



Sen. Mike Jacobs

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1 AMENDMENT TO SENATE BILL 2330

2 AMENDMENT NO. _____. Amend Senate Bill 2330, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 Section 5. Definitions. 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 unit of local
13 government, State, federal, or 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

1 (including hot meals) primarily through the use of a line where
2 the customer serves himself from displayed selections. A
3 cafeteria may be fully automatic or some limited waiter or
4 waitress service may be available and provided within a
5 cafeteria and table or booth seating facilities are always
6 provided.

7 "Committee" means the Illinois Committee of Blind Vendors,
8 an independent representative body for blind vendors
9 established by the federal Randolph-Sheppard Act.

10 "Department" means the Department of Human Services.

11 "Director" means the Bureau Director of the Bureau for the
12 Blind in the Department of Human Services.

13 "Federal property" means any building, land, or other real
14 property owned, leased, or occupied by any department, agency
15 or instrumentality of the United States (including the
16 Department of Defense and the U.S. Postal Service), or any
17 other instrumentality wholly owned by the United States, or by
18 any department or agency of the District of Columbia or any
19 territory or possession of the United States.

20 "License" means a written instrument issued by the
21 Department to a blind person, authorizing such person to
22 operate a vending facility on unit of local government, State,
23 federal, or other property.

24 "Net proceeds" means the amount remaining from the sale of
25 articles or services of vending facilities, and any vending
26 machine or other income accruing to blind vendors after
27 deducting the cost of such sale and other expenses (excluding
28 any set-aside charges required to be paid by the blind
29 vendors).

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

33 "Other property" means property that is not unit of local
34 government, State, or federal property and on which vending

1 facilities are established or operated by the use of any funds
2 derived in whole or in part, directly or indirectly, from the
3 operation of vending facilities on any unit of local
4 government, State, or federal property.

5 "Public property" means all State property and unit of
6 local government property.

7 "Secretary" means the Secretary of Human Services.

8 "Set-aside funds" means funds that accrue to the Department
9 from an assessment against the net proceeds of each vending
10 facility in the State's vending facility program and any income
11 from vending machines on unit of local government, State, or
12 federal property that accrues to the Department.

13 "State agency" means any department, board, commission, or
14 agency created by the Constitution or public Act, whether in
15 the executive, legislative or judicial branch.

16 "State property" means all real property, or part thereof,
17 owned, leased, rented, or otherwise controlled or occupied by
18 any agency, department, or other governing body of this State.
19 For purposes of this Act, "State property" does not include
20 property owned or controlled by a unit of local government or
21 school district.

22 "Unit of local government" has the same meaning as provided
23 in Section 1 of Article VII of the Illinois Constitution.

24 "Unit of local government property" means all real
25 property, or part thereof, owned, leased, rented, or otherwise
26 controlled or occupied by a unit of local government.

27 "Vending facility" means automatic vending machines,
28 cafeterias, snack bars, cart service, shelters, counters, and
29 such other appropriate auxiliary equipment that may be operated
30 by blind licensees and which is necessary for the sale of
31 newspapers, periodicals, confections, tobacco products, foods,
32 beverages, and other articles or services dispensed
33 automatically or manually and prepared on or off the premises
34 in accordance with all applicable health laws, and including

1 the vending or exchange of changes for any lottery authorized
2 by State law and conducted by a State agency within the State.

3 "Vending machine", for the purpose of assigning vending
4 machine income under this Act, means a coin or currency
5 operated machine which dispenses articles or services, except
6 that those machines operated by the United States Postal
7 Service for the sale of postage stamps or other postal products
8 and services, machines providing services of a recreational
9 nature, and telephones shall not be considered to be vending
10 machines.

11 "Vending machine income" means receipts (other than those
12 of a blind vendor) from vending machine operations on public or
13 federal property, after deducting the cost of goods sold
14 (including reasonable service and maintenance costs in
15 accordance with customary business practices of commercial
16 vending concerns), where the machines are operated, serviced,
17 or maintained by, or with the approval of, a department,
18 agency, or instrumentality of the United States, a unit of
19 local government, or the State of Illinois, or commissions paid
20 (other than to a blind vendor) by a commercial vending concern
21 that operates, services, and maintains vending machines on
22 public or federal property for, or with the approval of, a
23 department, agency, or instrumentality of the United States, a
24 unit of local government, or the State of Illinois.

25 "Vendor" means a blind licensee who is operating a vending
26 facility on unit of local government, State, federal, or other
27 property.

28 Section 10. Business Enterprise Program for the Blind.

29 (a) The Business Enterprise Program for the Blind is
30 created for the purpose of providing blind persons with
31 remunerative employment, enlarging the economic opportunities
32 of the blind, and stimulating the blind to greater efforts in
33 striving to make themselves self-supporting. In order to

1 achieve these goals blind persons licensed under this Act shall
2 be authorized to operate vending facilities on any property
3 within this State as provided by this Act.

4 It is the intent of the General Assembly that the
5 Randolph-Sheppard Act, 20 U. S. C. §§107-107f, and the federal
6 regulations for its administration set forth in Part 395 of
7 title 34 of the Code of Federal Regulations, shall serve as the
8 minimum standards for the operation of the Business Enterprise
9 Program for the Blind.

10 (b) The Secretary, through the Director, shall continue,
11 maintain, and promote the Business Enterprise Program for the
12 Blind. Some or all of the functions of the program may be
13 provided by the Department of Human Services. The Business
14 Enterprise Program for the Blind must provide that:

15 (1) priority is given to blind vendors in the operation
16 of vending facilities on public property;

17 (2) vending machine income from all vending machines on
18 public property is assigned as provided for by Section 30
19 of this Act;

20 (3) no State agency or unit of local government may
21 impose any commission, service charge, rent, or utility
22 charge on a licensed blind vendor who is operating a
23 vending facility on public property;

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

26 (5) State agencies and units of local government may
27 not allow competition with a blind vendor. For purposes of
28 this item (5), "competition" includes, but is not limited
29 to, vending machines, coffee services, bake sales, or other
30 fund raising or commercial mechanisms in the same building
31 as a licensed blind vendor.

32 (c) With respect to vending facilities on federal property
33 within this State, priority shall be given as provided in the
34 federal Randolph-Sheppard Act, 20 U. S. C. §§107-107f,

1 including any amendments thereto. This Act, as it applies to
2 federal property, is intended to conform to the federal Act,
3 and is to be of no force or effect if, and to the extent that,
4 any provision of this Act or any regulation adopted under this
5 Act is in conflict with the federal Act. Nothing in this
6 subsection shall be construed to impose limitations on the
7 operation of vending facilities on public property, or property
8 other than federal property, or to allow only those activities
9 specifically enumerated in the Randolph-Sheppard Act.

10 (d) On all other property within this State, whether owned
11 or controlled privately or by a school district, the Department
12 directly or by delegation shall take all feasible steps to
13 encourage and establish vending by blind persons licensed under
14 this Act. The Department may enter into appropriate agreements
15 with the entities or persons owning or controlling the
16 property. All such agreements shall be in writing and shall be
17 in conformity with this Act.

18 (e) The Assistant Director shall actively pursue all
19 commissions from vending facilities not operated by blind
20 vendors as provided in Section 30 of this Act, and shall
21 propose new placements of vending facilities on public property
22 where a facility is not yet in place.

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

26 (g) Notwithstanding any provision to the contrary, this Act
27 does not apply to the "State Fairgrounds" as defined in the
28 State Fair Act, any Department of Natural Resources
29 subcontract, or the World Shooting and Recreation Complex.

30 Section 15. Vending facilities on public property.

31 (a) In order to ensure that priority is given to blind
32 vendors in the operation of vending facilities on public
33 property as provided in Section 10, the Director, directly or

1 by delegation to the Assistant Director, and the Committee
2 shall jointly develop regulations to ensure the following:

3 (1) That priority is given to blind persons licensed
4 under this Act or under its predecessor Act (the Blind
5 Persons Operating Vending Facilities Act 20 ILCS 2420/),
6 including the assignment of vending machine income as
7 provided in this Act.

8 (2) That one or more vending facilities shall be
9 established on all public property to the extent feasible.
10 Where a larger vending facility is determined by the
11 Director and the Committee to be infeasible, every effort
12 shall be made to place vending machines on the property
13 whenever possible. The Director and the Committee shall
14 take into account the following criteria when determining
15 whether establishment of a vending facility is feasible:

16 (A) the number of State or unit of local government
17 employees, visitors, and other potential facility
18 customers on the property in a given period;

19 (B) the size, in square feet, of the area owned,
20 leased, occupied, or otherwise controlled by the State
21 or the unit of local government;

22 (C) the duration the property is expected to be
23 leased or occupied by the State or the unit of local
24 government;

25 (D) whether establishment of a vending facility
26 would adversely affect the interests of the State or
27 the unit of local government; and

28 (E) the likelihood that the vending facility would
29 produce an adequate net income for a blind vendor as
30 determined by the average income of all blind vendors
31 in the State.

32 (b) Any determination by the Director, or by the State
33 agency or unit of local government controlling the property,
34 that the placement or operation of a vending facility is not

1 feasible, or that the placement or operation would adversely
2 affect the interests of the State or the unit of local
3 government shall be in writing and shall be transmitted to the
4 Committee for review and ratification or rejection.

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

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

16 (e) After January 1, 2006, no State agency or unit of local
17 government shall undertake to acquire by ownership, rent or
18 lease, or to otherwise occupy, in whole or in part, any
19 property unless, after consultation with the head of the State
20 agency or the unit of local government, it is determined by the
21 Director in accordance with regulations developed pursuant to
22 subsection (a) either: (1) that the property includes a
23 satisfactory site or sites for the location and operation of a
24 vending facility by a blind person; or (2) that, if a building
25 is to be constructed, substantially altered, or renovated, or,
26 in the case of a building that is already occupied by the State
27 agency or the unit of local government, is to be substantially
28 altered or renovated for use by the State agency or the unit of
29 local government, 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.

33 Each officer and employee of a State agency or unit of
34 local government charged with the responsibility or permitting

1 the operation of vending facilities on any public property
2 shall ensure strict adherence to the priority established for
3 the operation of vending facilities by blind persons pursuant
4 to this Act.

5 (f) The provisions of subsection (e) shall not apply when
6 the Director, in consultation with the Committee, determines
7 that the number of people using the location is or will be
8 insufficient to support a vending facility.

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

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

20 (a) The Department may provide, by regulation, for
21 set-asides similar to those provided in Section 107d-3 of the
22 Randolph-Sheppard Act. If any funds are set aside, or caused to
23 be set aside, from the net proceeds of the operation of vending
24 facilities by blind vendors, the funds shall be set aside only
25 to the extent necessary in a percentage amount not to exceed
26 that determined jointly by the Director and the Committee and
27 published in State regulation, and that these funds may be used
28 only for the following purposes: (1) maintenance and
29 replacement of equipment; (2) purchase of new equipment; (3)
30 construction of new vending facilities; (4) funding the
31 functions of the Committee, including legal and other
32 professional services; and (5) retirement or pension funds,

1 health insurance, paid sick leave, and vacation time for blind
2 licensees, so long as these benefits are approved by a majority
3 vote of all blind vendors that occurs after the Department
4 provides these vendors with information on all matters relevant
5 to these purposes.

6 (b) No set-aside funds shall be collected from a blind
7 vendor when the monthly net proceeds of that vendor are less
8 than \$1,000. This amount may be adjusted annually by the
9 Director and the Committee to reflect changes in the cost of
10 living.

11 (c) The Department shall establish, with full
12 participation by the Committee, the Blind Vendors Trust Fund as
13 a separate account managed by the Department for the State's
14 blind vendors.

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

25 (e) It is the intent of the General Assembly that the
26 expenditure of set-aside funds authorized by this Section shall
27 be supplemental to any current appropriation or other moneys
28 made available for these purposes and shall not constitute an
29 offset or diminution of any previously existing appropriation
30 or other funding source.

31 (f) An amount equal to 10% of the wages paid by a blind
32 vendor to any employee who is blind or otherwise disabled shall
33 be deducted from any set-aside charge paid by the vendor each
34 month, in order to encourage vendors to employ blind and

1 disabled workers and to set an example for industry and
2 government. No deduction shall be made for any employee paid
3 less than the State or federal minimum wage.

4 Section 30. Vending machine income and compliance.

5 (a) After January 1, 2006, all vending machine income from
6 vending machines on public property shall, except as provided
7 in subsection (e) of this Section, accrue to (1) the blind
8 vendor operating the vending facilities on the property, or (2)
9 in the event there is no blind vendor operating a facility on
10 the property, to the Blind Vendors Trust Fund for use
11 exclusively as set forth in subsection (a) of Section 25 of
12 this Act.

13 (b) The Secretary, directly or by delegation of authority,
14 shall ensure compliance with this Section and Section 15 of
15 this Act with respect to buildings, installations, facilities,
16 roadside rest stops, and any other public property, and shall
17 be responsible for the collection of, and accounting for, all
18 vending machine income on this property. The Secretary shall
19 enforce these provisions through litigation, arbitration, or
20 any other legal means available to the State, and each State
21 agency or unit of local government in control of this property
22 shall be subject to the enforcement. State agencies or unit of
23 local government failing to comply with an order of the
24 Department may be held in contempt in any court of general
25 jurisdiction.

26 (c) Any limitation on the placement or operation of a
27 vending machine by a State agency or unit of local government
28 based on a determination that such placement or operation would
29 adversely affect the interests of the State or the unit of
30 local government must be explained in writing to the Secretary.
31 The Secretary shall promptly determine whether the limitation
32 is justified. If the Secretary determines that the limitation
33 is not justified, the State agency or unit of local government

1 seeking the limitation shall immediately remove the
2 limitation.

3 (d) The amount of vending machine income accruing from
4 vending machines on public property that may be used for the
5 functions of the Committee shall be determined annually by a
6 two-thirds vote of the Committee, except that no more than 25%
7 of the annual vending machine income may be used by the
8 Committee for this purpose, based upon the income accruing to
9 the Blind Vendors Trust Fund in the preceding year. The
10 Committee may establish its budget and expend funds through
11 contract or otherwise without the approval of the Department.

12 (e) With respect to vending machines from which the
13 Division of Developmental Disabilities or the Division of
14 Mental Health of the Department of Public Health received
15 vending machine income before the effective date of this Act,
16 vending machine income from those machines received after the
17 effective date of this Act shall accrue as provided in this
18 Section, provided that the Business Enterprise Program for the
19 Blind agrees to provide vending machine income in the same
20 amount from these machines as such Divisions were receiving
21 from those machines prior to the effective date of this Act as
22 determined by the Department.

23 With respect to vending machines from which the Division of
24 Developmental Disabilities or the Division of Mental Health of
25 the Department of Public Health received vending machine income
26 before the effective date of this Act without a written
27 agreement with a vending company, bottler, or vending machine
28 supplier, vending machine income from those machines received
29 after the effective date of this Act shall accrue as provided
30 in this Section provided that the Business Enterprise Program
31 for the Blind agrees to provide vending machine income in an
32 amount equal to 10% of the vending machine income from those
33 machines.

1 Section 40. Licenses.

2 (a) Licenses shall be issued only to blind persons who are
3 qualified to operate vending facilities. The continuing
4 eligibility of a vendor as a blind person shall be reviewed
5 biennially for partially sighted individuals or whenever the
6 Director has information indicating the vendor is no longer
7 blind as defined under this Act.

8 (b) Following agreement by the Director, the Assistant
9 Director, and the Committee, the Secretary shall adopt and
10 publish regulations providing for (1) the requirements for
11 licensure as a blind vendor; (2) a curriculum for training,
12 inservice training, and upward mobility training for blind
13 vendors; and (3) a regular schedule for offering the training,
14 classes to be offered at least once per year.

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

20 Section 45. Committee of Blind Vendors.

21 (a) The Director, through the Assistant Director, shall
22 provide for the biennial election of the Committee, which shall
23 be fully representative of all blind licensees in the State.
24 There shall be no fewer than one committee member for each 15
25 licensed blind vendors in the State.

26 (b) The Committee is empowered to hire staff; contract for
27 consultants including, but not limited to, legal counsel; set
28 agendas and call meetings; create a constitution and bylaws,
29 subcommittees, and budgets; and do any other thing a not for
30 profit organization may do. At the discretion of the Committee
31 major issues may be referred for initial consideration to a
32 subcommittee, or to all blind vendors in order to ascertain
33 their views. The Committee is not a State agency, board, or

1 commission and is not subject to State ethics, sunshine, or
2 procurement laws.

3 (c) The Secretary shall ensure that the Committee jointly
4 participates with the State in the development and
5 implementation of all policies, plans, Program development,
6 and major administrative and management decisions affecting
7 the Business Enterprise Program for the Blind. The Director,
8 through the Assistant Director, shall provide to the Committee
9 all relevant financial information and data, including
10 quarterly and annual financial reports, on the operation of the
11 vending facility program in order that the Committee may fully
12 participate in budget development and formulation, the
13 establishment of set-aside levels, and other program
14 requirements. A copy of all completed audits, reports, and
15 investigations affecting the Business Enterprise Program for
16 the Blind shall be distributed to the Committee in a timely
17 manner. Any implementation of changes in administrative policy
18 or program development that are within the discretion of the
19 Department shall occur only after Committee review.

20 Section 50. Hearings; arbitration.

21 (a) Any blind vendor dissatisfied with any act or omission
22 arising from the operation or administration of the vending
23 facility program may submit to the Assistant Director a request
24 for a full evidentiary hearing. This hearing shall be provided
25 in a timely manner by the Department. Damages, including
26 compensatory damages, attorney's fees, and expenses, must be
27 paid to any operator who prevails in the full evidentiary
28 hearing; however, payment of damages may only be paid from the
29 general funds of the State treasury and not from any program
30 funds, the Blind Vendors Trust Fund, or federal rehabilitation
31 funds. If the blind vendor is dissatisfied with any action
32 taken or decision rendered as a result of the hearing, that
33 vendor may file a complaint for arbitration with the Secretary.

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

7 (1) one individual appointed by the Secretary;

8 (2) one individual appointed by the State agency
9 determined by the Secretary to be in noncompliance with the
10 Act; and

11 (3) one individual, who shall serve as chairman,
12 jointly designated by the members appointed under items (1)
13 and (2); provided that, if within 30 days following the
14 Secretary's determination of noncompliance either party
15 fails to appoint a panel member, or if the parties are
16 unable to agree on the appointment of the chairman, the
17 Secretary shall select the final panel member or may
18 designate a hearing officer of the Department who shall
19 preside.

20 (c) The Assistant Director may issue a letter of reprimand
21 to a blind vendor who violates program regulations or policy.
22 Depending upon the seriousness of the alleged violation, the
23 letter of reprimand may indicate the intention to suspend or
24 terminate the license of the vendor. All reprimand letters
25 shall be sent in a medium accessible by the vendor, and shall
26 be sent by certified mail, return receipt requested. The
27 Assistant Director must make every reasonable effort to assist
28 the subject vendor to correct the problem for which the vendor
29 is reprimanded. No process to suspend or terminate a license
30 shall be initiated before the vendor is accorded the
31 opportunity for a full evidentiary hearing as provided under
32 subsection (a). A vendor may be summarily removed from a
33 facility only in an emergency.

1 Section 60. General provisions.

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

8 (b) Vendors licensed pursuant to this Act are authorized to
9 keep guide animals with them while operating vending
10 facilities.

11 (c) The Director, Assistant Director, and the Committee
12 shall cooperate in the development of regulations to be
13 promulgated by the Department regarding life standards for
14 vending facility equipment. Such regulations shall include,
15 but are not limited to, the life expectancy of equipment; time
16 periods within which equipment should be replaced; exceptions
17 to the replacement time periods for equipment with no service
18 problem history, and replacement schedules for equipment
19 subject to excessive failures not the fault of the vendor.

20 (d) The Secretary, through the Director, shall assign
21 adequate personnel to carry out duties related to the
22 administration and management of this Act. In selecting
23 personnel to fill any program position under this subsection,
24 the Secretary shall ensure that the Committee has full advance
25 opportunity to review the selections, to submit comments
26 thereon, and to assess the adequacy of staffing levels for the
27 program.

28 (e) The Assistant Director shall provide each vendor access
29 to: all financial information, his or her performance ratings,
30 and all other individual personnel documents and data
31 maintained by the Department. This includes providing each
32 vendor a written copy of all rules and policies adopted
33 pursuant to the Act. Upon request, the information shall be
34 furnished in the medium most accessible by the vendor.

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

6 Section 65. Program regulations.

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

11 (b) The regulations shall include, but are not limited to,
12 the following: (1) uniform procedures for vendor licensing and
13 termination; (2) criteria and standards for selecting vendors
14 and matching them to facilities to ensure that the most
15 qualified person is selected; (3) equipment life standards and
16 service standards for the inventory, repair, and purchase of
17 equipment; (4) minimum requirements for the establishment of a
18 vending facility; (5) standards for training, in-service
19 training, and upward mobility; and (6) policies and procedures
20 for the collection, deposit, reimbursement, and use of all
21 program income, including vending machine income.

22 Section 70. Property Survey and Report.

23 (a) The Department shall survey and report on public
24 property and vending facilities not later than December 31,
25 2006. The report shall contain the following information:

26 (1) A list of all public property and all federal
27 buildings or other property within the State that does or
28 reasonably could accommodate a vending facility as
29 provided for in this Act or as provided for in the federal
30 Randolph-Sheppard Act.

31 (2) For the buildings or locations that have vending
32 facilities or vending machines in place, an indication of

1 the facilities operated by licensed blind vendors under the
2 Business Enterprise Program for the Blind and an indication
3 of the facilities operated by private entities.

4 (3) For the vending facilities or vending machines
5 operated by private entities, an indication of the
6 facilities from which commissions for the Business
7 Enterprise Program for the Blind have been or are being
8 collected.

9 (4) For the buildings or other property that do not
10 have vending facilities in place, an indication of the
11 locations where a vending facility could appropriately be
12 placed, or the reasons why a vending facility is not
13 feasible in the building or property.

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

18 (1) The number and identity of the buildings owned,
19 leased, acquired, or occupied by the State and units of
20 local government.

21 (2) The number and identity of the State and units of
22 local government buildings where vending facilities or
23 vending machines are located.

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

26 (4) The usable interior square footage of the building;
27 and

28 (5) Any other information the Department may determine
29 to be useful in expanding the Business Enterprise Program
30 for the Blind to the maximum extent feasible consist with
31 the purposes of this Act.

32 (c) All State agencies or units of local government
33 controlling public property or parts thereof where vending
34 machines or vending facilities are located must cooperate with

1 the Department by providing information on the vending machines
2 or facilities at those locations. This information shall
3 include, but is not limited to, the terms of contracts for
4 vending, including financial terms, and the disbursement
5 practices for vending machine income. The Department shall
6 incorporate this information in its reports and updates.

7 (d) The Department shall use the reports and updates
8 mandated by this Section to develop greater opportunities for
9 the placement of blind vendors, to increase vending machine
10 income to the program, and to aid in establishing vending
11 machines and facilities on public property.

12 (e) The reports and surveys prepared pursuant to this
13 Section shall be provided to the Committee and to the
14 appropriate committees of the General Assembly.

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

20 (20 ILCS 2420/Act rep.)

21 Section 90. The Blind Persons Operating Vending Facilities
22 Act is repealed.

23 Section 93. The Use Tax Act is amended by changing Section
24 3-5 as follows:

25 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

28 (1) Personal property purchased from a corporation,
29 society, association, foundation, institution, or
30 organization, other than a limited liability company, that is

1 organized and operated as a not-for-profit service enterprise
2 for the benefit of persons 65 years of age or older if the
3 personal property was not purchased by the enterprise for the
4 purpose of resale by the enterprise.

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

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

23 (4) Personal property purchased by a governmental body, by
24 a corporation, society, association, foundation, or
25 institution organized and operated exclusively for charitable,
26 religious, or educational purposes, or by a not-for-profit
27 corporation, society, association, foundation, institution, or
28 organization that has no compensated officers or employees and
29 that is organized and operated primarily for the recreation of
30 persons 55 years of age or older. A limited liability company
31 may qualify for the exemption under this paragraph only if the
32 limited liability company is organized and operated
33 exclusively for educational purposes. On and after July 1,
34 1987, however, no entity otherwise eligible for this exemption

1 shall make tax-free purchases unless it has an active exemption
2 identification number issued by the Department.

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

6 (6) Until July 1, 2003 and beginning again on September 1,
7 2004, graphic arts machinery and equipment, including repair
8 and replacement parts, both new and used, and including that
9 manufactured on special order, certified by the purchaser to be
10 used primarily for graphic arts production, and including
11 machinery and equipment purchased for lease. Equipment
12 includes chemicals or chemicals acting as catalysts but only if
13 the chemicals or chemicals acting as catalysts effect a direct
14 and immediate change upon a graphic arts product.

15 (7) Farm chemicals.

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

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

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

34 (11) Farm machinery and equipment, both new and used,

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

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

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

1 Code.

2 (17) Until July 1, 2003, distillation machinery and
3 equipment, sold as a unit or kit, assembled or installed by the
4 retailer, certified by the user to be used only for the
5 production of ethyl alcohol that will be used for consumption
6 as motor fuel or as a component of motor fuel for the personal
7 use of the user, and not subject to sale or resale.

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

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

24 (20) Semen used for artificial insemination of livestock
25 for direct agricultural production.

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

32 (22) Computers and communications equipment utilized for
33 any hospital purpose and equipment used in the diagnosis,
34 analysis, or treatment of hospital patients purchased by a

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

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

1 Service Use Tax Act, as the case may be, if the tax has not been
2 paid by the lessor. If a lessor improperly collects any such
3 amount from the lessee, the lessee shall have a legal right to
4 claim a refund of that amount from the lessor. If, however,
5 that amount is not refunded to the lessee for any reason, the
6 lessor is liable to pay that amount to the Department.

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

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

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

1 (27) A motor vehicle, as that term is defined in Section
2 1-146 of the Illinois Vehicle Code, that is donated to a
3 corporation, limited liability company, society, association,
4 foundation, or institution that is determined by the Department
5 to be organized and operated exclusively for educational
6 purposes. For purposes of this exemption, "a corporation,
7 limited liability company, society, association, foundation,
8 or institution organized and operated exclusively for
9 educational purposes" means all tax-supported public schools,
10 private schools that offer systematic instruction in useful
11 branches of learning by methods common to public schools and
12 that compare favorably in their scope and intensity with the
13 course of study presented in tax-supported schools, and
14 vocational or technical schools or institutes organized and
15 operated exclusively to provide a course of study of not less
16 than 6 weeks duration and designed to prepare individuals to
17 follow a trade or to pursue a manual, technical, mechanical,
18 industrial, business, or commercial occupation.

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

33 (29) Beginning January 1, 2000 and through December 31,
34 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other
2 items, and replacement parts for these machines. Beginning
3 January 1, 2002 and through June 30, 2003, machines and parts
4 for machines used in commercial, coin-operated amusement and
5 vending business if a use or occupation tax is paid on the
6 gross receipts derived from the use of the commercial,
7 coin-operated amusement and vending machines. This paragraph
8 is exempt from the provisions of Section 3-90.

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

19 (31) Beginning on the effective date of this amendatory Act
20 of the 92nd General Assembly, computers and communications
21 equipment utilized for any hospital purpose and equipment used
22 in the diagnosis, analysis, or treatment of hospital patients
23 purchased by a lessor who leases the equipment, under a lease
24 of one year or longer executed or in effect at the time the
25 lessor would otherwise be subject to the tax imposed by this
26 Act, to a hospital that has been issued an active tax exemption
27 identification number by the Department under Section 1g of the
28 Retailers' Occupation Tax Act. If the equipment is leased in a
29 manner that does not qualify for this exemption or is used in
30 any other nonexempt manner, the lessor shall be liable for the
31 tax imposed under this Act or the Service Use Tax Act, as the
32 case may be, based on the fair market value of the property at
33 the time the nonqualifying use occurs. No lessor shall collect
34 or attempt to collect an amount (however designated) that

1 purports to reimburse that lessor for the tax imposed by this
2 Act or the Service Use Tax Act, as the case may be, if the tax
3 has not been paid by the lessor. If a lessor improperly
4 collects any such amount from the lessee, the lessee shall have
5 a legal right to claim a refund of that amount from the lessor.
6 If, however, that amount is not refunded to the lessee for any
7 reason, the lessor is liable to pay that amount to the
8 Department. This paragraph is exempt from the provisions of
9 Section 3-90.

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

33 (33) On and after July 1, 2003 and through June 30, 2004,
34 the use in this State of motor vehicles of the second division

1 with a gross vehicle weight in excess of 8,000 pounds and that
2 are subject to the commercial distribution fee imposed under
3 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
4 1, 2004 and through June 30, 2005, the use in this State of
5 motor vehicles of the second division: (i) with a gross vehicle
6 weight rating in excess of 8,000 pounds; (ii) that are subject
7 to the commercial distribution fee imposed under Section
8 3-815.1 of the Illinois Vehicle Code; and (iii) that are
9 primarily used for commercial purposes. Through June 30, 2005,
10 this exemption applies to repair and replacement parts added
11 after the initial purchase of such a motor vehicle if that
12 motor vehicle is used in a manner that would qualify for the
13 rolling stock exemption otherwise provided for in this Act. For
14 purposes of this paragraph, the term "used for commercial
15 purposes" means the transportation of persons or property in
16 furtherance of any commercial or industrial enterprise,
17 whether for-hire or not.

18 (34) Beginning on and after the effective date of this
19 amendatory Act of the 94th General assembly, personal property
20 purchased from a blind vendor's vending facility licensed by
21 the Department of Human Services under the Blind Vendors Act.
22 This paragraph is exempt from the provisions of Section 3-90.

23 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
24 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
25 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
26 93-1033, eff. 9-3-04; revised 10-21-04.)

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

29 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

32 (1) Personal property purchased from a corporation,

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

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

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

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

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

1 as catalysts but only if the chemicals or chemicals acting as
2 catalysts effect a direct and immediate change upon a graphic
3 arts product.

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

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

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

34 Farm machinery and equipment also includes computers,

1 sensors, software, and related equipment used primarily in the
2 computer-assisted operation of production agriculture
3 facilities, equipment, and activities such as, but not limited
4 to, the collection, monitoring, and correlation of animal and
5 crop data for the purpose of formulating animal diets and
6 agricultural chemicals. This item (7) is exempt from the
7 provisions of Section 3-75.

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

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

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

33 (11) Proceeds from the sale of photoprocessing machinery
34 and equipment, including repair and replacement parts, both new

1 and used, including that manufactured on special order,
2 certified by the purchaser to be used primarily for
3 photoprocessing, and including photoprocessing machinery and
4 equipment purchased for lease.

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

11 (13) Semen used for artificial insemination of livestock
12 for direct agricultural production.

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

19 (15) Computers and communications equipment utilized for
20 any hospital purpose and equipment used in the diagnosis,
21 analysis, or treatment of hospital patients purchased by a
22 lessor who leases the equipment, under a lease of one year or
23 longer executed or in effect at the time the lessor would
24 otherwise be subject to the tax imposed by this Act, to a
25 hospital that has been issued an active tax exemption
26 identification number by the Department under Section 1g of the
27 Retailers' Occupation Tax Act. If the equipment is leased in a
28 manner that does not qualify for this exemption or is used in
29 any other non-exempt manner, the lessor shall be liable for the
30 tax imposed under this Act or the Use Tax Act, as the case may
31 be, based on the fair market value of the property at the time
32 the non-qualifying use occurs. No lessor shall collect or
33 attempt to collect an amount (however designated) that purports
34 to reimburse that lessor for the tax imposed by this Act or the

1 Use Tax Act, as the case may be, if the tax has not been paid by
2 the lessor. If a lessor improperly collects any such amount
3 from the lessee, the lessee shall have a legal right to claim a
4 refund of that amount from the lessor. If, however, that amount
5 is not refunded to the lessee for any reason, the lessor is
6 liable to pay that amount to the Department.

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

27 (17) Beginning with taxable years ending on or after
28 December 31, 1995 and ending with taxable years ending on or
29 before December 31, 2004, personal property that is donated for
30 disaster relief to be used in a State or federally declared
31 disaster area in Illinois or bordering Illinois by a
32 manufacturer or retailer that is registered in this State to a
33 corporation, society, association, foundation, or institution
34 that has been issued a sales tax exemption identification

1 number by the Department that assists victims of the disaster
2 who reside within the declared disaster area.

3 (18) 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 used in the
6 performance of infrastructure repairs in this State, including
7 but not limited to municipal roads and streets, access roads,
8 bridges, sidewalks, waste disposal systems, water and sewer
9 line extensions, water distribution and purification
10 facilities, storm water drainage and retention facilities, and
11 sewage treatment facilities, resulting from a State or
12 federally declared disaster in Illinois or bordering Illinois
13 when such repairs are initiated on facilities located in the
14 declared disaster area within 6 months after the disaster.

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

21 (20) A motor vehicle, as that term is defined in Section
22 1-146 of the Illinois Vehicle Code, that is donated to a
23 corporation, limited liability company, society, association,
24 foundation, or institution that is determined by the Department
25 to be organized and operated exclusively for educational
26 purposes. For purposes of this exemption, "a corporation,
27 limited liability company, society, association, foundation,
28 or institution organized and operated exclusively for
29 educational purposes" means all tax-supported public schools,
30 private schools that offer systematic instruction in useful
31 branches of learning by methods common to public schools and
32 that compare favorably in their scope and intensity with the
33 course of study presented in tax-supported schools, and
34 vocational or technical schools or institutes organized and

1 operated exclusively to provide a course of study of not less
2 than 6 weeks duration and designed to prepare individuals to
3 follow a trade or to pursue a manual, technical, mechanical,
4 industrial, business, or commercial occupation.

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

19 (22) Beginning January 1, 2000 and through December 31,
20 2001, new or used automatic vending machines that prepare and
21 serve hot food and beverages, including coffee, soup, and other
22 items, and replacement parts for these machines. Beginning
23 January 1, 2002 and through June 30, 2003, machines and parts
24 for machines used in commercial, coin-operated amusement and
25 vending business if a use or occupation tax is paid on the
26 gross receipts derived from the use of the commercial,
27 coin-operated amusement and vending machines. This paragraph
28 is exempt from the provisions of Section 3-75.

29 (23) Food for human consumption that is to be consumed off
30 the premises where it is sold (other than alcoholic beverages,
31 soft drinks, and food that has been prepared for immediate
32 consumption) and prescription and nonprescription medicines,
33 drugs, medical appliances, and insulin, urine testing
34 materials, syringes, and needles used by diabetics, for human

1 use, when purchased for use by a person receiving medical
2 assistance under Article 5 of the Illinois Public Aid Code who
3 resides in a licensed long-term care facility, as defined in
4 the Nursing Home Care Act.

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

29 (25) Beginning on the effective date of this amendatory Act
30 of the 92nd General Assembly, personal property purchased by a
31 lessor who leases the property, under a lease of one year or
32 longer executed or in effect at the time the lessor would
33 otherwise be subject to the tax imposed by this Act, to a
34 governmental body 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 property is leased in a
3 manner that does not qualify for this exemption or is used in
4 any other nonexempt manner, the lessor shall be liable for the
5 tax imposed under this Act or the Use Tax Act, as the case may
6 be, based on the fair market value of the property at the time
7 the nonqualifying use occurs. No lessor shall collect or
8 attempt to collect an amount (however designated) that purports
9 to reimburse that lessor for the tax imposed by this Act or the
10 Use Tax Act, as the case may be, if the tax has not been paid by
11 the lessor. If a lessor improperly collects any such amount
12 from the lessee, the lessee shall have a legal right to claim a
13 refund of that amount from the lessor. If, however, that amount
14 is not refunded to the lessee for any reason, the lessor is
15 liable to pay that amount to the Department. This paragraph is
16 exempt from the provisions of Section 3-75.

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

22 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
23 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
24 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.
25 7-30-04.)

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

28 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

31 (1) Personal property sold by a corporation, society,
32 association, foundation, institution, or organization, other

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

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

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

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

28 (5) Until July 1, 2003 and beginning again on September 1,
29 2004, graphic arts machinery and equipment, including repair
30 and replacement parts, both new and used, and including that
31 manufactured on special order or purchased for lease, certified
32 by the purchaser to be used primarily for graphic arts
33 production. Equipment includes chemicals or chemicals acting
34 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

1 computer-assisted operation of production agriculture
2 facilities, equipment, and activities such as, but not limited
3 to, the collection, monitoring, and correlation of animal and
4 crop data for the purpose of formulating animal diets and
5 agricultural chemicals. This item (7) is exempt from the
6 provisions of Section 3-55.

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

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

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

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

1 photoprocessing machinery and equipment purchased for lease.

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

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

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

20 (15) 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 (16) 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 the
33 Retailers' Occupation Tax Act.

34 (17) Personal property sold to a lessor who leases the

1 property, under a lease of one year or longer executed or in
2 effect at the time of the purchase, to a governmental body that
3 has been issued an active tax exemption identification number
4 by the Department under Section 1g of the Retailers' Occupation
5 Tax Act.

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

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

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

34 (21) A motor vehicle, as that term is defined in Section

1 1-146 of the Illinois Vehicle Code, that is donated to a
2 corporation, limited liability company, society, association,
3 foundation, or institution that is determined by the Department
4 to be organized and operated exclusively for educational
5 purposes. For purposes of this exemption, "a corporation,
6 limited liability company, society, association, foundation,
7 or institution organized and operated exclusively for
8 educational purposes" means all tax-supported public schools,
9 private schools that offer systematic instruction in useful
10 branches of learning by methods common to public schools and
11 that compare favorably in their scope and intensity with the
12 course of study presented in tax-supported schools, and
13 vocational or technical schools or institutes organized and
14 operated exclusively to provide a course of study of not less
15 than 6 weeks duration and designed to prepare individuals to
16 follow a trade or to pursue a manual, technical, mechanical,
17 industrial, business, or commercial occupation.

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

32 (23) Beginning January 1, 2000 and through December 31,
33 2001, new or used automatic vending machines that prepare and
34 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning
2 January 1, 2002 and through June 30, 2003, machines and parts
3 for machines used in commercial, coin-operated amusement and
4 vending business if a use or occupation tax is paid on the
5 gross receipts derived from the use of the commercial,
6 coin-operated amusement and vending machines. This paragraph
7 is exempt from the provisions of Section 3-55.

8 (24) Beginning on the effective date of this amendatory Act
9 of the 92nd General Assembly, computers and communications
10 equipment utilized for any hospital purpose and equipment used
11 in the diagnosis, analysis, or treatment of hospital patients
12 sold to a lessor who leases the equipment, under a lease of one
13 year or longer executed or in effect at the time of the
14 purchase, to a hospital that has been issued an active tax
15 exemption identification number by the Department under
16 Section 1g of the Retailers' Occupation Tax Act. This paragraph
17 is exempt from the provisions of Section 3-55.

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

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

1 property to be transported outside this State and thereafter
2 used or consumed solely outside this State. The Director of
3 Revenue shall, pursuant to rules adopted in accordance with the
4 Illinois Administrative Procedure Act, issue a permit to any
5 taxpayer in good standing with the Department who is eligible
6 for the exemption under this paragraph (26). The permit issued
7 under this paragraph (26) shall authorize the holder, to the
8 extent and in the manner specified in the rules adopted under
9 this Act, to purchase tangible personal property from a
10 retailer exempt from the taxes imposed by this Act. Taxpayers
11 shall maintain all necessary books and records to substantiate
12 the use and consumption of all such tangible personal property
13 outside of the State of Illinois.

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

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

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

25 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

29 (1) Farm chemicals.

30 (2) Farm machinery and equipment, both new and used,
31 including that manufactured on special order, certified by the
32 purchaser to be used primarily for production agriculture or

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

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

25 Farm machinery and equipment also includes computers,
26 sensors, software, and related equipment used primarily in the
27 computer-assisted operation of production agriculture
28 facilities, equipment, and activities such as, but not limited
29 to, the collection, monitoring, and correlation of animal and
30 crop data for the purpose of formulating animal diets and
31 agricultural chemicals. This item (7) is exempt from the
32 provisions of Section 2-70.

33 (3) Until July 1, 2003, distillation machinery and
34 equipment, sold as a unit or kit, assembled or installed by the

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

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

14 (5) A motor vehicle of the first division, a motor vehicle
15 of the second division that is a self-contained motor vehicle
16 designed or permanently converted to provide living quarters
17 for recreational, camping, or travel use, with direct walk
18 through access to the living quarters from the driver's seat,
19 or a motor vehicle of the second division that is of the van
20 configuration designed for the transportation of not less than
21 7 nor more than 16 passengers, as defined in Section 1-146 of
22 the Illinois Vehicle Code, that is used for automobile renting,
23 as defined in the Automobile Renting Occupation and Use Tax
24 Act.

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

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

31 (8) Personal property sold to an Illinois county fair
32 association for use in conducting, operating, or promoting the
33 county fair.

34 (9) Personal property sold to a not-for-profit arts or

1 cultural organization that establishes, by proof required by
2 the Department by rule, that it has received an exemption under
3 Section 501(c)(3) of the Internal Revenue Code and that is
4 organized and operated primarily for the presentation or
5 support of arts or cultural programming, activities, or
6 services. These organizations include, but are not limited to,
7 music and dramatic arts organizations such as symphony
8 orchestras and theatrical groups, arts and cultural service
9 organizations, local arts councils, visual arts organizations,
10 and media arts organizations. On and after the effective date
11 of this amendatory Act of the 92nd General Assembly, however,
12 an entity otherwise eligible for this exemption shall not make
13 tax-free purchases unless it has an active identification
14 number issued by the Department.

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

22 (11) Personal property sold to a governmental body, to a
23 corporation, society, association, foundation, or institution
24 organized and operated exclusively for charitable, religious,
25 or educational purposes, or to a not-for-profit corporation,
26 society, association, foundation, institution, or organization
27 that has no compensated officers or employees and that is
28 organized and operated primarily for the recreation of persons
29 55 years of age or older. A limited liability company may
30 qualify for the exemption under this paragraph only if the
31 limited liability company is organized and operated
32 exclusively for educational purposes. On and after July 1,
33 1987, however, no entity otherwise eligible for this exemption
34 shall make tax-free purchases unless it has an active

1 identification number issued by the Department.

2 (12) Tangible personal property sold to interstate
3 carriers for hire for use as rolling stock moving in interstate
4 commerce or to lessors under leases of one year or longer
5 executed or in effect at the time of purchase by interstate
6 carriers for hire for use as rolling stock moving in interstate
7 commerce and equipment operated by a telecommunications
8 provider, licensed as a common carrier by the Federal
9 Communications Commission, which is permanently installed in
10 or affixed to aircraft moving in interstate commerce.

11 (12-5) On and after July 1, 2003 and through June 30, 2004,
12 motor vehicles of the second division with a gross vehicle
13 weight in excess of 8,000 pounds that are subject to the
14 commercial distribution fee imposed under Section 3-815.1 of
15 the Illinois Vehicle Code. Beginning on July 1, 2004 and
16 through June 30, 2005, the use in this State of motor vehicles
17 of the second division: (i) with a gross vehicle weight rating
18 in excess of 8,000 pounds; (ii) that are subject to the
19 commercial distribution fee imposed under Section 3-815.1 of
20 the Illinois Vehicle Code; and (iii) that are primarily used
21 for commercial purposes. Through June 30, 2005, this exemption
22 applies to repair and replacement parts added after the initial
23 purchase of such a motor vehicle if that motor vehicle is used
24 in a manner that would qualify for the rolling stock exemption
25 otherwise provided for in this Act. For purposes of this
26 paragraph, "used for commercial purposes" means the
27 transportation of persons or property in furtherance of any
28 commercial or industrial enterprise whether for-hire or not.

29 (13) Proceeds from sales to owners, lessors, or shippers of
30 tangible personal property that is utilized by interstate
31 carriers for hire for use as rolling stock moving in interstate
32 commerce and equipment operated by a telecommunications
33 provider, licensed as a common carrier by the Federal
34 Communications Commission, which is permanently installed in

1 or affixed to aircraft moving in interstate commerce.

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

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

21 (16) Petroleum products sold to a purchaser if the seller
22 is prohibited by federal law from charging tax to the
23 purchaser.

24 (17) Tangible personal property sold to a common carrier by
25 rail or motor that receives the physical possession of the
26 property in Illinois and that transports the property, or
27 shares with another common carrier in the transportation of the
28 property, out of Illinois on a standard uniform bill of lading
29 showing the seller of the property as the shipper or consignor
30 of the property to a destination outside Illinois, for use
31 outside Illinois.

32 (18) Legal tender, currency, medallions, or gold or silver
33 coinage issued by the State of Illinois, the government of the
34 United States of America, or the government of any foreign

1 country, and bullion.

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

11 (20) Photoprocessing machinery and equipment, including
12 repair and replacement parts, both new and used, including that
13 manufactured on special order, certified by the purchaser to be
14 used primarily for photoprocessing, and including
15 photoprocessing machinery and equipment purchased for lease.

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

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

28 (23) A transaction in which the purchase order is received
29 by a florist who is located outside Illinois, but who has a
30 florist located in Illinois deliver the property to the
31 purchaser or the purchaser's donee in Illinois.

32 (24) Fuel consumed or used in the operation of ships,
33 barges, or vessels that are used primarily in or for the
34 transportation of property or the conveyance of persons for

1 hire on rivers bordering on this State if the fuel is delivered
2 by the seller to the purchaser's barge, ship, or vessel while
3 it is afloat upon that bordering river.

4 (25) Except as provided in item (25-5) of this Section, a
5 motor vehicle sold in this State to a nonresident even though
6 the motor vehicle is delivered to the nonresident in this
7 State, if the motor vehicle is not to be titled in this State,
8 and if a drive-away permit is issued to the motor vehicle as
9 provided in Section 3-603 of the Illinois Vehicle Code or if
10 the nonresident purchaser has vehicle registration plates to
11 transfer to the motor vehicle upon returning to his or her home
12 state. The issuance of the drive-away permit or having the
13 out-of-state registration plates to be transferred is prima
14 facie evidence that the motor vehicle will not be titled in
15 this State.

16 (25-5) The exemption under item (25) does not apply if the
17 state in which the motor vehicle will be titled does not allow
18 a reciprocal exemption for a motor vehicle sold and delivered
19 in that state to an Illinois resident but titled in Illinois.
20 The tax collected under this Act on the sale of a motor vehicle
21 in this State to a resident of another state that does not
22 allow a reciprocal exemption shall be imposed at a rate equal
23 to the state's rate of tax on taxable property in the state in
24 which the purchaser is a resident, except that the tax shall
25 not exceed the tax that would otherwise be imposed under this
26 Act. At the time of the sale, the purchaser shall execute a
27 statement, signed under penalty of perjury, of his or her
28 intent to title the vehicle in the state in which the purchaser
29 is a resident within 30 days after the sale and of the fact of
30 the payment to the State of Illinois of tax in an amount
31 equivalent to the state's rate of tax on taxable property in
32 his or her state of residence and shall submit the statement to
33 the appropriate tax collection agency in his or her state of
34 residence. In addition, the retailer must retain a signed copy

1 of the statement in his or her records. Nothing in this item
2 shall be construed to require the removal of the vehicle from
3 this state following the filing of an intent to title the
4 vehicle in the purchaser's state of residence if the purchaser
5 titles the vehicle in his or her state of residence within 30
6 days after the date of sale. The tax collected under this Act
7 in accordance with this item (25-5) shall be proportionately
8 distributed as if the tax were collected at the 6.25% general
9 rate imposed under this Act.

10 (26) Semen used for artificial insemination of livestock
11 for direct agricultural production.

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

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

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

31 (30) Beginning with taxable years ending on or after
32 December 31, 1995 and ending with taxable years ending on or
33 before December 31, 2004, personal property that is donated for
34 disaster relief to be used in a State or federally declared

1 disaster area in Illinois or bordering Illinois by a
2 manufacturer or retailer that is registered in this State to a
3 corporation, society, association, foundation, or institution
4 that has been issued a sales tax exemption identification
5 number by the Department that assists victims of the disaster
6 who reside within the declared disaster area.

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

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

25 (33) A motor vehicle, as that term is defined in Section
26 1-146 of the Illinois Vehicle Code, that is donated to a
27 corporation, limited liability company, society, association,
28 foundation, or institution that is determined by the Department
29 to be organized and operated exclusively for educational
30 purposes. For purposes of this exemption, "a corporation,
31 limited liability company, society, association, foundation,
32 or institution organized and operated exclusively for
33 educational purposes" means all tax-supported public schools,
34 private schools that offer systematic instruction in useful

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

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

23 (35) Beginning January 1, 2000 and through December 31,
24 2001, new or used automatic vending machines that prepare and
25 serve hot food and beverages, including coffee, soup, and other
26 items, and replacement parts for these machines. Beginning
27 January 1, 2002 and through June 30, 2003, machines and parts
28 for machines used in commercial, coin-operated amusement and
29 vending business if a use or occupation tax is paid on the
30 gross receipts derived from the use of the commercial,
31 coin-operated amusement and vending machines. This paragraph
32 is exempt from the provisions of Section 2-70.

33 (35-5) Food for human consumption that is to be consumed
34 off the premises where it is sold (other than alcoholic

1 beverages, soft drinks, and food that has been prepared for
2 immediate consumption) and prescription and nonprescription
3 medicines, drugs, medical appliances, and insulin, urine
4 testing materials, syringes, and needles used by diabetics, for
5 human 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 (36) Beginning August 2, 2001, computers and
10 communications equipment utilized for any hospital purpose and
11 equipment used in the diagnosis, analysis, or treatment of
12 hospital patients sold to a lessor who leases the equipment,
13 under a lease of one year or longer executed or in effect at
14 the time of the purchase, to a hospital that has been issued an
15 active tax exemption identification number by the Department
16 under Section 1g of this Act. This paragraph is exempt from the
17 provisions of Section 2-70.

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

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