



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.

8 As used in this Act:

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

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

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

24 "Cafeteria" means a food dispensing facility capable of

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

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

11 "Department" means the Department of Human Services.

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

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

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

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

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

34 "Other property" means property that is not State or

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

5 "Secretary" means the Secretary of Human Services.

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

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

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

20 "Vending facility" means automatic vending machines,
21 cafeterias, snack bars, cart service, shelters, counters, and
22 such other appropriate auxiliary equipment that may be operated
23 by blind licensees and which is necessary for the sale of
24 newspapers, periodicals, confections, tobacco products, foods,
25 beverages, and other articles or services dispensed
26 automatically or manually and prepared on or off the premises
27 in accordance with all applicable health laws, and including
28 the vending or exchange of changes for any lottery authorized
29 by State law and conducted by a State agency within the State.

30 "Vending machine", for the purpose of assigning vending
31 machine income under this Act, means a coin or currency
32 operated machine which dispenses articles or services, except
33 that those machines operated by the United States Postal
34 Service for the sale of postage stamps or other postal products

1 and services, machines providing services of a recreational
2 nature, and telephones shall not be considered to be vending
3 machines.

4 "Vending machine income" means receipts (other than those
5 of a blind vendor) from vending machine operations on State or
6 federal property, after deducting the cost of goods sold
7 (including reasonable service and maintenance costs in
8 accordance with customary business practices of commercial
9 vending concerns), where the machines are operated, serviced,
10 or maintained by, or with the approval of, a department,
11 agency, or instrumentality of the United States or the State of
12 Illinois, or commissions paid (other than to a blind vendor) by
13 a commercial vending concern that operates, services, and
14 maintains vending machines on State or federal property for, or
15 with the approval of, a department, agency, or instrumentality
16 of the United States or the State of Illinois.

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

19 Section 10. Business Enterprise Program for the Blind.

20 (a) The Business Enterprise Program for the Blind is
21 created for the purpose of providing blind persons with
22 remunerative employment, enlarging the economic opportunities
23 of the blind, and stimulating the blind to greater efforts in
24 striving to make themselves self-supporting. In order to
25 achieve these goals blind persons licensed under this Act shall
26 be authorized to operate vending facilities on any property
27 within this State as provided by this Act.

28 It is the intent of the General Assembly that the
29 Randolph-Sheppard Act, 20 U. S. C. §§107-107f, and the federal
30 regulations for its administration set forth in Part 395 of
31 title 34 of the Code of Federal Regulations, shall serve as the
32 minimum standards for the operation of the Business Enterprise
33 Program for the Blind.

1 (b) The Secretary, through the Director, shall continue,
2 maintain, and promote the Business Enterprise Program for the
3 Blind. Some or all of the functions of the program may be
4 provided by the Department of Human Services. The Business
5 Enterprise Program for the Blind must provide that:

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

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

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

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

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

23 (c) With respect to vending facilities on federal property
24 within this State, priority shall be given as provided in the
25 federal Randolph-Sheppard Act, 20 U. S. C. §§107-107f,
26 including any amendments thereto. This Act, as it applies to
27 federal property, is intended to conform to the federal Act,
28 and is to be of no force or effect if, and to the extent that,
29 any provision of this Act or any regulation adopted under this
30 Act is in conflict with the federal Act. Nothing in this
31 subsection shall be construed to impose limitations on the
32 operation of vending facilities on State property, or property
33 other than federal property, or to allow only those activities
34 specifically enumerated in the Randolph-Sheppard Act.

1 (d) On all other property within this State, whether owned
2 or controlled privately or by a unit of local government or
3 school district, the Department directly or by delegation shall
4 take all feasible steps to encourage and establish vending by
5 blind persons licensed under this Act. The Department may enter
6 into appropriate agreements with the entities or persons owning
7 or controlling the property. All such agreements shall be in
8 writing and shall be in conformity with this Act.

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

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

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

21 Section 15. Vending facilities on State property.

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

27 (1) That priority is given to blind persons licensed
28 under this Act or under its predecessor Act (the Blind
29 Persons Operating Vending Facilities Act 20 ILCS 2420/),
30 including the assignment of vending machine income as
31 provided in this Act.

32 (2) That one or more vending facilities shall be
33 established on all State property to the extent feasible.

1 Where a larger vending facility is determined by the
2 Director and the Committee to be infeasible, every effort
3 shall be made to place vending machines on the property
4 whenever possible. The Director and the Committee shall
5 take into account the following criteria when determining
6 whether establishment of a vending facility is feasible:

7 (A) the number of State employees, visitors, and
8 other potential facility customers on the property in a
9 given period;

10 (B) the size, in square feet, of the area owned,
11 leased, occupied, or otherwise controlled by the
12 State;

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

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

17 (E) the likelihood that the vending facility would
18 produce an adequate net income for a blind vendor as
19 determined by the average income of all blind vendors
20 in the State.

21 (b) Any determination by the Director, or by the agency or
22 department controlling the property, that the placement or
23 operation of a vending facility is not feasible, or that the
24 placement or operation would adversely affect the interests of
25 the State shall be in writing and shall be transmitted to the
26 Committee for review and ratification or rejection.

27 (c) The Director, through the Assistant Director, subject
28 to the regulations developed and adopted pursuant to subsection
29 (a) of this Section and the requirements of federal law and
30 regulations, is authorized to select a location for a vending
31 facility and the type of facility to be provided.

32 (d) Upon the development of plans by any State agency to
33 occupy, acquire, renovate, or relocate a property, the State
34 agency shall notify the Director, who shall determine whether

1 the plans include a satisfactory site or sites for one or more
2 vending facilities.

3 (e) After January 1, 2006, no State agency shall undertake
4 to acquire by ownership, rent or lease, or to otherwise occupy,
5 in whole or in part, any property unless, after consultation
6 with the head of the State agency, it is determined by the
7 Director in accordance with regulations developed pursuant to
8 subsection (a) either: (1) that the property includes a
9 satisfactory site or sites for the location and operation of a
10 vending facility by a blind person; or (2) that, if a building
11 is to be constructed, substantially altered, or renovated, or,
12 in the case of a building that is already occupied by the State
13 agency, is to be substantially altered or renovated for use by
14 the State agency, the design for the construction, substantial
15 alteration, or renovation includes a satisfactory site or sites
16 for the location and operation of a vending facility by a blind
17 person. Each State agency permitting the operation of vending
18 facilities on State property shall ensure strict adherence to
19 the priority established for the operation of vending
20 facilities by blind persons pursuant to this Act.

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

25 Section 20. Other vending facilities. The governing body of
26 any unit of local government or school board owning property or
27 persons or entities owning or controlling private property are
28 authorized and encouraged to construct or install on the
29 property, or permit the construction or installation of,
30 vending facilities for operation by blind persons licensed
31 under this Act. In constructing or installing these vending
32 facilities, the amount of space allotted for this purpose
33 should be sufficient to adequately serve the number of persons

1 at the site and to provide the kind of services to be rendered.

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

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

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

26 (c) The Department shall establish, with full
27 participation by the Committee, the Blind Vendors Trust Fund as
28 a separate account managed by the Department for the State's
29 blind vendors.

30 (d) Set-aside funds collected from the operation of all
31 vending facilities administered by the Business Enterprise
32 Program for the Blind shall be placed in the Blind Vendors
33 Trust Fund which shall include set-aside funds from facilities

1 on federal property. The Fund must provide separately
2 identified sub-accounts for moneys from (i) federal, and (ii)
3 State and other facilities, as well as vending machine income
4 generated pursuant to Section 30 of this Act. These funds shall
5 be available until expended and shall not revert to the General
6 Revenue Fund or to any other State account.

7 (e) It is the intent of the General Assembly that the
8 expenditure of set-aside funds authorized by this Section shall
9 be supplemental to any current appropriation or other moneys
10 made available for these purposes and shall not constitute an
11 offset or diminution of any previously existing appropriation
12 or other funding source.

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

20 Section 30. Vending machine income and compliance.

21 (a) After January 1, 2006, all vending machine income from
22 vending machines on State property shall accrue to (1) the
23 blind vendor operating the vending facilities on the property,
24 or (2) in the event there is no blind vendor operating a
25 facility on the property, to the Blind Vendors Trust Fund for
26 use exclusively as set forth in subsection (a) of Section 25 of
27 this Act.

28 (b) The Secretary, directly or by delegation of authority,
29 shall ensure compliance with this Section and Section 15 of
30 this Act with respect to buildings, installations, facilities,
31 roadside rest stops, and any other State property, and shall be
32 responsible for the collection of, and accounting for, all
33 vending machine income on this property. The Secretary shall

1 enforce these provisions through litigation, arbitration, or
2 any other legal means available to the State, and each State
3 agency in control of this property shall be subject to the
4 enforcement. State agencies or departments failing to comply
5 with an order of the Department may be held in contempt in any
6 court of general jurisdiction.

7 (c) Any limitation on the placement or operation of a
8 vending machine by a State agency based on a determination that
9 such placement or operation would adversely affect the
10 interests of the State must be explained in writing to the
11 Secretary. The Secretary shall promptly determine whether the
12 limitation is justified. If the Secretary determines that the
13 limitation is not justified, the State agency seeking the
14 limitation shall immediately remove the limitation.

15 (d) The amount of vending machine income accruing from
16 vending machines on State property that may be used for the
17 functions of the Committee shall be determined annually by a
18 two-thirds vote of the Committee, except that no more than 25%
19 of the annual vending machine income may be used by the
20 Committee for this purpose, based upon the income accruing to
21 the Blind Vendors Trust Fund in the preceding year. The
22 Committee may establish its budget and expend funds through
23 contract or otherwise without the approval of the Department.

24 (e) With respect to vending machines located on any
25 facility or property controlled or operated by the Division of
26 Developmental Disabilities or the Division of Mental Health
27 within the Department of Human Services:

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

33 (2) With respect to written contracts in place as of
34 the effective date of this Act between either Division and

1 a private vendor, bottler, or vending machine supplier, the
2 Business Enterprise Program for the Blind has the right to
3 provide the services at those facilities upon completion of
4 the existing contract or upon material breach of that
5 contract.

6 (3) With respect to existing vending machines with no
7 written contract or agreement in place as of the effective
8 date of this Act between either Division and a private
9 vendor, bottler, or vending machine supplier, the Business
10 Enterprise Program for the Blind has the right to provide
11 the vending services as provided in this Act, provided that
12 the blind vendor must provide 10% of net sales from those
13 machines to the individual facilities.

14 Section 40. Licenses.

15 (a) Licenses shall be issued only to blind persons who are
16 qualified to operate vending facilities. The continuing
17 eligibility of a vendor as a blind person shall be reviewed
18 biennially for partially sighted individuals or whenever the
19 Director has information indicating the vendor is no longer
20 blind as defined under this Act.

21 (b) Following agreement by the Director, the Assistant
22 Director, and the Committee, the Secretary shall adopt and
23 publish regulations providing for (1) the requirements for
24 licensure as a blind vendor; (2) a curriculum for training,
25 inservice training, and upward mobility training for blind
26 vendors; and (3) a regular schedule for offering the training,
27 classes to be offered at least once per year.

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

1 Section 45. Committee of Blind Vendors.

2 (a) The Director, through the Assistant Director, shall
3 provide for the biennial election of the Committee, which shall
4 be fully representative of all blind licensees in the State.
5 There shall be no fewer than one committee member for each 15
6 licensed blind vendors in the State.

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

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

1 Section 50. Hearings; arbitration.

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

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

21 (1) one individual appointed by the Secretary;

22 (2) one individual appointed by the State agency
23 determined by the Secretary to be in noncompliance with the
24 Act; and

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

34 (c) The Assistant Director may issue a letter of reprimand

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

14 Section 60. General provisions.

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

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

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

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

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

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

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

20 Section 65. Program regulations.

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

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

1 for the collection, deposit, reimbursement, and use of all
2 program income, including vending machine income.

3 Section 70. Property Survey and Report.

4 (a) The Department shall survey and report on State
5 property and vending facilities not later than December 31,
6 2006. The report shall contain the following information:

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

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

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

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

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

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

33 (2) The number and identity of the State buildings

1 where vending facilities or vending machines are located.

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

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

6 (5) Any other information the Department may determine
7 to be useful in expanding the Business Enterprise Program
8 for the Blind to the maximum extent feasible consist with
9 the purposes of this Act.

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

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

24 (e) The reports and surveys prepared pursuant to this
25 Section shall be provided to the Committee and to the
26 appropriate committees of the General Assembly.

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

32 (20 ILCS 2420/Act rep.)

1 Section 90. The Blind Persons Operating Vending Facilities
2 Act is repealed.

3 Section 93. The Use Tax Act is amended by changing Section
4 3-5 as follows:

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

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

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

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

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

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

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

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

27 (7) Farm chemicals.

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

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

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

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

31 Farm machinery and equipment shall include precision
32 farming equipment that is installed or purchased to be
33 installed on farm machinery and equipment including, but not
34 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

5 Farm machinery and equipment also includes computers,
6 sensors, software, and related equipment used primarily in the
7 computer-assisted operation of production agriculture
8 facilities, equipment, and activities such as, but not limited
9 to, the collection, monitoring, and correlation of animal and
10 crop data for the purpose of formulating animal diets and
11 agricultural chemicals. This item (11) is exempt from the
12 provisions of Section 3-90.

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

20 (13) Proceeds of mandatory service charges separately
21 stated on customers' bills for the purchase and consumption of
22 food and beverages purchased at retail from a retailer, to the
23 extent that the proceeds of the service charge are in fact
24 turned over as tips or as a substitute for tips to the
25 employees who participate directly in preparing, serving,
26 hosting or cleaning up the food or beverage function with
27 respect to which the service charge is imposed.

28 (14) Until July 1, 2003, oil field exploration, drilling,
29 and production equipment, including (i) rigs and parts of rigs,
30 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
31 tubular goods, including casing and drill strings, (iii) pumps
32 and pump-jack units, (iv) storage tanks and flow lines, (v) any
33 individual replacement part for oil field exploration,
34 drilling, and production equipment, and (vi) machinery and

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

3 (15) Photoprocessing machinery and equipment, including
4 repair and replacement parts, both new and used, including that
5 manufactured on special order, certified by the purchaser to be
6 used primarily for photoprocessing, and including
7 photoprocessing machinery and equipment purchased for lease.

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

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

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

31 (19) Personal property delivered to a purchaser or
32 purchaser's donee inside Illinois when the purchase order for
33 that personal property was received by a florist located
34 outside Illinois who has a florist located inside Illinois

1 deliver the personal property.

2 (20) Semen used for artificial insemination of livestock
3 for direct agricultural production.

4 (21) Horses, or interests in horses, registered with and
5 meeting the requirements of any of the Arabian Horse Club
6 Registry of America, Appaloosa Horse Club, American Quarter
7 Horse Association, United States Trotting Association, or
8 Jockey Club, as appropriate, used for purposes of breeding or
9 racing for prizes.

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

33 (23) Personal property purchased by a lessor who leases the
34 property, under a lease of one year or longer executed or in

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

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

29 (25) Beginning with taxable years ending on or after
30 December 31, 1995 and ending with taxable years ending on or
31 before December 31, 2004, personal property that is used in the
32 performance of infrastructure repairs in this State, including
33 but not limited to municipal roads and streets, access roads,
34 bridges, sidewalks, waste disposal systems, water and sewer

1 line extensions, water distribution and purification
2 facilities, storm water drainage and retention facilities, and
3 sewage treatment facilities, resulting from a State or
4 federally declared disaster in Illinois or bordering Illinois
5 when such repairs are initiated on facilities located in the
6 declared disaster area within 6 months after the disaster.

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

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

31 (28) Beginning January 1, 2000, personal property,
32 including food, purchased through fundraising events for the
33 benefit of a public or private elementary or secondary school,
34 a group of those schools, or one or more school districts if

1 the events are sponsored by an entity recognized by the school
2 district that consists primarily of volunteers and includes
3 parents and teachers of the school children. This paragraph
4 does not apply to fundraising events (i) for the benefit of
5 private home instruction or (ii) for which the fundraising
6 entity purchases the personal property sold at the events from
7 another individual or entity that sold the property for the
8 purpose of resale by the fundraising entity and that profits
9 from the sale to the fundraising entity. This paragraph is
10 exempt from the provisions of Section 3-90.

11 (29) Beginning January 1, 2000 and through December 31,
12 2001, new or used automatic vending machines that prepare and
13 serve hot food and beverages, including coffee, soup, and other
14 items, and replacement parts for these machines. Beginning
15 January 1, 2002 and through June 30, 2003, machines and parts
16 for machines used in commercial, coin-operated amusement and
17 vending business if a use or occupation tax is paid on the
18 gross receipts derived from the use of the commercial,
19 coin-operated amusement and vending machines. This paragraph
20 is exempt from the provisions of Section 3-90.

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

31 (31) Beginning on the effective date of this amendatory Act
32 of the 92nd General Assembly, computers and communications
33 equipment utilized for any hospital purpose and equipment used
34 in the diagnosis, analysis, or treatment of hospital patients

1 purchased by a lessor who leases the equipment, under a lease
2 of one year or longer executed or in effect at the time the
3 lessor would otherwise be subject to the tax imposed by this
4 Act, to a 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 nonexempt 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 nonqualifying 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. This paragraph is exempt from the provisions of
21 Section 3-90.

22 (32) Beginning on the effective date of this amendatory Act
23 of the 92nd General Assembly, personal property purchased by a
24 lessor who leases the property, under a lease of one year or
25 longer executed or in effect at the time the lessor would
26 otherwise be subject to the tax imposed by this Act, to a
27 governmental body that has been issued an active sales tax
28 exemption identification number by the Department under
29 Section 1g of the Retailers' Occupation Tax Act. If the
30 property is leased in a manner that does not qualify for this
31 exemption or used in any other nonexempt manner, the lessor
32 shall be liable for the tax imposed under this Act or the
33 Service Use Tax Act, as the case may be, based on the fair
34 market value of the property at the time the nonqualifying use

1 occurs. No lessor shall collect or attempt to collect an amount
2 (however designated) that purports to reimburse that lessor for
3 the tax imposed by this Act or the Service Use Tax Act, as the
4 case may be, if the tax has not been paid by the lessor. If a
5 lessor improperly collects any such amount from the lessee, the
6 lessee shall have a legal right to claim a refund of that
7 amount from the lessor. If, however, that amount is not
8 refunded to the lessee for any reason, the lessor is liable to
9 pay that amount to the Department. This paragraph is exempt
10 from the provisions of Section 3-90.

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

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

1 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
2 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
3 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
4 93-1033, eff. 9-3-04; revised 10-21-04.)

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

7 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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

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

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

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

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

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

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

19 (7) Farm machinery and equipment, both new and used,
20 including that manufactured on special order, certified by the
21 purchaser to be used primarily for production agriculture or
22 State or federal agricultural programs, including individual
23 replacement parts for the machinery and equipment, including
24 machinery and equipment purchased for lease, and including
25 implements of husbandry defined in Section 1-130 of the
26 Illinois Vehicle Code, farm machinery and agricultural
27 chemical and fertilizer spreaders, and nurse wagons required to
28 be registered under Section 3-809 of the Illinois Vehicle Code,
29 but excluding other motor vehicles required to be registered
30 under the Illinois Vehicle Code. Horticultural polyhouses or
31 hoop houses used for propagating, growing, or overwintering
32 plants shall be considered farm machinery and equipment under
33 this item (7). Agricultural chemical tender tanks and dry boxes
34 shall include units sold separately from a motor vehicle

1 required to be licensed and units sold mounted on a motor
2 vehicle required to be licensed if the selling price of the
3 tender is separately stated.

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

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

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

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

1 imposed.

2 (10) 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 (11) Proceeds from the sale of photoprocessing machinery
12 and equipment, including repair and replacement parts, both new
13 and used, including that manufactured on special order,
14 certified by the purchaser to be used primarily for
15 photoprocessing, and including photoprocessing machinery and
16 equipment purchased for lease.

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

23 (13) Semen used for artificial insemination of livestock
24 for direct agricultural production.

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

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

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

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

1 from the lessee, the lessee shall have a legal right to claim a
2 refund of that amount from the lessor. If, however, that amount
3 is not refunded to the lessee for any reason, the lessor is
4 liable to pay that amount to the Department.

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

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

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

33 (20) A motor vehicle, as that term is defined in Section
34 1-146 of the Illinois Vehicle Code, that is donated to a

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

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

31 (22) Beginning January 1, 2000 and through December 31,
32 2001, new or used automatic vending machines that prepare and
33 serve hot food and beverages, including coffee, soup, and other
34 items, and replacement parts for these machines. Beginning

1 January 1, 2002 and through June 30, 2003, machines and parts
2 for machines used in commercial, coin-operated amusement and
3 vending business if a use or occupation tax is paid on the
4 gross receipts derived from the use of the commercial,
5 coin-operated amusement and vending machines. This paragraph
6 is exempt from the provisions of Section 3-75.

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

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

1 the lessor. If a lessor improperly collects any such amount
2 from the lessee, the lessee shall have a legal right to claim a
3 refund of that amount from the lessor. If, however, that amount
4 is not refunded to the lessee for any reason, the lessor is
5 liable to pay that amount to the Department. This paragraph is
6 exempt from the provisions of Section 3-75.

7 (25) Beginning on the effective date of this amendatory Act
8 of the 92nd General Assembly, personal property purchased by a
9 lessor who leases the property, under a lease of one year or
10 longer executed or in effect at the time the lessor would
11 otherwise be subject to the tax imposed by this Act, to a
12 governmental body that has been issued an active tax exemption
13 identification number by the Department under Section 1g of the
14 Retailers' Occupation Tax Act. If the property 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 (26) Beginning on and after the effective date of this
30 amendatory Act of the 94th General assembly, personal property
31 purchased from a blind vendor's vending facility licensed by
32 the Department of Human Services under the Blind Vendors Act.
33 This paragraph is exempt from the provisions of Section 3-75.

34 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,

1 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
2 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.
3 7-30-04.)

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

6 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

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

1 number issued by the Department.

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

6 (5) 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 or purchased for lease, certified
10 by the purchaser to be used primarily for graphic arts
11 production. Equipment includes chemicals or chemicals acting
12 as catalysts but only if the chemicals or chemicals acting as
13 catalysts effect a direct and immediate change upon a graphic
14 arts product.

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

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

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

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

11 Farm machinery and equipment also includes computers,
12 sensors, software, and related equipment used primarily in the
13 computer-assisted operation of production agriculture
14 facilities, equipment, and activities such as, but not limited
15 to, the collection, monitoring, and correlation of animal and
16 crop data for the purpose of formulating animal diets and
17 agricultural chemicals. This item (7) is exempt from the
18 provisions of Section 3-55.

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

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

34 (10) Until July 1, 2003, oil field exploration, drilling,

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

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

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

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

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

32 (15) Horses, or interests in horses, registered with and
33 meeting the requirements of any of the Arabian Horse Club
34 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes.

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

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

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

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

1 facilities, storm water drainage and retention facilities, and
2 sewage treatment facilities, resulting from a State or
3 federally declared disaster in Illinois or bordering Illinois
4 when such repairs are initiated on facilities located in the
5 declared disaster area within 6 months after the disaster.

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

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

30 (22) Beginning January 1, 2000, personal property,
31 including food, purchased through fundraising events for the
32 benefit of a public or private elementary or secondary school,
33 a group of those schools, or one or more school districts if
34 the events are sponsored by an entity recognized by the school

1 district that consists primarily of volunteers and includes
2 parents and teachers of the school children. This paragraph
3 does not apply to fundraising events (i) for the benefit of
4 private home instruction or (ii) for which the fundraising
5 entity purchases the personal property sold at the events from
6 another individual or entity that sold the property for the
7 purpose of resale by the fundraising entity and that profits
8 from the sale to the fundraising entity. This paragraph is
9 exempt from the provisions of Section 3-55.

10 (23) Beginning January 1, 2000 and through December 31,
11 2001, new or used automatic vending machines that prepare and
12 serve hot food and beverages, including coffee, soup, and other
13 items, and replacement parts for these machines. Beginning
14 January 1, 2002 and through June 30, 2003, machines and parts
15 for machines used in commercial, coin-operated amusement and
16 vending business if a use or occupation tax is paid on the
17 gross receipts derived from the use of the commercial,
18 coin-operated amusement and vending machines. This paragraph
19 is exempt from the provisions of Section 3-55.

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

30 (25) Beginning on the effective date of this amendatory Act
31 of the 92nd General Assembly, personal property sold to a
32 lessor who leases the property, under a lease of one year or
33 longer executed or in effect at the time of the purchase, 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. This paragraph is exempt from
3 the provisions of Section 3-55.

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

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

31 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
32 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
33 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
34 6-20-03; 93-840, eff. 7-30-04.)

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

3 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

7 (1) Farm chemicals.

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

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

1 software, global positioning and mapping systems, and other
2 such equipment.

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

11 (3) Until July 1, 2003, distillation machinery and
12 equipment, sold as a unit or kit, assembled or installed by the
13 retailer, certified by the user to be used only for the
14 production of ethyl alcohol that will be used for consumption
15 as motor fuel or as a component of motor fuel for the personal
16 use of the user, and not subject to sale or resale.

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

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

1 as defined in the Automobile Renting Occupation and Use Tax
2 Act.

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

9 (8) Personal property sold to an Illinois county fair
10 association for use in conducting, operating, or promoting the
11 county fair.

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

27 (10) Personal property sold by a corporation, society,
28 association, foundation, institution, or organization, other
29 than a limited liability company, that is organized and
30 operated as a not-for-profit service enterprise for the benefit
31 of persons 65 years of age or older if the personal property
32 was not purchased by the enterprise for the purpose of resale
33 by the enterprise.

34 (11) Personal property sold to a governmental body, to a

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

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

23 (12-5) On and after July 1, 2003 and through June 30, 2004,
24 motor vehicles of the second division with a gross vehicle
25 weight in excess of 8,000 pounds that are subject to the
26 commercial distribution fee imposed under Section 3-815.1 of
27 the Illinois Vehicle Code. Beginning on July 1, 2004 and
28 through June 30, 2005, the use in this State of motor vehicles
29 of the second division: (i) with a gross vehicle weight rating
30 in excess of 8,000 pounds; (ii) that are subject to the
31 commercial distribution fee imposed under Section 3-815.1 of
32 the Illinois Vehicle Code; and (iii) that are primarily used
33 for commercial purposes. Through June 30, 2005, this exemption
34 applies to repair and replacement parts added after the initial

1 purchase of such a motor vehicle if that motor vehicle is used
2 in a manner that would qualify for the rolling stock exemption
3 otherwise provided for in this Act. For purposes of this
4 paragraph, "used for commercial purposes" means the
5 transportation of persons or property in furtherance of any
6 commercial or industrial enterprise whether for-hire or not.

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

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

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

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

1 purchaser.

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

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

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

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

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

34 (22) Fuel and petroleum products sold to or used by an air

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

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

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

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

28 (25-5) The exemption under item (25) does not apply if the
29 state in which the motor vehicle will be titled does not allow
30 a reciprocal exemption for a motor vehicle sold and delivered
31 in that state to an Illinois resident but titled in Illinois.
32 The tax collected under this Act on the sale of a motor vehicle
33 in this State to a resident of another state that does not
34 allow a reciprocal exemption shall be imposed at a rate equal

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

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

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

30 (28) Computers and communications equipment utilized for
31 any hospital purpose and equipment used in the diagnosis,
32 analysis, or treatment of hospital patients sold to a lessor
33 who leases the equipment, under a lease of one year or longer
34 executed or in effect at the time of the purchase, to a

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

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

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

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

31 (32) Beginning July 1, 1999, game or game birds sold at a
32 "game breeding and hunting preserve area" or an "exotic game
33 hunting area" as those terms are used in the Wildlife Code or
34 at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from
2 the provisions of Section 2-70.

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

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

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

11 (35-5) Food for human consumption that is to be consumed
12 off the premises where it is sold (other than alcoholic
13 beverages, soft drinks, and food that has been prepared for
14 immediate consumption) and prescription and nonprescription
15 medicines, drugs, medical appliances, and insulin, urine
16 testing materials, syringes, and needles used by diabetics, for
17 human use, when purchased for use by a person receiving medical
18 assistance under Article 5 of the Illinois Public Aid Code who
19 resides in a licensed long-term care facility, as defined in
20 the Nursing Home Care Act.

21 (36) Beginning August 2, 2001, computers and
22 communications equipment utilized for any hospital purpose and
23 equipment used in the diagnosis, analysis, or treatment of
24 hospital patients sold to a lessor who leases the equipment,
25 under a lease of one year or longer executed or in effect at
26 the time of the purchase, to a hospital that has been issued an
27 active tax exemption identification number by the Department
28 under Section 1g of this Act. This paragraph is exempt from the
29 provisions of Section 2-70.

30 (37) Beginning August 2, 2001, personal property sold to a
31 lessor who leases the property, under a lease of one year or
32 longer executed or in effect at the time of the purchase, to a
33 governmental body that has been issued an active tax exemption
34 identification number by the Department under Section 1g of

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

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

25 (34) Beginning on and after the effective date of this
26 amendatory Act of the 94th General assembly, personal property
27 purchased from a blind vendor's vending facility licensed by
28 the Department of Human Services under the Blind Vendors Act.
29 This paragraph is exempt from the provisions of Section 2-70.

30 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
31 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
32 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
33 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
34 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)".