

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the Blind
5 Vendors Act.

6 Section 5. Definitions.

7 As used in this Act:

8 "Assistant Director" means the individual primarily
9 responsible for the State's management and operation of the
10 Business Enterprise Program for the Blind.

11 "Blind licensee" means a blind person licensed by the
12 Department to operate a vending facility on State, federal, or
13 other property.

14 "Blind person" means a person whose central visual acuity
15 does not exceed 20/200 in the better eye with correcting lenses
16 or whose visual acuity, if better than 20/200, is accompanied
17 by a limit to the field of vision in the better eye to such a
18 degree that its widest diameter subtends an angle of no greater
19 than 20 degrees. In determining whether an individual is blind,
20 there shall be an examination by a physician skilled in
21 diseases of the eye, or by an optometrist, whichever the
22 individual shall select.

23 "Cafeteria" means a food dispensing facility capable of
24 providing a broad variety of prepared foods and beverages
25 (including hot meals) primarily through the use of a line where
26 the customer serves himself from displayed selections. A
27 cafeteria may be fully automatic or some limited waiter or
28 waitress service may be available and provided within a
29 cafeteria and table or booth seating facilities are always
30 provided.

31 "Committee" means the Illinois Committee of Blind Vendors,
32 an independent representative body for blind vendors

1 established by the federal Randolph-Sheppard Act.

2 "Department" means the Department of Human Services.

3 "Director" means the Bureau Director of the Bureau for the
4 Blind in the Department of Human Services.

5 "Federal property" means any building, land, or other real
6 property owned, leased, or occupied by any department, agency
7 or instrumentality of the United States (including the
8 Department of Defense and the U.S. Postal Service), or any
9 other instrumentality wholly owned by the United States, or by
10 any department or agency of the District of Columbia or any
11 territory or possession of the United States.

12 "License" means a written instrument issued by the
13 Department to a blind person, authorizing such person to
14 operate a vending facility on State, federal, or other
15 property.

16 "Net proceeds" means the amount remaining from the sale of
17 articles or services of vending facilities, and any vending
18 machine or other income accruing to blind vendors after
19 deducting the cost of such sale and other expenses (excluding
20 any set-aside charges required to be paid by the blind
21 vendors).

22 "Normal working hours" means an 8 hour work period between
23 the approximate hours of 8:00 a.m. to 6:00 p.m., Monday through
24 Friday.

25 "Other property" means property that is not State or
26 federal property and on which vending facilities are
27 established or operated by the use of any funds derived in
28 whole or in part, directly or indirectly, from the operation of
29 vending facilities on any State or federal property.

30 "Secretary" means the Secretary of Human Services.

31 "Set-aside funds" means funds that accrue to the Department
32 from an assessment against the net proceeds of each vending
33 facility in the State's vending facility program and any income
34 from vending machines on State or federal property that accrues
35 to the Department.

36 "State agency" means any department, board, commission, or

1 agency created by the Constitution or Public Act, whether in
2 the executive, legislative or judicial branch.

3 "State property" means all real property, or part thereof,
4 owned, leased, rented, or otherwise controlled or occupied by
5 any agency, department, or other governing body of this State.
6 For purposes of this Act, "State property" does not include
7 property owned or controlled by a unit of local government or
8 school district.

9 "Vending facility" means automatic vending machines,
10 cafeterias, snack bars, cart service, shelters, counters, and
11 such other appropriate auxiliary equipment that may be operated
12 by blind licensees and which is necessary for the sale of
13 newspapers, periodicals, confections, tobacco products, foods,
14 beverages, and other articles or services dispensed
15 automatically or manually and prepared on or off the premises
16 in accordance with all applicable health laws, and including
17 the vending or exchange of changes for any lottery authorized
18 by State law and conducted by a State agency within the State.

19 "Vending machine", for the purpose of assigning vending
20 machine income under this Act, means a coin or currency
21 operated machine which dispenses articles or services, except
22 that those machines operated by the United States Postal
23 Service for the sale of postage stamps or other postal products
24 and services, machines providing services of a recreational
25 nature, and telephones shall not be considered to be vending
26 machines.

27 "Vending machine income" means receipts (other than those
28 of a blind vendor) from vending machine operations on State or
29 federal property, after deducting the cost of goods sold
30 (including reasonable service and maintenance costs in
31 accordance with customary business practices of commercial
32 vending concerns), where the machines are operated, serviced,
33 or maintained by, or with the approval of, a department,
34 agency, or instrumentality of the United States or the State of
35 Illinois, or commissions paid (other than to a blind vendor) by
36 a commercial vending concern that operates, services, and

1 maintains vending machines on State or federal property for, or
2 with the approval of, a department, agency, or instrumentality
3 of the United States or the State of Illinois.

4 "Vendor" means a blind licensee who is operating a vending
5 facility on State, federal, or other property.

6 Section 10. Business Enterprise Program for the Blind.

7 (a) The Business Enterprise Program for the Blind is
8 created for the purpose of providing blind persons with
9 remunerative employment, enlarging the economic opportunities
10 of the blind, and stimulating the blind to greater efforts in
11 striving to make themselves self-supporting. In order to
12 achieve these goals blind persons licensed under this Act shall
13 be authorized to operate vending facilities on any property
14 within this State as provided by this Act.

15 It is the intent of the General Assembly that the
16 Randolph-Sheppard Act, 20 U. S. C. §§107-107f, and the federal
17 regulations for its administration set forth in Part 395 of
18 Title 34 of the Code of Federal Regulations, shall serve as the
19 minimum standards for the operation of the Business Enterprise
20 Program for the Blind.

21 (b) The Secretary, through the Director, shall continue,
22 maintain, and promote the Business Enterprise Program for the
23 Blind. Some or all of the functions of the program may be
24 provided by the Department of Human Services. The Business
25 Enterprise Program for the Blind must provide that:

26 (1) priority is given to blind vendors in the operation
27 of vending facilities on State property;

28 (2) vending machine income from all vending machines on
29 State property is assigned as provided for by Section 30 of
30 this Act;

31 (3) no State agency may impose any commission, service
32 charge, rent, or utility charge on a licensed blind vendor
33 who is operating a vending facility on State property;

34 (4) sales made at a blind vendor's vending facility are
35 exempt from all occupation and use taxes; and

1 (5) State agencies and units of local government may
2 not allow competition with a blind vendor. For purposes of
3 this item (5), "competition" includes, but is not limited
4 to, vending machines, coffee services, or other commercial
5 mechanisms in the same building as a licensed blind vendor.
6 "Competition" does not include bake sales or other
7 non-commercial fund raising activities.

8 (c) With respect to vending facilities on federal property
9 within this State, priority shall be given as provided in the
10 federal Randolph-Sheppard Act, 20 U. S. C. §§107-107f,
11 including any amendments thereto. This Act, as it applies to
12 federal property, is intended to conform to the federal Act,
13 and is to be of no force or effect if, and to the extent that,
14 any provision of this Act or any regulation adopted under this
15 Act is in conflict with the federal Act. Nothing in this
16 subsection shall be construed to impose limitations on the
17 operation of vending facilities on State property, or property
18 other than federal property, or to allow only those activities
19 specifically enumerated in the Randolph-Sheppard Act.

20 (d) On all other property within this State, whether owned
21 or controlled privately or by a unit of local government or
22 school district, the Department directly or by delegation shall
23 take all feasible steps to encourage and establish vending by
24 blind persons licensed under this Act. The Department may enter
25 into appropriate agreements with the entities or persons owning
26 or controlling the property. All such agreements shall be in
27 writing and shall be in conformity with this Act.

28 (e) The Assistant Director shall actively pursue all
29 commissions from vending facilities not operated by blind
30 vendors as provided in Section 30 of this Act, and shall
31 propose new placements of vending facilities on State property
32 where a facility is not yet in place.

33 (f) Partnerships and teaming arrangements between blind
34 vendors and private industry, including franchise operations,
35 shall be fostered and encouraged by the Department.

36 (g) Notwithstanding any provision to the contrary, this Act

1 does not apply to the "State Fairgrounds" as defined in the
2 State Fair Act, any Department of Natural Resources
3 subcontract, or the World Shooting and Recreation Complex.

4 Section 15. Vending facilities on State property.

5 (a) In order to ensure that priority is given to blind
6 vendors in the operation of vending facilities on State
7 property as provided in Section 10, the Director, directly or
8 by delegation to the Assistant Director, and the Committee
9 shall jointly develop regulations to ensure the following:

10 (1) That priority is given to blind persons licensed
11 under this Act or under its predecessor Act (the Blind
12 Persons Operating Vending Facilities Act 20 ILCS 2420/),
13 including the assignment of vending machine income as
14 provided in this Act.

15 (2) That one or more vending facilities shall be
16 established on all State property to the extent feasible.
17 Where a larger vending facility is determined by the
18 Director and the Committee to be infeasible, every effort
19 shall be made to place vending machines on the property
20 whenever possible. The Director and the Committee shall
21 take into account the following criteria when determining
22 whether establishment of a vending facility is feasible:

23 (A) the number of State employees, visitors, and
24 other potential facility customers on the property in a
25 given period;

26 (B) the size, in square feet, of the area owned,
27 leased, occupied, or otherwise controlled by the
28 State;

29 (C) the duration the property is expected to be
30 leased or occupied by the State;

31 (D) whether establishment of a vending facility
32 would adversely affect the interests of the State; and

33 (E) the likelihood that the vending facility would
34 produce an adequate net income for a blind vendor as
35 determined by the average income of all blind vendors

1 in the State.

2 (b) Any determination by the Director, or by the agency or
3 department controlling the property, that the placement or
4 operation of a vending facility is not feasible, or that the
5 placement or operation would adversely affect the interests of
6 the State shall be in writing and shall be transmitted to the
7 Committee for review and ratification or rejection.

8 (c) The Director, through the Assistant Director, subject
9 to the regulations developed and adopted pursuant to subsection
10 (a) of this Section and the requirements of federal law and
11 regulations, is authorized to select a location for a vending
12 facility and the type of facility to be provided.

13 (d) Upon the development of plans by any State agency to
14 occupy, acquire, renovate, or relocate a property, the State
15 agency shall notify the Director, who shall determine whether
16 the plans include a satisfactory site or sites for one or more
17 vending facilities.

18 (e) After January 1, 2006, no State agency shall undertake
19 to acquire by ownership, rent or lease, or to otherwise occupy,
20 in whole or in part, any property unless, after consultation
21 with the head of the State agency, it is determined by the
22 Director in accordance with regulations developed pursuant to
23 subsection (a) either: (1) that the property includes a
24 satisfactory site or sites for the location and operation of a
25 vending facility by a blind person; or (2) that, if a building
26 is to be constructed, substantially altered, or renovated, or,
27 in the case of a building that is already occupied by the State
28 agency, is to be substantially altered or renovated for use by
29 the State agency, the design for the construction, substantial
30 alteration, or renovation includes a satisfactory site or sites
31 for the location and operation of a vending facility by a blind
32 person. Each State agency permitting the operation of vending
33 facilities on State property shall ensure strict adherence to
34 the priority established for the operation of vending
35 facilities by blind persons pursuant to this Act.

36 (f) The provisions of subsection (e) shall not apply when

1 the Director, in consultation with the Committee, determines
2 that the number of people using the location is or will be
3 insufficient to support a vending facility.

4 Section 20. Other vending facilities. The governing body of
5 any unit of local government or school board owning property or
6 persons or entities owning or controlling private property are
7 authorized and encouraged to construct or install on the
8 property, or permit the construction or installation of,
9 vending facilities for operation by blind persons licensed
10 under this Act. In constructing or installing these vending
11 facilities, the amount of space allotted for this purpose
12 should be sufficient to adequately serve the number of persons
13 at the site and to provide the kind of services to be rendered.

14 Section 25. Set-aside funds; Blind Vendors Trust Fund.

15 (a) The Department may provide, by regulation, for
16 set-asides similar to those provided in Section 107d-3 of the
17 Randolph-Sheppard Act. If any funds are set aside, or caused to
18 be set aside, from the net proceeds of the operation of vending
19 facilities by blind vendors, the funds shall be set aside only
20 to the extent necessary in a percentage amount not to exceed
21 that determined jointly by the Director and the Committee and
22 published in State regulation, and that these funds may be used
23 only for the following purposes: (1) maintenance and
24 replacement of equipment; (2) purchase of new equipment; (3)
25 construction of new vending facilities; (4) funding the
26 functions of the Committee, including legal and other
27 professional services; and (5) retirement or pension funds,
28 health insurance, paid sick leave, and vacation time for blind
29 licensees, so long as these benefits are approved by a majority
30 vote of all blind vendors that occurs after the Department
31 provides these vendors with information on all matters relevant
32 to these purposes.

33 (b) No set-aside funds shall be collected from a blind
34 vendor when the monthly net proceeds of that vendor are less

1 than \$1,000. This amount may be adjusted annually by the
2 Director and the Committee to reflect changes in the cost of
3 living.

4 (c) The Department shall establish, with full
5 participation by the Committee, the Blind Vendors Trust Fund as
6 a separate account managed by the Department for the State's
7 blind vendors.

8 (d) Set-aside funds collected from the operation of all
9 vending facilities administered by the Business Enterprise
10 Program for the Blind shall be placed in the Blind Vendors
11 Trust Fund which shall include set-aside funds from facilities
12 on federal property. The Fund must provide separately
13 identified sub-accounts for moneys from (i) federal, and (ii)
14 State and other facilities, as well as vending machine income
15 generated pursuant to Section 30 of this Act. These funds shall
16 be available until expended and shall not revert to the General
17 Revenue Fund or to any other State account.

18 (e) It is the intent of the General Assembly that the
19 expenditure of set-aside funds authorized by this Section shall
20 be supplemental to any current appropriation or other moneys
21 made available for these purposes and shall not constitute an
22 offset or diminution of any previously existing appropriation
23 or other funding source.

24 (f) An amount equal to 10% of the wages paid by a blind
25 vendor to any employee who is blind or otherwise disabled shall
26 be deducted from any set-aside charge paid by the vendor each
27 month, in order to encourage vendors to employ blind and
28 disabled workers and to set an example for industry and
29 government. No deduction shall be made for any employee paid
30 less than the State or federal minimum wage.

31 Section 30. Vending machine income and compliance.

32 (a) After January 1, 2006, all vending machine income from
33 vending machines on State property shall accrue to (1) the
34 blind vendor operating the vending facilities on the property,
35 or (2) in the event there is no blind vendor operating a

1 facility on the property, to the Blind Vendors Trust Fund for
2 use exclusively as set forth in subsection (a) of Section 25 of
3 this Act.

4 (b) The Secretary, directly or by delegation of authority,
5 shall ensure compliance with this Section and Section 15 of
6 this Act with respect to buildings, installations, facilities,
7 roadside rest stops, and any other State property, and shall be
8 responsible for the collection of, and accounting for, all
9 vending machine income on this property. The Secretary shall
10 enforce these provisions through litigation, arbitration, or
11 any other legal means available to the State, and each State
12 agency in control of this property shall be subject to the
13 enforcement. State agencies or departments failing to comply
14 with an order of the Department may be held in contempt in any
15 court of general jurisdiction.

16 (c) Any limitation on the placement or operation of a
17 vending machine by a State agency based on a determination that
18 such placement or operation would adversely affect the
19 interests of the State must be explained in writing to the
20 Secretary. The Secretary shall promptly determine whether the
21 limitation is justified. If the Secretary determines that the
22 limitation is not justified, the State agency seeking the
23 limitation shall immediately remove the limitation.

24 (d) The amount of vending machine income accruing from
25 vending machines on State property that may be used for the
26 functions of the Committee shall be determined annually by a
27 two-thirds vote of the Committee, except that no more than 25%
28 of the annual vending machine income may be used by the
29 Committee for this purpose, based upon the income accruing to
30 the Blind Vendors Trust Fund in the preceding year. The
31 Committee may establish its budget and expend funds through
32 contract or otherwise without the approval of the Department.

33 (e) With respect to vending machines located on any
34 facility or property controlled or operated by the Division of
35 Developmental Disabilities or the Division of Mental Health
36 within the Department of Human Services:

1 (1) Any written contract in place as of the effective
2 date of this Act between either Division and the Business
3 Enterprise for the Blind shall be maintained and fully
4 adhered to, including any moneys paid to the individual
5 facilities.

6 (2) With respect to written contracts in place as of
7 the effective date of this Act between either Division and
8 a private vendor, bottler, or vending machine supplier, the
9 Business Enterprise Program for the Blind has the right to
10 provide the services at those facilities upon completion of
11 the existing contract or upon material breach of that
12 contract if the Program matches or exceeds the existing
13 financial terms of the completed or breached contract.

14 (3) With respect to existing vending machines with no
15 written contract or agreement in place as of the effective
16 date of this Act between either Division and a private
17 vendor, bottler, or vending machine supplier, the Business
18 Enterprise Program for the Blind has the right to provide
19 the vending services as provided in this Act, provided that
20 the blind vendor must provide 10% of net sales from those
21 machines to the individual facilities.

22 Section 40. Licenses.

23 (a) Licenses shall be issued only to blind persons who are
24 qualified to operate vending facilities. The continuing
25 eligibility of a vendor as a blind person shall be reviewed
26 biennially for partially sighted individuals or whenever the
27 Director has information indicating the vendor is no longer
28 blind as defined under this Act.

29 (b) Following agreement by the Director, the Assistant
30 Director, and the Committee, the Secretary shall adopt and
31 publish regulations providing for (1) the requirements for
32 licensure as a blind vendor; (2) a curriculum for training,
33 in-service training, and upward mobility training for blind
34 vendors; and (3) a regular schedule for offering the training,
35 classes to be offered at least once per year.

1 (c) Each license issued pursuant to this Section shall be
2 for an indefinite period. The license of a blind vendor may be
3 terminated or suspended for good cause, but only after
4 affording the licensee an opportunity for a full and fair
5 hearing in accordance with the provisions of this Act.

6 Section 45. Committee of Blind Vendors.

7 (a) The Director, through the Assistant Director, shall
8 provide for the biennial election of the Committee, which shall
9 be fully representative of all blind licensees in the State.
10 There shall be no fewer than one committee member for each 15
11 licensed blind vendors in the State.

12 (b) The Committee is empowered to hire staff; contract for
13 consultants including, but not limited to, legal counsel; set
14 agendas and call meetings; create a constitution and bylaws,
15 subcommittees, and budgets; and do any other thing a
16 not-for-profit organization may do. At the discretion of the
17 Committee major issues may be referred for initial
18 consideration to a subcommittee, or to all blind vendors in
19 order to ascertain their views. The Committee is not a State
20 agency, board, or commission and is not subject to State
21 ethics, sunshine, or procurement laws.

22 (c) The Secretary shall ensure that the Committee jointly
23 participates with the State in the development and
24 implementation of all policies, plans, program development,
25 and major administrative and management decisions affecting
26 the Business Enterprise Program for the Blind. The Director,
27 through the Assistant Director, shall provide to the Committee
28 all relevant financial information and data, including
29 quarterly and annual financial reports, on the operation of the
30 vending facility program in order that the Committee may fully
31 participate in budget development and formulation, the
32 establishment of set-aside levels, and other program
33 requirements. A copy of all completed audits, reports, and
34 investigations affecting the Business Enterprise Program for
35 the Blind shall be distributed to the Committee in a timely

1 manner. Any implementation of changes in administrative policy
2 or program development that are within the discretion of the
3 Department shall occur only after Committee review.

4 Section 50. Hearings; arbitration.

5 (a) Any blind vendor dissatisfied with any act or omission
6 arising from the operation or administration of the vending
7 facility program may submit to the Assistant Director a request
8 for a full evidentiary hearing. This hearing shall be provided
9 in a timely manner by the Department. Damages, including
10 compensatory damages, attorney's fees, and expenses, must be
11 paid to any operator who prevails in the full evidentiary
12 hearing; however, payment of damages may only be paid from the
13 general funds of the State treasury and not from any program
14 funds, the Blind Vendors Trust Fund, or federal rehabilitation
15 funds. If the blind vendor is dissatisfied with any action
16 taken or decision rendered as a result of the hearing, that
17 vendor may file a complaint for arbitration with the Secretary.

18 (b) If the Secretary determines that any State agency has
19 failed to comply with the requirements of this Act, the
20 Secretary must establish a panel to arbitrate the dispute and
21 the decision of the panel shall be final and binding on the
22 parties. Any arbitration panel convened by the Secretary shall
23 be composed of 3 members, appointed as follows:

24 (1) one individual appointed by the Secretary;

25 (2) one individual appointed by the State agency
26 determined by the Secretary to be in noncompliance with the
27 Act; and

28 (3) one individual, who shall serve as chairman,
29 jointly designated by the members appointed under items (1)
30 and (2); provided that, if within 30 days following the
31 Secretary's determination of noncompliance either party
32 fails to appoint a panel member, or if the parties are
33 unable to agree on the appointment of the chairman, the
34 Secretary shall select the final panel member or may
35 designate a hearing officer of the Department who shall

1 preside.

2 (c) The Assistant Director may issue a letter of reprimand
3 to a blind vendor who violates program regulations or policy.
4 Depending upon the seriousness of the alleged violation, the
5 letter of reprimand may indicate the intention to suspend or
6 terminate the license of the vendor. All reprimand letters
7 shall be sent in a medium accessible by the vendor, and shall
8 be sent by certified mail, return receipt requested. The
9 Assistant Director must make every reasonable effort to assist
10 the subject vendor to correct the problem for which the vendor
11 is reprimanded. No process to suspend or terminate a license
12 shall be initiated before the vendor is accorded the
13 opportunity for a full evidentiary hearing as provided under
14 subsection (a). A vendor may be summarily removed from a
15 facility only in an emergency.

16 Section 60. General provisions.

17 (a) Blind vendors operating vending facilities are subject
18 to the applicable license or permit requirements of the county
19 or city in which the facility is located necessary for the
20 conduct of their business; however, any such license or permit
21 shall be issued free of charge to vendors licensed by the
22 Department, and shall not be unreasonably withheld.

23 (b) Vendors licensed pursuant to this Act are authorized to
24 keep guide animals with them while operating vending
25 facilities.

26 (c) The Director, Assistant Director, and the Committee
27 shall cooperate in the development of regulations to be
28 promulgated by the Department regarding life standards for
29 vending facility equipment. Such regulations shall include,
30 but are not limited to, the life expectancy of equipment; time
31 periods within which equipment should be replaced; exceptions
32 to the replacement time periods for equipment with no service
33 problem history, and replacement schedules for equipment
34 subject to excessive failures not the fault of the vendor.

35 (d) The Secretary, through the Director, shall assign

1 adequate personnel to carry out duties related to the
2 administration and management of this Act. In selecting
3 personnel to fill any program position under this subsection,
4 the Secretary shall ensure that the Committee has full advance
5 opportunity to review the selections, to submit comments
6 thereon, and to assess the adequacy of staffing levels for the
7 program.

8 (e) The Assistant Director shall provide each vendor access
9 to: all financial information, his or her performance ratings,
10 and all other individual personnel documents and data
11 maintained by the Department. This includes providing each
12 vendor a written copy of all rules and policies adopted
13 pursuant to the Act. Upon request, the information shall be
14 furnished in the medium most accessible by the vendor.

15 (f) The surviving spouse of a vendor who dies during the
16 operation of a vending facility under this Act may continue to
17 operate the facility for a period of 6 months following the
18 death of the vendor, provided that the surviving spouse is
19 qualified by experience or training to manage the facility.

20 Section 65. Program regulations.

21 (a) The Secretary shall promulgate and adopt necessary
22 regulations, and do all things necessary and proper to carry
23 out this Act. The Secretary by delegation shall review these
24 regulations with the Committee at least every 3 years.

25 (b) The regulations shall include, but are not limited to,
26 the following: (1) uniform procedures for vendor licensing and
27 termination; (2) criteria and standards for selecting vendors
28 and matching them to facilities to ensure that the most
29 qualified person is selected; (3) equipment life standards and
30 service standards for the inventory, repair, and purchase of
31 equipment; (4) minimum requirements for the establishment of a
32 vending facility; (5) standards for training, in-service
33 training, and upward mobility; and (6) policies and procedures
34 for the collection, deposit, reimbursement, and use of all
35 program income, including vending machine income.

1 Section 70. Property Survey and Report.

2 (a) The Department shall survey and report on State
3 property and vending facilities not later than December 31,
4 2006. The report shall contain the following information:

5 (1) A list of all State property and all federal
6 buildings or other property within the State that does or
7 reasonably could accommodate a vending facility as
8 provided for in this Act or as provided for in the federal
9 Randolph-Sheppard Act.

10 (2) For the buildings or locations that have vending
11 facilities or vending machines in place, an indication of
12 the facilities operated by licensed blind vendors under the
13 Business Enterprise Program for the Blind and an indication
14 of the facilities operated by private entities.

15 (3) For the vending facilities or vending machines
16 operated by private entities, an indication of the
17 facilities from which commissions for the Business
18 Enterprise Program for the Blind have been or are being
19 collected.

20 (4) For the buildings or other property that do not
21 have vending facilities in place, an indication of the
22 locations where a vending facility could appropriately be
23 placed, or the reasons why a vending facility is not
24 feasible in the building or property.

25 (b) The Department shall obtain all available information
26 and conduct a survey, before June 30 of every odd-numbered year
27 after the effective date of this Act. This survey shall
28 identify but not be limited to the following information:

29 (1) The number and identity of the buildings owned,
30 leased, acquired, or occupied by the State.

31 (2) The number and identity of the State buildings
32 where vending facilities or vending machines are located.

33 (3) The number of employees located in or visiting
34 these buildings during normal working hours.

35 (4) The usable interior square footage of the building;

1 and

2 (5) Any other information the Department may determine
3 to be useful in expanding the Business Enterprise Program
4 for the Blind to the maximum extent feasible consistent
5 with the purposes of this Act.

6 (c) All State agencies controlling State property or parts
7 thereof where vending machines or vending facilities are
8 located must cooperate with the Department by providing
9 information on the vending machines or facilities at those
10 locations. This information shall include, but is not limited
11 to, the terms of contracts for vending, including financial
12 terms, and the disbursement practices for vending machine
13 income. The Department shall incorporate this information in
14 its reports and updates.

15 (d) The Department shall use the reports and updates
16 mandated by this Section to develop greater opportunities for
17 the placement of blind vendors, to increase vending machine
18 income to the program, and to aid in establishing vending
19 machines and facilities on State property.

20 (e) The reports and surveys prepared pursuant to this
21 Section shall be provided to the Committee and to the
22 appropriate committees of the General Assembly.

23 Section 85. Home rule. A home rule unit may not impose or
24 collect any occupation or use tax with respect to sales made at
25 a blind vendor's vending facility. This Section is a denial and
26 limitation of home rule powers and functions under subsection
27 (g) of Section 6 of Article VII of the Illinois Constitution.

28 (20 ILCS 2420/Act rep.)

29 Section 90. The Blind Persons Operating Vending Facilities
30 Act is repealed.

31 Section 93. The Use Tax Act is amended by changing Section
32 3-5 as follows:

1 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

2 Sec. 3-5. Exemptions. Use of the following tangible
3 personal property is exempt from the tax imposed by this Act:

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

11 (2) Personal property purchased by a not-for-profit
12 Illinois county fair association for use in conducting,
13 operating, or promoting the county fair.

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

29 (4) Personal property purchased by a governmental body, by
30 a corporation, society, association, foundation, or
31 institution organized and operated exclusively for charitable,
32 religious, or educational purposes, or by a not-for-profit
33 corporation, society, association, foundation, institution, or
34 organization that has no compensated officers or employees and
35 that is organized and operated primarily for the recreation of
36 persons 55 years of age or older. A limited liability company

1 may qualify for the exemption under this paragraph only if the
2 limited liability company is organized and operated
3 exclusively for educational purposes. On and after July 1,
4 1987, however, no entity otherwise eligible for this exemption
5 shall make tax-free purchases unless it has an active exemption
6 identification number issued by the Department.

7 (5) Until July 1, 2003, a passenger car that is a
8 replacement vehicle to the extent that the purchase price of
9 the car is subject to the Replacement Vehicle Tax.

10 (6) Until July 1, 2003 and beginning again on September 1,
11 2004, graphic arts machinery and equipment, including repair
12 and replacement parts, both new and used, and including that
13 manufactured on special order, certified by the purchaser to be
14 used primarily for graphic arts production, and including
15 machinery and equipment purchased for lease. Equipment
16 includes chemicals or chemicals acting as catalysts but only if
17 the chemicals or chemicals acting as catalysts effect a direct
18 and immediate change upon a graphic arts product.

19 (7) Farm chemicals.

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

24 (9) Personal property purchased from a teacher-sponsored
25 student organization affiliated with an elementary or
26 secondary school located in Illinois.

27 (10) A motor vehicle of the first division, a motor vehicle
28 of the second division that is a self-contained motor vehicle
29 designed or permanently converted to provide living quarters
30 for recreational, camping, or travel use, with direct walk
31 through to the living quarters from the driver's seat, or a
32 motor vehicle of the second division that is of the van
33 configuration designed for the transportation of not less than
34 7 nor more than 16 passengers, as defined in Section 1-146 of
35 the Illinois Vehicle Code, that is used for automobile renting,
36 as defined in the Automobile Renting Occupation and Use Tax

1 Act.

2 (11) Farm machinery and equipment, both new and used,
3 including that manufactured on special order, certified by the
4 purchaser to be used primarily for production agriculture or
5 State or federal agricultural programs, including individual
6 replacement parts for the machinery and equipment, including
7 machinery and equipment purchased for lease, and including
8 implements of husbandry defined in Section 1-130 of the
9 Illinois Vehicle Code, farm machinery and agricultural
10 chemical and fertilizer spreaders, and nurse wagons required to
11 be registered under Section 3-809 of the Illinois Vehicle Code,
12 but excluding other motor vehicles required to be registered
13 under the Illinois Vehicle Code. Horticultural polyhouses or
14 hoop houses used for propagating, growing, or overwintering
15 plants shall be considered farm machinery and equipment under
16 this item (11). Agricultural chemical tender tanks and dry
17 boxes shall include units sold separately from a motor vehicle
18 required to be licensed and units sold mounted on a motor
19 vehicle required to be licensed if the selling price of the
20 tender is separately stated.

21 Farm machinery and equipment shall include precision
22 farming equipment that is installed or purchased to be
23 installed on farm machinery and equipment including, but not
24 limited to, tractors, harvesters, sprayers, planters, seeders,
25 or spreaders. Precision farming equipment includes, but is not
26 limited to, soil testing sensors, computers, monitors,
27 software, global positioning and mapping systems, and other
28 such equipment.

29 Farm machinery and equipment also includes computers,
30 sensors, software, and related equipment used primarily in the
31 computer-assisted operation of production agriculture
32 facilities, equipment, and activities such as, but not limited
33 to, the collection, monitoring, and correlation of animal and
34 crop data for the purpose of formulating animal diets and
35 agricultural chemicals. This item (11) is exempt from the
36 provisions of Section 3-90.

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

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

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

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

30 (16) Until July 1, 2003, coal exploration, mining,
31 offhighway hauling, processing, maintenance, and reclamation
32 equipment, including replacement parts and equipment, and
33 including equipment purchased for lease, but excluding motor
34 vehicles required to be registered under the Illinois Vehicle
35 Code.

36 (17) Until July 1, 2003, distillation machinery and

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

6 (18) Manufacturing and assembling machinery and equipment
7 used primarily in the process of manufacturing or assembling
8 tangible personal property for wholesale or retail sale or
9 lease, whether that sale or lease is made directly by the
10 manufacturer or by some other person, whether the materials
11 used in the process are owned by the manufacturer or some other
12 person, or whether that sale or lease is made apart from or as
13 an incident to the seller's engaging in the service occupation
14 of producing machines, tools, dies, jigs, patterns, gauges, or
15 other similar items of no commercial value on special order for
16 a particular purchaser.

17 (19) Personal property delivered to a purchaser or
18 purchaser's donee inside Illinois when the purchase order for
19 that personal property was received by a florist located
20 outside Illinois who has a florist located inside Illinois
21 deliver the personal property.

22 (20) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (21) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter
27 Horse Association, United States Trotting Association, or
28 Jockey Club, as appropriate, used for purposes of breeding or
29 racing for prizes.

30 (22) Computers and communications equipment utilized for
31 any hospital purpose and equipment used in the diagnosis,
32 analysis, or treatment of hospital patients purchased by a
33 lessor who leases the equipment, under a lease of one year or
34 longer executed or in effect at the time the lessor would
35 otherwise be subject to the tax imposed by this Act, to a
36 hospital that has been issued an active tax exemption

1 identification number by the Department under Section 1g of the
2 Retailers' Occupation Tax Act. If the equipment is leased in a
3 manner that does not qualify for this exemption or is used in
4 any other non-exempt manner, the lessor shall be liable for the
5 tax imposed under this Act or the Service Use Tax Act, as the
6 case may be, based on the fair market value of the property at
7 the time the non-qualifying use occurs. No lessor shall collect
8 or attempt to collect an amount (however designated) that
9 purports to reimburse that lessor for the tax imposed by this
10 Act or the Service Use Tax Act, as the case may be, if the tax
11 has not been paid by the lessor. If a lessor improperly
12 collects any such amount from the lessee, the lessee shall have
13 a legal right to claim a refund of that amount from the lessor.
14 If, however, that amount is not refunded to the lessee for any
15 reason, the lessor is liable to pay that amount to the
16 Department.

17 (23) Personal property purchased by a lessor who leases the
18 property, under a lease of one year or longer executed or in
19 effect at the time the lessor would otherwise be subject to the
20 tax imposed by this Act, to a governmental body that has been
21 issued an active sales tax exemption identification number by
22 the Department under Section 1g of the Retailers' Occupation
23 Tax Act. If the property is leased in a manner that does not
24 qualify for this exemption or used in any other non-exempt
25 manner, the lessor shall be liable for the tax imposed under
26 this Act or the Service Use Tax Act, as the case may be, based
27 on the fair market value of the property at the time the
28 non-qualifying use occurs. No lessor shall collect or attempt
29 to collect an amount (however designated) that purports to
30 reimburse that lessor for the tax imposed by this Act or the
31 Service Use Tax Act, as the case may be, if the tax has not been
32 paid by the lessor. If a lessor improperly collects any such
33 amount from the lessee, the lessee shall have a legal right to
34 claim a refund of that amount from the lessor. If, however,
35 that amount is not refunded to the lessee for any reason, the
36 lessor is liable to pay that amount to the Department.

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

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

23 (26) Beginning July 1, 1999, game or game birds purchased
24 at a "game breeding and hunting preserve area" or an "exotic
25 game hunting area" as those terms are used in the Wildlife Code
26 or at a hunting enclosure approved through rules adopted by the
27 Department of Natural Resources. This paragraph is exempt from
28 the provisions of Section 3-90.

29 (27) A motor vehicle, as that term is defined in Section
30 1-146 of the Illinois Vehicle Code, that is donated to a
31 corporation, limited liability company, society, association,
32 foundation, or institution that is determined by the Department
33 to be organized and operated exclusively for educational
34 purposes. For purposes of this exemption, "a corporation,
35 limited liability company, society, association, foundation,
36 or institution organized and operated exclusively for

1 educational purposes" means all tax-supported public schools,
2 private schools that offer systematic instruction in useful
3 branches of learning by methods common to public schools and
4 that compare favorably in their scope and intensity with the
5 course of study presented in tax-supported schools, and
6 vocational or technical schools or institutes organized and
7 operated exclusively to provide a course of study of not less
8 than 6 weeks duration and designed to prepare individuals to
9 follow a trade or to pursue a manual, technical, mechanical,
10 industrial, business, or commercial occupation.

11 (28) Beginning January 1, 2000, personal property,
12 including food, purchased through fundraising events for the
13 benefit of a public or private elementary or secondary school,
14 a group of those schools, or one or more school districts if
15 the events are sponsored by an entity recognized by the school
16 district that consists primarily of volunteers and includes
17 parents and teachers of the school children. This paragraph
18 does not apply to fundraising events (i) for the benefit of
19 private home instruction or (ii) for which the fundraising
20 entity purchases the personal property sold at the events from
21 another individual or entity that sold the property for the
22 purpose of resale by the fundraising entity and that profits
23 from the sale to the fundraising entity. This paragraph is
24 exempt from the provisions of Section 3-90.

25 (29) Beginning January 1, 2000 and through December 31,
26 2001, new or used automatic vending machines that prepare and
27 serve hot food and beverages, including coffee, soup, and other
28 items, and replacement parts for these machines. Beginning
29 January 1, 2002 and through June 30, 2003, machines and parts
30 for machines used in commercial, coin-operated amusement and
31 vending business if a use or occupation tax is paid on the
32 gross receipts derived from the use of the commercial,
33 coin-operated amusement and vending machines. This paragraph
34 is exempt from the provisions of Section 3-90.

35 (30) Food for human consumption that is to be consumed off
36 the premises where it is sold (other than alcoholic beverages,

1 soft drinks, and food that has been prepared for immediate
2 consumption) and prescription and nonprescription medicines,
3 drugs, medical appliances, and insulin, urine testing
4 materials, syringes, and needles used by diabetics, for human
5 use, when purchased for use by a person receiving medical
6 assistance under Article 5 of the Illinois Public Aid Code who
7 resides in a licensed long-term care facility, as defined in
8 the Nursing Home Care Act.

9 (31) Beginning on the effective date of this amendatory Act
10 of the 92nd General Assembly, computers and communications
11 equipment utilized for any hospital purpose and equipment used
12 in the diagnosis, analysis, or treatment of hospital patients
13 purchased by a lessor who leases the equipment, under a lease
14 of one year or longer executed or in effect at the time the
15 lessor would otherwise be subject to the tax imposed by this
16 Act, to a hospital that has been issued an active tax exemption
17 identification number by the Department under Section 1g of the
18 Retailers' Occupation Tax Act. If the equipment is leased in a
19 manner that does not qualify for this exemption or is used in
20 any other nonexempt manner, the lessor shall be liable for the
21 tax imposed under this Act or the Service Use Tax Act, as the
22 case may be, based on the fair market value of the property at
23 the time the nonqualifying use occurs. No lessor shall collect
24 or attempt to collect an amount (however designated) that
25 purports to reimburse that lessor for the tax imposed by this
26 Act or the Service Use Tax Act, as the case may be, if the tax
27 has not been paid by the lessor. If a lessor improperly
28 collects any such amount from the lessee, the lessee shall have
29 a legal right to claim a refund of that amount from the lessor.
30 If, however, that amount is not refunded to the lessee for any
31 reason, the lessor is liable to pay that amount to the
32 Department. This paragraph is exempt from the provisions of
33 Section 3-90.

34 (32) Beginning on the effective date of this amendatory Act
35 of the 92nd General Assembly, personal property purchased by a
36 lessor who leases the property, under a lease of one year or

1 longer executed or in effect at the time the lessor would
2 otherwise be subject to the tax imposed by this Act, to a
3 governmental body that has been issued an active sales tax
4 exemption identification number by the Department under
5 Section 1g of the Retailers' Occupation Tax Act. If the
6 property is leased in a manner that does not qualify for this
7 exemption or used in any other nonexempt manner, the lessor
8 shall be liable for the tax imposed under this Act or the
9 Service Use Tax Act, as the case may be, based on the fair
10 market value of the property at the time the nonqualifying use
11 occurs. No lessor shall collect or attempt to collect an amount
12 (however designated) that purports to reimburse that lessor for
13 the tax imposed by this Act or the Service Use Tax Act, as the
14 case may be, if the tax has not been paid by the lessor. If a
15 lessor improperly collects any such amount from the lessee, the
16 lessee shall have a legal right to claim a refund of that
17 amount from the lessor. If, however, that amount is not
18 refunded to the lessee for any reason, the lessor is liable to
19 pay that amount to the Department. This paragraph is exempt
20 from the provisions of Section 3-90.

21 (33) On and after July 1, 2003 and through June 30, 2004,
22 the use in this State of motor vehicles of the second division
23 with a gross vehicle weight in excess of 8,000 pounds and that
24 are subject to the commercial distribution fee imposed under
25 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
26 1, 2004 and through June 30, 2005, the use in this State of
27 motor vehicles of the second division: (i) with a gross vehicle
28 weight rating in excess of 8,000 pounds; (ii) that are subject
29 to the commercial distribution fee imposed under Section
30 3-815.1 of the Illinois Vehicle Code; and (iii) that are
31 primarily used for commercial purposes. Through June 30, 2005,
32 this exemption applies to repair and replacement parts added
33 after the initial purchase of such a motor vehicle if that
34 motor vehicle is used in a manner that would qualify for the
35 rolling stock exemption otherwise provided for in this Act. For
36 purposes of this paragraph, the term "used for commercial

1 purposes" means the transportation of persons or property in
2 furtherance of any commercial or industrial enterprise,
3 whether for-hire or not.

4 (34) Beginning on and after the effective date of this
5 amendatory Act of the 94th General Assembly, personal property
6 purchased from a blind vendor's vending facility licensed by
7 the Department of Human Services under the Blind Vendors Act.
8 This paragraph is exempt from the provisions of Section 3-90.

9 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
10 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
11 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
12 93-1033, eff. 9-3-04; revised 10-21-04.)

13 Section 94. The Service Use Tax Act is amended by changing
14 Section 3-5 as follows:

15 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

16 Sec. 3-5. Exemptions. Use of the following tangible
17 personal property is exempt from the tax imposed by this Act:

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

25 (2) Personal property purchased by a non-profit Illinois
26 county fair association for use in conducting, operating, or
27 promoting the county fair.

28 (3) Personal property purchased by a not-for-profit arts or
29 cultural organization that establishes, by proof required by
30 the Department by rule, that it has received an exemption under
31 Section 501(c)(3) of the Internal Revenue Code and that is
32 organized and operated primarily for the presentation or
33 support of arts or cultural programming, activities, or
34 services. These organizations include, but are not limited to,

1 music and dramatic arts organizations such as symphony
2 orchestras and theatrical groups, arts and cultural service
3 organizations, local arts councils, visual arts organizations,
4 and media arts organizations. On and after the effective date
5 of this amendatory Act of the 92nd General Assembly, however,
6 an entity otherwise eligible for this exemption shall not make
7 tax-free purchases unless it has an active identification
8 number issued by the Department.

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

13 (5) Until July 1, 2003 and beginning again on September 1,
14 2004, graphic arts machinery and equipment, including repair
15 and replacement parts, both new and used, and including that
16 manufactured on special order or purchased for lease, certified
17 by the purchaser to be used primarily for graphic arts
18 production. Equipment includes chemicals or chemicals acting
19 as catalysts but only if the chemicals or chemicals acting as
20 catalysts effect a direct and immediate change upon a graphic
21 arts product.

22 (6) Personal property purchased from a teacher-sponsored
23 student organization affiliated with an elementary or
24 secondary school located in Illinois.

25 (7) Farm machinery and equipment, both new and used,
26 including that manufactured on special order, certified by the
27 purchaser to be used primarily for production agriculture or
28 State or federal agricultural programs, including individual
29 replacement parts for the machinery and equipment, including
30 machinery and equipment purchased for lease, and including
31 implements of husbandry defined in Section 1-130 of the
32 Illinois Vehicle Code, farm machinery and agricultural
33 chemical and fertilizer spreaders, and nurse wagons required to
34 be registered under Section 3-809 of the Illinois Vehicle Code,
35 but excluding other motor vehicles required to be registered
36 under the Illinois Vehicle Code. Horticultural polyhouses or

1 hoop houses used for propagating, growing, or overwintering
2 plants shall be considered farm machinery and equipment under
3 this item (7). Agricultural chemical tender tanks and dry boxes
4 shall include units sold separately from a motor vehicle
5 required to be licensed and units sold mounted on a motor
6 vehicle required to be licensed if the selling price of the
7 tender is separately stated.

8 Farm machinery and equipment shall include precision
9 farming equipment that is installed or purchased to be
10 installed on farm machinery and equipment including, but not
11 limited to, tractors, harvesters, sprayers, planters, seeders,
12 or spreaders. Precision farming equipment includes, but is not
13 limited to, soil testing sensors, computers, monitors,
14 software, global positioning and mapping systems, and other
15 such equipment.

16 Farm machinery and equipment also includes computers,
17 sensors, software, and related equipment used primarily in the
18 computer-assisted operation of production agriculture
19 facilities, equipment, and activities such as, but not limited
20 to, the collection, monitoring, and correlation of animal and
21 crop data for the purpose of formulating animal diets and
22 agricultural chemicals. This item (7) is exempt from the
23 provisions of Section 3-75.

24 (8) Fuel and petroleum products sold to or used by an air
25 common carrier, certified by the carrier to be used for
26 consumption, shipment, or storage in the conduct of its
27 business as an air common carrier, for a flight destined for or
28 returning from a location or locations outside the United
29 States without regard to previous or subsequent domestic
30 stopovers.

31 (9) Proceeds of mandatory service charges separately
32 stated on customers' bills for the purchase and consumption of
33 food and beverages acquired as an incident to the purchase of a
34 service from a serviceman, to the extent that the proceeds of
35 the service charge are in fact turned over as tips or as a
36 substitute for tips to the employees who participate directly

1 in preparing, serving, hosting or cleaning up the food or
2 beverage function with respect to which the service charge is
3 imposed.

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

13 (11) Proceeds from the sale of photoprocessing machinery
14 and equipment, including repair and replacement parts, both new
15 and used, including that manufactured on special order,
16 certified by the purchaser to be used primarily for
17 photoprocessing, and including photoprocessing machinery and
18 equipment purchased for lease.

19 (12) Until July 1, 2003, coal exploration, mining,
20 offhighway hauling, processing, maintenance, and reclamation
21 equipment, including replacement parts and equipment, and
22 including equipment purchased for lease, but excluding motor
23 vehicles required to be registered under the Illinois Vehicle
24 Code.

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

27 (14) Horses, or interests in horses, registered with and
28 meeting the requirements of any of the Arabian Horse Club
29 Registry of America, Appaloosa Horse Club, American Quarter
30 Horse Association, United States Trotting Association, or
31 Jockey Club, as appropriate, used for purposes of breeding or
32 racing for prizes.

33 (15) Computers and communications equipment utilized for
34 any hospital purpose and equipment used in the diagnosis,
35 analysis, or treatment of hospital patients purchased by a
36 lessor who leases the equipment, under a lease of one year or

1 longer executed or in effect at the time the lessor would
2 otherwise be subject to the tax imposed by this Act, to a
3 hospital that has been issued an active tax exemption
4 identification number by the Department under Section 1g of the
5 Retailers' Occupation Tax Act. If the equipment is leased in a
6 manner that does not qualify for this exemption or is used in
7 any other non-exempt manner, the lessor shall be liable for the
8 tax imposed under this Act or the Use Tax Act, as the case may
9 be, based on the fair market value of the property at the time
10 the non-qualifying use occurs. No lessor shall collect or
11 attempt to collect an amount (however designated) that purports
12 to reimburse that lessor for the tax imposed by this Act or the
13 Use Tax Act, as the case may be, if the tax has not been paid by
14 the lessor. If a lessor improperly collects any such amount
15 from the lessee, the lessee shall have a legal right to claim a
16 refund of that amount from the lessor. If, however, that amount
17 is not refunded to the lessee for any reason, the lessor is
18 liable to pay that amount to the Department.

19 (16) Personal property purchased by a lessor who leases the
20 property, under a lease of one year or longer executed or in
21 effect at the time the lessor would otherwise be subject to the
22 tax imposed by this Act, to a governmental body that has been
23 issued an active tax exemption identification number by the
24 Department under Section 1g of the Retailers' Occupation Tax
25 Act. If the property is leased in a manner that does not
26 qualify for this exemption or is used in any other non-exempt
27 manner, the lessor shall be liable for the tax imposed under
28 this Act or the Use Tax Act, as the case may be, based on the
29 fair market value of the property at the time the
30 non-qualifying use occurs. No lessor shall collect or attempt
31 to collect an amount (however designated) that purports to
32 reimburse that lessor for the tax imposed by this Act or the
33 Use Tax Act, as the case may be, if the tax has not been paid by
34 the lessor. If a lessor improperly collects any such amount
35 from the lessee, the lessee shall have a legal right to claim a
36 refund of that amount from the lessor. If, however, that amount

1 is not refunded to the lessee for any reason, the lessor is
2 liable to pay that amount to the Department.

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

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

25 (19) Beginning July 1, 1999, game or game birds purchased
26 at a "game breeding and hunting preserve area" or an "exotic
27 game hunting area" as those terms are used in the Wildlife Code
28 or at a hunting enclosure approved through rules adopted by the
29 Department of Natural Resources. This paragraph is exempt from
30 the provisions of Section 3-75.

31 (20) A motor vehicle, as that term is defined in Section
32 1-146 of the Illinois Vehicle Code, that is donated to a
33 corporation, limited liability company, society, association,
34 foundation, or institution that is determined by the Department
35 to be organized and operated exclusively for educational
36 purposes. For purposes of this exemption, "a corporation,

1 limited liability company, society, association, foundation,
2 or institution organized and operated exclusively for
3 educational purposes" means all tax-supported public schools,
4 private schools that offer systematic instruction in useful
5 branches of learning by methods common to public schools and
6 that compare favorably in their scope and intensity with the
7 course of study presented in tax-supported schools, and
8 vocational or technical schools or institutes organized and
9 operated exclusively to provide a course of study of not less
10 than 6 weeks duration and designed to prepare individuals to
11 follow a trade or to pursue a manual, technical, mechanical,
12 industrial, business, or commercial occupation.

13 (21) Beginning January 1, 2000, personal property,
14 including food, purchased through fundraising events for the
15 benefit of a public or private elementary or secondary school,
16 a group of those schools, or one or more school districts if
17 the events are sponsored by an entity recognized by the school
18 district that consists primarily of volunteers and includes
19 parents and teachers of the school children. This paragraph
20 does not apply to fundraising events (i) for the benefit of
21 private home instruction or (ii) for which the fundraising
22 entity purchases the personal property sold at the events from
23 another individual or entity that sold the property for the
24 purpose of resale by the fundraising entity and that profits
25 from the sale to the fundraising entity. This paragraph is
26 exempt from the provisions of Section 3-75.

27 (22) Beginning January 1, 2000 and through December 31,
28 2001, new or used automatic vending machines that prepare and
29 serve hot food and beverages, including coffee, soup, and other
30 items, and replacement parts for these machines. Beginning
31 January 1, 2002 and through June 30, 2003, machines and parts
32 for machines used in commercial, coin-operated amusement and
33 vending business if a use or occupation tax is paid on the
34 gross receipts derived from the use of the commercial,
35 coin-operated amusement and vending machines. This paragraph
36 is exempt from the provisions of Section 3-75.

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

11 (24) Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly, computers and communications
13 equipment utilized for any hospital purpose and equipment used
14 in the diagnosis, analysis, or treatment of hospital patients
15 purchased by a lessor who leases the equipment, under a lease
16 of one year or longer executed or in effect at the time the
17 lessor would otherwise be subject to the tax imposed by this
18 Act, to a hospital that has been issued an active tax exemption
19 identification number by the Department under Section 1g of the
20 Retailers' Occupation Tax Act. If the equipment is leased in a
21 manner that does not qualify for this exemption or is used in
22 any other nonexempt manner, the lessor shall be liable for the
23 tax imposed under this Act or the Use Tax Act, as the case may
24 be, based on the fair market value of the property at the time
25 the nonqualifying use occurs. No lessor shall collect or
26 attempt to collect an amount (however designated) that purports
27 to reimburse that lessor for the tax imposed by this Act or the
28 Use Tax Act, as the case may be, if the tax has not been paid by
29 the lessor. If a lessor improperly collects any such amount
30 from the lessee, the lessee shall have a legal right to claim a
31 refund of that amount from the lessor. If, however, that amount
32 is not refunded to the lessee for any reason, the lessor is
33 liable to pay that amount to the Department. This paragraph is
34 exempt from the provisions of Section 3-75.

35 (25) Beginning on the effective date of this amendatory Act
36 of the 92nd General Assembly, personal property purchased by a

1 lessor who leases the property, under a lease of one year or
2 longer executed or in effect at the time the lessor would
3 otherwise be subject to the tax imposed by this Act, to a
4 governmental body that has been issued an active tax exemption
5 identification number by the Department under Section 1g of the
6 Retailers' Occupation Tax Act. If the property is leased in a
7 manner that does not qualify for this exemption or is used in
8 any other nonexempt manner, the lessor shall be liable for the
9 tax imposed under this Act or the Use Tax Act, as the case may
10 be, based on the fair market value of the property at the time
11 the nonqualifying use occurs. No lessor shall collect or
12 attempt to collect an amount (however designated) that purports
13 to reimburse that lessor for the tax imposed by this Act or the
14 Use Tax Act, as the case may be, if the tax has not been paid by
15 the lessor. If a lessor improperly collects any such amount
16 from the lessee, the lessee shall have a legal right to claim a
17 refund of that amount from the lessor. If, however, that amount
18 is not refunded to the lessee for any reason, the lessor is
19 liable to pay that amount to the Department. This paragraph is
20 exempt from the provisions of Section 3-75.

21 (26) Beginning on and after the effective date of this
22 amendatory Act of the 94th General Assembly, personal property
23 purchased from a blind vendor's vending facility licensed by
24 the Department of Human Services under the Blind Vendors Act.
25 This paragraph is exempt from the provisions of Section 3-75.

26 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
27 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
28 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.
29 7-30-04.)

30 Section 95. The Service Occupation Tax Act is amended by
31 changing Section 3-5 as follows:

32 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

33 Sec. 3-5. Exemptions. The following tangible personal
34 property is exempt from the tax imposed by this Act:

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

8 (2) Personal property purchased by a not-for-profit
9 Illinois county fair association for use in conducting,
10 operating, or promoting the county fair.

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

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

30 (5) Until July 1, 2003 and beginning again on September 1,
31 2004, graphic arts machinery and equipment, including repair
32 and replacement parts, both new and used, and including that
33 manufactured on special order or purchased for lease, certified
34 by the purchaser to be used primarily for graphic arts
35 production. Equipment includes chemicals or chemicals acting
36 as catalysts but only if the chemicals or chemicals acting as

1 catalysts effect a direct and immediate change upon a graphic
2 arts product.

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

6 (7) Farm machinery and equipment, both new and used,
7 including that manufactured on special order, certified by the
8 purchaser to be used primarily for production agriculture or
9 State or federal agricultural programs, including individual
10 replacement parts for the machinery and equipment, including
11 machinery and equipment purchased for lease, and including
12 implements of husbandry defined in Section 1-130 of the
13 Illinois Vehicle Code, farm machinery and agricultural
14 chemical and fertilizer spreaders, and nurse wagons required to
15 be registered under Section 3-809 of the Illinois Vehicle Code,
16 but excluding other motor vehicles required to be registered
17 under the Illinois Vehicle Code. Horticultural polyhouses or
18 hoop houses used for propagating, growing, or overwintering
19 plants shall be considered farm machinery and equipment under
20 this item (7). Agricultural chemical tender tanks and dry boxes
21 shall include units sold separately from a motor vehicle
22 required to be licensed and units sold mounted on a motor
23 vehicle required to be licensed if the selling price of the
24 tender is separately stated.

25 Farm machinery and equipment shall include precision
26 farming equipment that is installed or purchased to be
27 installed on farm machinery and equipment including, but not
28 limited to, tractors, harvesters, sprayers, planters, seeders,
29 or spreaders. Precision farming equipment includes, but is not
30 limited to, soil testing sensors, computers, monitors,
31 software, global positioning and mapping systems, and other
32 such equipment.

33 Farm machinery and equipment also includes computers,
34 sensors, software, and related equipment used primarily in the
35 computer-assisted operation of production agriculture
36 facilities, equipment, and activities such as, but not limited

1 to, the collection, monitoring, and correlation of animal and
2 crop data for the purpose of formulating animal diets and
3 agricultural chemicals. This item (7) is exempt from the
4 provisions of Section 3-55.

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

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

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

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

34 (12) Until July 1, 2003, coal exploration, mining,
35 offhighway hauling, processing, maintenance, and reclamation
36 equipment, including replacement parts and equipment, and

1 including equipment purchased for lease, but excluding motor
2 vehicles required to be registered under the Illinois Vehicle
3 Code.

4 (13) Food for human consumption that is to be consumed off
5 the premises where it is sold (other than alcoholic beverages,
6 soft drinks and food that has been prepared for immediate
7 consumption) and prescription and non-prescription medicines,
8 drugs, medical appliances, and insulin, urine testing
9 materials, syringes, and needles used by diabetics, for human
10 use, when purchased for use by a person receiving medical
11 assistance under Article 5 of the Illinois Public Aid Code who
12 resides in a licensed long-term care facility, as defined in
13 the Nursing Home Care Act.

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

16 (15) Horses, or interests in horses, registered with and
17 meeting the requirements of any of the Arabian Horse Club
18 Registry of America, Appaloosa Horse Club, American Quarter
19 Horse Association, United States Trotting Association, or
20 Jockey Club, as appropriate, used for purposes of breeding or
21 racing for prizes.

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

30 (17) Personal property sold to a lessor who leases the
31 property, under a lease of one year or longer executed or in
32 effect at the time of the purchase, to a governmental body that
33 has been issued an active tax exemption identification number
34 by the Department under Section 1g of the Retailers' Occupation
35 Tax Act.

36 (18) Beginning with taxable years ending on or after

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

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

22 (20) Beginning July 1, 1999, game or game birds sold at a
23 "game breeding and hunting preserve area" or an "exotic game
24 hunting area" as those terms are used in the Wildlife Code or
25 at a hunting enclosure approved through rules adopted by the
26 Department of Natural Resources. This paragraph is exempt from
27 the provisions of Section 3-55.

28 (21) A motor vehicle, as that term is defined in Section
29 1-146 of the Illinois Vehicle Code, that is donated to a
30 corporation, limited liability company, society, association,
31 foundation, or institution that is determined by the Department
32 to be organized and operated exclusively for educational
33 purposes. For purposes of this exemption, "a corporation,
34 limited liability company, society, association, foundation,
35 or institution organized and operated exclusively for
36 educational purposes" means all tax-supported public schools,

1 private schools that offer systematic instruction in useful
2 branches of learning by methods common to public schools and
3 that compare favorably in their scope and intensity with the
4 course of study presented in tax-supported schools, and
5 vocational or technical schools or institutes organized and
6 operated exclusively to provide a course of study of not less
7 than 6 weeks duration and designed to prepare individuals to
8 follow a trade or to pursue a manual, technical, mechanical,
9 industrial, business, or commercial occupation.

10 (22) Beginning January 1, 2000, personal property,
11 including food, purchased through fundraising events for the
12 benefit of a public or private elementary or secondary school,
13 a group of those schools, or one or more school districts if
14 the events are sponsored by an entity recognized by the school
15 district that consists primarily of volunteers and includes
16 parents and teachers of the school children. This paragraph
17 does not apply to fundraising events (i) for the benefit of
18 private home instruction or (ii) for which the fundraising
19 entity purchases the personal property sold at the events from
20 another individual or entity that sold the property for the
21 purpose of resale by the fundraising entity and that profits
22 from the sale to the fundraising entity. This paragraph is
23 exempt from the provisions of Section 3-55.

24 (23) Beginning January 1, 2000 and through December 31,
25 2001, new or used automatic vending machines that prepare and
26 serve hot food and beverages, including coffee, soup, and other
27 items, and replacement parts for these machines. Beginning
28 January 1, 2002 and through June 30, 2003, machines and parts
29 for machines used in commercial, coin-operated amusement and
30 vending business if a use or occupation tax is paid on the
31 gross receipts derived from the use of the commercial,
32 coin-operated amusement and vending machines. This paragraph
33 is exempt from the provisions of Section 3-55.

34 (24) Beginning on the effective date of this amendatory Act
35 of the 92nd General Assembly, computers and communications
36 equipment utilized for any hospital purpose and equipment used

1 in the diagnosis, analysis, or treatment of hospital patients
2 sold to a lessor who leases the equipment, under a lease of one
3 year or longer executed or in effect at the time of the
4 purchase, to a hospital that has been issued an active tax
5 exemption identification number by the Department under
6 Section 1g of the Retailers' Occupation Tax Act. This paragraph
7 is exempt from the provisions of Section 3-55.

8 (25) Beginning on the effective date of this amendatory Act
9 of the 92nd General Assembly, personal property sold to a
10 lessor who leases the property, under a lease of one year or
11 longer executed or in effect at the time of the purchase, to a
12 governmental body that has been issued an active tax exemption
13 identification number by the Department under Section 1g of the
14 Retailers' Occupation Tax Act. This paragraph is exempt from
15 the provisions of Section 3-55.

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

1 outside of the State of Illinois.

2 (27) Beginning on and after the effective date of this
3 amendatory Act of the 94th General Assembly, personal property
4 purchased from a blind vendor's vending facility licensed by
5 the Department of Human Services under the Blind Vendors Act.
6 This paragraph is exempt from the provisions of Section 3-55.

7 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
8 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
9 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
10 6-20-03; 93-840, eff. 7-30-04.)

11 Section 96. Retailers' Occupation Tax Act is amended by
12 changing Section 2-5 as follows:

13 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

17 (1) Farm chemicals.

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

1 vehicle required to be licensed, if the selling price of the
2 tender is separately stated.

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

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

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

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

34 (5) A motor vehicle of the first division, a motor vehicle
35 of the second division that is a self-contained motor vehicle
36 designed or permanently converted to provide living quarters

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

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

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

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

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

33 (10) Personal property sold by a corporation, society,
34 association, foundation, institution, or organization, other
35 than a limited liability company, that is organized and
36 operated as a not-for-profit service enterprise for the benefit

1 of persons 65 years of age or older if the personal property
2 was not purchased by the enterprise for the purpose of resale
3 by the enterprise.

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

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

27 (12-5) On and after July 1, 2003 and through June 30, 2004,
28 motor vehicles of the second division with a gross vehicle
29 weight in excess of 8,000 pounds that are subject to the
30 commercial distribution fee imposed under Section 3-815.1 of
31 the Illinois Vehicle Code. Beginning on July 1, 2004 and
32 through June 30, 2005, the use in this State of motor vehicles
33 of the second division: (i) with a gross vehicle weight rating
34 in excess of 8,000 pounds; (ii) that are subject to the
35 commercial distribution fee imposed under Section 3-815.1 of
36 the Illinois Vehicle Code; and (iii) that are primarily used

1 for commercial purposes. Through June 30, 2005, this exemption
2 applies to repair and replacement parts added after the initial
3 purchase of such a motor vehicle if that motor vehicle is used
4 in a manner that would qualify for the rolling stock exemption
5 otherwise provided for in this Act. For purposes of this
6 paragraph, "used for commercial purposes" means the
7 transportation of persons or property in furtherance of any
8 commercial or industrial enterprise whether for-hire or not.

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

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

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

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

1 purchaser.

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

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

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

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

28 (21) Until July 1, 2003, coal exploration, mining,
29 offhighway hauling, processing, maintenance, and reclamation
30 equipment, including replacement parts and equipment, and
31 including equipment purchased for lease, but excluding motor
32 vehicles required to be registered under the Illinois Vehicle
33 Code.

34 (22) Fuel and petroleum products sold to or used by an air
35 carrier, certified by the carrier to be used for consumption,
36 shipment, or storage in the conduct of its business as an air

1 common carrier, for a flight destined for or returning from a
2 location or locations outside the United States without regard
3 to previous or subsequent domestic stopovers.

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

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

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

26 (25-5) The exemption under item (25) does not apply if the
27 state in which the motor vehicle will be titled does not allow
28 a reciprocal exemption for a motor vehicle sold and delivered
29 in that state to an Illinois resident but titled in Illinois.
30 The tax collected under this Act on the sale of a motor vehicle
31 in this State to a resident of another state that does not
32 allow a reciprocal exemption shall be imposed at a rate equal
33 to the state's rate of tax on taxable property in the state in
34 which the purchaser is a resident, except that the tax shall
35 not exceed the tax that would otherwise be imposed under this
36 Act. At the time of the sale, the purchaser shall execute a

1 statement, signed under penalty of perjury, of his or her
2 intent to title the vehicle in the state in which the purchaser
3 is a resident within 30 days after the sale and of the fact of
4 the payment to the State of Illinois of tax in an amount
5 equivalent to the state's rate of tax on taxable property in
6 his or her state of residence and shall submit the statement to
7 the appropriate tax collection agency in his or her state of
8 residence. In addition, the retailer must retain a signed copy
9 of the statement in his or her records. Nothing in this item
10 shall be construed to require the removal of the vehicle from
11 this state following the filing of an intent to title the
12 vehicle in the purchaser's state of residence if the purchaser
13 titles the vehicle in his or her state of residence within 30
14 days after the date of sale. The tax collected under this Act
15 in accordance with this item (25-5) shall be proportionately
16 distributed as if the tax were collected at the 6.25% general
17 rate imposed under this Act.

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

20 (27) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes.

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

34 (29) Personal property sold to a lessor who leases the
35 property, under a lease of one year or longer executed or in
36 effect at the time of the purchase, to a governmental body that

1 has been issued an active tax exemption identification number
2 by the Department under Section 1g of this Act.

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

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

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

31 (33) A motor vehicle, as that term is defined in Section
32 1-146 of the Illinois Vehicle Code, that is donated to a
33 corporation, limited liability company, society, association,
34 foundation, or institution that is determined by the Department
35 to be organized and operated exclusively for educational
36 purposes. For purposes of this exemption, "a corporation,

1 limited liability company, society, association, foundation,
2 or institution organized and operated exclusively for
3 educational purposes" means all tax-supported public schools,
4 private schools that offer systematic instruction in useful
5 branches of learning by methods common to public schools and
6 that compare favorably in their scope and intensity with the
7 course of study presented in tax-supported schools, and
8 vocational or technical schools or institutes organized and
9 operated exclusively to provide a course of study of not less
10 than 6 weeks duration and designed to prepare individuals to
11 follow a trade or to pursue a manual, technical, mechanical,
12 industrial, business, or commercial occupation.

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

27 (35) Beginning January 1, 2000 and through December 31,
28 2001, new or used automatic vending machines that prepare and
29 serve hot food and beverages, including coffee, soup, and other
30 items, and replacement parts for these machines. Beginning
31 January 1, 2002 and through June 30, 2003, machines and parts
32 for machines used in commercial, coin-operated amusement and
33 vending business if a use or occupation tax is paid on the
34 gross receipts derived from the use of the commercial,
35 coin-operated amusement and vending machines. This paragraph
36 is exempt from the provisions of Section 2-70.

1 (35-5) Food for human consumption that is to be consumed
2 off the premises where it is sold (other than alcoholic
3 beverages, soft drinks, and food that has been prepared for
4 immediate consumption) and prescription and nonprescription
5 medicines, drugs, medical appliances, and insulin, urine
6 testing materials, syringes, and needles used by diabetics, for
7 human use, when purchased for use by a person receiving medical
8 assistance under Article 5 of the Illinois Public Aid Code who
9 resides in a licensed long-term care facility, as defined in
10 the Nursing Home Care Act.

11 (36) Beginning August 2, 2001, computers and
12 communications equipment utilized for any hospital purpose and
13 equipment used in the diagnosis, analysis, or treatment of
14 hospital patients sold to a lessor who leases the equipment,
15 under a lease of one year or longer executed or in effect at
16 the time of the purchase, to a hospital that has been issued an
17 active tax exemption identification number by the Department
18 under Section 1g of this Act. This paragraph is exempt from the
19 provisions of Section 2-70.

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

27 (38) Beginning on January 1, 2002, tangible personal
28 property purchased from an Illinois retailer by a taxpayer
29 engaged in centralized purchasing activities in Illinois who
30 will, upon receipt of the property in Illinois, temporarily
31 store the property in Illinois (i) for the purpose of
32 subsequently transporting it outside this State for use or
33 consumption thereafter solely outside this State or (ii) for
34 the purpose of being processed, fabricated, or manufactured
35 into, attached to, or incorporated into other tangible personal
36 property to be transported outside this State and thereafter

1 used or consumed solely outside this State. The Director of
2 Revenue shall, pursuant to rules adopted in accordance with the
3 Illinois Administrative Procedure Act, issue a permit to any
4 taxpayer in good standing with the Department who is eligible
5 for the exemption under this paragraph (38). The permit issued
6 under this paragraph (38) shall authorize the holder, to the
7 extent and in the manner specified in the rules adopted under
8 this Act, to purchase tangible personal property from a
9 retailer exempt from the taxes imposed by this Act. Taxpayers
10 shall maintain all necessary books and records to substantiate
11 the use and consumption of all such tangible personal property
12 outside of the State of Illinois.

13 (34) Beginning on and after the effective date of this
14 amendatory Act of the 94th General Assembly, personal property
15 purchased from a blind vendor's vending facility licensed by
16 the Department of Human Services under the Blind Vendors Act.
17 This paragraph is exempt from the provisions of Section 2-70.

18 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
19 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
20 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
21 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
22 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)