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1 AMENDMENT TO SENATE BILL 1974

2 AMENDMENT NO. _____. Amend Senate Bill 1974 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Will
5 County Airport Development District Act.

6 Section 5. Legislative findings and purpose. The General
7 Assembly finds that:

8 (1) The south suburban airport located in the vicinity of
9 Peotone, Illinois will generate development in and around
10 surrounding jurisdictions and significant impacts and
11 benefits. These benefits and burdens need to be shared and
12 apportioned equitably.

13 (2) The airport will create a need for extensive
14 infrastructure to support this development and address
15 impacts. There is a need to direct development in the most
16 efficient manner.

17 (3) Cooperation among the surrounding local governments
18 and agencies will support economic development and increase the
19 potential benefits of the airport.

20 (4) There is a need to ensure that future airport-environs
21 land uses are compatible with the airport and its operations so
22 that future operations are not unduly constrained.

23 (5) The new airport represents a substantial public
24 investment that must be protected.

1 (6) Steps need to be taken to preserve and maintain the
2 quality of life of residents and citizens in communities around
3 the airport. These include design and development standards for
4 development in the airport environs.

5 (7) A law is needed to help establish a sound framework for
6 intergovernmental cooperation in matters such as land use
7 regulation and revenue sharing while maintaining existing
8 autonomy of local governments over development within their
9 boundaries.

10 (8) An entity needs to be created to accomplish the
11 purposes above. The District should have adequate powers to
12 achieve the goals and objectives and to be self-supporting.

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

14 "Airport" or "south suburban airport" means a south
15 suburban airport located in the vicinity of Peotone, Illinois.

16 "Airport authority" means an authority created to
17 establish and maintain a south suburban airport located in the
18 vicinity of Peotone, Illinois.

19 "Airport-affinity uses" means uses that have a significant
20 affinity for a location near an airport, but do not necessarily
21 require a location on-airport or direct and immediate access to
22 an airport or runway. While uses with an airport affinity may
23 sometimes be located on an airport, they are commonly found
24 off-airport and often outside the environs of an airport. Such
25 uses include hotels and motels, offices, industrial parks,
26 gasoline and automobile service stations, convenience stores,
27 restaurants, retail businesses, and service commercial uses
28 (such as contractors and electricians) and distribution
29 facilities.

30 "Airport-dependent uses" means uses that are typically
31 found on or near an airport and must, by the nature of their
32 operations, services, or products, be located on an airport or
33 have direct and immediate access to an airport or airport

1 runway. Such uses include, but are not limited to, air cargo
2 storage (but not large distribution warehouses), aviation
3 engine repair, airline catering services, express mail and
4 package sorting facilities, aviation fuel farms and services,
5 aircraft testing, airport authority offices and maintenance
6 facilities, airport terminal and control tower, car rental
7 offices located on airport, and flight schools.
8 Airport-dependent uses do not include hotels, offices,
9 industrial parks, gasoline and automobile service stations,
10 restaurants and retail businesses (except those located in an
11 airport terminal that primarily serve passengers or airport and
12 airline employees).

13 "Board" means the Board of Directors of the Will County
14 Airport Development District.

15 "Compatible land use" means any use of lands, buildings,
16 and structures which is harmonious to the uses and activities
17 being conducted on the adjoining lands and properties and which
18 does not adversely affect or unreasonably impact any use or
19 enjoyment of the adjoined land.

20 "County" means Will County.

21 "District" means the Will County Airport Development
22 District.

23 "Land use plan" means a written statement of land use
24 policies, goals, and objectives, together with maps, graphs,
25 charts, illustrations or any other form of written or visual
26 communication, as appropriate, that is adopted by the District.

27 "Villages" means the villages of Beecher, Crete, Monee,
28 Peotone, and University Park.

29 Section 15. Creation of District.

30 (a) The Will County Airport Development District is created
31 as a political subdivision, body politic, and municipal
32 corporation. The territorial jurisdiction of the District is
33 the geographic area within the following boundaries: from the

1 southern boundary line of Will County to the Indiana state line
2 to a line one mile south of the Northern Will County line to
3 the western boundary line of Green Garden and Peotone
4 townships.

5 (b) The governing and administrative powers of the District
6 are vested in its Board of Directors, consisting of one member
7 appointed by the President of the Village of Beecher with the
8 consent of the village board, one member appointed by the
9 President of the Village of Crete with the consent of the
10 village board, one member appointed by the President of the
11 Village of Monee with the consent of the village board, one
12 member appointed by the President of the Village of Peotone
13 with the consent of the village board, one member appointed by
14 the President of the Village of University Park with the
15 consent of the village board, one member appointed by the
16 County Executive of Will County with the consent of the county
17 board, and one member appointed by the governing body of the
18 airport authority.

19 (c) The terms of the initial appointees shall commence 30
20 days after the effective date of this Act. The duration of the
21 term of each of the initial appointees shall be determined by
22 lot as follows: one of the appointees shall serve a term
23 expiring on the third Monday in January in the second year
24 following the effective date of this Act, 2 of the appointees
25 shall serve terms expiring on the third Monday in January in
26 the third year following the effective date of this Act, 2 of
27 the appointees shall serve terms expiring on the third Monday
28 in January in the fourth year following the effective date of
29 this Act, and 2 of the appointees shall be appointed to serve
30 terms expiring on the third Monday in January in the fifth year
31 following the effective date of this Act. All successors shall
32 be appointed by the original appointing authority and hold
33 office for a term of 4 years commencing the third Monday in
34 January of the year in which their term commences, except in

1 case of an appointment to fill a vacancy. Vacancies shall be
2 filled for the remainder of the term by the original appointing
3 authority. Each member appointed to the Board shall serve until
4 his or her successor is appointed and qualified.

5 (d) The Board may, in its discretion, designate non-voting
6 representatives to the Board from governmental, civic, or
7 community entities.

8 (e) The Board shall annually choose one of its members to
9 serve as Chair and one of its members to serve as Secretary.

10 (f) An appointing authority may remove a member in case of
11 incompetency, neglect of duty, or malfeasance in office.

12 (g) Members of the Board shall serve without compensation
13 for their services as members but may be reimbursed for all
14 necessary expenses incurred in connection with the performance
15 of their duties as members.

16 (h) As soon as possible after appointment of the initial
17 members, the Board shall organize for the transaction of
18 business, select members to serve as Chair and Secretary, and
19 adopt by-laws. Thereafter, the Board shall meet on the call of
20 the Chair or upon written notice by 4 members of the Board.
21 Four members of the Board must be present in person to
22 constitute a quorum for the transaction of business. All action
23 of the Board shall be by ordinance or resolution. The
24 affirmative vote of at least 4 members shall be necessary for
25 the adoption of any ordinance or resolution. All ordinances and
26 resolutions before taking effect shall be approved and signed
27 by the Chair.

28 (i) The Board shall appoint an Executive Director who shall
29 hold office at the discretion of the Board. The Executive
30 Director shall be the chief administrative and operational
31 officer of the District, direct and supervise its
32 administrative affairs and general management, perform such
33 other duties as may be prescribed from time to time by the
34 Board, and receive compensation fixed by the Board. The

1 Executive Director shall attend all meetings of the Board, but
2 no action of the Board shall be invalid on account of the
3 absence of the Executive Director from a meeting.

4 Section 20. Administration. The District has the authority
5 to establish a budget, raise revenue for administration, and
6 retain staff, agents, and consultants to carry out planning,
7 development review, and other duties and exercise all other
8 powers incidental, necessary, convenient, or desirable to
9 carry out and effectuate the powers granted in this Act.
10 Without limitation, the District may enter into
11 intergovernmental agreements under the Intergovernmental
12 Cooperation Act, engage the services of the Illinois Finance
13 Authority, sue and be sued, have and use a corporate seal,
14 designate a fiscal year, and enter into contracts and leases.

15 Section 25. Planning. The District shall adopt an overall
16 land use plan that identifies likely key development areas
17 within the airport environs and lays the foundation for zoning
18 and development review in that area. The plan shall be prepared
19 by staff and consultants with the assistance and advice of
20 Northeastern Illinois Planning Commission. Key elements shall
21 include open space, transportation, and noise mitigation.

22 Once approved by the Board, the plan shall be transmitted
23 to the governing bodies of the villages and county for review
24 and consideration. The villages and county and the airport
25 authority shall be required to approve the land use plan before
26 it takes effect.

27 The plan shall cover all territory within the District,
28 including land uses within the villages, focusing particularly
29 on peripheral properties that may be directly affected by
30 airport-related development. The boundaries of the District
31 plan shall be extensive enough to cover all potential future
32 development associated with the airport and airport

1 noise/hazard areas.

2 The land use plan shall be reviewed and revised every 5
3 years to reflect recent developments and annexations.

4 Section 30. Zoning; subdivision and development review.
5 After adopting a land use plan, the District shall promulgate
6 model new overlay zoning regulations that implement the land
7 use plan. The zoning regulations shall establish minimum
8 requirements that the villages and county must adopt.

9 After a village or county adopts the regulations, the
10 District shall certify that the village or county regulations
11 conform to District model overlay regulations. A village or
12 county may adopt land use regulations that are more stringent
13 than those of the District.

14 Development applications be handled by the jurisdiction
15 within which the project is located. The host jurisdiction
16 shall review the application, applying the overlay rules and
17 regulations in addition to any other normal development
18 requirements. The application shall also be referred to the
19 District for comment and approval.

20 Before the application may proceed, a majority of the Board
21 must find that the development conforms to the District's land
22 use plan and satisfies the applicable overlay regulations. If a
23 village or county objects to the development, it may be
24 approved only upon a two-thirds vote of the Board.

25 The power of development review applies only to land within
26 the District that is unincorporated on the effective date of
27 this Act. The District does not have have zoning or subdivision
28 review authority over airport-dependent uses located
29 on-airport.

30 If land in the District is annexed into a village, the
31 District shall continue to have development review power over
32 that property as set forth in this Section and the overlay
33 regulations shall continue to apply. Any development approvals

1 in unincorporated areas of the county shall have as a condition
2 that annexation to one of the villages shall occur when State
3 requirements for annexation are met.

4 Notwithstanding any other provision of this Section,
5 undeveloped land within each village on the effective date of
6 this Act that has not received development approval or has not
7 been the subject of a preexisting annexation or development
8 agreement must comply with uniform airport noise and safety and
9 hazard mitigation land use regulations promulgated by the
10 District or the airport authority.

11 Building code and zoning enforcement authority shall be
12 exercised by the village in which the property is located and
13 shall be exercised by the county if the property is not located
14 in a village.

15 Section 35. Land acquisition. The District may acquire by
16 purchase or gift and hold or dispose of real or personal
17 property or rights or interests therein. The District may
18 acquire property from willing sellers, but the District may not
19 exercise the power of eminent domain.

20 Section 40. Airport noise monitoring, mitigation, and
21 enforcement programs. Appropriate notations, in a form to be
22 determined by the District, are required on all property deeds
23 of land within the District that are within delineated noise
24 impacted areas as defined by the District.

25 The District may act as a representative of the villages in
26 discussing noise issues and cooperative mitigation measures
27 with the airport authority and the Federal Aviation
28 Administration.

29 Section 45. Economic development; marketing. The District
30 may market and promote airport-related economic development in
31 cooperation with the county, villages, and other agencies. The

1 District may help fund economic development activities by the
2 county, villages, and other entities.

3 Section 50. Impact fees. The District may impose impact
4 fees on new development within the District to pay for
5 infrastructure and services necessitated by that development.

6 Section 55. Property taxes. The District may levy ad
7 valorem property taxes upon all taxable property in the
8 District. Proceeds shall be used for the administrative and
9 operating expenses of the District, to carry out important
10 planning and development review functions, and to fund
11 infrastructure improvements.

12 Section 60. Use and occupation taxes.

13 (a) The Board may, by ordinance adopted with the
14 concurrence of two-thirds of its members, impose throughout the
15 District any or all of the taxes and fees provided in this
16 Section. Proceeds shall be used for the administrative and
17 operating expenses of the District, to carry out important
18 planning and development review functions, and to fund
19 infrastructure improvements. Except as otherwise provided in
20 this Act, taxes imposed under this Section and civil penalties
21 imposed incident thereto shall be collected and enforced by the
22 Department of Revenue, which in this Section shall be referred
23 to as the Department. The Department shall have the power to
24 administer and enforce the taxes and to determine all rights
25 for refunds for erroneous payments of the taxes.

26 (b) The Board may impose a District Retailers' Occupation
27 Tax upon all persons engaged in the business of selling
28 tangible personal property at retail in the District at a rate
29 of one-fourth of 1% of the gross receipts from the sales made
30 in the course of such business within the District. The tax
31 imposed under this Section and all civil penalties that may be

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

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

28 Whenever the Department determines that a refund should be
29 made under this Section 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 tax fund established under paragraph (g)

1 of this Section.

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

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

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

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

21 (c) If a tax has been imposed under subsection (b), a
22 District Service Occupation Tax shall also be imposed upon all
23 persons engaged, in the District, in the business of making
24 sales of service, who, as an incident to making those sales of
25 service, transfer tangible personal property within the
26 District, either in the form of tangible personal property or
27 in the form of real estate as an incident to a sale of service.
28 The tax rate shall be one-fourth of 1% of the selling price of
29 tangible personal property so transferred within the District.
30 The tax imposed under this paragraph and all civil penalties
31 that may be assessed as an incident thereof shall be collected
32 and enforced by the Department. The Department shall have full
33 power to administer and enforce this paragraph; to collect all
34 taxes and penalties due hereunder; to dispose of taxes and

1 penalties so collected in the manner hereinafter provided; and
2 to determine all rights to credit memoranda arising on account
3 of the erroneous payment of tax or penalty hereunder. In the
4 administration of, and compliance with this paragraph, the
5 Department and persons who are subject to this paragraph shall
6 have the same rights, remedies, privileges, immunities, powers
7 and duties, and be subject to the same conditions,
8 restrictions, limitations, penalties, exclusions, exemptions
9 and definitions of terms and employ the same modes of procedure
10 as are prescribed in Sections 1a-1, 2 (except that the
11 reference to State in the definition of supplier maintaining a
12 place of business in this State shall mean the District), 2a, 3
13 through 3-50 (in respect to all provisions therein other than
14 the State rate of tax), 4 (except that the reference to the
15 State shall be to the District), 5, 7, 8 (except that the
16 jurisdiction to which the tax shall be a debt to the extent
17 indicated in that Section 8 shall be the District), 9 (except
18 as to the disposition of taxes and penalties collected, and
19 except that the returned merchandise credit for this tax may
20 not be taken against any State tax), 10, 11, 12 (except the
21 reference therein to Section 2b of the Retailers' Occupation
22 Tax Act), 13 (except that any reference to the State shall mean
23 the District), the first paragraph of Section 15, 16, 17, 18,
24 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
25 the Uniform Penalty and Interest Act, as fully as if those
26 provisions were set forth herein.

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

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

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

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

34 The Department shall have full power to administer and

1 enforce this paragraph; to collect all taxes, penalties and
2 interest due hereunder; to dispose of taxes, penalties and
3 interest so collected in the manner hereinafter provided; and
4 to determine all rights to credit memoranda or refunds arising
5 on account of the erroneous payment of tax, penalty or interest
6 hereunder. In the administration of, and compliance with, this
7 paragraph, the Department and persons who are subject to this
8 paragraph shall have the same rights, remedies, privileges,
9 immunities, powers and duties, and be subject to the same
10 conditions, restrictions, limitations, penalties, exclusions,
11 exemptions and definitions of terms and employ the same modes
12 of procedure, as are prescribed in Sections 2 (except the
13 definition of "retailer maintaining a place of business in this
14 State"), 3 through 3-80 (except provisions pertaining to the
15 State rate of tax, and except provisions concerning collection
16 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
17 19 (except the portions pertaining to claims by retailers and
18 except the last paragraph concerning refunds), 20, 21 and 22 of
19 the Use Tax Act and Section 3-7 of the Uniform Penalty and
20 Interest Act, that are not inconsistent with this paragraph, as
21 fully as if those provisions were set forth herein.

22 Whenever the Department determines that a refund should be
23 made under this paragraph to a claimant instead of issuing a
24 credit memorandum, the Department shall notify the State
25 Comptroller, who shall cause the order to be drawn for the
26 amount specified, and to the person named, in the notification
27 from the Department. The refund shall be paid by the State
28 Treasurer out of the District tax fund established under
29 paragraph (g) of this Section.

30 (e) A certificate of registration issued by the State
31 Department of Revenue to a retailer under the Retailers'
32 Occupation Tax Act or under the Service Occupation Tax Act
33 shall permit the registrant to engage in a business that is
34 taxed under the tax imposed under paragraphs (b), (c) or (d) of

1 this Section and no additional registration shall be required
2 under the tax. A certificate issued under the Use Tax Act or
3 the Service Use Tax Act shall be applicable with regard to any
4 tax imposed under paragraph (c) of this Section.

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

25 Section 65. Special assessments. The District may levy,
26 assess, and collect special assessments, except with respect to
27 property that is not subject to special assessments.

28 Section 70. Bonds. The District may borrow money from the
29 United States Government or any agency thereof, or from any
30 other public or private source, for the purposes of the
31 District and, as evidence thereof, may issue its revenue bonds,
32 payable solely from the revenue derived from the operation of

1 the District. These bonds may be issued with maturities not
2 exceeding 40 years from the date of the bonds, and in such
3 amounts as may be necessary to provide sufficient funds,
4 together with interest, for the purposes of the District. These
5 bonds shall bear interest at a rate of not more than the
6 maximum rate authorized by the Bond Authorization Act, payable
7 semi-annually, may be made registerable as to principal, and
8 may be made payable and callable as provided on any interest
9 payment date at a price of par and accrued interest under such
10 terms and conditions as may be fixed by the ordinance
11 authorizing the issuance of the bonds. Bonds issued under this
12 Section are negotiable instruments. They shall be executed by
13 the Chair and members of the Board, attested by the Secretary,
14 and shall be sealed with the corporate seal of the District. In
15 case any Board member or officer whose signature appears on the
16 bonds or coupons ceases to hold that office before the bonds
17 are delivered, such officer's signature shall nevertheless be
18 valid and sufficient for all purposes as though the officer had
19 remained in office until the bonds were delivered. The bonds
20 shall be sold in such manner and upon such terms as the Board
21 shall determine, except that the selling price shall be such
22 that the interest cost to the District of the proceeds of the
23 bonds shall not exceed the maximum rate authorized by the Bond
24 Authorization Act, payable semi-annually, computed to maturity
25 according to the standard table of bond values. The ordinance
26 shall fix the amount of revenue bonds proposed to be issued,
27 the maturity or maturities, the interest rate, which shall not
28 exceed the maximum rate authorized by the Bond Authorization
29 Act, and all the details in connection with the bonds. The
30 ordinance may contain such covenants and restrictions upon the
31 issuance of additional revenue bonds thereafter, which shall
32 share equally in the revenue of the District, as may be deemed
33 necessary or advisable for the assurance of the payment of the
34 bonds first issued. The District may also provide in the

1 ordinance authorizing the issuance of bonds under this Section
2 that the bonds, or such ones thereof as may be specified,
3 shall, to the extent and in the manner prescribed, be
4 subordinated and be junior in standing, with respect to the
5 payment of principal and interest and the security thereof, to
6 such other bonds as are designated in the ordinance. The
7 ordinance shall pledge the revenue derived from the operations
8 of the District for the purpose of paying the cost of operation
9 and maintenance of the District, and, as applicable, providing
10 adequate depreciation funds, and paying the principal of and
11 interest on the bonds of the District issued under this
12 Section.

13 Section 75. Fees and charges. The District may levy,
14 assess, and collect fees and charges as it deems appropriate.

15 Section 80. Loans, grants, voluntary contributions,
16 appropriations. The District may accept loans, grants,
17 voluntary contributions, or appropriations of money or
18 materials or property of any kind from a federal or State
19 agency or officer, a unit of local government, or a private
20 person or entity.

21 Section 85. Revenue sharing. The District, villages, and
22 county may share tax revenues, subject to the following
23 restrictions: (i) District-wide occupation and use taxes and
24 property taxes assessed under Section 55 or 60 are not subject
25 to revenue sharing; (ii) only the funds generated by the
26 existing rates of taxation by the villages and county are
27 subject to revenue sharing; and (iii) taxes imposed by other
28 entities are not subject to revenue sharing.

29 A unit of local government within which a new development
30 is located may retain a specified portion of new taxes
31 generated to offset any potential adverse impacts, such as

1 increased traffic and need for roads.

2 Existing and future tax proceeds would remain with the
3 entity that assessed them except for the villages and county.

4 The boundaries for revenue sharing include all
5 unincorporated land within the District and areas annexed into
6 the villages after the effective date of this Act.

7 A village or county may offer an incentive for development
8 in the form of a tax rebate, but may not rebate that portion
9 that was slated to flow to the District unless it reimburses
10 the District for lost revenue.

11 Section 90. Infrastructure improvements. The District
12 does not have independent authority to undertake directly
13 infrastructure improvements, such as roads and water and sewer
14 lines, related to the airport or associated development;
15 however, the District may pass through funds it collects from
16 taxes it levies under Section 55 or 60. These funds shall be
17 passed through to other entities, such as the Illinois
18 Department of Transportation, the airport authority, county,
19 or villages. These funds shall be used to undertake
20 infrastructure improvements on or off-airport according to a
21 capital improvement plan approved by the Board or if a majority
22 of the Board finds that such improvements promote economic
23 development in the airport environs, provide community
24 services or amenities, or help advance or realize other
25 purposes for which the District was created.

26 Section 95. Annexation. Property within the District may be
27 annexed by a village in accordance with State law; however, the
28 District shall continue to have review and approval authority
29 with respect to that property under Section 30.

30 Section 900. The Illinois Finance Authority Act is amended
31 by changing Section 820-50 as follows:

1 (20 ILCS 3501/820-50)

2 Sec. 820-50. Pledge of Funds by Units of Local Government.

3 (a) Pledge of Funds. Any unit of local government which
4 receives funds from the Department of Revenue, including
5 without limitation funds received pursuant to Sections 8-11-1,
6 8-11-1.4, 8-11-5 or 8-11-6 of the Illinois Municipal Code, the
7 Home Rule County Retailers' Occupation Tax Act, the Home Rule
8 County Service Occupation Tax Act, Sections 25.05-2, 25.05-3 or
9 25.05-10 of "An Act to revise the law in relation to counties",
10 Section 5.01 of the Local Mass Transit District Act, Section
11 4.03 of the Regional Transportation Authority Act, Sections 2
12 or 12 of the State Revenue Sharing Act, Section 60 of the Will
13 County Airport Development District Act, or from the Department
14 of Transportation pursuant to Section 8 of the Motor Fuel Tax
15 Law, or from the State Superintendent of Education (directly or
16 indirectly through regional superintendents of schools)
17 pursuant to Article 18 of the School Code, or any unit of
18 government which receives other funds which are at any time in
19 the custody of the State Treasurer, the State Comptroller, the
20 Department of Revenue, the Department of Transportation or the
21 State Superintendent of Education may by appropriate
22 proceedings, pledge to the Authority or any entity acting on
23 behalf of the Authority (including, without limitation, any
24 trustee), any or all of such receipts to the extent that such
25 receipts are necessary to provide revenues to pay the principal
26 of, premium, if any, and interest on, and other fees related
27 to, or to secure, any of the local government securities of
28 such unit of local government which have been sold or delivered
29 to the Authority or its designee or to pay lease rental
30 payments to be made by such unit of local government to the
31 extent that such lease rental payments secure the payment of
32 the principal of, premium, if any, and interest on, and other
33 fees related to, any local government securities which have

1 been sold or delivered to the Authority or its designee. Any
2 pledge of such receipts (or any portion thereof) shall
3 constitute a first and prior lien thereon and shall be binding
4 from the time the pledge is made.

5 (b) Direct Payment of Pledged Receipts. Any such unit of
6 local government may, by such proceedings, direct that all or
7 any of such pledged receipts payable to such unit of local
8 government be paid directly to the Authority or such other
9 entity (including, without limitation, any trustee) for the
10 purpose of paying the principal of, premium, if any, and
11 interest on, and fees relating to, such local government
12 securities or for the purpose of paying such lease rental
13 payments to the extent necessary to pay the principal of,
14 premium, if any, and interest on, and other fees related to,
15 such local government securities secured by such lease rental
16 payments. Upon receipt of a certified copy of such proceedings
17 by the State Treasurer, the State Comptroller, the Department
18 of Revenue, the Department of Transportation or the State
19 Superintendent of Education, as the case may be, such
20 Department or State Superintendent shall direct the State
21 Comptroller and State Treasurer to pay to, or on behalf of, the
22 Authority or such other entity (including, without limitation,
23 any trustee) all or such portion of the pledged receipts from
24 the Department of Revenue, or the Department of Transportation
25 or the State Superintendent of Education (directly or
26 indirectly through regional superintendents of schools), as
27 the case may be, sufficient to pay the principal of and
28 premium, if any, and interest on, and other fees related to,
29 the local governmental securities for which the pledge was made
30 or to pay such lease rental payments securing such local
31 government securities for which the pledge was made. The
32 proceedings shall constitute authorization for such a
33 directive to the State Comptroller to cause orders to be drawn
34 and to the State Treasurer to pay in accordance with such

1 directive. To the extent that the Authority or its designee
2 notifies the Department of Revenue, the Department of
3 Transportation or the State Superintendent of Education, as the
4 case may be, that the unit of local government has previously
5 paid to the Authority or its designee the amount of any
6 principal, premium, interest and fees payable from such pledged
7 receipts, the State Comptroller shall cause orders to be drawn
8 and the State Treasurer shall pay such pledged receipts to the
9 unit of local government as if they were not pledged receipts.
10 To the extent that such receipts are pledged and paid to the
11 Authority or such other entity, any taxes which have been
12 levied or fees or charges assessed pursuant to law on account
13 of the issuance of such local government securities shall be
14 paid to the unit of local government and may be used for the
15 purposes for which the pledged receipts would have been used.

16 (c) Payment of Pledged Receipts upon Default. Any such unit
17 of local government may, by such proceedings, direct that such
18 pledged receipts payable to such unit of local government be
19 paid to the Authority or such other entity (including, without
20 limitation, any trustee) upon a default in the payment of any
21 principal of, premium, if any, or interest on, or fees relating
22 to, any of the local government securities of such unit of
23 local government which have been sold or delivered to the
24 Authority or its designee or any of the local government
25 securities which have been sold or delivered to the Authority
26 or its designee and which are secured by such lease rental
27 payments. If such local governmental security is in default as
28 to the payment of principal thereof, premium, if any, or
29 interest thereon, or fees relating thereto, to the extent that
30 the State Treasurer, the State Comptroller, the Department of
31 Revenue, the Department of Transportation or the State
32 Superintendent of Education (directly or indirectly through
33 regional superintendents of schools) shall be the custodian at
34 any time of any other available funds or moneys pledged to the

1 payment of such local government securities or such lease
2 rental payments securing such local government securities
3 pursuant to this Section and due or payable to such a unit of
4 local government at any time subsequent to written notice to
5 the State Comptroller and State Treasurer from the Authority or
6 any entity acting on behalf of the Authority (including,
7 without limitation, any trustee) to the effect that such unit
8 of local government has not paid or is in default as to payment
9 of the principal of, premium, if any, or interest on, or fees
10 relating to, any local government security sold or delivered to
11 the Authority or any such entity (including, without
12 limitation, any trustee) or has not paid or is in default as to
13 the payment of such lease rental payments securing the payment
14 of the principal of, premium, if any, or interest on, or other
15 fees relating to, any local government security sold or
16 delivered to the Authority or such other entity (including,
17 without limitation, any trustee):

18 (i) The State Comptroller and the State Treasurer shall
19 withhold the payment of such funds or moneys from such unit
20 of local government until the amount of such principal,
21 premium, if any, interest or fees then due and unpaid has
22 been paid to the Authority or any such entity (including,
23 without limitation, any trustee), or the State Comptroller
24 and the State Treasurer have been advised that
25 arrangements, satisfactory to the Authority or such
26 entity, have been made for the payment of such principal,
27 premium, if any, interest and fees; and

28 (ii) Within 10 days after a demand for payment by the
29 Authority or such entity given to such unit of local
30 government, the State Treasurer and the State Comptroller,
31 the State Treasurer shall pay such funds or moneys as are
32 legally available therefor to the Authority or such entity
33 for the payment of principal of, premium, if any, or
34 interest on, or fees relating to, such local government

1 securities. The Authority or any such entity may carry out
2 this Section and exercise all the rights, remedies and
3 provisions provided or referred to in this Section.

4 (d) Remedies. Upon the sale or delivery of any local
5 government securities of the Authority or its designee, the
6 local government which issued such local government securities
7 shall be deemed to have agreed that upon its failure to pay
8 interest or premium, if any, on, or principal of, or fees
9 relating to, the local government securities sold or delivered
10 to the Authority or any entity acting on behalf of the
11 Authority (including, without limitation, any trustee) when
12 payable, all statutory defenses to nonpayment are thereby
13 waived. Upon a default in payment of principal of or interest
14 on any local government securities issued by a unit of local
15 government and sold or delivered to the Authority or its
16 designee, and upon demand on the unit of local government for
17 payment, if the local government securities are payable from
18 property taxes and funds are not legally available in the
19 treasury of the unit of local government to make payment, an
20 action in mandamus for the levy of a tax by the unit of local
21 government to pay the principal of or interest on the local
22 government securities shall lie, and the Authority or such
23 entity shall be constituted a holder or owner of the local
24 government securities as being in default. Upon the occurrence
25 of any failure or default with respect to any local government
26 securities issued by a unit of local government, the Authority
27 or such entity may thereupon avail itself of all remedies,
28 rights and provisions of law applicable in the circumstances,
29 and the failure to exercise or exert any rights or remedies
30 within a time or period provided by law may not be raised as a
31 defense by the unit of local government.

32 (Source: P.A. 93-205, eff. 1-1-04.)

33 Section 905. The State Officers and Employees Money

1 Disposition Act is amended by changing Section 2a as follows:

2 (30 ILCS 230/2a) (from Ch. 127, par. 172)

3 Sec. 2a. Every officer, board, commission, commissioner,
4 department, institute, arm, or agency to whom or to which this
5 Act applies is to notify the State Treasurer as to money paid
6 to him, her, or it under protest as provided in Section 2a.1,
7 and the Treasurer is to place the money in a special fund to be
8 known as the protest fund. At the expiration of 30 days from
9 the date of payment, the money is to be transferred from the
10 protest fund to the appropriate fund in which it would have
11 been placed had there been payment without protest unless the
12 party making that payment under protest has filed a complaint
13 and secured within that 30 days a temporary restraining order
14 or a preliminary injunction, restraining the making of that
15 transfer and unless, in addition, within that 30 days, a copy
16 of the temporary restraining order or preliminary injunction
17 has been served upon the State Treasurer and also upon the
18 officer, board, commission, commissioner, department,
19 institute, arm, or agency to whom or to which the payment under
20 protest was made, in which case the payment and such other
21 payments as are subsequently made under notice of protest, as
22 provided in Section 2a.1, by the same person, the transfer of
23 which payments is restrained by such temporary restraining
24 order or preliminary injunction, are to be held in the protest
25 fund until the final order or judgment of the court. The
26 judicial remedy herein provided, however, relates only to
27 questions which must be decided by the court in determining the
28 proper disposition of the moneys paid under protest. Any
29 authorized payment from the protest fund shall bear simple
30 interest at a rate equal to the average of the weekly rates at
31 issuance on 13-week U.S. Treasury Bills from the date of
32 deposit into the protest fund to the date of disbursement from
33 the protest fund. In cases involving temporary restraining

1 orders or preliminary injunctions entered March 10, 1982, or
2 thereafter, pursuant to this Section, when the party paying
3 under protest fails in the protest action the State Treasurer
4 shall determine if any moneys paid under protest were paid as a
5 result of assessments under the following provisions: the
6 Municipal Retailers' Occupation Tax Act, the Municipal Service
7 Occupation Tax Act, the Municipal Use Tax Act, the Municipal
8 Automobile Renting Occupation Tax Act, the Municipal
9 Automobile Renting Use Tax Act, Section 8-11-9 of the Illinois
10 Municipal Code, the Tourism, Conventions and Other Special
11 Events Promotion Act of 1967, the County Automobile Renting
12 Occupation Tax Act, the County Automobile Renting Use Tax Act,
13 Section 5-1034 of the Counties Code, Section 5.01 of the Local
14 Mass Transit District Act, the Downstate Public Transportation
15 Act, Section 4.03 of the Regional Transportation Authority Act,
16 subsections (c) and (d) of Section 201 of the Illinois Income
17 Tax Act, Section 2a.1 of the Messages Tax Act, Section 2a.1 of
18 the Gas Revenue Tax Act, Section 2a.1 of the Public Utilities
19 Revenue Act, Section 60 of the Will County Airport Development
20 District Act, and the Water Company Invested Capital Tax Act.
21 Any such moneys paid under protest shall bear simple interest
22 at a rate equal to the average of the weekly rates at issuance
23 on 13-week U.S. Treasury Bills from the date of deposit into
24 the protest fund to the date of disbursement from the protest
25 fund.

26 It is unlawful for the Clerk of a court, a bank or any
27 person other than the State Treasurer to be appointed as
28 trustee with respect to any purported payment under protest, or
29 otherwise to be authorized by a court to hold any purported
30 payment under protest, during the pendency of the litigation
31 involving such purported payment under protest, it being the
32 expressed intention of the General Assembly that no one is to
33 act as custodian of any such purported payment under protest
34 except the State Treasurer.

1 No payment under protest within the meaning of this Act has
2 been made unless paid to an officer, board, commission,
3 commissioner, department, institute, arm or agency brought
4 within this Act by Section 1 and unless made in the form
5 specified by Section 2a.1. No payment into court or to a
6 circuit clerk or other court-appointed trustee is a payment
7 under protest within the meaning of this Act.

8 (Source: P.A. 87-950.)

9 Section 910. The Use Tax Act is amended by changing Section
10 22 as follows:

11 (35 ILCS 105/22) (from Ch. 120, par. 439.22)

12 Sec. 22. If it is determined that the Department should
13 issue a credit or refund under this Act, the Department may
14 first apply the amount thereof against any amount of tax or
15 penalty or interest due hereunder, or under the Retailers'
16 Occupation Tax Act, the Service Occupation Tax Act, the Service
17 Use Tax Act, any local occupation or use tax administered by
18 the Department, Section 4 of the Water Commission Act of 1985,
19 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
20 Transit District Act, Section 60 of the Will County Airport
21 Development District Act, or subsections (e), (f) and (g) of
22 Section 4.03 of the Regional Transportation Authority Act, from
23 the person entitled to such credit or refund. For this purpose,
24 if proceedings are pending to determine whether or not any tax
25 or penalty or interest is due under this Act or under the
26 Retailers' Occupation Tax Act, the Service Occupation Tax Act,
27 the Service Use Tax Act, any local occupation or use tax
28 administered by the Department, Section 4 of the Water
29 Commission Act of 1985, subsections (b), (c) and (d) of Section
30 5.01 of the Local Mass Transit District Act, Section 60 of the
31 Will County Airport Development District Act, or subsections
32 (e), (f) and (g) of Section 4.03 of the Regional Transportation

1 Authority Act, from such person, the Department may withhold
2 issuance of the credit or refund pending the final disposition
3 of such proceedings and may apply such credit or refund against
4 any amount found to be due to the Department as a result of
5 such proceedings. The balance, if any, of the credit or refund
6 shall be issued to the person entitled thereto.

7 Any credit memorandum issued hereunder may be used by the
8 authorized holder thereof to pay any tax or penalty or interest
9 due or to become due under this Act or under the Retailers'
10 Occupation Tax Act, the Service Occupation Tax Act, the Service
11 Use Tax Act, any local occupation or use tax administered by
12 the Department, Section 4 of the Water Commission Act of 1985,
13 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
14 Transit District Act, Section 60 of the Will County Airport
15 Development District Act, or subsections (e), (f) and (g) of
16 Section 4.03 of the Regional Transportation Authority Act, from
17 such holder. Subject to reasonable rules of the Department, a
18 credit memorandum issued hereunder may be assigned by the
19 holder thereof to any other person for use in paying tax or
20 penalty or interest which may be due or become due under this
21 Act or under the Retailers' Occupation Tax Act, the Service
22 Occupation Tax Act or the Service Use Tax Act, from the
23 assignee.

24 In any case in which there has been an erroneous refund of
25 tax payable under this Act, a notice of tax liability may be
26 issued at any time within 3 years from the making of that
27 refund, or within 5 years from the making of that refund if it
28 appears that any part of the refund was induced by fraud or the
29 misrepresentation of a material fact. The amount of any
30 proposed assessment set forth in the notice shall be limited to
31 the amount of the erroneous refund.

32 (Source: P.A. 91-901, eff. 1-1-01.)

33 Section 915. The Service Use Tax Act is amended by changing

1 Section 20 as follows:

2 (35 ILCS 110/20) (from Ch. 120, par. 439.50)

3 Sec. 20. If it is determined that the Department should
4 issue a credit or refund hereunder, the Department may first
5 apply the amount thereof against any amount of tax or penalty
6 or interest due hereunder, or under the Service Occupation Tax
7 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any
8 local occupation or use tax administered by the Department,
9 Section 4 of the Water Commission Act of 1985, subsections (b),
10 (c) and (d) of Section 5.01 of the Local Mass Transit District
11 Act, Section 60 of the Will County Airport Development District
12 Act, or subsections (e), (f) and (g) of Section 4.03 of the
13 Regional Transportation Authority Act, from the person
14 entitled to such credit or refund. For this purpose, if
15 proceedings are pending to determine whether or not any tax or
16 penalty or interest is due hereunder, or under the Service
17 Occupation Tax Act, the Retailers' Occupation Tax Act, the Use
18 Tax Act, any local occupation or use tax administered by the
19 Department, Section 4 of the Water Commission Act of 1985,
20 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
21 Transit District Act, Section 60 of the Will County Airport
22 Development District Act, or subsections (e), (f) and (g) of
23 Section 4.03 of the Regional Transportation Authority Act, from
24 such person, the Department may withhold issuance of the credit
25 or refund pending the final disposition of such proceedings and
26 may apply such credit or refund against any amount found to be
27 due to the Department as a result of such proceedings. The
28 balance, if any, of the credit or refund shall be issued to the
29 person entitled thereto.

30 Any credit memorandum issued hereunder may be used by the
31 authorized holder thereof to pay any tax or penalty or interest
32 due or to become due under this Act, the Service Occupation Tax
33 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any

1 local occupation or use tax administered by the Department,
2 Section 4 of the Water Commission Act of 1985, subsections (b),
3 (c) and (d) of Section 5.01 of the Local Mass Transit District
4 Act, Section 60 of the Will County Airport Development District
5 Act, or subsections (e), (f) and (g) of Section 4.03 of the
6 Regional Transportation Authority Act, from such holder.
7 Subject to reasonable rules of the Department, a credit
8 memorandum issued hereunder may be assigned by the holder
9 thereof to any other person for use in paying tax or penalty or
10 interest which may be due or become due under this Act, the
11 Service Occupation Tax Act, the Retailers' Occupation Tax Act,
12 the Use Tax Act, any local occupation or use tax administered
13 by the Department, Section 4 of the Water Commission Act of
14 1985, subsections (b), (c) and (d) of Section 5.01 of the Local
15 Mass Transit District Act, Section 60 of the Will County
16 Airport Development District Act, or subsections (e), (f) and
17 (g) of Section 4.03 of the Regional Transportation Authority
18 Act, from the assignee.

19 In any case which there has been an erroneous refund of tax
20 payable under this Act, a notice of tax liability may be issued
21 at any time within 3 years from the making of that refund, or
22 within 5 years from the making of that refund if it appears
23 that any part of the refund was induced by fraud or the
24 misrepresentation of a material fact. The amount of any
25 proposed assessment set forth in the notice shall be limited to
26 the amount of the erroneous refund.

27 (Source: P.A. 91-901, eff. 1-1-01.)

28 Section 920. The Service Occupation Tax Act is amended by
29 changing Section 20 as follows:

30 (35 ILCS 115/20) (from Ch. 120, par. 439.120)

31 Sec. 20. If it is determined that the Department should
32 issue a credit or refund hereunder, the Department may first

1 apply the amount thereof against any amount of tax or penalty
2 or interest due hereunder, or under the Service Use Tax Act,
3 the Retailers' Occupation Tax Act, the Use Tax Act, any local
4 occupation or use tax administered by the Department, Section 4
5 of the Water Commission Act of 1985, subsections (b), (c) and
6 (d) of Section 5.01 of the Local Mass Transit District Act,
7 Section 60 of the Will County Airport Development District Act,
8 or subsections (e), (f) and (g) of Section 4.03 of the Regional
9 Transportation Authority Act, from the person entitled to such
10 credit or refund. For this purpose, if proceedings are pending
11 to determine whether or not any tax or penalty or interest is
12 due hereunder, or under the Service Use Tax Act, the Retailers'
13 Occupation Tax Act, the Use Tax Act, any local occupation or
14 use tax administered by the Department, Section 4 of the Water
15 Commission Act of 1985, subsections (b), (c) and (d) of Section
16 5.01 of the Local Mass Transit District Act, Section 60 of the
17 Will County Airport Development District Act, or subsections
18 (e), (f) and (g) of Section 4.03 of the Regional Transportation
19 Authority Act, from such person, the Department may withhold
20 issuance of the credit or refund pending the final disposition
21 of such proceedings and may apply such credit or refund against
22 any amount found to be due to the Department as a result of
23 such proceedings. The balance, if any, of the credit or refund
24 shall be issued to the person entitled thereto.

25 Any credit memorandum issued hereunder may be used by the
26 authorized holder thereof to pay any tax or penalty or interest
27 due or to become due under this Act, or under the Service Use
28 Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act,
29 any local occupation or use tax administered by the Department,
30 Section 4 of the Water Commission Act of 1985, subsections (b),
31 (c) and (d) of Section 5.01 of the Local Mass Transit District
32 Act, Section 60 of the Will County Airport Development District
33 Act, or subsections (e), (f) and (g) of Section 4.03 of the
34 Regional Transportation Authority Act, from such holder.

1 Subject to reasonable rules of the Department, a credit
2 memorandum issued hereunder may be assigned by the holder
3 thereof to any other person for use in paying tax or penalty or
4 interest which may be due or become due under this Act, the
5 Service Use Tax Act, the Retailers' Occupation Tax Act, the Use
6 Tax Act, any local occupation or use tax administered by the
7 Department, Section 4 of the Water Commission Act of 1985,
8 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
9 Transit District Act, Section 60 of the Will County Airport
10 Development District Act, or subsections (e), (f) and (g) of
11 Section 4.03 of the Regional Transportation Authority Act, from
12 the assignee.

13 In any case in which there has been an erroneous refund of
14 tax payable under this Act, a notice of tax liability may be
15 issued at any time within 3 years from the making of that
16 refund, or within 5 years from the making of that refund if it
17 appears that any part of the refund was induced by fraud or the
18 misrepresentation of a material fact. The amount of any
19 proposed assessment set forth in the notice shall be limited to
20 the amount of the erroneous refund.

21 (Source: P.A. 91-901, eff. 1-1-01.)

22 Section 925. The Retailers' Occupation Tax Act is amended
23 by changing Section 6 as follows:

24 (35 ILCS 120/6) (from Ch. 120, par. 445)

25 Sec. 6. Credit memorandum or refund. If it appears, after
26 claim therefor filed with the Department, that an amount of tax
27 or penalty or interest has been paid which was not due under
28 this Act, whether as the result of a mistake of fact or an
29 error of law, except as hereinafter provided, then the
30 Department shall issue a credit memorandum or refund to the
31 person who made the erroneous payment or, if that person died
32 or became a person under legal disability, to his or her legal

1 representative, as such. For purposes of this Section, the tax
2 is deemed to be erroneously paid by a retailer when the
3 manufacturer of a motor vehicle sold by the retailer accepts
4 the return of that automobile and refunds to the purchaser the
5 selling price of that vehicle as provided in the New Vehicle
6 Buyer Protection Act. When a motor vehicle is returned for a
7 refund of the purchase price under the New Vehicle Buyer
8 Protection Act, the Department shall issue a credit memorandum
9 or a refund for the amount of tax paid by the retailer under
10 this Act attributable to the initial sale of that vehicle.
11 Claims submitted by the retailer are subject to the same
12 restrictions and procedures provided for in this Act. If it is
13 determined that the Department should issue a credit memorandum
14 or refund, the Department may first apply the amount thereof
15 against any tax or penalty or interest due or to become due
16 under this Act or under the Use Tax Act, the Service Occupation
17 Tax Act, the Service Use Tax Act, any local occupation or use
18 tax administered by the Department, Section 4 of the Water
19 Commission Act of 1985, subsections (b), (c) and (d) of Section
20 5.01 of the Local Mass Transit District Act, Section 60 of the
21 Will County Airport Development District Act, or subsections
22 (e), (f) and (g) of Section 4.03 of the Regional Transportation
23 Authority Act, from the person who made the erroneous payment.
24 If no tax or penalty or interest is due and no proceeding is
25 pending to determine whether such person is indebted to the
26 Department for tax or penalty or interest, the credit
27 memorandum or refund shall be issued to the claimant; or (in
28 the case of a credit memorandum) the credit memorandum may be
29 assigned and set over by the lawful holder thereof, subject to
30 reasonable rules of the Department, to any other person who is
31 subject to this Act, the Use Tax Act, the Service Occupation
32 Tax Act, the Service Use Tax Act, any local occupation or use
33 tax administered by the Department, Section 4 of the Water
34 Commission Act of 1985, subsections (b), (c) and (d) of Section

1 5.01 of the Local Mass Transit District Act, Section 60 of the
2 Will County Airport Development District Act, or subsections
3 (e), (f) and (g) of Section 4.03 of the Regional Transportation
4 Authority Act, and the amount thereof applied by the Department
5 against any tax or penalty or interest due or to become due
6 under this Act or under the Use Tax Act, the Service Occupation
7 Tax Act, the Service Use Tax Act, any local occupation or use
8 tax administered by the Department, Section 4 of the Water
9 Commission Act of 1985, subsections (b), (c) and (d) of Section
10 5.01 of the Local Mass Transit District Act, Section 60 of the
11 Will County Airport Development District Act, or subsections
12 (e), (f) and (g) of Section 4.03 of the Regional Transportation
13 Authority Act, from such assignee. However, as to any claim for
14 credit or refund filed with the Department on and after each
15 January 1 and July 1 no amount of tax or penalty or interest
16 erroneously paid (either in total or partial liquidation of a
17 tax or penalty or amount of interest under this Act) more than
18 3 years prior to such January 1 and July 1, respectively, shall
19 be credited or refunded, except that if both the Department and
20 the taxpayer have agreed to an extension of time to issue a
21 notice of tax liability as provided in Section 4 of this Act,
22 such claim may be filed at any time prior to the expiration of
23 the period agreed upon.

24 No claim may be allowed for any amount paid to the
25 Department, whether paid voluntarily or involuntarily, if paid
26 in total or partial liquidation of an assessment which had
27 become final before the claim for credit or refund to recover
28 the amount so paid is filed with the Department, or if paid in
29 total or partial liquidation of a judgment or order of court.
30 No credit may be allowed or refund made for any amount paid by
31 or collected from any claimant unless it appears (a) that the
32 claimant bore the burden of such amount and has not been
33 relieved thereof nor reimbursed therefor and has not shifted
34 such burden directly or indirectly through inclusion of such

1 amount in the price of the tangible personal property sold by
2 him or her or in any manner whatsoever; and that no
3 understanding or agreement, written or oral, exists whereby he
4 or she or his or her legal representative may be relieved of
5 the burden of such amount, be reimbursed therefor or may shift
6 the burden thereof; or (b) that he or she or his or her legal
7 representative has repaid unconditionally such amount to his or
8 her vendee (1) who bore the burden thereof and has not shifted
9 such burden directly or indirectly, in any manner whatsoever;
10 (2) who, if he or she has shifted such burden, has repaid
11 unconditionally such amount to his own vendee; and (3) who is
12 not entitled to receive any reimbursement therefor from any
13 other source than from his or her vendor, nor to be relieved of
14 such burden in any manner whatsoever. No credit may be allowed
15 or refund made for any amount paid by or collected from any
16 claimant unless it appears that the claimant has
17 unconditionally repaid, to the purchaser, any amount collected
18 from the purchaser and retained by the claimant with respect to
19 the same transaction under the Use Tax Act.

20 Any credit or refund that is allowed under this Section
21 shall bear interest at the rate and in the manner specified in
22 the Uniform Penalty and Interest Act.

23 In case the Department determines that the claimant is
24 entitled to a refund, such refund shall be made only from such
25 appropriation as may be available for that purpose. If it
26 appears unlikely that the amount appropriated would permit
27 everyone having a claim allowed during the period covered by
28 such appropriation to elect to receive a cash refund, the
29 Department, by rule or regulation, shall provide for the
30 payment of refunds in hardship cases and shall define what
31 types of cases qualify as hardship cases.

32 If a retailer who has failed to pay retailers' occupation
33 tax on gross receipts from retail sales is required by the
34 Department to pay such tax, such retailer, without filing any

1 formal claim with the Department, shall be allowed to take
2 credit against such retailers' occupation tax liability to the
3 extent, if any, to which such retailer has paid an amount
4 equivalent to retailers' occupation tax or has paid use tax in
5 error to his or her vendor or vendors of the same tangible
6 personal property which such retailer bought for resale and did
7 not first use before selling it, and no penalty or interest
8 shall be charged to such retailer on the amount of such credit.
9 However, when such credit is allowed to the retailer by the
10 Department, the vendor is precluded from refunding any of that
11 tax to the retailer and filing a claim for credit or refund
12 with respect thereto with the Department. The provisions of
13 this amendatory Act shall be applied retroactively, regardless
14 of the date of the transaction.

15 (Source: P.A. 91-901, eff. 1-1-01.)

16 Section 999. Effective date. This Act takes effect upon the
17 later of: (i) the date of the Federal Aviation Administration's
18 Record of Decision and (ii) the date of transfer of land for
19 the airport from the State of Illinois to the airport
20 authority. The governing body of the airport authority shall
21 file a written certification with the Index Department of the
22 Secretary of State indicating the dates on which those events
23 occurred.".