



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2057

by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act. Provides that, beginning with fiscal year 2012 and thereafter, Road Fund moneys may not be appropriated to certain executive agencies. Prohibits certain transfers from the Road Fund and the State Construction Account Fund. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning on July 1, 2011, motor fuel and gasohol must be taxed under those Acts at the rate of 1.25% (now, 6.25%). Amends the Motor Fuel Tax Law. Imposes an additional tax of \$0.150 per gallon on motor fuel sold in the State. Provides that this additional tax must be adjusted each fiscal year to account for inflation. Provides that the proceeds of this additional tax must be deposited into the Capital Projects Fund and used for capital projects. Contains provisions relating to the Capital Projects Fund that were added or amended by Public Act 96-34, 96-37, or 96-38. Those Public Acts were declared invalid by the First District Appellate Court in *Wirtz v. Quinn*, based on a single subject violation. Includes language reenacting those provisions and validating certain actions taken in reasonable reliance on them. Includes findings and a severability provision. Effective July 1, 2011.

LRB097 09297 EFG 49432 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 1. Findings; reenactment; base text; validation.

5 (a) On January 26, 2011, the First District Appellate
6 Court, in *Wirtz v. Quinn* (Nos. 1-09-3163 and 1-10-0344), found
7 that Public Act 96-34 violates the single subject rule of
8 Article IV, Section 8 of the Illinois Constitution, and is
9 therefore void in its entirety. It also found that Public Acts
10 96-35, 96-37, and 96-38 "are all contingent on the enactment of
11 Public Act 96-34", and therefore "cannot stand". As of the date
12 this Act was prepared, enforcement of the decision in *Wirtz v.*
13 *Quinn* had been stayed by the Illinois Supreme Court and the
14 case was still subject to further appeal.

15 (b) This Act contains several Sections that include
16 provisions added or amended by Public Act 96-34, 96-37, or
17 96-38. In amending or setting forth those Sections, it is the
18 express intention of this Act to reenact those provisions, as
19 they were created by Public Act 96-34, 96-37, or 96-38 or have
20 been subsequently amended.

21 This reenactment is intended to remove any question about
22 the validity of the reenacted provisions and to provide
23 continuity in the implementation and administration of those
24 provisions. Notwithstanding any provision of Public Act 96-34,

1 96-37, or 96-38 to the contrary, this reenactment is not
2 contingent upon House Bill 312 of the 96th General Assembly
3 (now P.A. 96-35), Senate Bill 255 of the 96th General Assembly
4 (now P.A. 96-34), or any other House or Senate Bill becoming
5 law. This reenactment is not intended, and shall not be
6 construed, to imply that all or any portion of Public Act
7 96-34, 96-37, or 96-38 is invalid.

8 (c) The text of the reenacted material, including any
9 existing amendments, is shown in this Act as existing text;
10 striking and underscoring have been used only to indicate new
11 changes being made to the reenacted text by this Act.

12 (d) All otherwise lawful actions taken before the effective
13 date of this Act in reasonable reliance on or pursuant to the
14 provisions reenacted by this Act (as those provisions were set
15 forth in Public Act 96-34, 96-37, or 96-38 or had been amended
16 at the relevant time) by any officer, employee, agency, or unit
17 of State or local government or by any other person or entity
18 are hereby validated.

19 With respect to actions taken before the effective date of
20 this Act in relation to matters arising under the provisions
21 reenacted by this Act, a person is rebuttably presumed to have
22 acted in reasonable reliance on or pursuant to those
23 provisions, as they had been amended at the relevant time.

24 (e) With respect to their administration of matters arising
25 under the provisions reenacted by this Act, officers,
26 employees, agencies, and units of State and local government

1 shall continue to apply the reenacted provisions of Public Acts
2 96-34, 96-37, and 96-38, as those provisions had been amended
3 at the relevant time.

4 This reenactment does not require the retransfer of funds
5 or the repetition of any other action already taken under the
6 apparent authority of Public Act 96-34, 96-37, or 96-38, to the
7 extent that the original action has been validated under
8 subsection (d).

9 Section 5. The State Finance Act is amended by reenacting
10 and setting forth Sections 5.723 and 6z-77, by changing
11 Sections 6z-18, 6z-20, and 8h, and by reenacting and changing
12 Section 8.3 as follows:

13 (30 ILCS 105/5.723)

14 Sec. 5.723. The Capital Projects Fund.

15 (Source: P.A. 96-34, eff. 7-13-09; 96-1000, eff. 7-2-10.)

16 (30 ILCS 105/6z-18) (from Ch. 127, par. 142z-18)

17 Sec. 6z-18. A portion of the money paid into the Local
18 Government Tax Fund from sales of food for human consumption
19 which is to be consumed off the premises where it is sold
20 (other than alcoholic beverages, soft drinks and food which has
21 been prepared for immediate consumption) and prescription and
22 nonprescription medicines, drugs, medical appliances and
23 insulin, urine testing materials, syringes and needles used by

1 diabetics, which occurred in municipalities, shall be
2 distributed to each municipality based upon the sales which
3 occurred in that municipality. The remainder shall be
4 distributed to each county based upon the sales which occurred
5 in the unincorporated area of that county.

6 A portion of the money paid into the Local Government Tax
7 Fund from the 6.25% general use tax rate on the selling price
8 of tangible personal property which is purchased outside
9 Illinois at retail from a retailer and which is titled or
10 registered by any agency of this State's government shall be
11 distributed to municipalities as provided in this paragraph.
12 Each municipality shall receive the amount attributable to
13 sales for which Illinois addresses for titling or registration
14 purposes are given as being in such municipality. The remainder
15 of the money paid into the Local Government Tax Fund from such
16 sales shall be distributed to counties. Each county shall
17 receive the amount attributable to sales for which Illinois
18 addresses for titling or registration purposes are given as
19 being located in the unincorporated area of such county.

20 A portion of the money paid into the Local Government Tax
21 Fund from the 6.25% general rate (and, beginning July 1, 2000
22 and through December 31, 2000 and beginning again on July 1,
23 2011, the 1.25% rate on motor fuel and gasohol, and beginning
24 on August 6, 2010 through August 15, 2010, the 1.25% rate on
25 sales tax holiday items) on sales subject to taxation under the
26 Retailers' Occupation Tax Act and the Service Occupation Tax

1 Act, which occurred in municipalities, shall be distributed to
2 each municipality, based upon the sales which occurred in that
3 municipality. The remainder shall be distributed to each
4 county, based upon the sales which occurred in the
5 unincorporated area of such county.

6 For the purpose of determining allocation to the local
7 government unit, a retail sale by a producer of coal or other
8 mineral mined in Illinois is a sale at retail at the place
9 where the coal or other mineral mined in Illinois is extracted
10 from the earth. This paragraph does not apply to coal or other
11 mineral when it is delivered or shipped by the seller to the
12 purchaser at a point outside Illinois so that the sale is
13 exempt under the United States Constitution as a sale in
14 interstate or foreign commerce.

15 Whenever the Department determines that a refund of money
16 paid into the Local Government Tax Fund should be made to a
17 claimant instead of issuing a credit memorandum, the Department
18 shall notify the State Comptroller, who shall cause the order
19 to be drawn for the amount specified, and to the person named,
20 in such notification from the Department. Such refund shall be
21 paid by the State Treasurer out of the Local Government Tax
22 Fund.

23 As soon as possible after the first day of each month,
24 beginning January 1, 2011, upon certification of the Department
25 of Revenue, the Comptroller shall order transferred, and the
26 Treasurer shall transfer, to the STAR Bonds Revenue Fund the

1 local sales tax increment, as defined in the Innovation
2 Development and Economy Act, collected during the second
3 preceding calendar month for sales within a STAR bond district
4 and deposited into the Local Government Tax Fund, less 3% of
5 that amount, which shall be transferred into the Tax Compliance
6 and Administration Fund and shall be used by the Department,
7 subject to appropriation, to cover the costs of the Department
8 in administering the Innovation Development and Economy Act.

9 After the monthly transfer to the STAR Bonds Revenue Fund,
10 on or before the 25th day of each calendar month, the
11 Department shall prepare and certify to the Comptroller the
12 disbursement of stated sums of money to named municipalities
13 and counties, the municipalities and counties to be those
14 entitled to distribution of taxes or penalties paid to the
15 Department during the second preceding calendar month. The
16 amount to be paid to each municipality or county shall be the
17 amount (not including credit memoranda) collected during the
18 second preceding calendar month by the Department and paid into
19 the Local Government Tax Fund, plus an amount the Department
20 determines is necessary to offset any amounts which were
21 erroneously paid to a different taxing body, and not including
22 an amount equal to the amount of refunds made during the second
23 preceding calendar month by the Department, and not including
24 any amount which the Department determines is necessary to
25 offset any amounts which are payable to a different taxing body
26 but were erroneously paid to the municipality or county, and

1 not including any amounts that are transferred to the STAR
2 Bonds Revenue Fund. Within 10 days after receipt, by the
3 Comptroller, of the disbursement certification to the
4 municipalities and counties, provided for in this Section to be
5 given to the Comptroller by the Department, the Comptroller
6 shall cause the orders to be drawn for the respective amounts
7 in accordance with the directions contained in such
8 certification.

9 When certifying the amount of monthly disbursement to a
10 municipality or county under this Section, the Department shall
11 increase or decrease that amount by an amount necessary to
12 offset any misallocation of previous disbursements. The offset
13 amount shall be the amount erroneously disbursed within the 6
14 months preceding the time a misallocation is discovered.

15 The provisions directing the distributions from the
16 special fund in the State Treasury provided for in this Section
17 shall constitute an irrevocable and continuing appropriation
18 of all amounts as provided herein. The State Treasurer and
19 State Comptroller are hereby authorized to make distributions
20 as provided in this Section.

21 In construing any development, redevelopment, annexation,
22 preannexation or other lawful agreement in effect prior to
23 September 1, 1990, which describes or refers to receipts from a
24 county or municipal retailers' occupation tax, use tax or
25 service occupation tax which now cannot be imposed, such
26 description or reference shall be deemed to include the

1 replacement revenue for such abolished taxes, distributed from
2 the Local Government Tax Fund.

3 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;
4 revised 7-22-10.)

5 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

6 Sec. 6z-20. Of the money received from the 6.25% general
7 rate (and, beginning July 1, 2000 and through December 31, 2000
8 and beginning again on July 1, 2011, the 1.25% rate on motor
9 fuel and gasohol, and beginning on August 6, 2010 through
10 August 15, 2010, the 1.25% rate on sales tax holiday items) on
11 sales subject to taxation under the Retailers' Occupation Tax
12 Act and Service Occupation Tax Act and paid into the County and
13 Mass Transit District Fund, distribution to the Regional
14 Transportation Authority tax fund, created pursuant to Section
15 4.03 of the Regional Transportation Authority Act, for deposit
16 therein shall be made based upon the retail sales occurring in
17 a county having more than 3,000,000 inhabitants. The remainder
18 shall be distributed to each county having 3,000,000 or fewer
19 inhabitants based upon the retail sales occurring in each such
20 county.

21 For the purpose of determining allocation to the local
22 government unit, a retail sale by a producer of coal or other
23 mineral mined in Illinois is a sale at retail at the place
24 where the coal or other mineral mined in Illinois is extracted
25 from the earth. This paragraph does not apply to coal or other

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

5 Of the money received from the 6.25% general use tax rate
6 on tangible personal property which is purchased outside
7 Illinois at retail from a retailer and which is titled or
8 registered by any agency of this State's government and paid
9 into the County and Mass Transit District Fund, the amount for
10 which Illinois addresses for titling or registration purposes
11 are given as being in each county having more than 3,000,000
12 inhabitants shall be distributed into the Regional
13 Transportation Authority tax fund, created pursuant to Section
14 4.03 of the Regional Transportation Authority Act. The
15 remainder of the money paid from such sales shall be
16 distributed to each county based on sales for which Illinois
17 addresses for titling or registration purposes are given as
18 being located in the county. Any money paid into the Regional
19 Transportation Authority Occupation and Use Tax Replacement
20 Fund from the County and Mass Transit District Fund prior to
21 January 14, 1991, which has not been paid to the Authority
22 prior to that date, shall be transferred to the Regional
23 Transportation Authority tax fund.

24 Whenever the Department determines that a refund of money
25 paid into the County and Mass Transit District Fund should be
26 made to a claimant instead of issuing a credit memorandum, the

1 Department shall notify the State Comptroller, who shall cause
2 the order to be drawn for the amount specified, and to the
3 person named, in such notification from the Department. Such
4 refund shall be paid by the State Treasurer out of the County
5 and Mass Transit District Fund.

6 As soon as possible after the first day of each month,
7 beginning January 1, 2011, upon certification of the Department
8 of Revenue, the Comptroller shall order transferred, and the
9 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
10 local sales tax increment, as defined in the Innovation
11 Development and Economy Act, collected during the second
12 preceding calendar month for sales within a STAR bond district
13 and deposited into the County and Mass Transit District Fund,
14 less 3% of that amount, which shall be transferred into the Tax
15 Compliance and Administration Fund and shall be used by the
16 Department, subject to appropriation, to cover the costs of the
17 Department in administering the Innovation Development and
18 Economy Act.

19 After the monthly transfer to the STAR Bonds Revenue Fund,
20 on or before the 25th day of each calendar month, the
21 Department shall prepare and certify to the Comptroller the
22 disbursement of stated sums of money to the Regional
23 Transportation Authority and to named counties, the counties to
24 be those entitled to distribution, as hereinabove provided, of
25 taxes or penalties paid to the Department during the second
26 preceding calendar month. The amount to be paid to the Regional

1 Transportation Authority and each county having 3,000,000 or
2 fewer inhabitants shall be the amount (not including credit
3 memoranda) collected during the second preceding calendar
4 month by the Department and paid into the County and Mass
5 Transit District Fund, plus an amount the Department determines
6 is necessary to offset any amounts which were erroneously paid
7 to a different taxing body, and not including an amount equal
8 to the amount of refunds made during the second preceding
9 calendar month by the Department, and not including any amount
10 which the Department determines is necessary to offset any
11 amounts which were payable to a different taxing body but were
12 erroneously paid to the Regional Transportation Authority or
13 county, and not including any amounts that are transferred to
14 the STAR Bonds Revenue Fund. Within 10 days after receipt, by
15 the Comptroller, of the disbursement certification to the
16 Regional Transportation Authority and counties, provided for
17 in this Section to be given to the Comptroller by the
18 Department, the Comptroller shall cause the orders to be drawn
19 for the respective amounts in accordance with the directions
20 contained in such certification.

21 When certifying the amount of a monthly disbursement to the
22 Regional Transportation Authority or to a county under this
23 Section, the Department shall increase or decrease that amount
24 by an amount necessary to offset any misallocation of previous
25 disbursements. The offset amount shall be the amount
26 erroneously disbursed within the 6 months preceding the time a

1 misallocation is discovered.

2 The provisions directing the distributions from the
3 special fund in the State Treasury provided for in this Section
4 and from the Regional Transportation Authority tax fund created
5 by Section 4.03 of the Regional Transportation Authority Act
6 shall constitute an irrevocable and continuing appropriation
7 of all amounts as provided herein. The State Treasurer and
8 State Comptroller are hereby authorized to make distributions
9 as provided in this Section.

10 In construing any development, redevelopment, annexation,
11 preannexation or other lawful agreement in effect prior to
12 September 1, 1990, which describes or refers to receipts from a
13 county or municipal retailers' occupation tax, use tax or
14 service occupation tax which now cannot be imposed, such
15 description or reference shall be deemed to include the
16 replacement revenue for such abolished taxes, distributed from
17 the County and Mass Transit District Fund or Local Government
18 Distributive Fund, as the case may be.

19 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;
20 revised 7-22-10.)

21 (30 ILCS 105/6z-77)

22 Sec. 6z-77. The Capital Projects Fund. The Capital Projects
23 Fund is created as a special fund in the State Treasury. The
24 State Comptroller and State Treasurer shall transfer from the
25 Capital Projects Fund to the General Revenue Fund \$61,294,550

1 on October 1, 2009, \$122,589,100 on January 1, 2010, and
2 \$61,294,550 on April 1, 2010. Beginning on July 1, 2010, and on
3 July 1 and January 1 of each year thereafter, the State
4 Comptroller and State Treasurer shall transfer the sum of
5 \$122,589,100 from the Capital Projects Fund to the General
6 Revenue Fund. Subject to appropriation, the Capital Projects
7 Fund may be used only for capital projects and the payment of
8 debt service on bonds issued for capital projects. All interest
9 earned on moneys in the Fund shall be deposited into the Fund.
10 The Fund shall not be subject to administrative charges or
11 chargebacks, such as but not limited to those authorized under
12 Section 8h.

13 (Source: P.A. 96-34, eff. 7-13-09.)

14 (30 ILCS 105/8.3) (from Ch. 127, par. 144.3)

15 Sec. 8.3. Money in the Road Fund shall, if and when the
16 State of Illinois incurs any bonded indebtedness for the
17 construction of permanent highways, be set aside and used for
18 the purpose of paying and discharging annually the principal
19 and interest on that bonded indebtedness then due and payable,
20 and for no other purpose. The surplus, if any, in the Road Fund
21 after the payment of principal and interest on that bonded
22 indebtedness then annually due shall be used as follows:

23 first -- to pay the cost of administration of Chapters
24 2 through 10 of the Illinois Vehicle Code, except the cost
25 of administration of Articles I and II of Chapter 3 of that

1 Code; and

2 secondly -- for expenses of the Department of
3 Transportation for construction, reconstruction,
4 improvement, repair, maintenance, operation, and
5 administration of highways in accordance with the
6 provisions of laws relating thereto, or for any purpose
7 related or incident to and connected therewith, including
8 the separation of grades of those highways with railroads
9 and with highways and including the payment of awards made
10 by the Illinois Workers' Compensation Commission under the
11 terms of the Workers' Compensation Act or Workers'
12 Occupational Diseases Act for injury or death of an
13 employee of the Division of Highways in the Department of
14 Transportation; or for the acquisition of land and the
15 erection of buildings for highway purposes, including the
16 acquisition of highway right-of-way or for investigations
17 to determine the reasonably anticipated future highway
18 needs; or for making of surveys, plans, specifications and
19 estimates for and in the construction and maintenance of
20 flight strips and of highways necessary to provide access
21 to military and naval reservations, to defense industries
22 and defense-industry sites, and to the sources of raw
23 materials and for replacing existing highways and highway
24 connections shut off from general public use at military
25 and naval reservations and defense-industry sites, or for
26 the purchase of right-of-way, except that the State shall

1 be reimbursed in full for any expense incurred in building
2 the flight strips; or for the operating and maintaining of
3 highway garages; or for patrolling and policing the public
4 highways and conserving the peace; or for the operating
5 expenses of the Department relating to the administration
6 of public transportation programs; or for any of those
7 purposes or any other purpose that may be provided by law.

8 Appropriations for any of those purposes are payable from
9 the Road Fund. Appropriations may also be made from the Road
10 Fund for the administrative expenses of any State agency that
11 are related to motor vehicles or arise from the use of motor
12 vehicles.

13 Beginning with fiscal year 1980 and thereafter, no Road
14 Fund monies shall be appropriated to the following Departments
15 or agencies of State government for administration, grants, or
16 operations; but this limitation is not a restriction upon
17 appropriating for those purposes any Road Fund monies that are
18 eligible for federal reimbursement;

19 1. Department of Public Health;

20 2. Department of Transportation, only with respect to
21 subsidies for one-half fare Student Transportation and
22 Reduced Fare for Elderly;

23 3. Department of Central Management Services, except
24 for expenditures incurred for group insurance premiums of
25 appropriate personnel;

26 4. Judicial Systems and Agencies.

1 Beginning with fiscal year 1981 and thereafter, no Road
2 Fund monies shall be appropriated to the following Departments
3 or agencies of State government for administration, grants, or
4 operations; but this limitation is not a restriction upon
5 appropriating for those purposes any Road Fund monies that are
6 eligible for federal reimbursement:

7 1. Department of State Police, except for expenditures
8 with respect to the Division of Operations;

9 2. Department of Transportation, only with respect to
10 Intercity Rail Subsidies and Rail Freight Services.

11 Beginning with fiscal year 1982 and thereafter, no Road
12 Fund monies shall be appropriated to the following Departments
13 or agencies of State government for administration, grants, or
14 operations; but this limitation is not a restriction upon
15 appropriating for those purposes any Road Fund monies that are
16 eligible for federal reimbursement: Department of Central
17 Management Services, except for awards made by the Illinois
18 Workers' Compensation Commission under the terms of the
19 Workers' Compensation Act or Workers' Occupational Diseases
20 Act for injury or death of an employee of the Division of
21 Highways in the Department of Transportation.

22 Beginning with fiscal year 1984 and thereafter, no Road
23 Fund monies shall be appropriated to the following Departments
24 or agencies of State government for administration, grants, or
25 operations; but this limitation is not a restriction upon
26 appropriating for those purposes any Road Fund monies that are

1 eligible for federal reimbursement:

- 2 1. Department of State Police, except not more than 40%
- 3 of the funds appropriated for the Division of Operations;
- 4 2. State Officers.

5 Beginning with fiscal year 1984 and thereafter, no Road
6 Fund monies shall be appropriated to any Department or agency
7 of State government for administration, grants, or operations
8 except as provided hereafter; but this limitation is not a
9 restriction upon appropriating for those purposes any Road Fund
10 monies that are eligible for federal reimbursement. It shall
11 not be lawful to circumvent the above appropriation limitations
12 by governmental reorganization or other methods.
13 Appropriations shall be made from the Road Fund only in
14 accordance with the provisions of this Section.

15 Money in the Road Fund shall, if and when the State of
16 Illinois incurs any bonded indebtedness for the construction of
17 permanent highways, be set aside and used for the purpose of
18 paying and discharging during each fiscal year the principal
19 and interest on that bonded indebtedness as it becomes due and
20 payable as provided in the Transportation Bond Act, and for no
21 other purpose. The surplus, if any, in the Road Fund after the
22 payment of principal and interest on that bonded indebtedness
23 then annually due shall be used as follows:

- 24 first -- to pay the cost of administration of Chapters
- 25 2 through 10 of the Illinois Vehicle Code; and
- 26 secondly -- no Road Fund monies derived from fees,

1 excises, or license taxes relating to registration,
2 operation and use of vehicles on public highways or to
3 fuels used for the propulsion of those vehicles, shall be
4 appropriated or expended other than for costs of
5 administering the laws imposing those fees, excises, and
6 license taxes, statutory refunds and adjustments allowed
7 thereunder, administrative costs of the Department of
8 Transportation, including, but not limited to, the
9 operating expenses of the Department relating to the
10 administration of public transportation programs, payment
11 of debts and liabilities incurred in construction and
12 reconstruction of public highways and bridges, acquisition
13 of rights-of-way for and the cost of construction,
14 reconstruction, maintenance, repair, and operation of
15 public highways and bridges under the direction and
16 supervision of the State, political subdivision, or
17 municipality collecting those monies, and the costs for
18 patrolling and policing the public highways (by State,
19 political subdivision, or municipality collecting that
20 money) for enforcement of traffic laws. The separation of
21 grades of such highways with railroads and costs associated
22 with protection of at-grade highway and railroad crossing
23 shall also be permissible.

24 Appropriations for any of such purposes are payable from
25 the Road Fund or the Grade Crossing Protection Fund as provided
26 in Section 8 of the Motor Fuel Tax Law.

1 Except as provided in this paragraph, beginning with fiscal
2 year 1991 and thereafter, no Road Fund monies shall be
3 appropriated to the Department of State Police for the purposes
4 of this Section in excess of its total fiscal year 1990 Road
5 Fund appropriations for those purposes unless otherwise
6 provided in Section 5g of this Act. For fiscal years 2003,
7 2004, 2005, 2006, and 2007 only, no Road Fund monies shall be
8 appropriated to the Department of State Police for the purposes
9 of this Section in excess of \$97,310,000. For fiscal year 2008
10 only, no Road Fund monies shall be appropriated to the
11 Department of State Police for the purposes of this Section in
12 excess of \$106,100,000. For fiscal year 2009 only, no Road Fund
13 monies shall be appropriated to the Department of State Police
14 for the purposes of this Section in excess of \$114,700,000.
15 Beginning in fiscal year 2010, no road fund moneys shall be
16 appropriated to the Department of State Police. It shall not be
17 lawful to circumvent this limitation on appropriations by
18 governmental reorganization or other methods unless otherwise
19 provided in Section 5g of this Act.

20 In fiscal year 1994, no Road Fund monies shall be
21 appropriated to the Secretary of State for the purposes of this
22 Section in excess of the total fiscal year 1991 Road Fund
23 appropriations to the Secretary of State for those purposes,
24 plus \$9,800,000. It shall not be lawful to circumvent this
25 limitation on appropriations by governmental reorganization or
26 other method.

1 Beginning with fiscal year 1995 and thereafter, no Road
2 Fund monies shall be appropriated to the Secretary of State for
3 the purposes of this Section in excess of the total fiscal year
4 1994 Road Fund appropriations to the Secretary of State for
5 those purposes. It shall not be lawful to circumvent this
6 limitation on appropriations by governmental reorganization or
7 other methods.

8 Beginning with fiscal year 2000, total Road Fund
9 appropriations to the Secretary of State for the purposes of
10 this Section shall not exceed the amounts specified for the
11 following fiscal years:

12 Fiscal Year 2000	\$80,500,000;
13 Fiscal Year 2001	\$80,500,000;
14 Fiscal Year 2002	\$80,500,000;
15 Fiscal Year 2003	\$130,500,000;
16 Fiscal Year 2004	\$130,500,000;
17 Fiscal Year 2005	\$130,500,000;
18 Fiscal Year 2006	\$130,500,000;
19 Fiscal Year 2007	\$130,500,000;
20 Fiscal Year 2008	\$130,500,000;
21 Fiscal Year 2009	\$130,500,000.

22 For fiscal year 2010, no road fund moneys shall be
23 appropriated to the Secretary of State.

24 Beginning in fiscal year 2011, moneys in the Road Fund
25 shall be appropriated to the Secretary of State for the
26 exclusive purpose of paying refunds due to overpayment of fees

1 related to Chapter 3 of the Illinois Vehicle Code unless
2 otherwise provided for by law.

3 It shall not be lawful to circumvent this limitation on
4 appropriations by governmental reorganization or other
5 methods.

6 No new program may be initiated in fiscal year 1991 and
7 thereafter that is not consistent with the limitations imposed
8 by this Section for fiscal year 1984 and thereafter, insofar as
9 appropriation of Road Fund monies is concerned.

10 Nothing in this Section prohibits transfers from the Road
11 Fund to the State Construction Account Fund under Section 5e of
12 this Act; nor to the General Revenue Fund, as authorized by
13 this amendatory Act of the 93rd General Assembly.

14 The additional amounts authorized for expenditure in this
15 Section by Public Acts 92-0600, 93-0025, 93-0839, and 94-91
16 shall be repaid to the Road Fund from the General Revenue Fund
17 in the next succeeding fiscal year that the General Revenue
18 Fund has a positive budgetary balance, as determined by
19 generally accepted accounting principles applicable to
20 government.

21 Beginning with fiscal year 2012 and thereafter, no Road
22 Fund moneys may be appropriated to the Department of Central
23 Management Services, the Department of Employment Security,
24 the Department of Revenue, the Court of Claims, or any other
25 State agency (other than the Department of State Police and the
26 Department of Transportation and the Secretary of State) for

1 the purposes of this Section. Appropriations to those entities
2 for those purposes shall, instead, be made from the General
3 Revenue Fund. It shall not be lawful to circumvent this
4 limitation on appropriations by governmental reorganization or
5 other methods. Nothing in this paragraph prohibits
6 appropriations from the Road Fund to the Department of State
7 Police for the purposes of the highway patrol budget only.

8 The additional amounts authorized for expenditure by the
9 Secretary of State and the Department of State Police in this
10 Section by this amendatory Act of the 94th General Assembly
11 shall be repaid to the Road Fund from the General Revenue Fund
12 in the next succeeding fiscal year that the General Revenue
13 Fund has a positive budgetary balance, as determined by
14 generally accepted accounting principles applicable to
15 government.

16 (Source: P.A. 95-707, eff. 1-11-08; 95-744, eff. 7-18-08;
17 96-34, eff. 7-13-09; 96-959, eff. 7-1-10.)

18 (30 ILCS 105/8h)

19 Sec. 8h. Transfers to General Revenue Fund.

20 (a) Except as otherwise provided in this Section and
21 Section 8n of this Act, and notwithstanding any other State law
22 to the contrary, the Governor may, through June 30, 2007, from
23 time to time direct the State Treasurer and Comptroller to
24 transfer a specified sum from any fund held by the State
25 Treasurer to the General Revenue Fund in order to help defray

1 the State's operating costs for the fiscal year. The total
2 transfer under this Section from any fund in any fiscal year
3 shall not exceed the lesser of (i) 8% of the revenues to be
4 deposited into the fund during that fiscal year or (ii) an
5 amount that leaves a remaining fund balance of 25% of the July
6 1 fund balance of that fiscal year. In fiscal year 2005 only,
7 prior to calculating the July 1, 2004 final balances, the
8 Governor may calculate and direct the State Treasurer with the
9 Comptroller to transfer additional amounts determined by
10 applying the formula authorized in Public Act 93-839 to the
11 funds balances on July 1, 2003. No transfer may be made from a
12 fund under this Section that would have the effect of reducing
13 the available balance in the fund to an amount less than the
14 amount remaining unexpended and unreserved from the total
15 appropriation from that fund estimated to be expended for that
16 fiscal year. This Section does not apply to any funds that are
17 restricted by federal law to a specific use, to any funds in
18 the Motor Fuel Tax Fund, the Intercity Passenger Rail Fund, the
19 Hospital Provider Fund, the Medicaid Provider Relief Fund, the
20 Teacher Health Insurance Security Fund, the Voters' Guide Fund,
21 the Foreign Language Interpreter Fund, the Lawyers' Assistance
22 Program Fund, the Supreme Court Federal Projects Fund, the
23 Supreme Court Special State Projects Fund, the Supplemental
24 Low-Income Energy Assistance Fund, the Good Samaritan Energy
25 Trust Fund, the Low-Level Radioactive Waste Facility
26 Development and Operation Fund, the Horse Racing Equity Trust

1 Fund, the Metabolic Screening and Treatment Fund, or the
2 Hospital Basic Services Preservation Fund, or to any funds to
3 which Section 70-50 of the Nurse Practice Act applies. No
4 transfers may be made under this Section from the Pet
5 Population Control Fund. Notwithstanding any other provision
6 of this Section, for fiscal year 2004, the total transfer under
7 this Section from the Road Fund or the State Construction
8 Account Fund shall not exceed the lesser of (i) 5% of the
9 revenues to be deposited into the fund during that fiscal year
10 or (ii) 25% of the beginning balance in the fund. For fiscal
11 year 2005 through fiscal year 2007, no amounts may be
12 transferred under this Section from the Road Fund, the State
13 Construction Account Fund, the Criminal Justice Information
14 Systems Trust Fund, the Wireless Service Emergency Fund, or the
15 Mandatory Arbitration Fund. No transfers may be made under this
16 Section from the Road Fund or the State Construction Account
17 Fund on or after the effective date of this amendatory Act of
18 the 97th General Assembly.

19 In determining the available balance in a fund, the
20 Governor may include receipts, transfers into the fund, and
21 other resources anticipated to be available in the fund in that
22 fiscal year.

23 The State Treasurer and Comptroller shall transfer the
24 amounts designated under this Section as soon as may be
25 practicable after receiving the direction to transfer from the
26 Governor.

1 (a-5) Transfers directed to be made under this Section on
2 or before February 28, 2006 that are still pending on May 19,
3 2006 (the effective date of Public Act 94-774) shall be
4 redirected as provided in Section 8n of this Act.

5 (b) This Section does not apply to: (i) the Carolyn Adams
6 Ticket For The Cure Grant Fund; (ii) any fund established under
7 the Community Senior Services and Resources Act; or (iii) on or
8 after January 1, 2006 (the effective date of Public Act
9 94-511), the Child Labor and Day and Temporary Labor
10 Enforcement Fund.

11 (c) This Section does not apply to the Demutualization
12 Trust Fund established under the Uniform Disposition of
13 Unclaimed Property Act.

14 (d) This Section does not apply to moneys set aside in the
15 Illinois State Podiatric Disciplinary Fund for podiatric
16 scholarships and residency programs under the Podiatric
17 Scholarship and Residency Act.

18 (e) Subsection (a) does not apply to, and no transfer may
19 be made under this Section from, the Pension Stabilization
20 Fund.

21 (f) Subsection (a) does not apply to, and no transfer may
22 be made under this Section from, the Illinois Power Agency
23 Operations Fund, the Illinois Power Agency Facilities Fund, the
24 Illinois Power Agency Debt Service Fund, and the Illinois Power
25 Agency Trust Fund.

26 (g) This Section does not apply to the Veterans Service

1 Organization Reimbursement Fund.

2 (h) This Section does not apply to the Supreme Court
3 Historic Preservation Fund.

4 (i) This Section does not apply to, and no transfer may be
5 made under this Section from, the Money Follows the Person
6 Budget Transfer Fund.

7 (j) This Section does not apply to the Domestic Violence
8 Shelter and Service Fund.

9 (k) This Section does not apply to the Illinois Historic
10 Sites Fund and the Presidential Library and Museum Operating
11 Fund.

12 (l) This Section does not apply to the Trucking
13 Environmental and Education Fund.

14 (m) This Section does not apply to the Roadside Memorial
15 Fund.

16 (n) This Section does not apply to the Department of Human
17 Rights Special Fund.

18 (Source: P.A. 95-331, eff. 8-21-07; 95-410, eff. 8-24-07;
19 95-481, eff. 8-28-07; 95-629, eff. 9-25-07; 95-639, eff.
20 10-5-07; 95-695, eff. 11-5-07; 95-744, eff. 7-18-08; 95-876,
21 eff. 8-21-08; 96-302, eff. 1-1-10; 96-450, eff. 8-14-09;
22 96-511, eff. 8-14-09; 96-576, eff. 8-18-09; 96-667, eff.
23 8-25-09; 96-786, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1290,
24 eff. 7-26-10.)

25 Section 10. The Use Tax Act is amended by reenacting and

1 changing Section 3-10 as follows:

2 (35 ILCS 105/3-10)

3 Sec. 3-10. Rate of tax. Unless otherwise provided in this
4 Section, the tax imposed by this Act is at the rate of 6.25% of
5 either the selling price or the fair market value, if any, of
6 the tangible personal property. In all cases where property
7 functionally used or consumed is the same as the property that
8 was purchased at retail, then the tax is imposed on the selling
9 price of the property. In all cases where property functionally
10 used or consumed is a by-product or waste product that has been
11 refined, manufactured, or produced from property purchased at
12 retail, then the tax is imposed on the lower of the fair market
13 value, if any, of the specific property so used in this State
14 or on the selling price of the property purchased at retail.
15 For purposes of this Section "fair market value" means the
16 price at which property would change hands between a willing
17 buyer and a willing seller, neither being under any compulsion
18 to buy or sell and both having reasonable knowledge of the
19 relevant facts. The fair market value shall be established by
20 Illinois sales by the taxpayer of the same property as that
21 functionally used or consumed, or if there are no such sales by
22 the taxpayer, then comparable sales or purchases of property of
23 like kind and character in Illinois.

24 Beginning on July 1, 2000 and through December 31, 2000 and
25 beginning again July 1, 2011, with respect to motor fuel, as

1 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
2 as defined in Section 3-40 of the Use Tax Act, the tax is
3 imposed at the rate of 1.25%.

4 Beginning on August 6, 2010 through August 15, 2010, with
5 respect to sales tax holiday items as defined in Section 3-6 of
6 this Act, the tax is imposed at the rate of 1.25%.

7 With respect to gasohol, the tax imposed by this Act
8 applies to (i) 70% of the proceeds of sales made on or after
9 January 1, 1990, and before July 1, 2003, (ii) 80% of the
10 proceeds of sales made on or after July 1, 2003 and on or
11 before December 31, 2013, and (iii) 100% of the proceeds of
12 sales made thereafter. If, at any time, however, the tax under
13 this Act on sales of gasohol is imposed at the rate of 1.25%,
14 then the tax imposed by this Act applies to 100% of the
15 proceeds of sales of gasohol made during that time.

16 With respect to majority blended ethanol fuel, the tax
17 imposed by this Act does not apply to the proceeds of sales
18 made on or after July 1, 2003 and on or before December 31,
19 2013 but applies to 100% of the proceeds of sales made
20 thereafter.

21 With respect to biodiesel blends with no less than 1% and
22 no more than 10% biodiesel, the tax imposed by this Act applies
23 to (i) 80% of the proceeds of sales made on or after July 1,
24 2003 and on or before December 31, 2013 and (ii) 100% of the
25 proceeds of sales made thereafter. If, at any time, however,
26 the tax under this Act on sales of biodiesel blends with no

1 less than 1% and no more than 10% biodiesel is imposed at the
2 rate of 1.25%, then the tax imposed by this Act applies to 100%
3 of the proceeds of sales of biodiesel blends with no less than
4 1% and no more than 10% biodiesel made during that time.

5 With respect to 100% biodiesel and biodiesel blends with
6 more than 10% but no more than 99% biodiesel, the tax imposed
7 by this Act does not apply to the proceeds of sales made on or
8 after July 1, 2003 and on or before December 31, 2013 but
9 applies to 100% of the proceeds of sales made thereafter.

10 With respect to food for human consumption that is to be
11 consumed off the premises where it is sold (other than
12 alcoholic beverages, soft drinks, and food that has been
13 prepared for immediate consumption) and prescription and
14 nonprescription medicines, drugs, medical appliances,
15 modifications to a motor vehicle for the purpose of rendering
16 it usable by a disabled person, and insulin, urine testing
17 materials, syringes, and needles used by diabetics, for human
18 use, the tax is imposed at the rate of 1%. For the purposes of
19 this Section, until September 1, 2009: the term "soft drinks"
20 means any complete, finished, ready-to-use, non-alcoholic
21 drink, whether carbonated or not, including but not limited to
22 soda water, cola, fruit juice, vegetable juice, carbonated
23 water, and all other preparations commonly known as soft drinks
24 of whatever kind or description that are contained in any
25 closed or sealed bottle, can, carton, or container, regardless
26 of size; but "soft drinks" does not include coffee, tea,

1 non-carbonated water, infant formula, milk or milk products as
2 defined in the Grade A Pasteurized Milk and Milk Products Act,
3 or drinks containing 50% or more natural fruit or vegetable
4 juice.

5 Notwithstanding any other provisions of this Act,
6 beginning September 1, 2009, "soft drinks" means non-alcoholic
7 beverages that contain natural or artificial sweeteners. "Soft
8 drinks" do not include beverages that contain milk or milk
9 products, soy, rice or similar milk substitutes, or greater
10 than 50% of vegetable or fruit juice by volume.

11 Until August 1, 2009, and notwithstanding any other
12 provisions of this Act, "food for human consumption that is to
13 be consumed off the premises where it is sold" includes all
14 food sold through a vending machine, except soft drinks and
15 food products that are dispensed hot from a vending machine,
16 regardless of the location of the vending machine. Beginning
17 August 1, 2009, and notwithstanding any other provisions of
18 this Act, "food for human consumption that is to be consumed
19 off the premises where it is sold" includes all food sold
20 through a vending machine, except soft drinks, candy, and food
21 products that are dispensed hot from a vending machine,
22 regardless of the location of the vending machine.

23 Notwithstanding any other provisions of this Act,
24 beginning September 1, 2009, "food for human consumption that
25 is to be consumed off the premises where it is sold" does not
26 include candy. For purposes of this Section, "candy" means a

1 preparation of sugar, honey, or other natural or artificial
2 sweeteners in combination with chocolate, fruits, nuts or other
3 ingredients or flavorings in the form of bars, drops, or
4 pieces. "Candy" does not include any preparation that contains
5 flour or requires refrigeration.

6 Notwithstanding any other provisions of this Act,
7 beginning September 1, 2009, "nonprescription medicines and
8 drugs" does not include grooming and hygiene products. For
9 purposes of this Section, "grooming and hygiene products"
10 includes, but is not limited to, soaps and cleaning solutions,
11 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
12 lotions and screens, unless those products are available by
13 prescription only, regardless of whether the products meet the
14 definition of "over-the-counter-drugs". For the purposes of
15 this paragraph, "over-the-counter-drug" means a drug for human
16 use that contains a label that identifies the product as a drug
17 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
18 label includes:

19 (A) A "Drug Facts" panel; or

20 (B) A statement of the "active ingredient(s)" with a
21 list of those ingredients contained in the compound,
22 substance or preparation.

23 If the property that is purchased at retail from a retailer
24 is acquired outside Illinois and used outside Illinois before
25 being brought to Illinois for use here and is taxable under
26 this Act, the "selling price" on which the tax is computed

1 shall be reduced by an amount that represents a reasonable
2 allowance for depreciation for the period of prior out-of-state
3 use.

4 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
5 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

6 Section 15. The Service Use Tax Act is amended by
7 reenacting and changing Section 3-10 as follows:

8 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

9 Sec. 3-10. Rate of tax. Unless otherwise provided in this
10 Section, the tax imposed by this Act is at the rate of 6.25% of
11 the selling price of tangible personal property transferred as
12 an incident to the sale of service, but, for the purpose of
13 computing this tax, in no event shall the selling price be less
14 than the cost price of the property to the serviceman.

15 Beginning on July 1, 2000 and through December 31, 2000 and
16 beginning again July 1, 2011, with respect to motor fuel, as
17 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
18 as defined in Section 3-40 of the Use Tax Act, the tax is
19 imposed at the rate of 1.25%.

20 With respect to gasohol, as defined in the Use Tax Act, the
21 tax imposed by this Act applies to (i) 70% of the selling price
22 of property transferred as an incident to the sale of service
23 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
24 of the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before
2 December 31, 2013, and (iii) 100% of the selling price
3 thereafter. If, at any time, however, the tax under this Act on
4 sales of gasohol, as defined in the Use Tax Act, is imposed at
5 the rate of 1.25%, then the tax imposed by this Act applies to
6 100% of the proceeds of sales of gasohol made during that time.

7 With respect to majority blended ethanol fuel, as defined
8 in the Use Tax Act, the tax imposed by this Act does not apply
9 to the selling price of property transferred as an incident to
10 the sale of service on or after July 1, 2003 and on or before
11 December 31, 2013 but applies to 100% of the selling price
12 thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax
14 Act, with no less than 1% and no more than 10% biodiesel, the
15 tax imposed by this Act applies to (i) 80% of the selling price
16 of property transferred as an incident to the sale of service
17 on or after July 1, 2003 and on or before December 31, 2013 and
18 (ii) 100% of the proceeds of the selling price thereafter. If,
19 at any time, however, the tax under this Act on sales of
20 biodiesel blends, as defined in the Use Tax Act, with no less
21 than 1% and no more than 10% biodiesel is imposed at the rate
22 of 1.25%, then the tax imposed by this Act applies to 100% of
23 the proceeds of sales of biodiesel blends with no less than 1%
24 and no more than 10% biodiesel made during that time.

25 With respect to 100% biodiesel, as defined in the Use Tax
26 Act, and biodiesel blends, as defined in the Use Tax Act, with

1 more than 10% but no more than 99% biodiesel, the tax imposed
2 by this Act does not apply to the proceeds of the selling price
3 of property transferred as an incident to the sale of service
4 on or after July 1, 2003 and on or before December 31, 2013 but
5 applies to 100% of the selling price thereafter.

6 At the election of any registered serviceman made for each
7 fiscal year, sales of service in which the aggregate annual
8 cost price of tangible personal property transferred as an
9 incident to the sales of service is less than 35%, or 75% in
10 the case of servicemen transferring prescription drugs or
11 servicemen engaged in graphic arts production, of the aggregate
12 annual total gross receipts from all sales of service, the tax
13 imposed by this Act shall be based on the serviceman's cost
14 price of the tangible personal property transferred as an
15 incident to the sale of those services.

16 The tax shall be imposed at the rate of 1% on food prepared
17 for immediate consumption and transferred incident to a sale of
18 service subject to this Act or the Service Occupation Tax Act
19 by an entity licensed under the Hospital Licensing Act, the
20 Nursing Home Care Act, the MR/DD Community Care Act, or the
21 Child Care Act of 1969. The tax shall also be imposed at the
22 rate of 1% on food for human consumption that is to be consumed
23 off the premises where it is sold (other than alcoholic
24 beverages, soft drinks, and food that has been prepared for
25 immediate consumption and is not otherwise included in this
26 paragraph) and prescription and nonprescription medicines,

1 drugs, medical appliances, modifications to a motor vehicle for
2 the purpose of rendering it usable by a disabled person, and
3 insulin, urine testing materials, syringes, and needles used by
4 diabetics, for human use. For the purposes of this Section,
5 until September 1, 2009: the term "soft drinks" means any
6 complete, finished, ready-to-use, non-alcoholic drink, whether
7 carbonated or not, including but not limited to soda water,
8 cola, fruit juice, vegetable juice, carbonated water, and all
9 other preparations commonly known as soft drinks of whatever
10 kind or description that are contained in any closed or sealed
11 bottle, can, carton, or container, regardless of size; but
12 "soft drinks" does not include coffee, tea, non-carbonated
13 water, infant formula, milk or milk products as defined in the
14 Grade A Pasteurized Milk and Milk Products Act, or drinks
15 containing 50% or more natural fruit or vegetable juice.

16 Notwithstanding any other provisions of this Act,
17 beginning September 1, 2009, "soft drinks" means non-alcoholic
18 beverages that contain natural or artificial sweeteners. "Soft
19 drinks" do not include beverages that contain milk or milk
20 products, soy, rice or similar milk substitutes, or greater
21 than 50% of vegetable or fruit juice by volume.

22 Until August 1, 2009, and notwithstanding any other
23 provisions of this Act, "food for human consumption that is to
24 be consumed off the premises where it is sold" includes all
25 food sold through a vending machine, except soft drinks and
26 food products that are dispensed hot from a vending machine,

1 regardless of the location of the vending machine. Beginning
2 August 1, 2009, and notwithstanding any other provisions of
3 this Act, "food for human consumption that is to be consumed
4 off the premises where it is sold" includes all food sold
5 through a vending machine, except soft drinks, candy, and food
6 products that are dispensed hot from a vending machine,
7 regardless of the location of the vending machine.

8 Notwithstanding any other provisions of this Act,
9 beginning September 1, 2009, "food for human consumption that
10 is to be consumed off the premises where it is sold" does not
11 include candy. For purposes of this Section, "candy" means a
12 preparation of sugar, honey, or other natural or artificial
13 sweeteners in combination with chocolate, fruits, nuts or other
14 ingredients or flavorings in the form of bars, drops, or
15 pieces. "Candy" does not include any preparation that contains
16 flour or requires refrigeration.

17 Notwithstanding any other provisions of this Act,
18 beginning September 1, 2009, "nonprescription medicines and
19 drugs" does not include grooming and hygiene products. For
20 purposes of this Section, "grooming and hygiene products"
21 includes, but is not limited to, soaps and cleaning solutions,
22 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
23 lotions and screens, unless those products are available by
24 prescription only, regardless of whether the products meet the
25 definition of "over-the-counter-drugs". For the purposes of
26 this paragraph, "over-the-counter-drug" means a drug for human

1 use that contains a label that identifies the product as a drug
2 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
3 label includes:

4 (A) A "Drug Facts" panel; or

5 (B) A statement of the "active ingredient(s)" with a
6 list of those ingredients contained in the compound,
7 substance or preparation.

8 If the property that is acquired from a serviceman is
9 acquired outside Illinois and used outside Illinois before
10 being brought to Illinois for use here and is taxable under
11 this Act, the "selling price" on which the tax is computed
12 shall be reduced by an amount that represents a reasonable
13 allowance for depreciation for the period of prior out-of-state
14 use.

15 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
16 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

17 Section 20. The Service Occupation Tax Act is amended by
18 reenacting and changing Section 3-10 as follows:

19 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

20 Sec. 3-10. Rate of tax. Unless otherwise provided in this
21 Section, the tax imposed by this Act is at the rate of 6.25% of
22 the "selling price", as defined in Section 2 of the Service Use
23 Tax Act, of the tangible personal property. For the purpose of
24 computing this tax, in no event shall the "selling price" be

1 less than the cost price to the serviceman of the tangible
2 personal property transferred. The selling price of each item
3 of tangible personal property transferred as an incident of a
4 sale of service may be shown as a distinct and separate item on
5 the serviceman's billing to the service customer. If the
6 selling price is not so shown, the selling price of the
7 tangible personal property is deemed to be 50% of the
8 serviceman's entire billing to the service customer. When,
9 however, a serviceman contracts to design, develop, and produce
10 special order machinery or equipment, the tax imposed by this
11 Act shall be based on the serviceman's cost price of the
12 tangible personal property transferred incident to the
13 completion of the contract.

14 Beginning on July 1, 2000 and through December 31, 2000 and
15 beginning again July 1, 2011, with respect to motor fuel, as
16 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
17 as defined in Section 3-40 of the Use Tax Act, the tax is
18 imposed at the rate of 1.25%.

19 With respect to gasohol, as defined in the Use Tax Act, the
20 tax imposed by this Act shall apply to (i) 70% of the cost
21 price of property transferred as an incident to the sale of
22 service on or after January 1, 1990, and before July 1, 2003,
23 (ii) 80% of the selling price of property transferred as an
24 incident to the sale of service on or after July 1, 2003 and on
25 or before December 31, 2013, and (iii) 100% of the cost price
26 thereafter. If, at any time, however, the tax under this Act on

1 sales of gasohol, as defined in the Use Tax Act, is imposed at
2 the rate of 1.25%, then the tax imposed by this Act applies to
3 100% of the proceeds of sales of gasohol made during that time.

4 With respect to majority blended ethanol fuel, as defined
5 in the Use Tax Act, the tax imposed by this Act does not apply
6 to the selling price of property transferred as an incident to
7 the sale of service on or after July 1, 2003 and on or before
8 December 31, 2013 but applies to 100% of the selling price
9 thereafter.

10 With respect to biodiesel blends, as defined in the Use Tax
11 Act, with no less than 1% and no more than 10% biodiesel, the
12 tax imposed by this Act applies to (i) 80% of the selling price
13 of property transferred as an incident to the sale of service
14 on or after July 1, 2003 and on or before December 31, 2013 and
15 (ii) 100% of the proceeds of the selling price thereafter. If,
16 at any time, however, the tax under this Act on sales of
17 biodiesel blends, as defined in the Use Tax Act, with no less
18 than 1% and no more than 10% biodiesel is imposed at the rate
19 of 1.25%, then the tax imposed by this Act applies to 100% of
20 the proceeds of sales of biodiesel blends with no less than 1%
21 and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax
23 Act, and biodiesel blends, as defined in the Use Tax Act, with
24 more than 10% but no more than 99% biodiesel material, the tax
25 imposed by this Act does not apply to the proceeds of the
26 selling price of property transferred as an incident to the

1 sale of service on or after July 1, 2003 and on or before
2 December 31, 2013 but applies to 100% of the selling price
3 thereafter.

4 At the election of any registered serviceman made for each
5 fiscal year, sales of service in which the aggregate annual
6 cost price of tangible personal property transferred as an
7 incident to the sales of service is less than 35%, or 75% in
8 the case of servicemen transferring prescription drugs or
9 servicemen engaged in graphic arts production, of the aggregate
10 annual total gross receipts from all sales of service, the tax
11 imposed by this Act shall be based on the serviceman's cost
12 price of the tangible personal property transferred incident to
13 the sale of those services.

14 The tax shall be imposed at the rate of 1% on food prepared
15 for immediate consumption and transferred incident to a sale of
16 service subject to this Act or the Service Occupation Tax Act
17 by an entity licensed under the Hospital Licensing Act, the
18 Nursing Home Care Act, the MR/DD Community Care Act, or the
19 Child Care Act of 1969. The tax shall also be imposed at the
20 rate of 1% on food for human consumption that is to be consumed
21 off the premises where it is sold (other than alcoholic
22 beverages, soft drinks, and food that has been prepared for
23 immediate consumption and is not otherwise included in this
24 paragraph) and prescription and nonprescription medicines,
25 drugs, medical appliances, modifications to a motor vehicle for
26 the purpose of rendering it usable by a disabled person, and

1 insulin, urine testing materials, syringes, and needles used by
2 diabetics, for human use. For the purposes of this Section,
3 until September 1, 2009: the term "soft drinks" means any
4 complete, finished, ready-to-use, non-alcoholic drink, whether
5 carbonated or not, including but not limited to soda water,
6 cola, fruit juice, vegetable juice, carbonated water, and all
7 other preparations commonly known as soft drinks of whatever
8 kind or description that are contained in any closed or sealed
9 can, carton, or container, regardless of size; but "soft
10 drinks" does not include coffee, tea, non-carbonated water,
11 infant formula, milk or milk products as defined in the Grade A
12 Pasteurized Milk and Milk Products Act, or drinks containing
13 50% or more natural fruit or vegetable juice.

14 Notwithstanding any other provisions of this Act,
15 beginning September 1, 2009, "soft drinks" means non-alcoholic
16 beverages that contain natural or artificial sweeteners. "Soft
17 drinks" do not include beverages that contain milk or milk
18 products, soy, rice or similar milk substitutes, or greater
19 than 50% of vegetable or fruit juice by volume.

20 Until August 1, 2009, and notwithstanding any other
21 provisions of this Act, "food for human consumption that is to
22 be consumed off the premises where it is sold" includes all
23 food sold through a vending machine, except soft drinks and
24 food products that are dispensed hot from a vending machine,
25 regardless of the location of the vending machine. Beginning
26 August 1, 2009, and notwithstanding any other provisions of

1 this Act, "food for human consumption that is to be consumed
2 off the premises where it is sold" includes all food sold
3 through a vending machine, except soft drinks, candy, and food
4 products that are dispensed hot from a vending machine,
5 regardless of the location of the vending machine.

6 Notwithstanding any other provisions of this Act,
7 beginning September 1, 2009, "food for human consumption that
8 is to be consumed off the premises where it is sold" does not
9 include candy. For purposes of this Section, "candy" means a
10 preparation of sugar, honey, or other natural or artificial
11 sweeteners in combination with chocolate, fruits, nuts or other
12 ingredients or flavorings in the form of bars, drops, or
13 pieces. "Candy" does not include any preparation that contains
14 flour or requires refrigeration.

15 Notwithstanding any other provisions of this Act,
16 beginning September 1, 2009, "nonprescription medicines and
17 drugs" does not include grooming and hygiene products. For
18 purposes of this Section, "grooming and hygiene products"
19 includes, but is not limited to, soaps and cleaning solutions,
20 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
21 lotions and screens, unless those products are available by
22 prescription only, regardless of whether the products meet the
23 definition of "over-the-counter-drugs". For the purposes of
24 this paragraph, "over-the-counter-drug" means a drug for human
25 use that contains a label that identifies the product as a drug
26 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"

1 label includes:

2 (A) A "Drug Facts" panel; or

3 (B) A statement of the "active ingredient(s)" with a
4 list of those ingredients contained in the compound,
5 substance or preparation.

6 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
7 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

8 Section 25. The Retailers' Occupation Tax Act is amended by
9 reenacting and changing Section 2-10 as follows:

10 (35 ILCS 120/2-10)

11 Sec. 2-10. Rate of tax. Unless otherwise provided in this
12 Section, the tax imposed by this Act is at the rate of 6.25% of
13 gross receipts from sales of tangible personal property made in
14 the course of business.

15 Beginning on July 1, 2000 and through December 31, 2000 and
16 beginning again July 1, 2011, with respect to motor fuel, as
17 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
18 as defined in Section 3-40 of the Use Tax Act, the tax is
19 imposed at the rate of 1.25%.

20 Beginning on August 6, 2010 through August 15, 2010, with
21 respect to sales tax holiday items as defined in Section 2-8 of
22 this Act, the tax is imposed at the rate of 1.25%.

23 Within 14 days after the effective date of this amendatory
24 Act of the 91st General Assembly, each retailer of motor fuel

1 and gasohol shall cause the following notice to be posted in a
2 prominently visible place on each retail dispensing device that
3 is used to dispense motor fuel or gasohol in the State of
4 Illinois: "As of July 1, 2000, the State of Illinois has
5 eliminated the State's share of sales tax on motor fuel and
6 gasohol through December 31, 2000. The price on this pump
7 should reflect the elimination of the tax." The notice shall be
8 printed in bold print on a sign that is no smaller than 4
9 inches by 8 inches. The sign shall be clearly visible to
10 customers. Any retailer who fails to post or maintain a
11 required sign through December 31, 2000 is guilty of a petty
12 offense for which the fine shall be \$500 per day per each
13 retail premises where a violation occurs.

14 With respect to gasohol, as defined in the Use Tax Act, the
15 tax imposed by this Act applies to (i) 70% of the proceeds of
16 sales made on or after January 1, 1990, and before July 1,
17 2003, (ii) 80% of the proceeds of sales made on or after July
18 1, 2003 and on or before December 31, 2013, and (iii) 100% of
19 the proceeds of sales made thereafter. If, at any time,
20 however, the tax under this Act on sales of gasohol, as defined
21 in the Use Tax Act, is imposed at the rate of 1.25%, then the
22 tax imposed by this Act applies to 100% of the proceeds of
23 sales of gasohol made during that time.

24 With respect to majority blended ethanol fuel, as defined
25 in the Use Tax Act, the tax imposed by this Act does not apply
26 to the proceeds of sales made on or after July 1, 2003 and on or

1 before December 31, 2013 but applies to 100% of the proceeds of
2 sales made thereafter.

3 With respect to biodiesel blends, as defined in the Use Tax
4 Act, with no less than 1% and no more than 10% biodiesel, the
5 tax imposed by this Act applies to (i) 80% of the proceeds of
6 sales made on or after July 1, 2003 and on or before December
7 31, 2013 and (ii) 100% of the proceeds of sales made
8 thereafter. If, at any time, however, the tax under this Act on
9 sales of biodiesel blends, as defined in the Use Tax Act, with
10 no less than 1% and no more than 10% biodiesel is imposed at
11 the rate of 1.25%, then the tax imposed by this Act applies to
12 100% of the proceeds of sales of biodiesel blends with no less
13 than 1% and no more than 10% biodiesel made during that time.

14 With respect to 100% biodiesel, as defined in the Use Tax
15 Act, and biodiesel blends, as defined in the Use Tax Act, with
16 more than 10% but no more than 99% biodiesel, the tax imposed
17 by this Act does not apply to the proceeds of sales made on or
18 after July 1, 2003 and on or before December 31, 2013 but
19 applies to 100% of the proceeds of sales made thereafter.

20 With respect to food for human consumption that is to be
21 consumed off the premises where it is sold (other than
22 alcoholic beverages, soft drinks, and food that has been
23 prepared for immediate consumption) and prescription and
24 nonprescription medicines, drugs, medical appliances,
25 modifications to a motor vehicle for the purpose of rendering
26 it usable by a disabled person, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human
2 use, the tax is imposed at the rate of 1%. For the purposes of
3 this Section, until September 1, 2009: the term "soft drinks"
4 means any complete, finished, ready-to-use, non-alcoholic
5 drink, whether carbonated or not, including but not limited to
6 soda water, cola, fruit juice, vegetable juice, carbonated
7 water, and all other preparations commonly known as soft drinks
8 of whatever kind or description that are contained in any
9 closed or sealed bottle, can, carton, or container, regardless
10 of size; but "soft drinks" does not include coffee, tea,
11 non-carbonated water, infant formula, milk or milk products as
12 defined in the Grade A Pasteurized Milk and Milk Products Act,
13 or drinks containing 50% or more natural fruit or vegetable
14 juice.

15 Notwithstanding any other provisions of this Act,
16 beginning September 1, 2009, "soft drinks" means non-alcoholic
17 beverages that contain natural or artificial sweeteners. "Soft
18 drinks" do not include beverages that contain milk or milk
19 products, soy, rice or similar milk substitutes, or greater
20 than 50% of vegetable or fruit juice by volume.

21 Until August 1, 2009, and notwithstanding any other
22 provisions of this Act, "food for human consumption that is to
23 be consumed off the premises where it is sold" includes all
24 food sold through a vending machine, except soft drinks and
25 food products that are dispensed hot from a vending machine,
26 regardless of the location of the vending machine. Beginning

1 August 1, 2009, and notwithstanding any other provisions of
2 this Act, "food for human consumption that is to be consumed
3 off the premises where it is sold" includes all food sold
4 through a vending machine, except soft drinks, candy, and food
5 products that are dispensed hot from a vending machine,
6 regardless of the location of the vending machine.

7 Notwithstanding any other provisions of this Act,
8 beginning September 1, 2009, "food for human consumption that
9 is to be consumed off the premises where it is sold" does not
10 include candy. For purposes of this Section, "candy" means a
11 preparation of sugar, honey, or other natural or artificial
12 sweeteners in combination with chocolate, fruits, nuts or other
13 ingredients or flavorings in the form of bars, drops, or
14 pieces. "Candy" does not include any preparation that contains
15 flour or requires refrigeration.

16 Notwithstanding any other provisions of this Act,
17 beginning September 1, 2009, "nonprescription medicines and
18 drugs" does not include grooming and hygiene products. For
19 purposes of this Section, "grooming and hygiene products"
20 includes, but is not limited to, soaps and cleaning solutions,
21 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
22 lotions and screens, unless those products are available by
23 prescription only, regardless of whether the products meet the
24 definition of "over-the-counter-drugs". For the purposes of
25 this paragraph, "over-the-counter-drug" means a drug for human
26 use that contains a label that identifies the product as a drug

1 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
2 label includes:

3 (A) A "Drug Facts" panel; or

4 (B) A statement of the "active ingredient(s)" with a
5 list of those ingredients contained in the compound,
6 substance or preparation.

7 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
8 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

9 Section 30. The Motor Fuel Tax Law is amended by changing
10 Section 2, by reenacting and changing Section 8, and by adding
11 Section 8b as follows:

12 (35 ILCS 505/2) (from Ch. 120, par. 418)

13 Sec. 2. A tax is imposed on the privilege of operating
14 motor vehicles upon the public highways and recreational-type
15 watercraft upon the waters of this State.

16 (a) Prior to August 1, 1989, the tax is imposed at the rate
17 of 13 cents per gallon on all motor fuel used in motor vehicles
18 operating on the public highways and recreational type
19 watercraft operating upon the waters of this State. Beginning
20 on August 1, 1989 and until January 1, 1990, the rate of the
21 tax imposed in this paragraph shall be 16 cents per gallon.
22 Beginning January 1, 1990, the rate of tax imposed in this
23 paragraph shall be 19 cents per gallon.

24 (b) The tax on the privilege of operating motor vehicles

1 which use diesel fuel shall be the rate according to paragraph
2 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is
3 defined as any product intended for use or offered for sale as
4 a fuel for engines in which the fuel is injected into the
5 combustion chamber and ignited by pressure without electric
6 spark.

7 (c) A tax is imposed upon the privilege of engaging in the
8 business of selling motor fuel as a retailer or reseller on all
9 motor fuel used in motor vehicles operating on the public
10 highways and recreational type watercraft operating upon the
11 waters of this State: (1) at the rate of 3 cents per gallon on
12 motor fuel owned or possessed by such retailer or reseller at
13 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per
14 gallon on motor fuel owned or possessed by such retailer or
15 reseller at 12:01 A.M. on January 1, 1990.

16 Retailers and resellers who are subject to this additional
17 tax shall be required to inventory such motor fuel and pay this
18 additional tax in a manner prescribed by the Department of
19 Revenue.

20 The tax imposed in this paragraph (c) shall be in addition
21 to all other taxes imposed by the State of Illinois or any unit
22 of local government in this State.

23 (d) Except as provided in Section 2a, the collection of a
24 tax based on gallonage of gasoline used for the propulsion of
25 any aircraft is prohibited on and after October 1, 1979.

26 (e) The collection of a tax, based on gallonage of all

1 products commonly or commercially known or sold as 1-K
2 kerosene, regardless of its classification or uses, is
3 prohibited (i) on and after July 1, 1992 until December 31,
4 1999, except when the 1-K kerosene is either: (1) delivered
5 into bulk storage facilities of a bulk user, or (2) delivered
6 directly into the fuel supply tanks of motor vehicles and (ii)
7 on and after January 1, 2000. Beginning on January 1, 2000, the
8 collection of a tax, based on gallonage of all products
9 commonly or commercially known or sold as 1-K kerosene,
10 regardless of its classification or uses, is prohibited except
11 when the 1-K kerosene is delivered directly into a storage tank
12 that is located at a facility that has withdrawal facilities
13 that are readily accessible to and are capable of dispensing
14 1-K kerosene into the fuel supply tanks of motor vehicles. For
15 purposes of this subsection (e), a facility is considered to
16 have withdrawal facilities that are not "readily accessible to
17 and capable of dispensing 1-K kerosene into the fuel supply
18 tanks of motor vehicles" only if the 1-K kerosene is delivered
19 from: (i) a dispenser hose that is short enough so that it will
20 not reach the fuel supply tank of a motor vehicle or (ii) a
21 dispenser that is enclosed by a fence or other physical barrier
22 so that a vehicle cannot pull alongside the dispenser to permit
23 fueling.

24 Any person who sells or uses 1-K kerosene for use in motor
25 vehicles upon which the tax imposed by this Law has not been
26 paid shall be liable for any tax due on the sales or use of 1-K

1 kerosene.

2 (f) In addition to the taxes established in the foregoing
3 subsections, a tax is imposed on the privilege of operating
4 motor vehicles upon the public highways and operating
5 recreational type watercraft upon the waters of this State. For
6 State fiscal year 2012, the tax imposed by this paragraph is at
7 the rate of \$0.150 per gallon on all motor fuel used in motor
8 vehicles operating on the public highways, recreational type
9 watercraft operating upon the waters, special fuel as defined
10 in Section 1.13, and diesel fuel sold in this State. For each
11 State fiscal year thereafter, the rate of tax is adjusted over
12 the tax rate of the previous State fiscal year by the annual
13 rate of increase or decrease, for the previous calendar year,
14 of the Consumer Price Index for All Urban Consumers for all
15 items, published by the United States Bureau of Labor
16 Statistics. The purpose of this tax is to provide grants to
17 public entities in the State of Illinois for transportation
18 purposes as provided in Section 8b of this Act.

19 (Source: P.A. 96-1384, eff. 7-29-10.)

20 (35 ILCS 505/8) (from Ch. 120, par. 424)

21 Sec. 8. Except as provided in Section 8a, Section 8b,
22 subdivision (h) (1) of Section 12a, Section 13a.6, and items 13,
23 14, 15, and 16 of Section 15, all money received by the
24 Department under this Act, including payments made to the
25 Department by member jurisdictions participating in the

1 International Fuel Tax Agreement, shall be deposited in a
2 special fund in the State treasury, to be known as the "Motor
3 Fuel Tax Fund", and shall be used as follows:

4 (a) 2 1/2 cents per gallon of the tax collected on special
5 fuel under paragraph (b) of Section 2 and Section 13a of this
6 Act shall be transferred to the State Construction Account Fund
7 in the State Treasury;

8 (b) \$420,000 shall be transferred each month to the State
9 Boating Act Fund to be used by the Department of Natural
10 Resources for the purposes specified in Article X of the Boat
11 Registration and Safety Act;

12 (c) \$3,500,000 shall be transferred each month to the Grade
13 Crossing Protection Fund to be used as follows: not less than
14 \$12,000,000 each fiscal year shall be used for the construction
15 or reconstruction of rail highway grade separation structures;
16 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in
17 fiscal year 2010 and each fiscal year thereafter shall be
18 transferred to the Transportation Regulatory Fund and shall be
19 accounted for as part of the rail carrier portion of such funds
20 and shall be used to pay the cost of administration of the
21 Illinois Commerce Commission's railroad safety program in
22 connection with its duties under subsection (3) of Section
23 18c-7401 of the Illinois Vehicle Code, with the remainder to be
24 used by the Department of Transportation upon order of the
25 Illinois Commerce Commission, to pay that part of the cost
26 apportioned by such Commission to the State to cover the

1 interest of the public in the use of highways, roads, streets,
2 or pedestrian walkways in the county highway system, township
3 and district road system, or municipal street system as defined
4 in the Illinois Highway Code, as the same may from time to time
5 be amended, for separation of grades, for installation,
6 construction or reconstruction of crossing protection or
7 reconstruction, alteration, relocation including construction
8 or improvement of any existing highway necessary for access to
9 property or improvement of any grade crossing and grade
10 crossing surface including the necessary highway approaches
11 thereto of any railroad across the highway or public road, or
12 for the installation, construction, reconstruction, or
13 maintenance of a pedestrian walkway over or under a railroad
14 right-of-way, as provided for in and in accordance with Section
15 18c-7401 of the Illinois Vehicle Code. The Commission may order
16 up to \$2,000,000 per year in Grade Crossing Protection Fund
17 moneys for the improvement of grade crossing surfaces and up to
18 \$300,000 per year for the maintenance and renewal of 4-quadrant
19 gate vehicle detection systems located at non-high speed rail
20 grade crossings. The Commission shall not order more than
21 \$2,000,000 per year in Grade Crossing Protection Fund moneys
22 for pedestrian walkways. In entering orders for projects for
23 which payments from the Grade Crossing Protection Fund will be
24 made, the Commission shall account for expenditures authorized
25 by the orders on a cash rather than an accrual basis. For
26 purposes of this requirement an "accrual basis" assumes that

1 the total cost of the project is expended in the fiscal year in
2 which the order is entered, while a "cash basis" allocates the
3 cost of the project among fiscal years as expenditures are
4 actually made. To meet the requirements of this subsection, the
5 Illinois Commerce Commission shall develop annual and 5-year
6 project plans of rail crossing capital improvements that will
7 be paid for with moneys from the Grade Crossing Protection
8 Fund. The annual project plan shall identify projects for the
9 succeeding fiscal year and the 5-year project plan shall
10 identify projects for the 5 directly succeeding fiscal years.
11 The Commission shall submit the annual and 5-year project plans
12 for this Fund to the Governor, the President of the Senate, the
13 Senate Minority Leader, the Speaker of the House of
14 Representatives, and the Minority Leader of the House of
15 Representatives on the first Wednesday in April of each year;

16 (d) of the amount remaining after allocations provided for
17 in subsections (a), (b) and (c), a sufficient amount shall be
18 reserved to pay all of the following:

19 (1) the costs of the Department of Revenue in
20 administering this Act;

21 (2) the costs of the Department of Transportation in
22 performing its duties imposed by the Illinois Highway Code
23 for supervising the use of motor fuel tax funds apportioned
24 to municipalities, counties and road districts;

25 (3) refunds provided for in Section 13, refunds for
26 overpayment of decal fees paid under Section 13a.4 of this

1 Act, and refunds provided for under the terms of the
2 International Fuel Tax Agreement referenced in Section
3 14a;

4 (4) from October 1, 1985 until June 30, 1994, the
5 administration of the Vehicle Emissions Inspection Law,
6 which amount shall be certified monthly by the
7 Environmental Protection Agency to the State Comptroller
8 and shall promptly be transferred by the State Comptroller
9 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
10 Inspection Fund, and for the period July 1, 1994 through
11 June 30, 2000, one-twelfth of \$25,000,000 each month, for
12 the period July 1, 2000 through June 30, 2003, one-twelfth
13 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
14 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
15 July 1 and October 1, or as soon thereafter as may be
16 practical, during the period July 1, 2004 through June 30,
17 2011, for the administration of the Vehicle Emissions
18 Inspection Law of 2005, to be transferred by the State
19 Comptroller and Treasurer from the Motor Fuel Tax Fund into
20 the Vehicle Inspection Fund;

21 (5) amounts ordered paid by the Court of Claims; and

22 (6) payment of motor fuel use taxes due to member
23 jurisdictions under the terms of the International Fuel Tax
24 Agreement. The Department shall certify these amounts to
25 the Comptroller by the 15th day of each month; the
26 Comptroller shall cause orders to be drawn for such

1 amounts, and the Treasurer shall administer those amounts
2 on or before the last day of each month;

3 (e) after allocations for the purposes set forth in
4 subsections (a), (b), (c) and (d), the remaining amount shall
5 be apportioned as follows:

6 (1) Until January 1, 2000, 58.4%, and beginning January
7 1, 2000, 45.6% shall be deposited as follows:

8 (A) 37% into the State Construction Account Fund,
9 and

10 (B) 63% into the Road Fund, \$1,250,000 of which
11 shall be reserved each month for the Department of
12 Transportation to be used in accordance with the
13 provisions of Sections 6-901 through 6-906 of the
14 Illinois Highway Code;

15 (2) Until January 1, 2000, 41.6%, and beginning January
16 1, 2000, 54.4% shall be transferred to the Department of
17 Transportation to be distributed as follows:

18 (A) 49.10% to the municipalities of the State,

19 (B) 16.74% to the counties of the State having
20 1,000,000 or more inhabitants,

21 (C) 18.27% to the counties of the State having less
22 than 1,000,000 inhabitants,

23 (D) 15.89% to the road districts of the State.

24 As soon as may be after the first day of each month the
25 Department of Transportation shall allot to each municipality
26 its share of the amount apportioned to the several

1 municipalities which shall be in proportion to the population
2 of such municipalities as determined by the last preceding
3 municipal census if conducted by the Federal Government or
4 Federal census. If territory is annexed to any municipality
5 subsequent to the time of the last preceding census the
6 corporate authorities of such municipality may cause a census
7 to be taken of such annexed territory and the population so
8 ascertained for such territory shall be added to the population
9 of the municipality as determined by the last preceding census
10 for the purpose of determining the allotment for that
11 municipality. If the population of any municipality was not
12 determined by the last Federal census preceding any
13 apportionment, the apportionment to such municipality shall be
14 in accordance with any census taken by such municipality. Any
15 municipal census used in accordance with this Section shall be
16 certified to the Department of Transportation by the clerk of
17 such municipality, and the accuracy thereof shall be subject to
18 approval of the Department which may make such corrections as
19 it ascertains to be necessary.

20 As soon as may be after the first day of each month the
21 Department of Transportation shall allot to each county its
22 share of the amount apportioned to the several counties of the
23 State as herein provided. Each allotment to the several
24 counties having less than 1,000,000 inhabitants shall be in
25 proportion to the amount of motor vehicle license fees received
26 from the residents of such counties, respectively, during the

1 preceding calendar year. The Secretary of State shall, on or
2 before April 15 of each year, transmit to the Department of
3 Transportation a full and complete report showing the amount of
4 motor vehicle license fees received from the residents of each
5 county, respectively, during the preceding calendar year. The
6 Department of Transportation shall, each month, use for
7 allotment purposes the last such report received from the
8 Secretary of State.

9 As soon as may be after the first day of each month, the
10 Department of Transportation shall allot to the several
11 counties their share of the amount apportioned for the use of
12 road districts. The allotment shall be apportioned among the
13 several counties in the State in the proportion which the total
14 mileage of township or district roads in the respective
15 counties bears to the total mileage of all township and
16 district roads in the State. Funds allotted to the respective
17 counties for the use of road districts therein shall be
18 allocated to the several road districts in the county in the
19 proportion which the total mileage of such township or district
20 roads in the respective road districts bears to the total
21 mileage of all such township or district roads in the county.
22 After July 1 of any year prior to 2011, no allocation shall be
23 made for any road district unless it levied a tax for road and
24 bridge purposes in an amount which will require the extension
25 of such tax against the taxable property in any such road
26 district at a rate of not less than either .08% of the value

1 thereof, based upon the assessment for the year immediately
2 prior to the year in which such tax was levied and as equalized
3 by the Department of Revenue or, in DuPage County, an amount
4 equal to or greater than \$12,000 per mile of road under the
5 jurisdiction of the road district, whichever is less. Beginning
6 July 1, 2011 and each July 1 thereafter, an allocation shall be
7 made for any road district if it levied a tax for road and
8 bridge purposes. In counties other than DuPage County, if the
9 amount of the tax levy requires the extension of the tax
10 against the taxable property in the road district at a rate
11 that is less than 0.08% of the value thereof, based upon the
12 assessment for the year immediately prior to the year in which
13 the tax was levied and as equalized by the Department of
14 Revenue, then the amount of the allocation for that road
15 district shall be a percentage of the maximum allocation equal
16 to the percentage obtained by dividing the rate extended by the
17 district by 0.08%. In DuPage County, if the amount of the tax
18 levy requires the extension of the tax against the taxable
19 property in the road district at a rate that is less than the
20 lesser of (i) 0.08% of the value of the taxable property in the
21 road district, based upon the assessment for the year
22 immediately prior to the year in which such tax was levied and
23 as equalized by the Department of Revenue, or (ii) a rate that
24 will yield an amount equal to \$12,000 per mile of road under
25 the jurisdiction of the road district, then the amount of the
26 allocation for the road district shall be a percentage of the

1 maximum allocation equal to the percentage obtained by dividing
2 the rate extended by the district by the lesser of (i) 0.08% or
3 (ii) the rate that will yield an amount equal to \$12,000 per
4 mile of road under the jurisdiction of the road district.

5 Prior to 2011, if any road district has levied a special
6 tax for road purposes pursuant to Sections 6-601, 6-602 and
7 6-603 of the Illinois Highway Code, and such tax was levied in
8 an amount which would require extension at a rate of not less
9 than .08% of the value of the taxable property thereof, as
10 equalized or assessed by the Department of Revenue, or, in
11 DuPage County, an amount equal to or greater than \$12,000 per
12 mile of road under the jurisdiction of the road district,
13 whichever is less, such levy shall, however, be deemed a proper
14 compliance with this Section and shall qualify such road
15 district for an allotment under this Section. Beginning in 2011
16 and thereafter, if any road district has levied a special tax
17 for road purposes under Sections 6-601, 6-602, and 6-603 of the
18 Illinois Highway Code, and the tax was levied in an amount that
19 would require extension at a rate of not less than 0.08% of the
20 value of the taxable property of that road district, as
21 equalized or assessed by the Department of Revenue or, in
22 DuPage County, an amount equal to or greater than \$12,000 per
23 mile of road under the jurisdiction of the road district,
24 whichever is less, that levy shall be deemed a proper
25 compliance with this Section and shall qualify such road
26 district for a full, rather than proportionate, allotment under

1 this Section. If the levy for the special tax is less than
2 0.08% of the value of the taxable property, or, in DuPage
3 County if the levy for the special tax is less than the lesser
4 of (i) 0.08% or (ii) \$12,000 per mile of road under the
5 jurisdiction of the road district, and if the levy for the
6 special tax is more than any other levy for road and bridge
7 purposes, then the levy for the special tax qualifies the road
8 district for a proportionate, rather than full, allotment under
9 this Section. If the levy for the special tax is equal to or
10 less than any other levy for road and bridge purposes, then any
11 allotment under this Section shall be determined by the other
12 levy for road and bridge purposes.

13 Prior to 2011, if a township has transferred to the road
14 and bridge fund money which, when added to the amount of any
15 tax levy of the road district would be the equivalent of a tax
16 levy requiring extension at a rate of at least .08%, or, in
17 DuPage County, an amount equal to or greater than \$12,000 per
18 mile of road under the jurisdiction of the road district,
19 whichever is less, such transfer, together with any such tax
20 levy, shall be deemed a proper compliance with this Section and
21 shall qualify the road district for an allotment under this
22 Section.

23 In counties in which a property tax extension limitation is
24 imposed under the Property Tax Extension Limitation Law, road
25 districts may retain their entitlement to a motor fuel tax
26 allotment or, beginning in 2011, their entitlement to a full

1 allotment if, at the time the property tax extension limitation
2 was imposed, the road district was levying a road and bridge
3 tax at a rate sufficient to entitle it to a motor fuel tax
4 allotment and continues to levy the maximum allowable amount
5 after the imposition of the property tax extension limitation.
6 Any road district may in all circumstances retain its
7 entitlement to a motor fuel tax allotment or, beginning in
8 2011, its entitlement to a full allotment if it levied a road
9 and bridge tax in an amount that will require the extension of
10 the tax against the taxable property in the road district at a
11 rate of not less than 0.08% of the assessed value of the
12 property, based upon the assessment for the year immediately
13 preceding the year in which the tax was levied and as equalized
14 by the Department of Revenue or, in DuPage County, an amount
15 equal to or greater than \$12,000 per mile of road under the
16 jurisdiction of the road district, whichever is less.

17 As used in this Section the term "road district" means any
18 road district, including a county unit road district, provided
19 for by the Illinois Highway Code; and the term "township or
20 district road" means any road in the township and district road
21 system as defined in the Illinois Highway Code. For the
22 purposes of this Section, "township or district road" also
23 includes such roads as are maintained by park districts, forest
24 preserve districts and conservation districts. The Department
25 of Transportation shall determine the mileage of all township
26 and district roads for the purposes of making allotments and

1 allocations of motor fuel tax funds for use in road districts.

2 Payment of motor fuel tax moneys to municipalities and
3 counties shall be made as soon as possible after the allotment
4 is made. The treasurer of the municipality or county may invest
5 these funds until their use is required and the interest earned
6 by these investments shall be limited to the same uses as the
7 principal funds.

8 (Source: P.A. 95-744, eff. 7-18-08; 96-34, eff. 7-13-09; 96-45,
9 eff. 7-15-09; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;
10 96-1024, eff. 7-12-10; 96-1384, eff. 7-29-10; revised 9-2-10.)

11 (35 ILCS 505/8b new)

12 Sec. 8b. Distribution of proceeds into the Capital Projects
13 Fund. All money received by the Department under paragraph (f)
14 of Section 2 of this Act shall be deposited into the Capital
15 Projects Fund, and must be used as provided in Section 6z-77 of
16 the State Finance Act.

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect July 1,
20 2011.

1 INDEX
2 Statutes amended in order of appearance

- 3 30 ILCS 105/5.723
- 4 30 ILCS 105/6z-18 from Ch. 127, par. 142z-18
- 5 30 ILCS 105/6z-20 from Ch. 127, par. 142z-20
- 6 30 ILCS 105/6z-77
- 7 30 ILCS 105/8.3 from Ch. 127, par. 144.3
- 8 30 ILCS 105/8h
- 9 35 ILCS 105/3-10
- 10 35 ILCS 110/3-10 from Ch. 120, par. 439.33-10
- 11 35 ILCS 115/3-10 from Ch. 120, par. 439.103-10
- 12 35 ILCS 120/2-10
- 13 35 ILCS 505/2 from Ch. 120, par. 418
- 14 35 ILCS 505/8 from Ch. 120, par. 424
- 15 35 ILCS 505/8b new