed upon the privilege of using, in the
31 district, any item of tangible personal property that is titled
32 or registered with any agency of this State's government, in an
33 amount equal to the amount of the fee imposed under subsection
34 (d-6).

1 (d-8) No item of titled property shall be subject to both
2 the higher rate approved by referendum, as authorized under
3 subsection (d-5), and any fee imposed under subsection (d-6) or
4 (d-7).

5 (d-9) If fees have been imposed under subsections (d-6) and
6 (d-7), the Board shall forward a copy of the ordinance adopting
7 such fees, which shall include all zip codes in whole or in
8 part within the boundaries of the district, to the Secretary of
9 State within thirty days. By the 25th of each month, the
10 Secretary of State shall subsequently provide the Illinois
11 Department of Revenue with a list of identifiable retail
12 transactions subject to the .25% rate occurring within the zip
13 codes which are in whole or in part within the boundaries of
14 the district and a list of title applications for addresses
15 within the boundaries of the district for the previous month.

16 (d-10) In the event that a retailer fails to pay applicable
17 fees within 30 days of the date of the transaction, a penalty
18 shall be assessed at the rate of 25% of the amount of fees.
19 Interest on both late fees and penalties shall be assessed at
20 the rate of 1% per month. All fees, penalties, and attorney
21 fees shall constitute a lien on the personal and real property
22 of the retailer.

23 (e) A certificate of registration issued by the State
24 Department of Revenue to a retailer under the Retailers'
25 Occupation Tax Act or under the Service Occupation Tax Act
26 shall permit the registrant to engage in a business that is
27 taxed under the tax imposed under paragraphs (b), (c) or (d) of
28 this Section and no additional registration shall be required
29 under the tax. A certificate issued under the Use Tax Act or
30 the Service Use Tax Act shall be applicable with regard to any
31 tax imposed under paragraph (c) of this Section.

32 (f) The Board may impose a replacement vehicle tax of \$50
33 on any passenger car, as defined in Section 1-157 of the
34 Illinois Vehicle Code, purchased within the district area by or

1 on behalf of an insurance company to replace a passenger car of
2 an insured person in settlement of a total loss claim. The tax
3 imposed may not become effective before the first day of the
4 month following the passage of the ordinance imposing the tax
5 and receipt of a certified copy of the ordinance by the
6 Department of Revenue. The Department of Revenue shall collect
7 the tax for the district in accordance with Sections 3-2002 and
8 3-2003 of the Illinois Vehicle Code.

9 The Department shall immediately pay over to the State
10 Treasurer, ex officio, as trustee, all taxes collected
11 hereunder. On or before the 25th day of each calendar month,
12 the Department shall prepare and certify to the Comptroller the
13 disbursement of stated sums of money to named districts, the
14 districts to be those from which retailers have paid taxes or
15 penalties hereunder to the Department during the second
16 preceding calendar month. The amount to be paid to each
17 district shall be the amount collected hereunder during the
18 second preceding calendar month by the Department, less any
19 amount determined by the Department to be necessary for the
20 payment of refunds. Within 10 days after receipt by the
21 Comptroller of the disbursement certification to the
22 districts, provided for in this Section to be given to the
23 Comptroller by the Department, the Comptroller shall cause the
24 orders to be drawn for the respective amounts in accordance
25 with the directions contained in the certification.

26 (g) Any ordinance imposing or discontinuing any tax under
27 this Section shall be adopted and a certified copy thereof
28 filed with the Department on or before June 1, whereupon the
29 Department of Revenue shall proceed to administer and enforce
30 this Section on behalf of the Metro East Mass Transit District
31 as of September 1 next following such adoption and filing.
32 Beginning January 1, 1992, an ordinance or resolution imposing
33 or discontinuing the tax hereunder shall be adopted and a
34 certified copy thereof filed with the Department on or before

1 the first day of July, whereupon the Department shall proceed
2 to administer and enforce this Section as of the first day of
3 October next following such adoption and filing. Beginning
4 January 1, 1993, except as provided in subsection (d-5) of this
5 Section, an ordinance or resolution imposing or discontinuing
6 the tax hereunder shall be adopted and a certified copy thereof
7 filed with the Department on or before the first day of
8 October, whereupon the Department shall proceed to administer
9 and enforce this Section as of the first day of January next
10 following such adoption and filing.

11 (h) The State Department of Revenue shall, upon collecting
12 any taxes as provided in this Section, pay the taxes over to
13 the State Treasurer as trustee for the District. The taxes
14 shall be held in a trust fund outside the State Treasury. On or
15 before the 25th day of each calendar month, the State
16 Department of Revenue shall prepare and certify to the
17 Comptroller of the State of Illinois the amount to be paid to
18 the District, which shall be the then balance in the fund, less
19 any amount determined by the Department to be necessary for the
20 payment of refunds. Within 10 days after receipt by the
21 Comptroller of the certification of the amount to be paid to
22 the District, the Comptroller shall cause an order to be drawn
23 for payment for the amount in accordance with the direction in
24 the certification.

25 (Source: P.A. 93-590; eff. 1-1-04.)

26 Section 20. The Regional Transportation Authority Act is
27 amended by changing Section 4.03 as follows:

28 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

29 Sec. 4.03. Taxes.

30 (a) In order to carry out any of the powers or purposes of
31 the Authority, the Board may by ordinance adopted with the
32 concurrence of 9 of the then Directors, impose throughout the

1 metropolitan region any or all of the taxes provided in this
2 Section. Except as otherwise provided in this Act, taxes
3 imposed under this Section and civil penalties imposed incident
4 thereto shall be collected and enforced by the State Department
5 of Revenue. The Department shall have the power to administer
6 and enforce the taxes and to determine all rights for refunds
7 for erroneous payments of the taxes.

8 (b) The Board may impose a public transportation tax upon
9 all persons engaged in the metropolitan region in the business
10 of selling at retail motor fuel for operation of motor vehicles
11 upon public highways. The tax shall be at a rate not to exceed
12 5% of the gross receipts from the sales of motor fuel in the
13 course of the business. As used in this Act, the term "motor
14 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
15 The Board may provide for details of the tax. The provisions of
16 any tax shall conform, as closely as may be practicable, to the
17 provisions of the Municipal Retailers Occupation Tax Act,
18 including without limitation, conformity to penalties with
19 respect to the tax imposed and as to the powers of the State
20 Department of Revenue to promulgate and enforce rules and
21 regulations relating to the administration and enforcement of
22 the provisions of the tax imposed, except that reference in the
23 Act to any municipality shall refer to the Authority and the
24 tax shall be imposed only with regard to receipts from sales of
25 motor fuel in the metropolitan region, at rates as limited by
26 this Section.

27 (c) In connection with the tax imposed under paragraph (b)
28 of this Section the Board may impose a tax upon the privilege
29 of using in the metropolitan region motor fuel for the
30 operation of a motor vehicle upon public highways, the tax to
31 be at a rate not in excess of the rate of tax imposed under
32 paragraph (b) of this Section. The Board may provide for
33 details of the tax.

34 (d) The Board may impose a motor vehicle parking tax upon

1 the privilege of parking motor vehicles at off-street parking
2 facilities in the metropolitan region at which a fee is
3 charged, and may provide for reasonable classifications in and
4 exemptions to the tax, for administration and enforcement
5 thereof and for civil penalties and refunds thereunder and may
6 provide criminal penalties thereunder, the maximum penalties
7 not to exceed the maximum criminal penalties provided in the
8 Retailers' Occupation Tax Act. The Authority may collect and
9 enforce the tax itself or by contract with any unit of local
10 government. The State Department of Revenue shall have no
11 responsibility for the collection and enforcement unless the
12 Department agrees with the Authority to undertake the
13 collection and enforcement. As used in this paragraph, the term
14 "parking facility" means a parking area or structure having
15 parking spaces for more than 2 vehicles at which motor vehicles
16 are permitted to park in return for an hourly, daily, or other
17 periodic fee, whether publicly or privately owned, but does not
18 include parking spaces on a public street, the use of which is
19 regulated by parking meters.

20 (e) The Board may impose a Regional Transportation
21 Authority Retailers' Occupation Tax upon all persons engaged in
22 the business of selling tangible personal property at retail in
23 the metropolitan region. In Cook County the tax rate shall be
24 1% of the gross receipts from sales of food for human
25 consumption that is to be consumed off the premises where it is
26 sold (other than alcoholic beverages, soft drinks and food that
27 has been prepared for immediate consumption) and prescription
28 and nonprescription medicines, drugs, medical appliances and
29 insulin, urine testing materials, syringes and needles used by
30 diabetics, and 3/4% of the gross receipts from other taxable
31 sales made in the course of that business. In DuPage, Kane,
32 Lake, McHenry, and Will Counties, the tax rate shall be 1/4% of
33 the gross receipts from all taxable sales made in the course of
34 that business. The tax imposed under this Section and all civil

1 penalties that may be assessed as an incident thereof shall be
2 collected and enforced by the State Department of Revenue. The
3 Department shall have full power to administer and enforce this
4 Section; to collect all taxes and penalties so collected in the
5 manner hereinafter provided; and to determine all rights to
6 credit memoranda arising on account of the erroneous payment of
7 tax or penalty hereunder. In the administration of, and
8 compliance with this Section, the Department and persons who
9 are subject to this Section shall have the same rights,
10 remedies, privileges, immunities, powers and duties, and be
11 subject to the same conditions, restrictions, limitations,
12 penalties, exclusions, exemptions and definitions of terms,
13 and employ the same modes of procedure, as are prescribed in
14 Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65
15 (in respect to all provisions therein other than the State rate
16 of tax), 2c, 3 (except as to the disposition of taxes and
17 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
18 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
19 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
20 Penalty and Interest Act, as fully as if those provisions were
21 set forth herein.

22 Persons subject to any tax imposed under the authority
23 granted in this Section may reimburse themselves for their
24 seller's tax liability hereunder by separately stating the tax
25 as an additional charge, which charge may be stated in
26 combination in a single amount with State taxes that sellers
27 are required to collect under the Use Tax Act, under any
28 bracket schedules the Department may prescribe.

29 Whenever the Department determines that a refund should be
30 made under this Section to a claimant instead of issuing a
31 credit memorandum, the Department shall notify the State
32 Comptroller, who shall cause the warrant to be drawn for the
33 amount specified, and to the person named, in the notification
34 from the Department. The refund shall be paid by the State

1 Treasurer out of the Regional Transportation Authority tax fund
2 established under paragraph (n) of this Section.

3 If a tax is imposed under this subsection (e), a tax shall
4 also be imposed under subsections (f) and (g) of this Section.

5 For the purpose of determining whether a tax authorized
6 under this Section is applicable, a retail sale by a producer
7 of coal or other mineral mined in Illinois, is a sale at retail
8 at the place where the coal or other mineral mined in Illinois
9 is extracted from the earth. This paragraph does not apply to
10 coal or other mineral when it is delivered or shipped by the
11 seller to the purchaser at a point outside Illinois so that the
12 sale is exempt under the Federal Constitution as a sale in
13 interstate or foreign commerce.

14 No tax shall be imposed or collected under this subsection
15 on the sale of a motor vehicle in this State to a resident of
16 another state if that motor vehicle will not be titled in this
17 State.

18 Nothing in this Section shall be construed to authorize the
19 Regional Transportation Authority to impose a tax upon the
20 privilege of engaging in any business that under the
21 Constitution of the United States may not be made the subject
22 of taxation by this State.

23 (f) If a tax has been imposed under paragraph (e), a
24 Regional Transportation Authority Service Occupation Tax shall
25 also be imposed upon all persons engaged, in the metropolitan
26 region in the business of making sales of service, who as an
27 incident to making the sales of service, transfer tangible
28 personal property within the metropolitan region, either in the
29 form of tangible personal property or in the form of real
30 estate as an incident to a sale of service. In Cook County, the
31 tax rate shall be: (1) 1% of the serviceman's cost price of
32 food prepared for immediate consumption and transferred
33 incident to a sale of service subject to the service occupation
34 tax by an entity licensed under the Hospital Licensing Act or

1 the Nursing Home Care Act that is located in the metropolitan
2 region; (2) 1% of the selling price of food for human
3 consumption that is to be consumed off the premises where it is
4 sold (other than alcoholic beverages, soft drinks and food that
5 has been prepared for immediate consumption) and prescription
6 and nonprescription medicines, drugs, medical appliances and
7 insulin, urine testing materials, syringes and needles used by
8 diabetics; and (3) 3/4% of the selling price from other taxable
9 sales of tangible personal property transferred. In DuPage,
10 Kane, Lake, McHenry and Will Counties the rate shall be 1/4% of
11 the selling price of all tangible personal property
12 transferred.

13 The tax imposed under this paragraph and all civil
14 penalties that may be assessed as an incident thereof shall be
15 collected and enforced by the State Department of Revenue. The
16 Department shall have full power to administer and enforce this
17 paragraph; to collect all taxes and penalties due hereunder; to
18 dispose of taxes and penalties collected in the manner
19 hereinafter provided; and to determine all rights to credit
20 memoranda arising on account of the erroneous payment of tax or
21 penalty hereunder. In the administration of and compliance with
22 this paragraph, the Department and persons who are subject to
23 this paragraph shall have the same rights, remedies,
24 privileges, immunities, powers and duties, and be subject to
25 the same conditions, restrictions, limitations, penalties,
26 exclusions, exemptions and definitions of terms, and employ the
27 same modes of procedure, as are prescribed in Sections 1a-1, 2,
28 2a, 3 through 3-50 (in respect to all provisions therein other
29 than the State rate of tax), 4 (except that the reference to
30 the State shall be to the Authority), 5, 7, 8 (except that the
31 jurisdiction to which the tax shall be a debt to the extent
32 indicated in that Section 8 shall be the Authority), 9 (except
33 as to the disposition of taxes and penalties collected, and
34 except that the returned merchandise credit for this tax may

1 not be taken against any State tax), 10, 11, 12 (except the
2 reference therein to Section 2b of the Retailers' Occupation
3 Tax Act), 13 (except that any reference to the State shall mean
4 the Authority), the first paragraph of Section 15, 16, 17, 18,
5 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
6 the Uniform Penalty and Interest Act, as fully as if those
7 provisions were set forth herein.

8 Persons subject to any tax imposed under the authority
9 granted in this paragraph may reimburse themselves for their
10 serviceman's tax liability hereunder by separately stating the
11 tax as an additional charge, that charge may be stated in
12 combination in a single amount with State tax that servicemen
13 are authorized to collect under the Service Use Tax Act, under
14 any bracket schedules the Department may prescribe.

15 Whenever the Department determines that a refund should be
16 made under this paragraph to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the warrant to be drawn for the
19 amount specified, and to the person named in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of the Regional Transportation Authority tax fund
22 established under paragraph (n) of this Section.

23 Nothing in this paragraph shall be construed to authorize
24 the Authority to impose a tax upon the privilege of engaging in
25 any business that under the Constitution of the United States
26 may not be made the subject of taxation by the State.

27 (g) If a tax has been imposed under paragraph (e), a tax
28 shall also be imposed upon the privilege of using in the
29 metropolitan region, any item of tangible personal property
30 that is purchased outside the metropolitan region at retail
31 from a retailer, and that is titled or registered with an
32 agency of this State's government. In Cook County the tax rate
33 shall be 3/4% of the selling price of the tangible personal
34 property, as "selling price" is defined in the Use Tax Act. In

1 DuPage, Kane, Lake, McHenry and Will counties the tax rate
2 shall be 1/4% of the selling price of the tangible personal
3 property, as "selling price" is defined in the Use Tax Act. The
4 tax shall be collected from persons whose Illinois address for
5 titling or registration purposes is given as being in the
6 metropolitan region. The tax shall be collected by the
7 Department of Revenue for the Regional Transportation
8 Authority. The tax must be paid to the State, or an exemption
9 determination must be obtained from the Department of Revenue,
10 before the title or certificate of registration for the
11 property may be issued. The tax or proof of exemption may be
12 transmitted to the Department by way of the State agency with
13 which, or the State officer with whom, the tangible personal
14 property must be titled or registered if the Department and the
15 State agency or State officer determine that this procedure
16 will expedite the processing of applications for title or
17 registration.

18 The Department shall have full power to administer and
19 enforce this paragraph; to collect all taxes, penalties and
20 interest due hereunder; to dispose of taxes, penalties and
21 interest collected in the manner hereinafter provided; and to
22 determine all rights to credit memoranda or refunds arising on
23 account of the erroneous payment of tax, penalty or interest
24 hereunder. In the administration of and compliance with this
25 paragraph, the Department and persons who are subject to this
26 paragraph shall have the same rights, remedies, privileges,
27 immunities, powers and duties, and be subject to the same
28 conditions, restrictions, limitations, penalties, exclusions,
29 exemptions and definitions of terms and employ the same modes
30 of procedure, as are prescribed in Sections 2 (except the
31 definition of "retailer maintaining a place of business in this
32 State"), 3 through 3-80 (except provisions pertaining to the
33 State rate of tax, and except provisions concerning collection
34 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,

1 19 (except the portions pertaining to claims by retailers and
2 except the last paragraph concerning refunds), 20, 21 and 22 of
3 the Use Tax Act, and are not inconsistent with this paragraph,
4 as fully as if those provisions were set forth herein.

5 Whenever the Department determines that a refund should be
6 made under this paragraph to a claimant instead of issuing a
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the order to be drawn for the
9 amount specified, and to the person named in the notification
10 from the Department. The refund shall be paid by the State
11 Treasurer out of the Regional Transportation Authority tax fund
12 established under paragraph (n) of this Section.

13 (h) The Authority may impose a replacement vehicle tax of
14 \$50 on any passenger car as defined in Section 1-157 of the
15 Illinois Vehicle Code purchased within the metropolitan region
16 by or on behalf of an insurance company to replace a passenger
17 car of an insured person in settlement of a total loss claim.
18 The tax imposed may not become effective before the first day
19 of the month following the passage of the ordinance imposing
20 the tax and receipt of a certified copy of the ordinance by the
21 Department of Revenue. The Department of Revenue shall collect
22 the tax for the Authority in accordance with Sections 3-2002
23 and 3-2003 of the Illinois Vehicle Code.

24 The Department shall immediately pay over to the State
25 Treasurer, ex officio, as trustee, all taxes collected
26 hereunder. On or before the 25th day of each calendar month,
27 the Department shall prepare and certify to the Comptroller the
28 disbursement of stated sums of money to the Authority. The
29 amount to be paid to the Authority shall be the amount
30 collected hereunder during the second preceding calendar month
31 by the Department, less any amount determined by the Department
32 to be necessary for the payment of refunds. Within 10 days
33 after receipt by the Comptroller of the disbursement
34 certification to the Authority provided for in this Section to

1 be given to the Comptroller by the Department, the Comptroller
2 shall cause the orders to be drawn for that amount in
3 accordance with the directions contained in the certification.

4 (i) The Board may not impose any other taxes except as it
5 may from time to time be authorized by law to impose.

6 (j) A certificate of registration issued by the State
7 Department of Revenue to a retailer under the Retailers'
8 Occupation Tax Act or under the Service Occupation Tax Act
9 shall permit the registrant to engage in a business that is
10 taxed under the tax imposed under paragraphs (b), (e), (f) or
11 (g) of this Section and no additional registration shall be
12 required under the tax. A certificate issued under the Use Tax
13 Act or the Service Use Tax Act shall be applicable with regard
14 to any tax imposed under paragraph (c) of this Section.

15 (k) The provisions of any tax imposed under paragraph (c)
16 of this Section shall conform as closely as may be practicable
17 to the provisions of the Use Tax Act, including without
18 limitation conformity as to penalties with respect to the tax
19 imposed and as to the powers of the State Department of Revenue
20 to promulgate and enforce rules and regulations relating to the
21 administration and enforcement of the provisions of the tax
22 imposed. The taxes shall be imposed only on use within the
23 metropolitan region and at rates as provided in the paragraph.

24 (l) The Board in imposing any tax as provided in paragraphs
25 (b) and (c) of this Section, shall, after seeking the advice of
26 the State Department of Revenue, provide means for retailers,
27 users or purchasers of motor fuel for purposes other than those
28 with regard to which the taxes may be imposed as provided in
29 those paragraphs to receive refunds of taxes improperly paid,
30 which provisions may be at variance with the refund provisions
31 as applicable under the Municipal Retailers Occupation Tax Act.
32 The State Department of Revenue may provide for certificates of
33 registration for users or purchasers of motor fuel for purposes
34 other than those with regard to which taxes may be imposed as

1 provided in paragraphs (b) and (c) of this Section to
2 facilitate the reporting and nontaxability of the exempt sales
3 or uses.

4 (m) Any ordinance imposing or discontinuing any tax under
5 this Section shall be adopted and a certified copy thereof
6 filed with the Department on or before June 1, whereupon the
7 Department of Revenue shall proceed to administer and enforce
8 this Section on behalf of the Regional Transportation Authority
9 as of September 1 next following such adoption and filing.
10 Beginning January 1, 1992, an ordinance or resolution imposing
11 or discontinuing the tax hereunder shall be adopted and a
12 certified copy thereof filed with the Department on or before
13 the first day of July, whereupon the Department shall proceed
14 to administer and enforce this Section as of the first day of
15 October next following such adoption and filing. Beginning
16 January 1, 1993, an ordinance or resolution imposing or
17 discontinuing the tax hereunder shall be adopted and a
18 certified copy thereof filed with the Department on or before
19 the first day of October, whereupon the Department shall
20 proceed to administer and enforce this Section as of the first
21 day of January next following such adoption and filing.

22 (n) The State Department of Revenue shall, upon collecting
23 any taxes as provided in this Section, pay the taxes over to
24 the State Treasurer as trustee for the Authority. The taxes
25 shall be held in a trust fund outside the State Treasury. On or
26 before the 25th day of each calendar month, the State
27 Department of Revenue shall prepare and certify to the
28 Comptroller of the State of Illinois the amount to be paid to
29 the Authority, which shall be the then balance in the fund,
30 less any amount determined by the Department to be necessary
31 for the payment of refunds. The State Department of Revenue
32 shall also certify to the Authority the amount of taxes
33 collected in each County other than Cook County in the
34 metropolitan region less the amount necessary for the payment

1 of refunds to taxpayers in the County. With regard to the
2 County of Cook, the certification shall specify the amount of
3 taxes collected within the City of Chicago less the amount
4 necessary for the payment of refunds to taxpayers in the City
5 of Chicago and the amount collected in that portion of Cook
6 County outside of Chicago less the amount necessary for the
7 payment of refunds to taxpayers in that portion of Cook County
8 outside of Chicago. Within 10 days after receipt by the
9 Comptroller of the certification of the amount to be paid to
10 the Authority, the Comptroller shall cause an order to be drawn
11 for the payment for the amount in accordance with the direction
12 in the certification.

13 In addition to the disbursement required by the preceding
14 paragraph, an allocation shall be made in July 1991 and each
15 year thereafter to the Regional Transportation Authority. The
16 allocation shall be made in an amount equal to the average
17 monthly distribution during the preceding calendar year
18 (excluding the 2 months of lowest receipts) and the allocation
19 shall include the amount of average monthly distribution from
20 the Regional Transportation Authority Occupation and Use Tax
21 Replacement Fund. The distribution made in July 1992 and each
22 year thereafter under this paragraph and the preceding
23 paragraph shall be reduced by the amount allocated and
24 disbursed under this paragraph in the preceding calendar year.
25 The Department of Revenue shall prepare and certify to the
26 Comptroller for disbursement the allocations made in
27 accordance with this paragraph.

28 (o) Failure to adopt a budget ordinance or otherwise to
29 comply with Section 4.01 of this Act or to adopt a Five-year
30 Program or otherwise to comply with paragraph (b) of Section
31 2.01 of this Act shall not affect the validity of any tax
32 imposed by the Authority otherwise in conformity with law.

33 (p) At no time shall a public transportation tax or motor
34 vehicle parking tax authorized under paragraphs (b), (c) and

1 (d) of this Section be in effect at the same time as any
2 retailers' occupation, use or service occupation tax
3 authorized under paragraphs (e), (f) and (g) of this Section is
4 in effect.

5 Any taxes imposed under the authority provided in
6 paragraphs (b), (c) and (d) shall remain in effect only until
7 the time as any tax authorized by paragraphs (e), (f) or (g) of
8 this Section are imposed and becomes effective. Once any tax
9 authorized by paragraphs (e), (f) or (g) is imposed the Board
10 may not reimpose taxes as authorized in paragraphs (b), (c) and
11 (d) of the Section unless any tax authorized by paragraphs (e),
12 (f) or (g) of this Section becomes ineffective by means other
13 than an ordinance of the Board.

14 (q) Any existing rights, remedies and obligations
15 (including enforcement by the Regional Transportation
16 Authority) arising under any tax imposed under paragraphs (b),
17 (c) or (d) of this Section shall not be affected by the
18 imposition of a tax under paragraphs (e), (f) or (g) of this
19 Section.

20 (Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01; 92-651,
21 eff. 7-11-02.)

22 Section 25. The Water Commission Act of 1985 is amended by
23 changing Section 4 as follows:

24 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

25 Sec. 4. (a) The board of commissioners of any county water
26 commission may, by ordinance, impose throughout the territory
27 of the commission any or all of the taxes provided in this
28 Section for its corporate purposes. However, no county water
29 commission may impose any such tax unless the commission
30 certifies the proposition of imposing the tax to the proper
31 election officials, who shall submit the proposition to the
32 voters residing in the territory at an election in accordance

1 with the general election law, and the proposition has been
2 approved by a majority of those voting on the proposition.

3 The proposition shall be in the form provided in Section 5
4 or shall be substantially in the following form:

5 -----

6	Shall the (insert corporate	
7	name of county water commission)	YES
8	impose (state type of tax or	-----
9	taxes to be imposed) at the	NO
10	rate of 1/4%?	

11 -----

12 Taxes imposed under this Section and civil penalties
13 imposed incident thereto shall be collected and enforced by the
14 State Department of Revenue. The Department shall have the
15 power to administer and enforce the taxes and to determine all
16 rights for refunds for erroneous payments of the taxes.

17 (b) The board of commissioners may impose a County Water
18 Commission Retailers' Occupation Tax upon all persons engaged
19 in the business of selling tangible personal property at retail
20 in the territory of the commission at a rate of 1/4% of the
21 gross receipts from the sales made in the course of such
22 business within the territory. The tax imposed under this
23 paragraph and all civil penalties that may be assessed as an
24 incident thereof shall be collected and enforced by the State
25 Department of Revenue. The Department shall have full power to
26 administer and enforce this paragraph; to collect all taxes and
27 penalties due hereunder; to dispose of taxes and penalties so
28 collected in the manner hereinafter provided; and to determine
29 all rights to credit memoranda arising on account of the
30 erroneous payment of tax or penalty hereunder. In the
31 administration of, and compliance with, this paragraph, the
32 Department and persons who are subject to this paragraph shall
33 have the same rights, remedies, privileges, immunities, powers
34 and duties, and be subject to the same conditions,

1 restrictions, limitations, penalties, exclusions, exemptions
2 and definitions of terms, and employ the same modes of
3 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
4 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
5 therein other than the State rate of tax except that food for
6 human consumption that is to be consumed off the premises where
7 it is sold (other than alcoholic beverages, soft drinks, and
8 food that has been prepared for immediate consumption) and
9 prescription and nonprescription medicine, drugs, medical
10 appliances and insulin, urine testing materials, syringes, and
11 needles used by diabetics, for human use, shall not be subject
12 to tax hereunder), 2c, 3 (except as to the disposition of taxes
13 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,
14 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
15 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
16 Penalty and Interest Act, as fully as if those provisions were
17 set forth herein.

18 Persons subject to any tax imposed under the authority
19 granted in this paragraph may reimburse themselves for their
20 seller's tax liability hereunder by separately stating the tax
21 as an additional charge, which charge may be stated in
22 combination, in a single amount, with State taxes that sellers
23 are required to collect under the Use Tax Act and under
24 subsection (e) of Section 4.03 of the Regional Transportation
25 Authority Act, in accordance with such bracket schedules as the
26 Department may prescribe.

27 Whenever the Department determines that a refund should be
28 made under this paragraph to a claimant instead of issuing a
29 credit memorandum, the Department shall notify the State
30 Comptroller, who shall cause the warrant to be drawn for the
31 amount specified, and to the person named, in the notification
32 from the Department. The refund shall be paid by the State
33 Treasurer out of a county water commission tax fund established
34 under paragraph (g) of this Section.

1 For the purpose of determining whether a tax authorized
2 under this paragraph is applicable, a retail sale by a producer
3 of coal or other mineral mined in Illinois is a sale at retail
4 at the place where the coal or other mineral mined in Illinois
5 is extracted from the earth. This paragraph does not apply to
6 coal or other mineral when it is delivered or shipped by the
7 seller to the purchaser at a point outside Illinois so that the
8 sale is exempt under the Federal Constitution as a sale in
9 interstate or foreign commerce.

10 If a tax is imposed under this subsection (b) a tax shall
11 also be imposed under subsections (c) and (d) of this Section.

12 No tax shall be imposed or collected under this subsection
13 on the sale of a motor vehicle in this State to a resident of
14 another state if that motor vehicle will not be titled in this
15 State.

16 Nothing in this paragraph shall be construed to authorize a
17 county water commission to impose a tax upon the privilege of
18 engaging in any business which under the Constitution of the
19 United States may not be made the subject of taxation by this
20 State.

21 (c) If a tax has been imposed under subsection (b), a
22 County Water Commission Service Occupation Tax shall also be
23 imposed upon all persons engaged, in the territory of the
24 commission, in the business of making sales of service, who, as
25 an incident to making the sales of service, transfer tangible
26 personal property within the territory. The tax rate shall be
27 1/4% of the selling price of tangible personal property so
28 transferred within the territory. The tax imposed under this
29 paragraph and all civil penalties that may be assessed as an
30 incident thereof shall be collected and enforced by the State
31 Department of Revenue. The Department shall have full power to
32 administer and enforce this paragraph; to collect all taxes and
33 penalties due hereunder; to dispose of taxes and penalties so
34 collected in the manner hereinafter provided; and to determine

1 all rights to credit memoranda arising on account of the
2 erroneous payment of tax or penalty hereunder. In the
3 administration of, and compliance with, this paragraph, the
4 Department and persons who are subject to this paragraph shall
5 have the same rights, remedies, privileges, immunities, powers
6 and duties, and be subject to the same conditions,
7 restrictions, limitations, penalties, exclusions, exemptions
8 and definitions of terms, and employ the same modes of
9 procedure, as are prescribed in Sections 1a-1, 2 (except that
10 the reference to State in the definition of supplier
11 maintaining a place of business in this State shall mean the
12 territory of the commission), 2a, 3 through 3-50 (in respect to
13 all provisions therein other than the State rate of tax except
14 that food for human consumption that is to be consumed off the
15 premises where it is sold (other than alcoholic beverages, soft
16 drinks, and food that has been prepared for immediate
17 consumption) and prescription and nonprescription medicines,
18 drugs, medical appliances and insulin, urine testing
19 materials, syringes, and needles used by diabetics, for human
20 use, shall not be subject to tax hereunder), 4 (except that the
21 reference to the State shall be to the territory of the
22 commission), 5, 7, 8 (except that the jurisdiction to which the
23 tax shall be a debt to the extent indicated in that Section 8
24 shall be the commission), 9 (except as to the disposition of
25 taxes and penalties collected and except that the returned
26 merchandise credit for this tax may not be taken against any
27 State tax), 10, 11, 12 (except the reference therein to Section
28 2b of the Retailers' Occupation Tax Act), 13 (except that any
29 reference to the State shall mean the territory of the
30 commission), the first paragraph of Section 15, 15.5, 16, 17,
31 18, 19 and 20 of the Service Occupation Tax Act as fully as if
32 those provisions were set forth herein.

33 Persons subject to any tax imposed under the authority
34 granted in this paragraph may reimburse themselves for their

1 serviceman's tax liability hereunder by separately stating the
2 tax as an additional charge, which charge may be stated in
3 combination, in a single amount, with State tax that servicemen
4 are authorized to collect under the Service Use Tax Act, and
5 any tax for which servicemen may be liable under subsection (f)
6 of Sec. 4.03 of the Regional Transportation Authority Act, in
7 accordance with such bracket schedules as the Department may
8 prescribe.

9 Whenever the Department determines that a refund should be
10 made under this paragraph to a claimant instead of issuing a
11 credit memorandum, the Department shall notify the State
12 Comptroller, who shall cause the warrant to be drawn for the
13 amount specified, and to the person named, in the notification
14 from the Department. The refund shall be paid by the State
15 Treasurer out of a county water commission tax fund established
16 under paragraph (g) of this Section.

17 Nothing in this paragraph shall be construed to authorize a
18 county water commission to impose a tax upon the privilege of
19 engaging in any business which under the Constitution of the
20 United States may not be made the subject of taxation by the
21 State.

22 (d) If a tax has been imposed under subsection (b), a tax
23 shall also imposed upon the privilege of using, in the
24 territory of the commission, any item of tangible personal
25 property that is purchased outside the territory at retail from
26 a retailer, and that is titled or registered with an agency of
27 this State's government, at a rate of 1/4% of the selling price
28 of the tangible personal property within the territory, as
29 "selling price" is defined in the Use Tax Act. The tax shall be
30 collected from persons whose Illinois address for titling or
31 registration purposes is given as being in the territory. The
32 tax shall be collected by the Department of Revenue for a
33 county water commission. The tax must be paid to the State, or
34 an exemption determination must be obtained from the Department

1 of Revenue, before the title or certificate of registration for
2 the property may be issued. The tax or proof of exemption may
3 be transmitted to the Department by way of the State agency
4 with which, or the State officer with whom, the tangible
5 personal property must be titled or registered if the
6 Department and the State agency or State officer determine that
7 this procedure will expedite the processing of applications for
8 title or registration.

9 The Department shall have full power to administer and
10 enforce this paragraph; to collect all taxes, penalties and
11 interest due hereunder; to dispose of taxes, penalties and
12 interest so collected in the manner hereinafter provided; and
13 to determine all rights to credit memoranda or refunds arising
14 on account of the erroneous payment of tax, penalty or interest
15 hereunder. In the administration of, and compliance with this
16 paragraph, the Department and persons who are subject to this
17 paragraph shall have the same rights, remedies, privileges,
18 immunities, powers and duties, and be subject to the same
19 conditions, restrictions, limitations, penalties, exclusions,
20 exemptions and definitions of terms and employ the same modes
21 of procedure, as are prescribed in Sections 2 (except the
22 definition of "retailer maintaining a place of business in this
23 State"), 3 through 3-80 (except provisions pertaining to the
24 State rate of tax, and except provisions concerning collection
25 or refunding of the tax by retailers, and except that food for
26 human consumption that is to be consumed off the premises where
27 it is sold (other than alcoholic beverages, soft drinks, and
28 food that has been prepared for immediate consumption) and
29 prescription and nonprescription medicines, drugs, medical
30 appliances and insulin, urine testing materials, syringes, and
31 needles used by diabetics, for human use, shall not be subject
32 to tax hereunder), 4, 11, 12, 12a, 14, 15, 19 (except the
33 portions pertaining to claims by retailers and except the last
34 paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act

1 and Section 3-7 of the Uniform Penalty and Interest Act that
2 are not inconsistent with this paragraph, as fully as if those
3 provisions were set forth herein.

4 Whenever the Department determines that a refund should be
5 made under this paragraph to a claimant instead of issuing a
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the order to be drawn for the
8 amount specified, and to the person named, in the notification
9 from the Department. The refund shall be paid by the State
10 Treasurer out of a county water commission tax fund established
11 under paragraph (g) of this Section.

12 (e) A certificate of registration issued by the State
13 Department of Revenue to a retailer under the Retailers'
14 Occupation Tax Act or under the Service Occupation Tax Act
15 shall permit the registrant to engage in a business that is
16 taxed under the tax imposed under paragraphs (b), (c) or (d) of
17 this Section and no additional registration shall be required
18 under the tax. A certificate issued under the Use Tax Act or
19 the Service Use Tax Act shall be applicable with regard to any
20 tax imposed under paragraph (c) of this Section.

21 (f) Any ordinance imposing or discontinuing any tax under
22 this Section shall be adopted and a certified copy thereof
23 filed with the Department on or before June 1, whereupon the
24 Department of Revenue shall proceed to administer and enforce
25 this Section on behalf of the county water commission as of
26 September 1 next following the adoption and filing. Beginning
27 January 1, 1992, an ordinance or resolution imposing or
28 discontinuing the tax hereunder shall be adopted and a
29 certified copy thereof filed with the Department on or before
30 the first day of July, whereupon the Department shall proceed
31 to administer and enforce this Section as of the first day of
32 October next following such adoption and filing. Beginning
33 January 1, 1993, an ordinance or resolution imposing or
34 discontinuing the tax hereunder shall be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of October, whereupon the Department shall
3 proceed to administer and enforce this Section as of the first
4 day of January next following such adoption and filing.

5 (g) The State Department of Revenue shall, upon collecting
6 any taxes as provided in this Section, pay the taxes over to
7 the State Treasurer as trustee for the commission. The taxes
8 shall be held in a trust fund outside the State Treasury. On or
9 before the 25th day of each calendar month, the State
10 Department of Revenue shall prepare and certify to the
11 Comptroller of the State of Illinois the amount to be paid to
12 the commission, which shall be the then balance in the fund,
13 less any amount determined by the Department to be necessary
14 for the payment of refunds. Within 10 days after receipt by the
15 Comptroller of the certification of the amount to be paid to
16 the commission, the Comptroller shall cause an order to be
17 drawn for the payment for the amount in accordance with the
18 direction in the certification.

19 (Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01.)

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