



Rep. Michael W. Tryon

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1 AMENDMENT TO HOUSE BILL 1911

2 AMENDMENT NO. _____. Amend House Bill 1911 by replacing
3 everything after the enacting clause with the following:

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

1 the funds designated by the county or entity by ordinance into
2 the Transportation Development Partnership Trust Fund. The
3 Department of Transportation shall maintain a separate account
4 for each participating county or entity within the Fund. The
5 Department of Transportation shall administer the Fund.

6 Moneys in the Fund shall be used for transportation-related
7 projects. The Department of Transportation and participating
8 counties or entities may, at the Secretary's discretion under
9 agency procedures, enter into an intergovernmental agreement.
10 The agreement shall at a minimum:

11 (1) Describe the project to be constructed from the
12 Department of Transportation's Multi-Year Highway
13 Improvement Program.

14 (2) Provide that an eligible project cost a minimum of
15 \$5,000,000.

16 (3) Provide that the county or entity must raise a
17 significant percentage, no less than the amount
18 contributed by the State, of required federal matching
19 funds.

20 (4) Provide that the Secretary of Transportation must
21 certify that the county or entity has transferred the
22 required moneys to the Fund and the certification shall be
23 transmitted to each county or entity no more than 30 days
24 after the final deposit is made.

25 (5) Provide for the repayment, without interest, to the
26 county or entity of the moneys contributed by the county or

1 entity to the Fund, less 10% of the aggregate funds
2 contributed as matching funds and as federal funds.

3 (6) Provide that the repayment of the moneys
4 contributed by the county or the entity shall be made by
5 the Department of Transportation no later than 10 years
6 after the certification by the Secretary of Transportation
7 that the money has been deposited by the county or entity
8 into the Fund.

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

11 (55 ILCS 5/5-1006.5)

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

14 (a) The county board of any county may impose a tax upon
15 all persons engaged in the business of selling tangible
16 personal property, other than personal property titled or
17 registered with an agency of this State's government, at retail
18 in the county on the gross receipts from the sales made in the
19 course of business to provide revenue to be used exclusively
20 for public safety, public facility, or transportation purposes
21 in that county, if a proposition for the tax has been submitted
22 to the electors of that county and approved by a majority of
23 those voting on the question. If imposed, this tax shall be
24 imposed only in one-quarter percent increments. By resolution,

1 the county board may order the proposition to be submitted at
2 any election. If the tax is imposed for transportation purposes
3 for expenditures for public highways or as authorized under the
4 Illinois Highway Code, the county board must publish notice of
5 the existence of its long-range highway transportation plan as
6 required or described in Section 5-301 of the Illinois Highway
7 Code and must make the plan publicly available prior to
8 approval of the ordinance or resolution imposing the tax. If
9 the tax is imposed for transportation purposes for expenditures
10 for passenger rail transportation, the county board must
11 publish notice of the existence of its long-range passenger
12 rail transportation plan and must make the plan publicly
13 available prior to approval of the ordinance or resolution
14 imposing the tax. The county clerk shall certify the question
15 to the proper election authority, who shall submit the
16 proposition at an election in accordance with the general
17 election law.

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

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

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

25 "This would mean that a consumer would pay an
26 additional (insert amount) in sales tax for every \$100 of

1 tangible personal property bought at retail."

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

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

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

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

20 For the purposes of the paragraph, "public safety
21 purposes" means crime prevention, detention, fire
22 fighting, police, medical, ambulance, or other emergency
23 services.

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

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

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

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."

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

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

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

22 "This would mean that a consumer would pay an
23 additional (insert amount) in sales tax for every \$100 of
24 tangible personal property bought at retail. If imposed,
25 the additional tax would cease being collected at the end
26 of (insert number of years), if not terminated earlier by a

1 vote of the county board."

2 For the purposes of this paragraph, transportation
3 purposes means construction, maintenance, operation, and
4 improvement of public highways, any other purpose for which
5 a county may expend funds under the Illinois Highway Code,
6 and passenger rail transportation.

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

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

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

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."

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

24 "To pay for public facility purposes, shall (name of
25 county) be authorized to impose an increase on its share of
26 local sales taxes by (insert rate) for a period not to

1 exceed (insert number of years)?"

2 As additional information on the ballot below the
3 question shall appear the following:

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

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

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

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

26 This additional tax may not be imposed on the sales of food

1 for human consumption that is to be consumed off the premises
2 where it is sold (other than alcoholic beverages, soft drinks,
3 and food which has been prepared for immediate consumption) and
4 prescription and non-prescription medicines, drugs, medical
5 appliances and insulin, urine testing materials, syringes, and
6 needles used by diabetics. The tax imposed by a county under
7 this Section and all civil penalties that may be assessed as an
8 incident of the tax shall be collected and enforced by the
9 Illinois Department of Revenue and deposited into a special
10 fund created for that purpose. The certificate of registration
11 that is issued by the Department to a retailer under the
12 Retailers' Occupation Tax Act shall permit the retailer to
13 engage in a business that is taxable without registering
14 separately with the Department under an ordinance or resolution
15 under this Section. The Department has full power to administer
16 and enforce this Section, to collect all taxes and penalties
17 due under this Section, to dispose of taxes and penalties so
18 collected in the manner provided in this Section, and to
19 determine all rights to credit memoranda arising on account of
20 the erroneous payment of a tax or penalty under this Section.
21 In the administration of and compliance with this Section, the
22 Department and persons who are subject to this Section shall
23 (i) have the same rights, remedies, privileges, immunities,
24 powers, and duties, (ii) be subject to the same conditions,
25 restrictions, limitations, penalties, and definitions of
26 terms, and (iii) employ the same modes of procedure as are

1 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
2 1n, 2 through 2-70 (in respect to all provisions contained in
3 those Sections other than the State rate of tax), 2a, 2b, 2c, 3
4 (except provisions relating to transaction returns and quarter
5 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
6 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of
7 the Retailers' Occupation Tax Act and Section 3-7 of the
8 Uniform Penalty and Interest Act as if those provisions were
9 set forth in this Section.

10 Persons subject to any tax imposed under the authority
11 granted in this Section may reimburse themselves for their
12 sellers' tax liability by separately stating the tax as an
13 additional charge, which charge may be stated in combination,
14 in a single amount, with State tax which sellers are required
15 to collect under the Use Tax Act, pursuant to such bracketed
16 schedules as the Department may prescribe.

17 Whenever the Department determines that a refund should 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 Public Safety or Transportation
24 Retailers' Occupation Tax Fund.

25 (b) If a tax has been imposed under subsection (a), a
26 service occupation tax shall also be imposed at the same rate

1 upon all persons engaged, in the county, in the business of
2 making sales of service, who, as an incident to making those
3 sales of service, transfer tangible personal property within
4 the county as an incident to a sale of service. This tax may
5 not be imposed on sales of food for human consumption that is
6 to be consumed off the premises where it is sold (other than
7 alcoholic beverages, soft drinks, and food prepared for
8 immediate consumption) and prescription and non-prescription
9 medicines, drugs, medical appliances and insulin, urine
10 testing materials, syringes, and needles used by diabetics. The
11 tax imposed under this subsection and all civil penalties that
12 may be assessed as an incident thereof shall be collected and
13 enforced by the Department of Revenue. The Department has full
14 power to administer and enforce this subsection; to collect all
15 taxes and penalties due hereunder; to dispose of taxes and
16 penalties so collected in the manner hereinafter provided; and
17 to determine all rights to credit memoranda arising on account
18 of the erroneous payment of tax or penalty hereunder. In the
19 administration of, and compliance with this subsection, the
20 Department and persons who are subject to this paragraph shall
21 (i) have the same rights, remedies, privileges, immunities,
22 powers, and duties, (ii) be subject to the same conditions,
23 restrictions, limitations, penalties, exclusions, exemptions,
24 and definitions of terms, and (iii) employ the same modes of
25 procedure as are prescribed in Sections 2 (except that the
26 reference to State in the definition of supplier maintaining a

1 place of business in this State shall mean the county), 2a, 2b,
2 2c, 3 through 3-50 (in respect to all provisions therein other
3 than the State rate of tax), 4 (except that the reference to
4 the State shall be to the county), 5, 7, 8 (except that the
5 jurisdiction to which the tax shall be a debt to the extent
6 indicated in that Section 8 shall be the county), 9 (except as
7 to the disposition of taxes and penalties collected), 10, 11,
8 12 (except the reference therein to Section 2b of the
9 Retailers' Occupation Tax Act), 13 (except that any reference
10 to the State shall mean the county), Section 15, 16, 17, 18, 19
11 and 20 of the Service Occupation Tax Act and Section 3-7 of the
12 Uniform Penalty and Interest Act, as fully as if those
13 provisions were set forth herein.

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

22 Whenever the Department determines that a refund should be
23 made under this subsection to a claimant instead of issuing a
24 credit memorandum, the Department shall notify the State
25 Comptroller, who shall cause the warrant to be drawn for the
26 amount specified, and to the person named, in the notification

1 from the Department. The refund shall be paid by the State
2 Treasurer out of the County Public Safety or Transportation
3 Retailers' Occupation Fund.

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

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

1 amount that the Department determines is necessary to offset
2 any amounts that were payable to a different taxing body but
3 were erroneously paid to the county. Within 10 days after
4 receipt by the Comptroller of the disbursement certification to
5 the counties provided for in this Section to be given to the
6 Comptroller by the Department, the Comptroller shall cause the
7 orders to be drawn for the respective amounts in accordance
8 with directions contained in the certification.

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

24 A county may direct, by ordinance, that all or a portion of
25 the taxes and penalties collected under the Special County
26 Retailers' Occupation Tax For Public Safety or Transportation

1 be deposited into the Transportation Development Partnership
2 Trust Fund.

3 (d) For the purpose of determining the local governmental
4 unit whose tax is applicable, a retail sale by a producer of
5 coal or another mineral mined in Illinois is a sale at retail
6 at the place where the coal or other mineral mined in Illinois
7 is extracted from the earth. This paragraph does not apply to
8 coal or another mineral when it is delivered or shipped by the
9 seller to the purchaser at a point outside Illinois so that the
10 sale is exempt under the United States Constitution as a sale
11 in interstate or foreign commerce.

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

16 (e-5) If a county imposes a tax under this Section, the
17 county board may, by ordinance, discontinue or lower the rate
18 of the tax. If the county board lowers the tax rate or
19 discontinues the tax, a referendum must be held in accordance
20 with subsection (a) of this Section in order to increase the
21 rate of the tax or to reimpose the discontinued tax.

22 (f) Beginning April 1, 1998, the results of any election
23 authorizing a proposition to impose a tax under this Section or
24 effecting a change in the rate of tax, or any ordinance
25 lowering the rate or discontinuing the tax, shall be certified
26 by the county clerk and filed with the Illinois Department of

1 Revenue either (i) on or before the first day of April,
2 whereupon the Department shall proceed to administer and
3 enforce the tax as of the first day of July next following the
4 filing; or (ii) on or before the first day of October,
5 whereupon the Department shall proceed to administer and
6 enforce the tax as of the first day of January next following
7 the filing.

8 (g) When certifying the amount of a monthly disbursement to
9 a county under this Section, the Department shall increase or
10 decrease the amounts by an amount necessary to offset any
11 miscalculation of previous disbursements. The offset amount
12 shall be the amount erroneously disbursed within the previous 6
13 months from the time a miscalculation is discovered.

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

17 (i) For purposes of this Section, "public safety" includes,
18 but is not limited to, crime prevention, detention, fire
19 fighting, police, medical, ambulance, or other emergency
20 services. For the purposes of this Section, "transportation"
21 includes, but is not limited to, the construction, maintenance,
22 operation, and improvement of public highways, any other
23 purpose for which a county may expend funds under the Illinois
24 Highway Code, and passenger rail transportation. For the
25 purposes of this Section, "public facilities purposes"
26 includes, but is not limited to, the acquisition, development,

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

10 (j) The Department may promulgate rules to implement this
11 amendatory Act of the 95th General Assembly only to the extent
12 necessary to apply the existing rules for the Special County
13 Retailers' Occupation Tax for Public Safety to this new purpose
14 for public facilities.

15 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08;
16 95-1002, eff. 11-20-08.)

17 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

18 Sec. 5-1035.1. County Motor Fuel Tax Law. The county board
19 of the counties of DuPage, Kane and McHenry may, by an
20 ordinance or resolution adopted by an affirmative vote of a
21 majority of the members elected or appointed to the county
22 board, impose a tax upon all persons engaged in the county in
23 the business of selling motor fuel, as now or hereafter defined
24 in the Motor Fuel Tax Law, at retail for the operation of motor
25 vehicles upon public highways or for the operation of

1 recreational watercraft upon waterways. Kane County may exempt
2 diesel fuel from the tax imposed pursuant to this Section. The
3 tax may be imposed, in half-cent increments, at a rate not
4 exceeding 4 cents per gallon of motor fuel sold at retail
5 within the county for the purpose of use or consumption and not
6 for the purpose of resale. The proceeds from the tax shall be
7 used by the county solely for the purpose of operating,
8 constructing and improving public highways and waterways, and
9 acquiring real property and right-of-ways for public highways
10 and waterways within the county imposing the tax.

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

24 Whenever the Department determines that a refund shall be
25 made under this Section to a claimant instead of issuing a
26 credit memorandum, the Department shall notify the State

1 Comptroller, who shall cause the order to be drawn for the
2 amount specified, and to the person named, in the notification
3 from the Department. The refund shall be paid by the State
4 Treasurer out of the County Option Motor Fuel Tax Fund.

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

1 fiscal year.

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

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

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

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

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

2 Section 99. Effective date. This Act takes effect July 1,
3 2012.".