

1 AN ACT concerning airports and economic development.

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

4 Section 1. Short title. This Act may be cited as the  
5 Regional Cooperation and Smart Growth in Eastern Will County  
6 Act.

7 Section 5. Findings and purpose.

8 (1) The purpose of this Act is promoting responsible  
9 growth, regional cooperation, a regional approach to land use  
10 planning and design standards, revenue sharing among member  
11 entities, and preserving and enhancing the quality of life  
12 within the District.

13 (2) The south suburban airport to be sited in eastern Will  
14 County, Illinois, will generate development in and around  
15 surrounding jurisdictions. This development will have a  
16 significant impact upon the region and will provide burdens as  
17 well as benefits upon existing infrastructure. These burdens  
18 and benefits need to be shared and apportioned equitably.

19 (3) Cooperation among the surrounding local governments  
20 and agencies will support economic development and increase the  
21 potential benefits of the airport while limiting the adverse  
22 impacts upon the region. Sharing of certain revenues among the  
23 municipal members of the District will encourage cooperation,  
24 promote a regional approach to land use planning, and assist  
25 each member in dealing with adverse impact upon their  
26 municipality.

27 (4) It is also a purpose of this Act to ensure that future  
28 land uses within the area designated as the Eastern Will County  
29 Development District are compatible with the airport and its  
30 operations so that future operations and growth are not unduly  
31 constrained.

32 (5) This Act creates an entity, entitled the Eastern Will

1 County Development District, to implement the purpose of this  
2 Act. The District should have adequate powers to achieve its  
3 goals and objectives, to be self-supporting, and to raise  
4 revenue in order to assist local governments address negative  
5 impacts upon infrastructure.

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

7 "Airport" or "south suburban airport" means a south  
8 suburban airport, as defined by the Federal Aviation  
9 Administration, located in eastern Will County, Illinois.

10 "Airport authority" means an authority created to  
11 establish and maintain a south suburban airport located in  
12 eastern Will County, Illinois.

13 "Airport-dependent uses" means uses that are typically  
14 found on or near an airport and must, by the nature of their  
15 operations, services, or products, be located on an airport or  
16 have direct and immediate access to an airport or airport  
17 runway. Such uses include, but are not limited to, airport  
18 terminals and control towers; airport runways, taxiways, taxi  
19 lanes, aircraft parking lanes, and auxiliary roads; hangars;  
20 aircraft rescue and firefighting facilities; air cargo  
21 storage, but not large distribution facilities; aircraft  
22 maintenance, washing, and repair shops; restaurants and hotels  
23 within a terminal; airline catering services; express mail and  
24 package sorting facilities, aviation fuel farms and services;  
25 aircraft testing facilities; airport administrative offices;  
26 airport authority offices and maintenance facilities; on-site  
27 parking; corporate facilities, including aircraft storage and  
28 operations; and any other use deemed to be necessary for the  
29 flight operation of the airport.

30 "Board" means the Board of Directors of the Eastern Will  
31 County Development District.

32 "Compatible land use" means any use of lands, buildings,  
33 and structures which is harmonious to the uses and activities  
34 being conducted on the adjoining lands and properties and which  
35 does not adversely affect or unreasonably impact any use or

1 enjoyment of the adjoined land.

2 "County" means Will County.

3 "District" means the Eastern Will County Development  
4 District.

5 "District Land Use Plan" means a written statement of land  
6 use policies, goals, and objectives, together with maps,  
7 graphs, charts, illustrations or any other form of written or  
8 visual communication, as appropriate, that is adopted by the  
9 District.

10 "Member entities" means the villages of Beecher, Crete,  
11 Monee, Peotone, University Park, the County of Will, and any  
12 new municipality incorporated under the laws of the State of  
13 Illinois which becomes a member of the Eastern Will County  
14 Development District.

15 "Member villages" means the villages of Beecher, Crete,  
16 Monee, Peotone, and University Park and any new municipality  
17 incorporated under the laws of the State of Illinois and  
18 located entirely within the boundaries of the Eastern Will  
19 County Development District.

20 Section 15. Creation of District.

21 (a) The Eastern Will County Development District is created  
22 as a political subdivision, body politic, and municipal  
23 corporation. The territorial jurisdiction of the District is  
24 the rectangular geographic area within the following  
25 boundaries: commencing at the southwest corner of Peotone  
26 Township and the southern boundary line of Will County, east to  
27 the Indiana state line, then north to a line one mile south of  
28 the Northern Will-Cook County line, then west to the western  
29 boundary line of Green Garden and Peotone townships, then south  
30 to the southern boundary of Will County.

31 (b) The governing and administrative powers of the District  
32 are vested in its Board of Directors, consisting of one member  
33 appointed by the President of the Village of Beecher with the  
34 consent of the Village Board, one member appointed by the  
35 President of the Village of Crete with the consent of the

1 Village Board, one member appointed by the President of the  
2 Village of Monee with the consent of the Village Board, one  
3 member appointed by the President of the Village of Peotone  
4 with the consent of the Village Board, one member appointed by  
5 the Mayor of the Village of University Park with the consent of  
6 the Village Board, one member appointed by the County Executive  
7 of Will County with the consent of the County Board, and one  
8 member appointed by the governing body of the airport  
9 authority.

10 (c) The members of the Board shall be residents of Will  
11 County, Illinois, with their primary residence located within  
12 the Eastern Will County Development District.

13 (d) The terms of the initial appointees shall commence 30  
14 days after the effective date of this Act. The duration of the  
15 term of each of the initial appointees shall be determined by  
16 lot as follows: one of the appointees shall serve a term  
17 expiring on the third Monday in May in the second year  
18 following the effective date of this Act; 2 of the appointees  
19 shall serve terms expiring on the third Monday in May in the  
20 third year following the effective date of this Act; 2 of the  
21 appointees shall serve terms expiring on the third Monday in  
22 May in the fourth year following the effective date of this  
23 Act, and 2 of the appointees shall be appointed to serve terms  
24 expiring on the third Monday in May in the fifth year following  
25 the effective date of this Act. All successors shall be  
26 appointed by the original appointing authority and hold office  
27 for a term of 4 years commencing the third Monday in May of the  
28 year in which their term commences, except in case of an  
29 appointment to fill a vacancy. Vacancies shall be filled for  
30 the remainder of the vacated term by the original appointing  
31 authority. Each member appointed to the Board shall serve until  
32 his or her successor is appointed and qualified.  
33 Notwithstanding the time remaining on a specific board member's  
34 term, board members shall serve at the pleasure of the  
35 appointing authority and a board member may be replaced by the  
36 appointing entity during that board member's term of office. A

1 new board member who is appointed to replace a current board  
2 member during the current board member's term shall serve the  
3 remainder of the current board member's term in office. The  
4 appointing authority shall give notice of the appointment of  
5 the new board member, including a certified copy of the  
6 resolution appointing the new member, to the Board via  
7 certified mail. The new member will commence serving at the  
8 next meeting of the Board following notice of appointment.

9 (e) The Board shall annually choose one of its members to  
10 serve as Chair and one of its members to serve as Secretary.  
11 The Board shall appoint a Treasurer for the District who is not  
12 required to be a member of the Board.

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

17 (g) Within 30 days after appointment of the initial  
18 members, the Board shall organize for the transaction of  
19 business, select members to serve as Chair and Secretary, and  
20 adopt bylaws. Thereafter, the Board shall meet on the call of  
21 the Chair or upon written notice by 4 members of the Board. A  
22 majority of the members of the Board must be present in person  
23 to constitute a quorum for the transaction of business. The  
24 affirmative vote of a majority of a quorum of the members shall  
25 be necessary for the adoption of any ordinance or resolution.  
26 All ordinances and resolutions, before taking effect, shall be  
27 in writing, signed by the Chair, and attested by the Secretary.

28 (h) The Board shall appoint an Executive Director, who is  
29 not a member of the Board, who shall hold office at the  
30 discretion of the Board. The Executive Director shall be the  
31 chief administrative and operational officer of the District,  
32 direct and supervise its administrative affairs and general  
33 management, perform such other duties as may be prescribed from  
34 time to time by the Board, and receive compensation fixed by  
35 the Board. The Executive Director shall attend all meetings of  
36 the Board, but no action of the Board shall be invalid on

1 account of the absence of the Executive Director from a  
2 meeting.

3 (i) Should a new municipality incorporate within the  
4 District, that new municipality shall become a member of the  
5 District and shall be entitled to all rights and  
6 responsibilities of membership including voting membership  
7 upon the Board and revenue sharing, so long as the following  
8 criteria are met:

9 (1) The new municipality is incorporated as a village  
10 or city under Illinois law, and

11 (2) the entire corporate boundaries of the new  
12 municipality are within the District at the time of  
13 incorporation.

14 (j) The Board may set, through its bylaws, a process by  
15 which other municipalities may become a member of the District.  
16 A recommendation by a majority vote of the Board to add an  
17 additional member entity shall be considered persuasive by the  
18 General Assembly in considering an amendment to this Act to  
19 include the additional municipality.

20 Section 20. Administration. The District has the authority  
21 to establish a budget, raise revenue for administration, and  
22 retain staff, agents, and consultants to carry out planning,  
23 development review, and other duties and exercise all other  
24 powers incidental, necessary, convenient, or desirable to  
25 carry out and effectuate the powers granted in this Act.  
26 Without limitation, the District may enter into  
27 intergovernmental agreements under the Intergovernmental  
28 Cooperation Act, engage the services of the Illinois Finance  
29 Authority, sue and be sued, have and use a corporate seal,  
30 designate a fiscal year, and enter into contracts and leases.

31 Section 25. Planning. The District shall adopt an overall  
32 land use plan that identifies likely key development areas  
33 within the airport environs and lays the foundation for design  
34 and development standards and development review in that area.

1 The District Land Use Plan is to be prepared by staff and  
2 consultants. Key elements shall include open space,  
3 transportation needs, compatibility of uses, and noise  
4 mitigation. Preparation of the land use plan shall include an  
5 opportunity for input from the governing body of each township  
6 with land within the District, and those Illinois cities and  
7 villages having a statutory planning area within the District  
8 boundaries. Prior to final approval of the District Land Use  
9 Plan by the Board, the Board shall hold a public hearing,  
10 pursuant to public notice of not less than 5 days and not more  
11 than 20 days, for the purpose of providing an opportunity for  
12 input by these townships and municipalities and the public.

13 The land use plan shall be transmitted to the governing  
14 bodies of the member villages and Will County for review and  
15 consideration. The land use plan shall not become effective  
16 until the governing bodies of Will County and of each member  
17 village of the District has approved the plan. However,  
18 approval of the District land use plan shall not be  
19 unreasonably withheld. Should any member village fail to  
20 approve or reject the land use plan for a period greater than  
21 90 days after receipt of the plan from the District, that  
22 failure to act shall be deemed to be an approval of the land  
23 use plan. In the event that a member village shall reject the  
24 land use plan, that member village shall provide written notice  
25 of the rejection of the plan to the District. Said rejection  
26 notice shall include the specific reasons for said rejection of  
27 the land use plan. The District and its member villages and  
28 Will County shall make good faith efforts to come to an  
29 agreement regarding the land use plan. It shall be public  
30 policy that a District Land Use Plan be approved by the members  
31 of the District in order that the District may effectively  
32 perform its statutory mission.

33 The land use plan shall cover all territory within the  
34 District, including land uses within the member villages,  
35 focusing particularly on peripheral properties that may be  
36 directly affected by airport-related development.

1           The land use plan shall be reviewed and revised every 5  
2 years, or at such times as may be deemed necessary by a  
3 majority vote of the Board, to reflect recent developments,  
4 annexations, and changing land use needs within the region.

5           Section 30. Design and development standards and  
6 development review. After adopting a land use plan, the  
7 District shall promulgate design and development standards.  
8 The design and development standards shall establish baseline  
9 requirements within the District in order to ensure that  
10 baseline design and development standards are consistent  
11 throughout the District. The District shall work with each  
12 member entity to encourage that the member villages and county  
13 shall adopt said baseline design and development standards.

14           The District shall review the design and development  
15 standards of each member village and of Will County and the  
16 District shall certify that said village or county standards  
17 conform to the District's baseline design and development  
18 standards. Notwithstanding adoption by the District of design  
19 and development standards, any member village or County may  
20 adopt land use regulations that are more stringent than those  
21 of the District.

22           Development applications shall be handled by the  
23 jurisdiction within which the project is located. The host  
24 jurisdiction shall review the application, applying the  
25 District's design and development standards, in addition to any  
26 other normal development requirements. The host jurisdiction  
27 shall forward the development application to the District for  
28 comment and certification. The District shall review the  
29 application and make specific findings regarding the impact of  
30 the project and determinations regarding mitigation of  
31 negative impact.

32           The certification process shall be determined by the Board  
33 and shall require a finding by a majority of the Board that a  
34 proposed development conforms to the District Land Use Plan,  
35 conforms to the District's design and development standards,



1 and has adequately addressed the need to mitigate negative  
2 impact upon regional infrastructure in order for the District  
3 to make a positive finding. If the District finds that the  
4 proposed development satisfies the preceding criteria, the  
5 District shall notify the affected municipality that the  
6 District has reached a positive finding regarding the proposed  
7 development. The District shall issue a Certificate of  
8 Conformance to the host jurisdiction as evidence of the  
9 positive finding.

10 If any member entity shall object to a proposed  
11 development, that development shall be subject to a review  
12 process to be determined by the Board that shall require a  
13 two-thirds majority of the Board for a positive finding and  
14 issuance of a Certificate of Conformance.

15 If the District makes a finding that a proposed development  
16 fails to conform to the District Land Use Plan, fails to  
17 satisfy the applicable design and development standards, or  
18 fails to adequately address the need to mitigate negative  
19 impact upon regional infrastructure, the District shall notify  
20 the affected municipality of the District's negative finding. A  
21 negative finding by the District shall trigger a requirement  
22 that the affected host jurisdiction reach an extraordinary  
23 majority within their approval process in order to approve the  
24 proposed development. If a municipality should approve a  
25 development by an extraordinary majority and that development  
26 has failed to cure the defects that resulted in a negative  
27 finding by the District, then the proposed development shall be  
28 deemed a non-conforming development.

29 The District shall act in a timely manner in reviewing  
30 development proposals. After this timely review, the District  
31 shall convey, in writing, to the host jurisdiction the  
32 District's certification of a positive finding or a negative  
33 finding regarding the proposed development. A negative finding  
34 shall include the reasons for the negative finding and  
35 suggestions for ways to cure the negative aspects of the  
36 proposed development.

1           The District's authority is subject to all pre-annexation  
2 or other governmental agreements of the member villages and  
3 county in existence on the effective date of this Act.

4           If land in the District is annexed into a member village,  
5 the District shall continue to have development review power  
6 over that property as set forth in this Section and the design  
7 and development standards shall continue to apply. It shall be  
8 the policy of the District that when development is proposed in  
9 any unincorporated area, the District shall encourage, and  
10 assist in, annexation to an appropriate municipality.

11           Notwithstanding any other provision of this Section,  
12 undeveloped land within each member village on the effective  
13 date of this Act that has not received development approval or  
14 has not been the subject of a pre-existing annexation or  
15 development agreement must comply with uniform airport noise  
16 and safety and hazard mitigation land use regulations  
17 promulgated by the District, the airport authority, or other  
18 governmental agencies.

19           Building code and zoning enforcement authority shall be  
20 exercised by the village in which the property is located and  
21 shall be exercised by the County if the property is not located  
22 in a village.

23           The review and certification authority of the District  
24 shall be limited to non-residential development within the  
25 District, except the District may require notice of all  
26 proposed development for the purpose of determining  
27 consistency with the District Land Use Plan. Airport-dependent  
28 uses on land owned by the airport authority shall be exempt  
29 from the District's review and certification process.

30           Section 35. Land acquisition. The District may acquire by  
31 purchase or gift and hold or dispose of real or personal  
32 property or rights or interests therein. The District may  
33 acquire property from willing sellers, but the District may not  
34 exercise the power of eminent domain. Prior to the acquisition  
35 of real property, the District shall provide 30 days' notice to

1 the airport authority in order that the airport authority may  
2 make a determination that the land acquisition will not hinder  
3 any airport uses or future expansion.

4 Section 40. Airport noise monitoring, mitigation, and  
5 enforcement programs. Appropriate notations, in a form to be  
6 determined by the District, shall be required on all property  
7 deeds of land within the District that are within delineated  
8 noise impacted areas as defined by the airport authority.

9 The District may act as a representative of the member  
10 villages in discussing noise issues and cooperative mitigation  
11 measures with the airport authority and the Federal Aviation  
12 Administration.

13 Section 45. Economic development and marketing. The  
14 District may market and promote economic development  
15 activities in cooperation with the County, member villages, and  
16 other agencies. The District may help fund economic development  
17 activities by the County, villages, townships, and other  
18 entities. The District may seek grants, loans, or other  
19 financing opportunities to promote its planning and economic  
20 development mission or for operations.

21 Section 50. Infrastructure and service mitigation fees.  
22 The District may impose infrastructure and service mitigation  
23 fees on new industrial and commercial development within the  
24 District to pay for infrastructure and services necessitated by  
25 that development. New industrial and commercial development  
26 shall be industrial and commercial property that is developed,  
27 as evidenced by an application for building permit, within the  
28 District, after the effective date of this Act.

29 Section 55. Property taxes. The District may levy ad  
30 valorem property taxes upon all new industrial and commercial  
31 taxable property in the District. New industrial and commercial  
32 property shall be property that is developed, as evidenced by

1 an application for building permit within the District, after  
2 the effective date of this Act. Proceeds shall be used for the  
3 administrative and operating expenses of the District, to carry  
4 out planning and development review functions, and to fund  
5 infrastructure improvements within the District.

6 Section 60. Use and occupation taxes.

7 (a) The District shall not have the authority to levy taxes  
8 for any purpose, except as provided in subsections (b), (c),  
9 (d), (e), and (f).

10 (b) By ordinance the District shall, as soon as practicable  
11 from the effective date of this Act, impose an occupation tax  
12 upon all persons engaged within the corporate limits of the  
13 District in the business of renting, leasing, or letting rooms  
14 in a hotel, as defined in the Hotel Operators' Occupation Tax  
15 Act, at a rate of 2.5% of the gross rental receipts from the  
16 renting, leasing, or letting of rooms within the District,  
17 excluding, however, from gross rental receipts the proceeds of  
18 renting, leasing, or letting to permanent residents of a hotel  
19 as defined in that Act. Gross rental receipts shall not include  
20 charges that are added on account of the liability arising from  
21 any tax imposed by the State or any governmental agency on the  
22 occupation of renting, leasing or letting rooms in a hotel.

23 The tax imposed by the District under this subsection and  
24 all civil penalties that may be assessed as an incident to that  
25 tax shall be collected and enforced by the Illinois Department  
26 of Revenue. The certificate of registration that is issued by  
27 the Department to a lessor under the Hotel Operators'  
28 Occupation Tax Act shall permit that registrant to engage in a  
29 business that is taxable under any ordinance enacted under this  
30 subsection without registering separately with the Department  
31 under that ordinance or under this subsection. The Department  
32 shall have full power to administer and enforce this  
33 subsection, to collect all taxes and penalties due under this  
34 subsection, to dispose of taxes and penalties so collected in  
35 the manner provided in this subsection, and to determine all

1 rights to memoranda arising on account of the erroneous payment  
2 of tax or penalty under this subsection. In the administration  
3 of, and compliance with, this subsection, the Department and  
4 persons who are subject to this subsection shall have the same  
5 rights, remedies, privileges, powers, and duties, shall be  
6 subject to the same conditions, restrictions, limitations,  
7 penalties, and definitions of terms, and shall employ the same  
8 modes of procedure as are prescribed in the Hotel Operators'  
9 Occupation Tax Act (except where the Act is inconsistent with  
10 this subsection), as fully as the Act were set out in this  
11 subsection.

12 Whenever the Department determines that a refund should be  
13 made under this subsection to a claimant instead of issuing a  
14 credit memorandum, the Department shall notify the State  
15 Comptroller, who shall cause a warrant to be drawn for the  
16 amount specified and to the person named in the notification  
17 from the Department. The refund shall be paid by the State  
18 Treasurer.

19 Persons subject to any tax under the authority imposed in  
20 this subsection may reimburse themselves for their tax  
21 liability for that tax by separately stating that tax as an  
22 additional charge, which charge may be stated in combination,  
23 in a single amount, with State taxes imposed under the Hotel  
24 Operators' Occupation Tax Act and the municipal tax imposed  
25 under Section 8-3-13 of the Illinois Municipal Code.

26 The person filing the return shall, at the time of filing  
27 the return, pay to the Department the amount of the tax, less a  
28 discount of 2.1% or \$25 per calendar year, whichever is  
29 greater, which is allowed to reimburse the operator for the  
30 expenses incurred in keeping records, preparing and filing  
31 returns, remitting the tax, and supplying data to the  
32 Department on request.

33 The Department shall forthwith pay over to the State  
34 Treasurer, ex officio, as trustee for the District, all taxes  
35 and penalties collected under this subsection for deposit into  
36 a trust fund held outside the State treasury. On or before the

1 25th day of each calendar month, the Department shall certify  
2 to the Comptroller the amounts to be paid, which shall be the  
3 amounts (not including credit memoranda) collected under this  
4 subsection during the second preceding calendar month by the  
5 Department, less any amounts determined by the Department to be  
6 necessary for payment of refunds.

7 A certified copy of any ordinance imposing or discontinuing  
8 a tax under this subsection or effecting a change in the rate  
9 of that tax shall be filed with the Illinois Department of  
10 Revenue, whereupon the Department shall proceed to administer  
11 and enforce this subsection on behalf of the District as of the  
12 first day of the third calendar month following the date of  
13 filing.

14 (c) By ordinance the Authority shall, as soon as  
15 practicable after the effective date of this Act, impose a tax  
16 upon all persons engaged in the business of renting automobiles  
17 in the District at the rate of 6% of the gross receipts from  
18 that business, except that no tax shall be imposed on the  
19 business of renting automobiles for use as taxicabs or in  
20 livery service. The tax imposed under this subsection and all  
21 civil penalties that may be assessed as an incident to that tax  
22 shall be collected and enforced by the Illinois Department of  
23 Revenue. The certificate of registration issued by the  
24 Department to a retailer under the Retailers' Occupation Tax  
25 Act or under the Automobile Renting Occupation and Use Tax Act  
26 shall permit that person to engage in a business that is  
27 taxable under any ordinance enacted under this subsection  
28 without registering separately with the Department under that  
29 ordinance or under this subsection. The Department shall have  
30 full power to administer and enforce this subsection, to  
31 collect all taxes and penalties due under this subsection, to  
32 dispose of taxes and penalties so collected in the manner  
33 provided in this subsection, and to determine all rights to  
34 credit memoranda arising on account of the erroneous payment of  
35 tax or penalty under this subsection. In the administration of  
36 and compliance with this subsection, the Department and persons

1 who are subject to this subsection shall have the same rights,  
2 remedies, privileges, immunities, powers, and duties, be  
3 subject to the same conditions, restrictions, limitations,  
4 penalties, and definitions of terms, and employ the same modes  
5 of procedure as are as the Department may prescribe.

6 Whenever the Department determines that a refund should be  
7 made under this subsection to a claimant instead of issuing a  
8 credit memorandum, the Department shall notify the State  
9 prescribed in Sections 2 and 3 (in respect to all provisions of  
10 those Sections other than the State rate of tax; and in respect  
11 to the provisions of the Retailers' Occupation Tax Act referred  
12 to in those Sections, except as to the disposition of taxes and  
13 penalties collected, except for the provision allowing  
14 retailers a deduction from the tax to cover certain costs, and  
15 except that credit memoranda issued under this subsection may  
16 not be used to discharge any State tax liability) of the  
17 Automobile Renting Occupation and Use Tax Act, as fully as if  
18 provisions contained in those Sections of that Act were set  
19 forth in this subsection.

20 Persons subject to any tax imposed under the authority  
21 granted in this subsection may reimburse themselves for their  
22 tax liability under this subsection by separately stating that  
23 tax as an additional charge, which charge may be stated in  
24 combination, in a single amount, with State tax that sellers  
25 are required to collect under the Automobile Renting Occupation  
26 and Use Tax Act, pursuant to bracket schedules as the  
27 Department may prescribe. Whenever the Department determines  
28 that a refund should be made under this Section to a claimant  
29 instead of issuing a credit memorandum, the Department shall  
30 notify the State Comptroller, who shall cause a warrant to be  
31 drawn for the amount specified and to the person named in the  
32 notification from the Department. The refund shall be paid by  
33 the State Treasurer.

34 The Department shall forthwith pay over to the State  
35 Treasurer, ex officio, as trustee, all taxes and penalties  
36 collected under this subsection for deposit into a trust fund

1 held outside the State treasury. On or before the 25th day of  
2 each calendar month, the Department shall certify to the  
3 Comptroller the amounts to be paid under this Section (not  
4 including credit memoranda) or collected under this subsection  
5 during the second preceding calendar month by the Department,  
6 less any amount determined by the Department to be necessary  
7 for payment of refunds. Within 10 days after receipt by the  
8 Comptroller of the Department's certification, the Comptroller  
9 shall cause the orders to be drawn for such amounts, and the  
10 Treasurer shall administer those amounts.

11 Nothing in this subsection authorizes the Authority to  
12 impose a tax upon the privilege of engaging in any business  
13 that under the Constitution of the United States may not be  
14 made the subject of taxation by this State.

15 A certified copy of any ordinance imposing or discontinuing  
16 a tax under this subsection or effecting a change in the rate  
17 of that tax shall be filed with the Illinois Department of  
18 Revenue, whereupon the Department shall proceed to administer  
19 and enforce this subsection on behalf of the Authority as of  
20 the first day of the third calendar month following the date of  
21 filing.

22 (d) By ordinance the District shall, as soon as practicable  
23 after the effective date of this Act, impose a tax upon the  
24 privilege of using in the District an automobile that is rented  
25 from a rentor outside Illinois and is titled or registered with  
26 an agency of this State's government at a rate of 6% of the  
27 rental price of that automobile, except that no tax shall be  
28 imposed on the privilege of using automobiles rented for use as  
29 taxicabs or in livery service. The tax shall be collected from  
30 persons whose Illinois address for titling or registration  
31 purposes is given as being in the District. The tax shall be  
32 collected by the Department of Revenue for the District. The  
33 tax must be paid to the State or an exemption determination  
34 must be obtained from the Department of Revenue before the  
35 title or certificate of registration for the property may be  
36 issued. The tax or proof of exemption may be transmitted to the



1 Department by way of the State agency with which or State  
2 officer with whom the tangible personal property must be titled  
3 or registered if the Department and that agency or State  
4 officer determine that this procedure will expedite the  
5 processing of applications for title or registration.

6 The Department shall have full power to administer and  
7 enforce this subsection, to collect all taxes, penalties, and  
8 interest due under this subsection, to dispose of taxes,  
9 penalties, and interest so collected in the manner provided in  
10 this subsection, and to determine all rights to credit  
11 memoranda or refunds arising on account of the erroneous  
12 payment of tax, penalty, or interest under this subsection. In  
13 the administration of and compliance with this subsection, the  
14 Department and persons who are subject to this subsection shall  
15 have the same rights, remedies, privileges, immunities,  
16 powers, and duties, be subject to the same conditions,  
17 restrictions, limitations, penalties, and definitions of  
18 terms, and employ the same modes of procedure as are prescribed  
19 in Sections 2 and 4 (except provisions pertaining to the State  
20 rate of tax; and in respect to the provisions of the Use Tax  
21 Act referred to in that Section, except provisions concerning  
22 collection or refunding of the tax by retailers, except the  
23 provisions of Section 19 pertaining to claims by retailers,  
24 except the last paragraph concerning refunds, and except that  
25 credit memoranda issued under this subsection may not be used  
26 to discharge any State tax liability) of the Automobile Renting  
27 Occupation and Use Tax Act, as fully as if provisions contained  
28 in those Sections of that Act were set forth in this  
29 subsection.

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

1           The Department shall forthwith pay over to the State  
2 Treasurer, ex officio, as trustee, all taxes, penalties, and  
3 interest collected under this subsection for deposit into a  
4 trust fund held outside the State treasury. On or before the  
5 25th day of each calendar month, the Department shall certify  
6 to the State Comptroller the amounts to be paid, which shall be  
7 the amounts (not including credit memoranda) collected under  
8 this subsection during the second preceding calendar month by  
9 the Department, less any amounts determined by the Department  
10 to be necessary for payment of refunds. Within 10 days after  
11 receipt by the State Comptroller of the Department's  
12 certification, the Comptroller shall cause the orders to be  
13 drawn for such amounts, and the Treasurer shall administer  
14 those amounts.

15           A certified copy of any ordinance imposing or discontinuing  
16 a tax or effecting a change in the rate of that tax shall be  
17 filed with the Illinois Department of Revenue, whereupon the  
18 Department shall proceed to administer and enforce this  
19 subsection on behalf of the District as of the first day of the  
20 third calendar month following the date of filing.

21           (f) By ordinance the District shall, as soon as practicable  
22 after the effective date of this Act, impose an occupation tax  
23 on all persons, other than a governmental agency, engaged in  
24 the business of providing ground transportation for hire to  
25 passengers in the District at a rate of (i) \$2 per taxi or  
26 livery vehicle departure with passengers for hire from  
27 commercial service airports in the District, (ii) for each  
28 departure with passengers for hire from a commercial service  
29 airport in the District in a bus or van operated by a person  
30 other than a person described in item (iii): \$9 per bus or van  
31 with a capacity of one to 12 passengers, \$18 per bus or van  
32 with a capacity of 13 to 24 passengers, and \$27 per bus or van  
33 with a capacity of over 24 passengers, and (iii) for each  
34 departure with passengers for hire from a commercial service  
35 airport in the District in a bus or van operated by a person  
36 regulated by the Interstate Commerce Commission or Illinois

1 Commerce Commission, operating scheduled service from the  
2 airport, and charging fares on a per passenger basis: \$1 per  
3 passenger for hire in each bus or van. The term "commercial  
4 service airport" means the south suburban airport as defined by  
5 this Act.

6 In the ordinance imposing the tax, the Authority may  
7 provide for the administration and enforcement of the tax and  
8 the collection of the tax from persons subject to the tax as  
9 the District determines to be necessary or practicable for the  
10 effective administration of the tax. The District may enter  
11 into agreements as it deems appropriate with any governmental  
12 agency providing for that agency to act as the District's agent  
13 to collect the tax.

14 In the ordinance imposing the tax, the District may  
15 designate a method or methods for persons subject to the tax to  
16 reimburse themselves for the tax liability arising under the  
17 ordinance (i) by separately stating the full amount of the tax  
18 liability as an additional charge to passengers departing the  
19 airports, (ii) by separately stating one-half of the tax  
20 liability as an additional charge to both passengers departing  
21 from and to passengers arriving at the airports, or (iii) by  
22 some other method determined by the District.

23 All taxes, penalties, and interest collected under any  
24 ordinance adopted under this subsection, less any amounts  
25 determined to be necessary for the payment of refunds, shall be  
26 paid forthwith to the State Treasurer, ex officio, for  
27 disbursement.

28 Section 65. Initial funding. The member entities and the  
29 State of Illinois shall provide funding for the first 3 years  
30 of the District's expenses pursuant to the following formula:

31 (i) Each member entity shall contribute to the District  
32 a sum equal to \$2 per person for each resident of that  
33 member entity, as determined by the most recent census,  
34 residing within the District per annum for 3 consecutive  
35 years. The total of this annual contribution shall be

1 deemed the Local Contribution; and

2 (ii) The State of Illinois shall provide matching funds  
3 to the District in an amount equal to the Local  
4 Contribution for 3 consecutive years.

5 Section 70. Special assessments. The District may levy,  
6 assess, and collect special assessments, except with respect to  
7 property that is not subject to special assessments, on new  
8 industrial and commercial development. New industrial and  
9 commercial development shall be industrial and commercial  
10 property that is developed, as evidenced by an application for  
11 building permit, within the District, after the effective date  
12 of this Act.

13 Section 75. Revenue Bonds. The District may borrow money  
14 from the United States Government or an agency thereof, or from  
15 any other public or private source, for the purposes of the  
16 District and, as evidence thereof, may issue its revenue bonds  
17 payable solely from the revenue from the operation of the  
18 District and any other funds available to the District for such  
19 purposes. These bonds may be issued with maturities not  
20 exceeding 40 years from the date of the bonds, and in such  
21 amounts as may be necessary to provide sufficient funds,  
22 together with interest, for the purposes of the District. These  
23 bonds shall bear interest at a rate not more than the maximum  
24 rate authorized by the Bond Authorization Act, payable  
25 semi-annually, may be made registerable as to principal, and  
26 may be made payable and callable as provided on any interest  
27 payment date at a price of par and accrued interest under such  
28 terms and conditions as may be fixed by the ordinance  
29 authorizing the issuance of the bonds. Bonds issued under this  
30 Section are negotiable instruments. They shall be executed by  
31 the Chair and members of the Board, attested by the Secretary,  
32 and shall be sealed with the corporate seal of the District. In  
33 case any Board member or officer whose signature appears on the  
34 bonds or coupons ceases to hold that office before the bonds

1 are delivered, such officer's signature shall nevertheless be  
2 valid and sufficient for all purposes as though the officer had  
3 remained in office until the bonds were delivered. The bonds  
4 shall be sold in such manner and upon such terms as the Board  
5 shall determine, except that the selling price shall be such  
6 that the interest cost to the District of the proceeds of the  
7 bonds shall not exceed the maximum rate authorized by the Bond  
8 Authorization Act, payable semi-annually, computed to maturity  
9 according to the standard table of bond values. The ordinance  
10 shall fix the amount of the revenue bonds proposed to be  
11 issued, the maturity or maturities, the interest rate, which  
12 shall not exceed the maximum rate authorized by the Bond  
13 Authorization Act, and all the details in connection with the  
14 bonds. The ordinance may contain such covenants and  
15 restrictions upon the issuance of additional revenue bonds  
16 thereafter, which shall share equally in the revenue of the  
17 District, as may be deemed necessary or advisable for the  
18 assurance of the payment of the bonds first issued. The  
19 District may also provide in the ordinance authorizing the  
20 issuance of bonds under this Section that the bonds, or such  
21 ones thereof may be specified, shall, to the extent and manner  
22 prescribed, be subordinated and be junior in standing, with  
23 respect to the payment of principal and interest and the  
24 security thereof, to such other bonds as are designated in the  
25 ordinance. The ordinance shall pledge the revenue derived from  
26 the operations of the District for the cost of paying the cost  
27 and operation of the District, and, as applicable, providing  
28 adequate depreciation funds, and paying the principal of and  
29 interest on the bonds of the District issued under this  
30 Section.

31 Section 80. Fees and charges. The District may levy,  
32 assess, and collect fees and charges for services as it deems  
33 appropriate.

34 Section 85. Loans, grants, voluntary contributions and

1 appropriations. The District may accept loans, grants,  
2 voluntary contributions, or appropriations of money or  
3 materials or property of any kind from a federal or State  
4 agency or officer, a unit of local government, or a private  
5 person or entity.

6 Section 90. Revenue sharing. The District, member  
7 villages, and county may share tax revenues subject to the  
8 following restrictions:

9 (i) District-wide use and occupation taxes are not  
10 subject to revenue sharing.

11 (ii) Funds generated by the existing rates of the  
12 member villages and the county are not subject to revenue  
13 sharing; and

14 (iii) Taxes imposed by other entities are not subject  
15 to revenue sharing.

16 The member entities shall share certain revenue generated  
17 within the District for new commercial and industrial  
18 development occurring after the effective date of this  
19 legislation. The amount of revenue subject to revenue sharing  
20 is as follows: (i) one-half of the corporate ad valorem  
21 property tax on new commercial and industrial development  
22 within the District shall be shared among the member entities,  
23 up to a limit of the first 0.2500 of the member entity's  
24 corporate levy, and (ii) one-half of any new local sales tax  
25 shall be shared among the member entities. The first half of  
26 the revenue from new ad valorem property taxes on new  
27 commercial and industrial development shall be retained by the  
28 host community and the second half of this revenue shall be  
29 distributed in one-sixth shares to the 6 member entities. The  
30 first half of any new sales taxes within the District shall be  
31 retained by the host community and the second half of this  
32 revenue shall be distributed in one-sixth shares to the 6  
33 member entities. Should any additional municipalities become  
34 member villages, the distribution formula shall be amended to  
35 provide for equal shares of shared revenue for each member

1 entity.

2 Existing and future ad valorem property tax proceeds for  
3 all taxing bodies, except the member entities, shall remain  
4 with the entity that assessed them.

5 Should a member entity offer an incentive for development  
6 in the form of a tax rebate, the rebate shall not include funds  
7 that are subject to revenue sharing unless the entity offering  
8 the incentive reimburses the other member entity entitled to  
9 receive revenue sharing for lost revenue, or the entitled  
10 members waive their right to reimbursement for lost revenue as  
11 evidenced by an intergovernmental agreement. Establishment of  
12 any new or expanded Tax Increment Financing districts within  
13 the District shall be subject to the revenue sharing  
14 requirements and restrictions of this Act.

15 Section 95. Infrastructure improvements. The District does  
16 not have independent authority to directly undertake  
17 infrastructure improvements, such as roads and water and sewer  
18 lines. However, the District may pass through funds it collects  
19 under this Act to other entities, such as the Illinois  
20 Department of Transportation, the county, townships, or  
21 villages. These funds shall be used to undertake infrastructure  
22 improvements, off-airport, according to a capital improvement  
23 plan approved by the Board or upon a finding of a majority of  
24 the Board that such improvements promote economic development  
25 within the District, provide community services or amenities,  
26 or help advance or realize other purposes for which the  
27 District was created.

28 Section 100. Annexation. Property within the District that  
29 is unincorporated on the effective date of this Act may be  
30 annexed by a village in accordance with State law; however, the  
31 District shall continue to have review and approval authority  
32 with respect to that property under Section 30.

33 Section 900. The Illinois Finance Authority Act is amended

1 by changing Section 820-50 as follows:

2 (20 ILCS 3501/820-50)

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

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



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

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

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

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

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

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

24 (ii) Within 10 days after a demand for payment by the  
25 Authority or such entity given to such unit of local  
26 government, the State Treasurer and the State Comptroller,  
27 the State Treasurer shall pay such funds or moneys as are  
28 legally available therefor to the Authority or such entity  
29 for the payment of principal of, premium, if any, or  
30 interest on, or fees relating to, such local government  
31 securities. The Authority or any such entity may carry out  
32 this Section and exercise all the rights, remedies and  
33 provisions provided or referred to in this Section.

34 (d) Remedies. Upon the sale or delivery of any local  
35 government securities of the Authority or its designee, the  
36 local government which issued such local government securities

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

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

27 Section 905. The State Officers and Employees Money  
28 Disposition Act is amended by changing Section 2a as follows:

29 (30 ILCS 230/2a) (from Ch. 127, par. 172)

30 Sec. 2a. Every officer, board, commission, commissioner,  
31 department, institute, arm, or agency to whom or to which this  
32 Act applies is to notify the State Treasurer as to money paid  
33 to him, her, or it under protest as provided in Section 2a.1,  
34 and the Treasurer is to place the money in a special fund to be

1 known as the protest fund. At the expiration of 30 days from  
2 the date of payment, the money is to be transferred from the  
3 protest fund to the appropriate fund in which it would have  
4 been placed had there been payment without protest unless the  
5 party making that payment under protest has filed a complaint  
6 and secured within that 30 days a temporary restraining order  
7 or a preliminary injunction, restraining the making of that  
8 transfer and unless, in addition, within that 30 days, a copy  
9 of the temporary restraining order or preliminary injunction  
10 has been served upon the State Treasurer and also upon the  
11 officer, board, commission, commissioner, department,  
12 institute, arm, or agency to whom or to which the payment under  
13 protest was made, in which case the payment and such other  
14 payments as are subsequently made under notice of protest, as  
15 provided in Section 2a.1, by the same person, the transfer of  
16 which payments is restrained by such temporary restraining  
17 order or preliminary injunction, are to be held in the protest  
18 fund until the final order or judgment of the court. The  
19 judicial remedy herein provided, however, relates only to  
20 questions which must be decided by the court in determining the  
21 proper disposition of the moneys paid under protest. Any  
22 authorized payment from the protest fund shall bear simple  
23 interest at a rate equal to the average of the weekly rates at  
24 issuance on 13-week U.S. Treasury Bills from the date of  
25 deposit into the protest fund to the date of disbursement from  
26 the protest fund. In cases involving temporary restraining  
27 orders or preliminary injunctions entered March 10, 1982, or  
28 thereafter, pursuant to this Section, when the party paying  
29 under protest fails in the protest action the State Treasurer  
30 shall determine if any moneys paid under protest were paid as a  
31 result of assessments under the following provisions: the  
32 Municipal Retailers' Occupation Tax Act, the Municipal Service  
33 Occupation Tax Act, the Municipal Use Tax Act, the Municipal  
34 Automobile Renting Occupation Tax Act, the Municipal  
35 Automobile Renting Use Tax Act, Section 8-11-9 of the Illinois  
36 Municipal Code, the Tourism, Conventions and Other Special

1 Events Promotion Act of 1967, the County Automobile Renting  
2 Occupation Tax Act, the County Automobile Renting Use Tax Act,  
3 Section 5-1034 of the Counties Code, Section 5.01 of the Local  
4 Mass Transit District Act, the Downstate Public Transportation  
5 Act, Section 4.03 of the Regional Transportation Authority Act,  
6 subsections (c) and (d) of Section 201 of the Illinois Income  
7 Tax Act, Section 2a.1 of the Messages Tax Act, Section 2a.1 of  
8 the Gas Revenue Tax Act, Section 2a.1 of the Public Utilities  
9 Revenue Act, Section 60 of the Regional Cooperation and Smart  
10 Growth in Eastern Will County Act, and the Water Company  
11 Invested Capital Tax Act. Any such moneys paid under protest  
12 shall bear simple interest at a rate equal to the average of  
13 the weekly rates at issuance on 13-week U.S. Treasury Bills  
14 from the date of deposit into the protest fund to the date of  
15 disbursement from the protest fund.

16 It is unlawful for the Clerk of a court, a bank or any  
17 person other than the State Treasurer to be appointed as  
18 trustee with respect to any purported payment under protest, or  
19 otherwise to be authorized by a court to hold any purported  
20 payment under protest, during the pendency of the litigation  
21 involving such purported payment under protest, it being the  
22 expressed intention of the General Assembly that no one is to  
23 act as custodian of any such purported payment under protest  
24 except the State Treasurer.

25 No payment under protest within the meaning of this Act has  
26 been made unless paid to an officer, board, commission,  
27 commissioner, department, institute, arm or agency brought  
28 within this Act by Section 1 and unless made in the form  
29 specified by Section 2a.1. No payment into court or to a  
30 circuit clerk or other court-appointed trustee is a payment  
31 under protest within the meaning of this Act.

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

33 Section 910. The Use Tax Act is amended by changing Section  
34 22 as follows:

1 (35 ILCS 105/22) (from Ch. 120, par. 439.22)

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

30 Any credit memorandum issued hereunder may be used by the  
31 authorized holder thereof to pay any tax or penalty or interest  
32 due or to become due under this Act or under the Retailers'  
33 Occupation Tax Act, the Service Occupation Tax Act, the Service  
34 Use Tax Act, any local occupation or use tax administered by  
35 the Department, Section 4 of the Water Commission Act of 1985,  
36 subsections (b), (c) and (d) of Section 5.01 of the Local Mass

1 Transit District Act, Section 60 of the Regional Cooperation  
2 and Smart Growth in Eastern Will County Act, or subsections  
3 (e), (f) and (g) of Section 4.03 of the Regional Transportation  
4 Authority Act, from such holder. Subject to reasonable rules of  
5 the Department, a credit memorandum issued hereunder may be  
6 assigned by the holder thereof to any other person for use in  
7 paying tax or penalty or interest which may be due or become  
8 due under this Act or under the Retailers' Occupation Tax Act,  
9 the Service Occupation Tax Act or the Service Use Tax Act, from  
10 the assignee.

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

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

20 Section 915. The Service Use Tax Act is amended by changing  
21 Section 20 as follows:

22 (35 ILCS 110/20) (from Ch. 120, par. 439.50)

23 Sec. 20. If it is determined that the Department should  
24 issue a credit or refund hereunder, the Department may first  
25 apply the amount thereof against any amount of tax or penalty  
26 or interest due hereunder, or under the Service Occupation Tax  
27 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any  
28 local occupation or use tax administered by the Department,  
29 Section 4 of the Water Commission Act of 1985, subsections (b),  
30 (c) and (d) of Section 5.01 of the Local Mass Transit District  
31 Act, Section 60 of the Regional Cooperation and Smart Growth in  
32 Eastern Will County Act, or subsections (e), (f) and (g) of  
33 Section 4.03 of the Regional Transportation Authority Act, from  
34 the person entitled to such credit or refund. For this purpose,



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

16 Any credit memorandum issued hereunder may be used by the  
17 authorized holder thereof to pay any tax or penalty or interest  
18 due or to become due under this Act, the Service Occupation Tax  
19 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any  
20 local occupation or use tax administered by the Department,  
21 Section 4 of the Water Commission Act of 1985, subsections (b),  
22 (c) and (d) of Section 5.01 of the Local Mass Transit District  
23 Act, Section 60 of the Regional Cooperation and Smart Growth in  
24 Eastern Will County Act, or subsections (e), (f) and (g) of  
25 Section 4.03 of the Regional Transportation Authority Act, from  
26 such holder. Subject to reasonable rules of the Department, a  
27 credit memorandum issued hereunder may be assigned by the  
28 holder thereof to any other person for use in paying tax or  
29 penalty or interest which may be due or become due under this  
30 Act, the Service Occupation Tax Act, the Retailers' Occupation  
31 Tax Act, the Use Tax Act, any local occupation or use tax  
32 administered by the Department, Section 4 of the Water  
33 Commission Act of 1985, subsections (b), (c) and (d) of Section  
34 5.01 of the Local Mass Transit District Act, Section 60 of the  
35 Regional Cooperation and Smart Growth in Eastern Will County  
36 Act, or subsections (e), (f) and (g) of Section 4.03 of the

1 Regional Transportation Authority Act, from the assignee.

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

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

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

13 (35 ILCS 115/20) (from Ch. 120, par. 439.120)

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

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

7 Any credit memorandum issued hereunder may be used by the  
8 authorized holder thereof to pay any tax or penalty or interest  
9 due or to become due under this Act, or under the Service Use  
10 Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act,  
11 any local occupation or use tax administered by the Department,  
12 Section 4 of the Water Commission Act of 1985, subsections (b),  
13 (c) and (d) of Section 5.01 of the Local Mass Transit District  
14 Act, Section 60 of the Regional Cooperation and Smart Growth in  
15 Eastern Will County Act, or subsections (e), (f) and (g) of  
16 Section 4.03 of the Regional Transportation Authority Act, from  
17 such holder. Subject to reasonable rules of the Department, a  
18 credit memorandum issued hereunder may be assigned by the  
19 holder thereof to any other person for use in paying tax or  
20 penalty or interest which may be due or become due under this  
21 Act, the Service Use Tax Act, the Retailers' Occupation Tax  
22 Act, the Use Tax Act, any local occupation or use tax  
23 administered by the Department, Section 4 of the Water  
24 Commission Act of 1985, subsections (b), (c) and (d) of Section  
25 5.01 of the Local Mass Transit District Act, Section 60 of the  
26 Regional Cooperation and Smart Growth in Eastern Will County  
27 Act, or subsections (e), (f) and (g) of Section 4.03 of the  
28 Regional Transportation Authority Act, from the assignee.

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

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

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

4 (35 ILCS 120/6) (from Ch. 120, par. 445)

5 Sec. 6. Credit memorandum or refund. If it appears, after  
6 claim therefor filed with the Department, that an amount of tax  
7 or penalty or interest has been paid which was not due under  
8 this Act, whether as the result of a mistake of fact or an  
9 error of law, except as hereinafter provided, then the  
10 Department shall issue a credit memorandum or refund to the  
11 person who made the erroneous payment or, if that person died  
12 or became a person under legal disability, to his or her legal  
13 representative, as such. For purposes of this Section, the tax  
14 is deemed to be erroneously paid by a retailer when the  
15 manufacturer of a motor vehicle sold by the retailer accepts  
16 the return of that automobile and refunds to the purchaser the  
17 selling price of that vehicle as provided in the New Vehicle  
18 Buyer Protection Act. When a motor vehicle is returned for a  
19 refund of the purchase price under the New Vehicle Buyer  
20 Protection Act, the Department shall issue a credit memorandum  
21 or a refund for the amount of tax paid by the retailer under  
22 this Act attributable to the initial sale of that vehicle.  
23 Claims submitted by the retailer are subject to the same  
24 restrictions and procedures provided for in this Act. If it is  
25 determined that the Department should issue a credit memorandum  
26 or refund, the Department may first apply the amount thereof  
27 against any tax or penalty or interest due or to become due  
28 under this Act or under the Use Tax Act, the Service Occupation  
29 Tax Act, the Service Use Tax Act, any local occupation or use  
30 tax administered by the Department, Section 4 of the Water  
31 Commission Act of 1985, subsections (b), (c) and (d) of Section  
32 5.01 of the Local Mass Transit District Act, Section 60 of the  
33 Regional Cooperation and Smart Growth in Eastern Will County  
34 Act, or subsections (e), (f) and (g) of Section 4.03 of the

1 Regional Transportation Authority Act, from the person who made  
2 the erroneous payment. If no tax or penalty or interest is due  
3 and no proceeding is pending to determine whether such person  
4 is indebted to the Department for tax or penalty or interest,  
5 the credit memorandum or refund shall be issued to the  
6 claimant; or (in the case of a credit memorandum) the credit  
7 memorandum may be assigned and set over by the lawful holder  
8 thereof, subject to reasonable rules of the Department, to any  
9 other person who is subject to this Act, the Use Tax Act, the  
10 Service Occupation Tax Act, the Service Use Tax Act, any local  
11 occupation or use tax administered by the Department, Section 4  
12 of the Water Commission Act of 1985, subsections (b), (c) and  
13 (d) of Section 5.01 of the Local Mass Transit District Act,  
14 Section 60 of the Regional Cooperation and Smart Growth in  
15 Eastern Will County Act, or subsections (e), (f) and (g) of  
16 Section 4.03 of the Regional Transportation Authority Act, and  
17 the amount thereof applied by the Department against any tax or  
18 penalty or interest due or to become due under this Act or  
19 under the Use Tax Act, the Service Occupation Tax Act, the  
20 Service Use Tax Act, any local occupation or use tax  
21 administered by the Department, Section 4 of the Water  
22 Commission Act of 1985, subsections (b), (c) and (d) of Section  
23 5.01 of the Local Mass Transit District Act, Section 60 of the  
24 Regional Cooperation and Smart Growth in Eastern Will County  
25 Act, or subsections (e), (f) and (g) of Section 4.03 of the  
26 Regional Transportation Authority Act, from such assignee.  
27 However, as to any claim for credit or refund filed with the  
28 Department on and after each January 1 and July 1 no amount of  
29 tax or penalty or interest erroneously paid (either in total or  
30 partial liquidation of a tax or penalty or amount of interest  
31 under this Act) more than 3 years prior to such January 1 and  
32 July 1, respectively, shall be credited or refunded, except  
33 that if both the Department and the taxpayer have agreed to an  
34 extension of time to issue a notice of tax liability as  
35 provided in Section 4 of this Act, such claim may be filed at  
36 any time prior to the expiration of the period agreed upon.

1           No claim may be allowed for any amount paid to the  
2 Department, whether paid voluntarily or involuntarily, if paid  
3 in total or partial liquidation of an assessment which had  
4 become final before the claim for credit or refund to recover  
5 the amount so paid is filed with the Department, or if paid in  
6 total or partial liquidation of a judgment or order of court.  
7 No credit may be allowed or refund made for any amount paid by  
8 or collected from any claimant unless it appears (a) that the  
9 claimant bore the burden of such amount and has not been  
10 relieved thereof nor reimbursed therefor and has not shifted  
11 such burden directly or indirectly through inclusion of such  
12 amount in the price of the tangible personal property sold by  
13 him or her or in any manner whatsoever; and that no  
14 understanding or agreement, written or oral, exists whereby he  
15 or she or his or her legal representative may be relieved of  
16 the burden of such amount, be reimbursed therefor or may shift  
17 the burden thereof; or (b) that he or she or his or her legal  
18 representative has repaid unconditionally such amount to his or  
19 her vendee (1) who bore the burden thereof and has not shifted  
20 such burden directly or indirectly, in any manner whatsoever;  
21 (2) who, if he or she has shifted such burden, has repaid  
22 unconditionally such amount to his own vendee; and (3) who is  
23 not entitled to receive any reimbursement therefor from any  
24 other source than from his or her vendor, nor to be relieved of  
25 such burden in any manner whatsoever. No credit may be allowed  
26 or refund made for any amount paid by or collected from any  
27 claimant unless it appears that the claimant has  
28 unconditionally repaid, to the purchaser, any amount collected  
29 from the purchaser and retained by the claimant with respect to  
30 the same transaction under the Use Tax Act.

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

34           In case the Department determines that the claimant is  
35 entitled to a refund, such refund shall be made only from such  
36 appropriation as may be available for that purpose. If it

1 appears unlikely that the amount appropriated would permit  
2 everyone having a claim allowed during the period covered by  
3 such appropriation to elect to receive a cash refund, the  
4 Department, by rule or regulation, shall provide for the  
5 payment of refunds in hardship cases and shall define what  
6 types of cases qualify as hardship cases.

7 If a retailer who has failed to pay retailers' occupation  
8 tax on gross receipts from retail sales is required by the  
9 Department to pay such tax, such retailer, without filing any  
10 formal claim with the Department, shall be allowed to take  
11 credit against such retailers' occupation tax liability to the  
12 extent, if any, to which such retailer has paid an amount  
13 equivalent to retailers' occupation tax or has paid use tax in  
14 error to his or her vendor or vendors of the same tangible  
15 personal property which such retailer bought for resale and did  
16 not first use before selling it, and no penalty or interest  
17 shall be charged to such retailer on the amount of such credit.  
18 However, when such credit is allowed to the retailer by the  
19 Department, the vendor is precluded from refunding any of that  
20 tax to the retailer and filing a claim for credit or refund  
21 with respect thereto with the Department. The provisions of  
22 this amendatory Act shall be applied retroactively, regardless  
23 of the date of the transaction.

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

25 Section 999. Effective date. This Act takes effect upon the  
26 earlier of (i) the date of the Record of Decision by the  
27 Federal Aviation Authority or (ii) the date of any transfer of  
28 land for the airport from the State of Illinois to the airport  
29 authority. The governing body of the airport authority shall  
30 promptly file a written certification with the Index Department  
31 of the Secretary of State indicating the dates on which each of  
32 these events occurred.