

1 AN ACT concerning transportation.

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 Transportation Development Partnership Act.

6 Section 5. Transportation Development Partnership Trust
7 Fund. The Transportation Development Partnership Trust Fund is
8 created as a trust fund in the State treasury. The State
9 Treasurer shall be the custodian of the Fund. If a county or an
10 entity created by an intergovernmental agreement between 2 or
11 more counties elects to participate under Section 5-1035.1 or
12 5-1006.5 of the Counties Code or designates funds by ordinance,
13 the Department of Revenue shall transfer to the State Treasurer
14 all or a portion of the taxes and penalties collected under the
15 Special County Retailers Occupation Tax For Public Safety or
16 Transportation and under the County Option Motor Fuel Tax or
17 the funds designated by the county or entity by ordinance into
18 the Transportation Development Partnership Trust Fund. The
19 Department of Transportation shall maintain a separate account
20 for each participating county or entity within the Fund. The
21 Department of Transportation shall administer the Fund.

22 Moneys in the Fund shall be used for transportation-related
23 projects. The Department of Transportation and participating

1 counties or entities may, at the Secretary's discretion under
2 agency procedures, enter into an intergovernmental agreement.

3 The agreement shall at a minimum:

4 (1) Describe the project to be constructed from the
5 Department of Transportation's Multi-Year Highway
6 Improvement Program.

7 (2) Provide that an eligible project cost a minimum of
8 \$5,000,000.

9 (3) Provide that the county or entity must raise a
10 significant percentage, no less than the amount
11 contributed by the State, of required federal matching
12 funds.

13 (4) Provide that the Secretary of Transportation must
14 certify that the county or entity has transferred the
15 required moneys to the Fund and the certification shall be
16 transmitted to each county or entity no more than 30 days
17 after the final deposit is made.

18 (5) Provide for the repayment, without interest, to the
19 county or entity of the moneys contributed by the county or
20 entity to the Fund, less 10% of the aggregate funds
21 contributed as matching funds and as federal funds.

22 (6) Provide that the repayment of the moneys
23 contributed by the county or the entity shall be made by
24 the Department of Transportation no later than 10 years
25 after the certification by the Secretary of Transportation
26 that the money has been deposited by the county or entity

1 into the Fund.

2 Section 10. The Counties Code is amended by changing
3 Sections 5-1006.5 and 5-1035.1 as follows:

4 (55 ILCS 5/5-1006.5)

5 Sec. 5-1006.5. Special County Retailers' Occupation Tax
6 For Public Safety, Public Facilities, or Transportation.

7 (a) The county board of any county may impose a tax upon
8 all persons engaged in the business of selling tangible
9 personal property, other than personal property titled or
10 registered with an agency of this State's government, at retail
11 in the county on the gross receipts from the sales made in the
12 course of business to provide revenue to be used exclusively
13 for public safety, public facility, or transportation purposes
14 in that county, if a proposition for the tax has been submitted
15 to the electors of that county and approved by a majority of
16 those voting on the question. If imposed, this tax shall be
17 imposed only in one-quarter percent increments. By resolution,
18 the county board may order the proposition to be submitted at
19 any election. If the tax is imposed for transportation purposes
20 for expenditures for public highways or as authorized under the
21 Illinois Highway Code, the county board must publish notice of
22 the existence of its long-range highway transportation plan as
23 required or described in Section 5-301 of the Illinois Highway
24 Code and must make the plan publicly available prior to

1 approval of the ordinance or resolution imposing the tax. If
2 the tax is imposed for transportation purposes for expenditures
3 for passenger rail transportation, the county board must
4 publish notice of the existence of its long-range passenger
5 rail transportation plan and must make the plan publicly
6 available prior to approval of the ordinance or resolution
7 imposing the tax. The county clerk shall certify the question
8 to the proper election authority, who shall submit the
9 proposition at an election in accordance with the general
10 election law.

11 (1) The proposition for public safety purposes shall be
12 in substantially the following form:

13 "To pay for public safety purposes, shall (name of
14 county) be authorized to impose an increase on its share of
15 local sales taxes by (insert rate)?"

16 As additional information on the ballot below the
17 question shall appear the following:

18 "This would mean that a consumer would pay an
19 additional (insert amount) in sales tax for every \$100 of
20 tangible personal property bought at retail."

21 The county board may also opt to establish a sunset
22 provision at which time the additional sales tax would
23 cease being collected, if not terminated earlier by a vote
24 of the county board. If the county board votes to include a
25 sunset provision, the proposition for public safety
26 purposes shall be in substantially the following form:

1 "To pay for public safety purposes, shall (name of
2 county) be authorized to impose an increase on its share of
3 local sales taxes by (insert rate) for a period not to
4 exceed (insert number of years)?"

5 As additional information on the ballot below the
6 question shall appear the following:

7 "This would mean that a consumer would pay an
8 additional (insert amount) in sales tax for every \$100 of
9 tangible personal property bought at retail. If imposed,
10 the additional tax would cease being collected at the end
11 of (insert number of years), if not terminated earlier by a
12 vote of the county board."

13 For the purposes of the paragraph, "public safety
14 purposes" means crime prevention, detention, fire
15 fighting, police, medical, ambulance, or other emergency
16 services.

17 Votes shall be recorded as "Yes" or "No".

18 (2) The proposition for transportation purposes shall
19 be in substantially the following form:

20 "To pay for improvements to roads and other
21 transportation purposes, shall (name of county) be
22 authorized to impose an increase on its share of local
23 sales taxes by (insert rate)?"

24 As additional information on the ballot below the
25 question shall appear the following:

26 "This would mean that a consumer would pay an

1 additional (insert amount) in sales tax for every \$100 of
2 tangible personal property bought at retail."

3 The county board may also opt to establish a sunset
4 provision at which time the additional sales tax would
5 cease being collected, if not terminated earlier by a vote
6 of the county board. If the county board votes to include a
7 sunset provision, the proposition for transportation
8 purposes shall be in substantially the following form:

9 "To pay for road improvements and other transportation
10 purposes, shall (name of county) be authorized to impose an
11 increase on its share of local sales taxes by (insert rate)
12 for a period not to exceed (insert number of years)?"

13 As additional information on the ballot below the
14 question shall appear the following:

15 "This would mean that a consumer would pay an
16 additional (insert amount) in sales tax for every \$100 of
17 tangible personal property bought at retail. If imposed,
18 the additional tax would cease being collected at the end
19 of (insert number of years), if not terminated earlier by a
20 vote of the county board."

21 For the purposes of this paragraph, transportation
22 purposes means construction, maintenance, operation, and
23 improvement of public highways, any other purpose for which
24 a county may expend funds under the Illinois Highway Code,
25 and passenger rail transportation.

26 The votes shall be recorded as "Yes" or "No".

1 (3) The proposition for public facility purposes shall
2 be in substantially the following form:

3 "To pay for public facility purposes, shall (name of
4 county) be authorized to impose an increase on its share of
5 local sales taxes by (insert rate)?"

6 As additional information on the ballot below the
7 question shall appear the following:

8 "This would mean that a consumer would pay an
9 additional (insert amount) in sales tax for every \$100 of
10 tangible personal property bought at retail."

11 The county board may also opt to establish a sunset
12 provision at which time the additional sales tax would
13 cease being collected, if not terminated earlier by a vote
14 of the county board. If the county board votes to include a
15 sunset provision, the proposition for public facility
16 purposes shall be in substantially the following form:

17 "To pay for public facility purposes, shall (name of
18 county) be authorized to impose an increase on its share of
19 local sales taxes by (insert rate) for a period not to
20 exceed (insert number of years)?"

21 As additional information on the ballot below the
22 question shall appear the following:

23 "This would mean that a consumer would pay an
24 additional (insert amount) in sales tax for every \$100 of
25 tangible personal property bought at retail. If imposed,
26 the additional tax would cease being collected at the end

1 of (insert number of years), if not terminated earlier by a
2 vote of the county board."

3 For purposes of this Section, "public facilities
4 purposes" means the acquisition, development,
5 construction, reconstruction, rehabilitation, improvement,
6 financing, architectural planning, and installation of
7 capital facilities consisting of buildings, structures,
8 and durable equipment and for the acquisition and
9 improvement of real property and interest in real property
10 required, or expected to be required, in connection with
11 the public facilities, for use by the county for the
12 furnishing of governmental services to its citizens,
13 including but not limited to museums and nursing homes.

14 The votes shall be recorded as "Yes" or "No".

15 If a majority of the electors voting on the proposition
16 vote in favor of it, the county may impose the tax. A county
17 may not submit more than one proposition authorized by this
18 Section to the electors at any one time.

19 This additional tax may not be imposed on the sales of food
20 for human consumption that is to be consumed off the premises
21 where it is sold (other than alcoholic beverages, soft drinks,
22 and food which has been prepared for immediate consumption) and
23 prescription and non-prescription medicines, drugs, medical
24 appliances and insulin, urine testing materials, syringes, and
25 needles used by diabetics. The tax imposed by a county under
26 this Section and all civil penalties that may be assessed as an

1 incident of the tax shall be collected and enforced by the
2 Illinois Department of Revenue and deposited into a special
3 fund created for that purpose. The certificate of registration
4 that is issued by the Department to a retailer under the
5 Retailers' Occupation Tax Act shall permit the retailer to
6 engage in a business that is taxable without registering
7 separately with the Department under an ordinance or resolution
8 under this Section. The Department has full power to administer
9 and enforce this Section, to collect all taxes and penalties
10 due under this Section, to dispose of taxes and penalties so
11 collected in the manner provided in this Section, and to
12 determine all rights to credit memoranda arising on account of
13 the erroneous payment of a tax or penalty under this Section.
14 In the administration of and compliance with this Section, the
15 Department and persons who are subject to this Section shall
16 (i) have the same rights, remedies, privileges, immunities,
17 powers, and duties, (ii) be subject to the same conditions,
18 restrictions, limitations, penalties, and definitions of
19 terms, and (iii) employ the same modes of procedure as are
20 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
21 1n, 2 through 2-70 (in respect to all provisions contained in
22 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
23 (except provisions relating to transaction returns and quarter
24 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
25 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of
26 the Retailers' Occupation Tax Act and Section 3-7 of the

1 Uniform Penalty and Interest Act as if those provisions were
2 set forth in this Section.

3 Persons subject to any tax imposed under the authority
4 granted in this Section may reimburse themselves for their
5 sellers' tax liability by separately stating the tax as an
6 additional charge, which charge may be stated in combination,
7 in a single amount, with State tax which sellers are required
8 to collect under the Use Tax Act, pursuant to such bracketed
9 schedules as the Department may prescribe.

10 Whenever the Department determines that a refund should be
11 made under this Section to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the order to be drawn for the
14 amount specified and to the person named in the notification
15 from the Department. The refund shall be paid by the State
16 Treasurer out of the County Public Safety or Transportation
17 Retailers' Occupation Tax Fund.

18 (b) If a tax has been imposed under subsection (a), a
19 service occupation tax shall also be imposed at the same rate
20 upon all persons engaged, in the county, in the business of
21 making sales of service, who, as an incident to making those
22 sales of service, transfer tangible personal property within
23 the county as an incident to a sale of service. This tax may
24 not be imposed on sales of food for human consumption that is
25 to be consumed off the premises where it is sold (other than
26 alcoholic beverages, soft drinks, and food prepared for

1 immediate consumption) and prescription and non-prescription
2 medicines, drugs, medical appliances and insulin, urine
3 testing materials, syringes, and needles used by diabetics. The
4 tax imposed under this subsection and all civil penalties that
5 may be assessed as an incident thereof shall be collected and
6 enforced by the Department of Revenue. The Department has full
7 power to administer and enforce this subsection; to collect all
8 taxes and penalties due hereunder; to dispose of taxes and
9 penalties so collected in the manner hereinafter provided; and
10 to determine all rights to credit memoranda arising on account
11 of the erroneous payment of tax or penalty hereunder. In the
12 administration of, and compliance with this subsection, the
13 Department and persons who are subject to this paragraph shall
14 (i) have the same rights, remedies, privileges, immunities,
15 powers, and duties, (ii) be subject to the same conditions,
16 restrictions, limitations, penalties, exclusions, exemptions,
17 and definitions of terms, and (iii) employ the same modes of
18 procedure as are prescribed in Sections 2 (except that the
19 reference to State in the definition of supplier maintaining a
20 place of business in this State shall mean the county), 2a, 2b,
21 2c, 3 through 3-50 (in respect to all provisions therein other
22 than the State rate of tax), 4 (except that the reference to
23 the State shall be to the county), 5, 7, 8 (except that the
24 jurisdiction to which the tax shall be a debt to the extent
25 indicated in that Section 8 shall be the county), 9 (except as
26 to the disposition of taxes and penalties collected), 10, 11,

1 12 (except the reference therein to Section 2b of the
2 Retailers' Occupation Tax Act), 13 (except that any reference
3 to the State shall mean the county), Section 15, 16, 17, 18, 19
4 and 20 of the Service Occupation Tax Act and Section 3-7 of the
5 Uniform Penalty and Interest Act, as fully as if those
6 provisions were set forth herein.

7 Persons subject to any tax imposed under the authority
8 granted in this subsection may reimburse themselves for their
9 serviceman's tax liability by separately stating the tax as an
10 additional charge, which charge may be stated in combination,
11 in a single amount, with State tax that servicemen are
12 authorized to collect under the Service Use Tax Act, in
13 accordance with such bracket schedules as the Department may
14 prescribe.

15 Whenever the Department determines that a refund should be
16 made under this subsection to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the warrant to be drawn for the
19 amount specified, and to the person named, in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of the County Public Safety or Transportation
22 Retailers' Occupation Fund.

23 Nothing in this subsection shall be construed to authorize
24 the county to impose a tax upon the privilege of engaging in
25 any business which under the Constitution of the United States
26 may not be made the subject of taxation by the State.

1 (c) The Department shall immediately pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected under this Section to be deposited into the County
4 Public Safety or Transportation Retailers' Occupation Tax
5 Fund, which shall be an unappropriated trust fund held outside
6 of the State treasury. On or before the 25th day of each
7 calendar month, the Department shall prepare and certify to the
8 Comptroller the disbursement of stated sums of money to the
9 counties from which retailers have paid taxes or penalties to
10 the Department during the second preceding calendar month. The
11 amount to be paid to each county, and deposited by the county
12 into its special fund created for the purposes of this Section,
13 shall be the amount (not including credit memoranda) collected
14 under this Section during the second preceding calendar month
15 by the Department plus an amount the Department determines is
16 necessary to offset any amounts that were erroneously paid to a
17 different taxing body, and not including (i) an amount equal to
18 the amount of refunds made during the second preceding calendar
19 month by the Department on behalf of the county and (ii) any
20 amount that the Department determines is necessary to offset
21 any amounts that were payable to a different taxing body but
22 were erroneously paid to the county. Within 10 days after
23 receipt by the Comptroller of the disbursement certification to
24 the counties provided for in this Section to be given to the
25 Comptroller by the Department, the Comptroller shall cause the
26 orders to be drawn for the respective amounts in accordance

1 with directions contained in the certification.

2 In addition to the disbursement required by the preceding
3 paragraph, an allocation shall be made in March of each year to
4 each county that received more than \$500,000 in disbursements
5 under the preceding paragraph in the preceding calendar year.
6 The allocation shall be in an amount equal to the average
7 monthly distribution made to each such county under the
8 preceding paragraph during the preceding calendar year
9 (excluding the 2 months of highest receipts). The distribution
10 made in March of each year subsequent to the year in which an
11 allocation was made pursuant to this paragraph and the
12 preceding paragraph shall be reduced by the amount allocated
13 and disbursed under this paragraph in the preceding calendar
14 year. The Department shall prepare and certify to the
15 Comptroller for disbursement the allocations made in
16 accordance with this paragraph.

17 A county may direct, by ordinance, that all or a portion of
18 the taxes and penalties collected under the Special County
19 Retailers' Occupation Tax For Public Safety or Transportation
20 be deposited into the Transportation Development Partnership
21 Trust Fund.

22 (d) For the purpose of determining the local governmental
23 unit whose tax is applicable, a retail sale by a producer of
24 coal or another mineral mined in Illinois is a sale at retail
25 at the place where the coal or other mineral mined in Illinois
26 is extracted from the earth. This paragraph does not apply to

1 coal or another mineral when it is delivered or shipped by the
2 seller to the purchaser at a point outside Illinois so that the
3 sale is exempt under the United States Constitution as a sale
4 in interstate or foreign commerce.

5 (e) Nothing in this Section shall be construed to authorize
6 a county to impose a tax upon the privilege of engaging in any
7 business that under the Constitution of the United States may
8 not be made the subject of taxation by this State.

9 (e-5) If a county imposes a tax under this Section, the
10 county board may, by ordinance, discontinue or lower the rate
11 of the tax. If the county board lowers the tax rate or
12 discontinues the tax, a referendum must be held in accordance
13 with subsection (a) of this Section in order to increase the
14 rate of the tax or to reimpose the discontinued tax.

15 (f) Beginning April 1, 1998, the results of any election
16 authorizing a proposition to impose a tax under this Section or
17 effecting a change in the rate of tax, or any ordinance
18 lowering the rate or discontinuing the tax, shall be certified
19 by the county clerk and filed with the Illinois Department of
20 Revenue either (i) on or before the first day of April,
21 whereupon the Department shall proceed to administer and
22 enforce the tax as of the first day of July next following the
23 filing; or (ii) on or before the first day of October,
24 whereupon the Department shall proceed to administer and
25 enforce the tax as of the first day of January next following
26 the filing.

1 (g) When certifying the amount of a monthly disbursement to
2 a county under this Section, the Department shall increase or
3 decrease the amounts by an amount necessary to offset any
4 miscalculation of previous disbursements. The offset amount
5 shall be the amount erroneously disbursed within the previous 6
6 months from the time a miscalculation is discovered.

7 (h) This Section may be cited as the "Special County
8 Occupation Tax For Public Safety, Public Facilities, or
9 Transportation Law".

10 (i) For purposes of this Section, "public safety" includes,
11 but is not limited to, crime prevention, detention, fire
12 fighting, police, medical, ambulance, or other emergency
13 services. For the purposes of this Section, "transportation"
14 includes, but is not limited to, the construction, maintenance,
15 operation, and improvement of public highways, any other
16 purpose for which a county may expend funds under the Illinois
17 Highway Code, and passenger rail transportation. For the
18 purposes of this Section, "public facilities purposes"
19 includes, but is not limited to, the acquisition, development,
20 construction, reconstruction, rehabilitation, improvement,
21 financing, architectural planning, and installation of capital
22 facilities consisting of buildings, structures, and durable
23 equipment and for the acquisition and improvement of real
24 property and interest in real property required, or expected to
25 be required, in connection with the public facilities, for use
26 by the county for the furnishing of governmental services to

1 its citizens, including but not limited to museums and nursing
2 homes.

3 (j) The Department may promulgate rules to implement this
4 amendatory Act of the 95th General Assembly only to the extent
5 necessary to apply the existing rules for the Special County
6 Retailers' Occupation Tax for Public Safety to this new purpose
7 for public facilities.

8 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08;
9 95-1002, eff. 11-20-08.)

10 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

11 Sec. 5-1035.1. County Motor Fuel Tax Law. The county board
12 of the counties of DuPage, Kane and McHenry may, by an
13 ordinance or resolution adopted by an affirmative vote of a
14 majority of the members elected or appointed to the county
15 board, impose a tax upon all persons engaged in the county in
16 the business of selling motor fuel, as now or hereafter defined
17 in the Motor Fuel Tax Law, at retail for the operation of motor
18 vehicles upon public highways or for the operation of
19 recreational watercraft upon waterways. Kane County may exempt
20 diesel fuel from the tax imposed pursuant to this Section. The
21 tax may be imposed, in half-cent increments, at a rate not
22 exceeding 4 cents per gallon of motor fuel sold at retail
23 within the county for the purpose of use or consumption and not
24 for the purpose of resale. The proceeds from the tax shall be
25 used by the county solely for the purpose of operating,

1 constructing and improving public highways and waterways, and
2 acquiring real property and right-of-ways for public highways
3 and waterways within the county imposing the tax.

4 A tax imposed pursuant to this Section, and all civil
5 penalties that may be assessed as an incident thereof, shall be
6 administered, collected and enforced by the Illinois
7 Department of Revenue in the same manner as the tax imposed
8 under the Retailers' Occupation Tax Act, as now or hereafter
9 amended, insofar as may be practicable; except that in the
10 event of a conflict with the provisions of this Section, this
11 Section shall control. The Department of Revenue shall have
12 full power: to administer and enforce this Section; to collect
13 all taxes and penalties due hereunder; to dispose of taxes and
14 penalties so collected in the manner hereinafter provided; and
15 to determine all rights to credit memoranda arising on account
16 of the erroneous payment of tax or penalty hereunder.

17 Whenever the Department determines that a refund shall be
18 made under this Section to a claimant instead of issuing a
19 credit memorandum, the Department shall notify the State
20 Comptroller, who shall cause the order to be drawn for the
21 amount specified, and to the person named, in the notification
22 from the Department. The refund shall be paid by the State
23 Treasurer out of the County Option Motor Fuel Tax Fund.

24 The Department shall forthwith pay over to the State
25 Treasurer, ex-officio, as trustee, all taxes and penalties
26 collected hereunder, which shall be deposited into the County

1 Option Motor Fuel Tax Fund, a special fund in the State
2 Treasury which is hereby created. On or before the 25th day of
3 each calendar month, the Department shall prepare and certify
4 to the State Comptroller the disbursement of stated sums of
5 money to named counties for which taxpayers have paid taxes or
6 penalties hereunder to the Department during the second
7 preceding calendar month. The amount to be paid to each county
8 shall be the amount (not including credit memoranda) collected
9 hereunder from retailers within the county during the second
10 preceding calendar month by the Department, but not including
11 an amount equal to the amount of refunds made during the second
12 preceding calendar month by the Department on behalf of the
13 county; less the amount expended during the second preceding
14 month by the Department pursuant to appropriation from the
15 County Option Motor Fuel Tax Fund for the administration and
16 enforcement of this Section, which appropriation shall not
17 exceed \$200,000 for fiscal year 1990 and, for each year
18 thereafter, shall not exceed 2% of the amount deposited into
19 the County Option Motor Fuel Tax Fund during the preceding
20 fiscal year.

21 A county may direct, by ordinance, that all or a portion of
22 the taxes and penalties collected under the County Option Motor
23 Fuel Tax shall be deposited into the Transportation Development
24 Partnership Trust Fund.

25 Nothing in this Section shall be construed to authorize a
26 county to impose a tax upon the privilege of engaging in any

1 business which under the Constitution of the United States may
2 not be made the subject of taxation by this State.

3 An ordinance or resolution imposing a tax hereunder or
4 effecting a change in the rate thereof shall be effective on
5 the first day of the second calendar month next following the
6 month in which the ordinance or resolution is adopted and a
7 certified copy thereof is filed with the Department of Revenue,
8 whereupon the Department of Revenue shall proceed to administer
9 and enforce this Section on behalf of the county as of the
10 effective date of the ordinance or resolution. Upon a change in
11 rate of a tax levied hereunder, or upon the discontinuance of
12 the tax, the county board of the county shall, on or not later
13 than 5 days after the effective date of the ordinance or
14 resolution discontinuing the tax or effecting a change in rate,
15 transmit to the Department of Revenue a certified copy of the
16 ordinance or resolution effecting the change or
17 discontinuance.

18 This Section shall be known and may be cited as the County
19 Motor Fuel Tax Law.

20 (Source: P.A. 86-1028; 87-289.)

21 Section 99. Effective date. This Act takes effect July 1,
22 2012.