



## 97TH GENERAL ASSEMBLY

### State of Illinois

#### 2011 and 2012

##### HB3769

by Rep. Wayne Rosenthal - Bill Mitchell - Adam Brown - Dwight Kay - Richard Morthland, et al.

#### SYNOPSIS AS INTRODUCED:

30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
35 ILCS 105/3-10	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	

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 and through December 31, 2011, with respect to motor fuel and gasohol the tax under the Acts is imposed at the rate of 1.25% (now, 6.25%). Effective immediately.

LRB097 11571 HLH 54565 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The State Finance Act is amended by changing  
5 Sections 6z-18 and 6z-20 as follows:

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

7 Sec. 6z-18. A portion of the money paid into the Local  
8 Government Tax Fund from sales of food for human consumption  
9 which is to be consumed off the premises where it is sold  
10 (other than alcoholic beverages, soft drinks and food which has  
11 been prepared for immediate consumption) and prescription and  
12 nonprescription medicines, drugs, medical appliances and  
13 insulin, urine testing materials, syringes and needles used by  
14 diabetics, which occurred in municipalities, shall be  
15 distributed to each municipality based upon the sales which  
16 occurred in that municipality. The remainder shall be  
17 distributed to each county based upon the sales which occurred  
18 in the unincorporated area of that county.

19 A portion of the money paid into the Local Government Tax  
20 Fund from the 6.25% general use tax rate on the selling price  
21 of tangible personal property which is purchased outside  
22 Illinois at retail from a retailer and which is titled or  
23 registered by any agency of this State's government shall be

1 distributed to municipalities as provided in this paragraph.  
2 Each municipality shall receive the amount attributable to  
3 sales for which Illinois addresses for titling or registration  
4 purposes are given as being in such municipality. The remainder  
5 of the money paid into the Local Government Tax Fund from such  
6 sales shall be distributed to counties. Each county shall  
7 receive the amount attributable to sales for which Illinois  
8 addresses for titling or registration purposes are given as  
9 being located in the unincorporated area of such county.

10 A portion of the money paid into the Local Government Tax  
11 Fund from the 6.25% general rate (and, beginning July 1, 2000  
12 and through December 31, 2000 and beginning again on July 1,  
13 2011 and through December 31, 2011, the 1.25% rate on motor  
14 fuel and gasohol, and beginning on August 6, 2010 through  
15 August 15, 2010, the 1.25% rate on sales tax holiday items) on  
16 sales subject to taxation under the Retailers' Occupation Tax  
17 Act and the Service Occupation Tax Act, which occurred in  
18 municipalities, shall be distributed to each municipality,  
19 based upon the sales which occurred in that municipality. The  
20 remainder shall be distributed to each county, based upon the  
21 sales which occurred in the unincorporated area of such county.

22 For the purpose of determining allocation to the local  
23 government unit, a retail sale by a producer of coal or other  
24 mineral mined in Illinois is a sale at retail at the place  
25 where the coal or other mineral mined in Illinois is extracted  
26 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 Whenever the Department determines that a refund of money  
6 paid into the Local Government Tax Fund should be made to a  
7 claimant instead of issuing a credit memorandum, the Department  
8 shall notify the State Comptroller, who shall cause the order  
9 to be drawn for the amount specified, and to the person named,  
10 in such notification from the Department. Such refund shall be  
11 paid by the State Treasurer out of the Local Government Tax  
12 Fund.

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

25 After the monthly transfer to the STAR Bonds Revenue Fund,  
26 on or before the 25th day of each calendar month, the

1 Department shall prepare and certify to the Comptroller the  
2 disbursement of stated sums of money to named municipalities  
3 and counties, the municipalities and counties to be those  
4 entitled to distribution of taxes or penalties paid to the  
5 Department during the second preceding calendar month. The  
6 amount to be paid to each municipality or county shall be the  
7 amount (not including credit memoranda) collected during the  
8 second preceding calendar month by the Department and paid into  
9 the Local Government Tax Fund, plus an amount the Department  
10 determines is necessary to offset any amounts which were  
11 erroneously paid to a different taxing body, and not including  
12 an amount equal to the amount of refunds made during the second  
13 preceding calendar month by the Department, and not including  
14 any amount which the Department determines is necessary to  
15 offset any amounts which are payable to a different taxing body  
16 but were erroneously paid to the municipality or county, and  
17 not including any amounts that are transferred to the STAR  
18 Bonds Revenue Fund. Within 10 days after receipt, by the  
19 Comptroller, of the disbursement certification to the  
20 municipalities and counties, provided for in this Section to be  
21 given to the Comptroller by the Department, the Comptroller  
22 shall cause the orders to be drawn for the respective amounts  
23 in accordance with the directions contained in such  
24 certification.

25 When certifying the amount of monthly disbursement to a  
26 municipality or county under this Section, the Department shall

1 increase or decrease that amount by an amount necessary to  
2 offset any misallocation of previous disbursements. The offset  
3 amount shall be the amount erroneously disbursed within the 6  
4 months preceding the time a misallocation is discovered.

5 The provisions directing the distributions from the  
6 special fund in the State Treasury provided for in this Section  
7 shall constitute an irrevocable and continuing appropriation  
8 of all amounts as provided herein. The State Treasurer and  
9 State Comptroller are hereby authorized to make distributions  
10 as provided in this Section.

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

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-20) (from Ch. 127, par. 142z-20)

22 Sec. 6z-20. Of the money received from the 6.25% general  
23 rate (and, beginning July 1, 2000 and through December 31, 2000  
24 and beginning again on July 1, 2011 and through December 31,  
25 2011, the 1.25% rate on motor fuel and gasohol, and beginning

1 on August 6, 2010 through August 15, 2010, the 1.25% rate on  
2 sales tax holiday items) on sales subject to taxation under the  
3 Retailers' Occupation Tax Act and Service Occupation Tax Act  
4 and paid into the County and Mass Transit District Fund,  
5 distribution to the Regional Transportation Authority tax  
6 fund, created pursuant to Section 4.03 of the Regional  
7 Transportation Authority Act, for deposit therein shall be made  
8 based upon the retail sales occurring in a county having more  
9 than 3,000,000 inhabitants. The remainder shall be distributed  
10 to each county having 3,000,000 or fewer inhabitants based upon  
11 the retail sales occurring in each such county.

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

21 Of the money received from the 6.25% general use tax rate  
22 on tangible personal property which is purchased outside  
23 Illinois at retail from a retailer and which is titled or  
24 registered by any agency of this State's government and paid  
25 into the County and Mass Transit District Fund, the amount for  
26 which Illinois addresses for titling or registration purposes

1 are given as being in each county having more than 3,000,000  
2 inhabitants shall be distributed into the Regional  
3 Transportation Authority tax fund, created pursuant to Section  
4 4.03 of the Regional Transportation Authority Act. The  
5 remainder of the money paid from such sales shall be  
6 distributed to each county based on sales for which Illinois  
7 addresses for titling or registration purposes are given as  
8 being located in the county. Any money paid into the Regional  
9 Transportation Authority Occupation and Use Tax Replacement  
10 Fund from the County and Mass Transit District Fund prior to  
11 January 14, 1991, which has not been paid to the Authority  
12 prior to that date, shall be transferred to the Regional  
13 Transportation Authority tax fund.

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

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



1 Development and Economy Act, collected during the second  
2 preceding calendar month for sales within a STAR bond district  
3 and deposited into the County and Mass Transit District Fund,  
4 less 3% of that amount, which shall be transferred into the Tax  
5 Compliance and Administration Fund and shall be used by the  
6 Department, subject to appropriation, to cover the costs of the  
7 Department in administering the Innovation Development and  
8 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 the Regional  
13 Transportation Authority and to named counties, the counties to  
14 be those entitled to distribution, as hereinabove provided, of  
15 taxes or penalties paid to the Department during the second  
16 preceding calendar month. The amount to be paid to the Regional  
17 Transportation Authority and each county having 3,000,000 or  
18 fewer inhabitants shall be the amount (not including credit  
19 memoranda) collected during the second preceding calendar  
20 month by the Department and paid into the County and Mass  
21 Transit District Fund, plus an amount the Department determines  
22 is necessary to offset any amounts which were erroneously paid  
23 to a different taxing body, and not including an amount equal  
24 to the amount of refunds made during the second preceding  
25 calendar month by the Department, and not including any amount  
26 which the Department determines is necessary to offset any

1 amounts which were payable to a different taxing body but were  
2 erroneously paid to the Regional Transportation Authority or  
3 county, and not including any amounts that are transferred to  
4 the STAR Bonds Revenue Fund. Within 10 days after receipt, by  
5 the Comptroller, of the disbursement certification to the  
6 Regional Transportation Authority and counties, provided for  
7 in this Section to be given to the Comptroller by the  
8 Department, the Comptroller shall cause the orders to be drawn  
9 for the respective amounts in accordance with the directions  
10 contained in such certification.

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

18 The provisions directing the distributions from the  
19 special fund in the State Treasury provided for in this Section  
20 and from the Regional Transportation Authority tax fund created  
21 by Section 4.03 of the Regional Transportation Authority Act  
22 shall constitute an irrevocable and continuing appropriation  
23 of all amounts as provided herein. The State Treasurer and  
24 State Comptroller are hereby authorized to make distributions  
25 as provided in this Section.

26 In construing any development, redevelopment, annexation,

1 preannexation or other lawful agreement in effect prior to  
2 September 1, 1990, which describes or refers to receipts from a  
3 county or municipal retailers' occupation tax, use tax or  
4 service occupation tax which now cannot be imposed, such  
5 description or reference shall be deemed to include the  
6 replacement revenue for such abolished taxes, distributed from  
7 the County and Mass Transit District Fund or Local Government  
8 Distributive Fund, as the case may be.

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

11 Section 10. The Use Tax Act is amended by changing Section  
12 3-10 as follows:

13 (35 ILCS 105/3-10)

14 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
15 Section, the tax imposed by this Act is at the rate of 6.25% of  
16 either the selling price or the fair market value, if any, of  
17 the tangible personal property. In all cases where property  
18 functionally used or consumed is the same as the property that  
19 was purchased at retail, then the tax is imposed on the selling  
20 price of the property. In all cases where property functionally  
21 used or consumed is a by-product or waste product that has been  
22 refined, manufactured, or produced from property purchased at  
23 retail, then the tax is imposed on the lower of the fair market  
24 value, if any, of the specific property so used in this State

1 or on the selling price of the property purchased at retail.  
2 For purposes of this Section "fair market value" means the  
3 price at which property would change hands between a willing  
4 buyer and a willing seller, neither being under any compulsion  
5 to buy or sell and both having reasonable knowledge of the  
6 relevant facts. The fair market value shall be established by  
7 Illinois sales by the taxpayer of the same property as that  
8 functionally used or consumed, or if there are no such sales by  
9 the taxpayer, then comparable sales or purchases of property of  
10 like kind and character in Illinois.

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

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

19 With respect to gasohol, the tax imposed by this Act  
20 applies to (i) 70% of the proceeds of sales made on or after  
21 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
22 proceeds of sales made on or after July 1, 2003 and on or  
23 before December 31, 2013, and (iii) 100% of the proceeds of  
24 sales made thereafter. If, at any time, however, the tax under  
25 this Act on sales of gasohol is imposed at the rate of 1.25%,  
26 then the tax imposed by this Act applies to 100% of the

1 proceeds of sales of gasohol made during that time.

2 With respect to majority blended ethanol fuel, the tax  
3 imposed by this Act does not apply to the proceeds of sales  
4 made on or after July 1, 2003 and on or before December 31,  
5 2013 but applies to 100% of the proceeds of sales made  
6 thereafter.

7 With respect to biodiesel blends with no less than 1% and  
8 no more than 10% biodiesel, the tax imposed by this Act applies  
9 to (i) 80% of the proceeds of sales made on or after July 1,  
10 2003 and on or before December 31, 2013 and (ii) 100% of the  
11 proceeds of sales made thereafter. If, at any time, however,  
12 the tax under this Act on sales of biodiesel blends with no  
13 less than 1% and no more than 10% biodiesel is imposed at the  
14 rate of 1.25%, then the tax imposed by this Act applies to 100%  
15 of the proceeds of sales of biodiesel blends with no less than  
16 1% and no more than 10% biodiesel made during that time.

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

22 With respect to food for human consumption that is to be  
23 consumed off the premises where it is sold (other than  
24 alcoholic beverages, soft drinks, and food that has been  
25 prepared for immediate consumption) and prescription and  
26 nonprescription medicines, drugs, medical appliances,

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

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

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

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

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

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

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

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

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

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

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

18 Section 15. The Service Use Tax Act is amended by changing  
19 Section 3-10 as follows:

20 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
22 Section, the tax imposed by this Act is at the rate of 6.25% of  
23 the selling price of tangible personal property transferred as  
24 an incident to the sale of service, but, for the purpose of



1 computing this tax, in no event shall the selling price be less  
2 than the cost price of the property to the serviceman.

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

8 With respect to gasohol, as defined in the Use Tax Act, the  
9 tax imposed by this Act applies to (i) 70% of the selling price  
10 of property transferred as an incident to the sale of service  
11 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
12 of the selling price of property transferred as an incident to  
13 the sale of service on or after July 1, 2003 and on or before  
14 December 31, 2013, and (iii) 100% of the selling price  
15 thereafter. If, at any time, however, the tax under this Act on  
16 sales of gasohol, as defined in the Use Tax Act, is imposed at  
17 the rate of 1.25%, then the tax imposed by this Act applies to  
18 100% of the proceeds of sales of gasohol made during that time.

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

25 With respect to biodiesel blends, as defined in the Use Tax  
26 Act, with no less than 1% and no more than 10% biodiesel, the

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

11 With respect to 100% biodiesel, as defined in the Use Tax  
12 Act, and biodiesel blends, as defined in the Use Tax Act, with  
13 more than 10% but no more than 99% biodiesel, the tax imposed  
14 by this Act does not apply to the proceeds of the selling price  
15 of property transferred as an incident to the sale of service  
16 on or after July 1, 2003 and on or before December 31, 2013 but  
17 applies to 100% of the selling price thereafter.

18 At the election of any registered serviceman made for each  
19 fiscal year, sales of service in which the aggregate annual  
20 cost price of tangible personal property transferred as an  
21 incident to the sales of service is less than 35%, or 75% in  
22 the case of servicemen transferring prescription drugs or  
23 servicemen engaged in graphic arts production, of the aggregate  
24 annual total gross receipts from all sales of service, the tax  
25 imposed by this Act shall be based on the serviceman's cost  
26 price of the tangible personal property transferred as an

1 incident to the sale of those services.

2 The tax shall be imposed at the rate of 1% on food prepared  
3 for immediate consumption and transferred incident to a sale of  
4 service subject to this Act or the Service Occupation Tax Act  
5 by an entity licensed under the Hospital Licensing Act, the  
6 Nursing Home Care Act, the MR/DD Community Care Act, or the  
7 Child Care Act of 1969. The tax shall also be imposed at the  
8 rate of 1% on food for human consumption that is to be consumed  
9 off the premises where it is sold (other than alcoholic  
10 beverages, soft drinks, and food that has been prepared for  
11 immediate consumption and is not otherwise included in this  
12 paragraph) and prescription and nonprescription medicines,  
13 drugs, medical appliances, modifications to a motor vehicle for  
14 the purpose of rendering it usable by a disabled person, and  
15 insulin, urine testing materials, syringes, and needles used by  
16 diabetics, for human use. For the purposes of this Section,  
17 until September 1, 2009: the term "soft drinks" means any  
18 complete, finished, ready-to-use, non-alcoholic drink, whether  
19 carbonated or not, including but not limited to soda water,  
20 cola, fruit juice, vegetable juice, carbonated water, and all  
21 other preparations commonly known as soft drinks of whatever  
22 kind or description that are contained in any closed or sealed  
23 bottle, can, carton, or container, regardless of size; but  
24 "soft drinks" does not include coffee, tea, non-carbonated  
25 water, infant formula, milk or milk products as defined in the  
26 Grade A Pasteurized Milk and Milk Products Act, or drinks

1 containing 50% or more natural fruit or vegetable juice.

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

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

20 Notwithstanding any other provisions of this Act,  
21 beginning September 1, 2009, "food for human consumption that  
22 is to be consumed off the premises where it is sold" does not  
23 include candy. For purposes of this Section, "candy" means a  
24 preparation of sugar, honey, or other natural or artificial  
25 sweeteners in combination with chocolate, fruits, nuts or other  
26 ingredients or flavorings in the form of bars, drops, or

1 pieces. "Candy" does not include any preparation that contains  
2 flour or requires refrigeration.

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

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

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

20 If the property that is acquired from a serviceman is  
21 acquired outside Illinois and used outside Illinois before  
22 being brought to Illinois for use here and is taxable under  
23 this Act, the "selling price" on which the tax is computed  
24 shall be reduced by an amount that represents a reasonable  
25 allowance for depreciation for the period of prior out-of-state  
26 use.

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

3 Section 20. The Service Occupation Tax Act is amended by  
4 changing Section 3-10 as follows:

5 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

6 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
7 Section, the tax imposed by this Act is at the rate of 6.25% of  
8 the "selling price", as defined in Section 2 of the Service Use  
9 Tax Act, of the tangible personal property. For the purpose of  
10 computing this tax, in no event shall the "selling price" be  
11 less than the cost price to the serviceman of the tangible  
12 personal property transferred. The selling price of each item  
13 of tangible personal property transferred as an incident of a  
14 sale of service may be shown as a distinct and separate item on  
15 the serviceman's billing to the service customer. If the  
16 selling price is not so shown, the selling price of the  
17 tangible personal property is deemed to be 50% of the  
18 serviceman's entire billing to the service customer. When,  
19 however, a serviceman contracts to design, develop, and produce  
20 special order machinery or equipment, the tax imposed by this  
21 Act shall be based on the serviceman's cost price of the  
22 tangible personal property transferred incident to the  
23 completion of the contract.

24 Beginning on July 1, 2000 and through December 31, 2000 and

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

5 With respect to gasohol, as defined in the Use Tax Act, the  
6 tax imposed by this Act shall apply to (i) 70% of the cost  
7 price of property transferred as an incident to the sale of  
8 service on or after January 1, 1990, and before July 1, 2003,  
9 (ii) 80% of the selling price of property transferred as an  
10 incident to the sale of service on or after July 1, 2003 and on  
11 or before December 31, 2013, and (iii) 100% of the cost price  
12 thereafter. If, at any time, however, the tax under this Act on  
13 sales of gasohol, as defined in the Use Tax Act, is imposed at  
14 the rate of 1.25%, then the tax imposed by this Act applies to  
15 100% of the proceeds of sales of gasohol made during that time.

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

22 With respect to biodiesel blends, as defined in the Use Tax  
23 Act, with no less than 1% and no more than 10% biodiesel, the  
24 tax imposed by this Act applies to (i) 80% of the selling price  
25 of property transferred as an incident to the sale of service  
26 on or after July 1, 2003 and on or before December 31, 2013 and

1 (ii) 100% of the proceeds of the selling price thereafter. If,  
2 at any time, however, the tax under this Act on sales of  
3 biodiesel blends, as defined in the Use Tax Act, with no less  
4 than 1% and no more than 10% biodiesel is imposed at the rate  
5 of 1.25%, then the tax imposed by this Act applies to 100% of  
6 the proceeds of sales of biodiesel blends with no less than 1%  
7 and no more than 10% biodiesel made during that time.

8 With respect to 100% biodiesel, as defined in the Use Tax  
9 Act, and biodiesel blends, as defined in the Use Tax Act, with  
10 more than 10% but no more than 99% biodiesel material, the tax  
11 imposed by this Act does not apply to the proceeds of the  
12 selling price of property transferred as an incident to the  
13 sale of service on or after July 1, 2003 and on or before  
14 December 31, 2013 but applies to 100% of the selling price  
15 thereafter.

16 At the election of any registered serviceman made for each  
17 fiscal year, sales of service in which the aggregate annual  
18 cost price of tangible personal property transferred as an  
19 incident to the sales of service is less than 35%, or 75% in  
20 the case of servicemen transferring prescription drugs or  
21 servicemen engaged in graphic arts production, of the aggregate  
22 annual total gross receipts from all sales of service, the tax  
23 imposed by this Act shall be based on the serviceman's cost  
24 price of the tangible personal property transferred incident to  
25 the sale of those services.

26 The tax shall be imposed at the rate of 1% on food prepared



1 for immediate consumption and transferred incident to a sale of  
2 service subject to this Act or the Service Occupation Tax Act  
3 by an entity licensed under the Hospital Licensing Act, the  
4 Nursing Home Care Act, the MR/DD Community Care Act, or the  
5 Child Care Act of 1969. The tax shall also be imposed at the  
6 rate of 1% on food for human consumption that is to be consumed  
7 off the premises where it is sold (other than alcoholic  
8 beverages, soft drinks, and food that has been prepared for  
9 immediate consumption and is not otherwise included in this  
10 paragraph) and prescription and nonprescription medicines,  
11 drugs, medical appliances, modifications to a motor vehicle for  
12 the purpose of rendering it usable by a disabled person, and  
13 insulin, urine testing materials, syringes, and needles used by  
14 diabetics, for human use. For the purposes of this Section,  
15 until September 1, 2009: the term "soft drinks" means any  
16 complete, finished, ready-to-use, non-alcoholic drink, whether  
17 carbonated or not, including but not limited to soda water,  
18 cola, fruit juice, vegetable juice, carbonated water, and all  
19 other preparations commonly known as soft drinks of whatever  
20 kind or description that are contained in any closed or sealed  
21 can, carton, or container, regardless of size; but "soft  
22 drinks" does not include coffee, tea, non-carbonated water,  
23 infant formula, milk or milk products as defined in the Grade A  
24 Pasteurized Milk and Milk Products Act, or drinks containing  
25 50% or more natural fruit or vegetable juice.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "soft drinks" means non-alcoholic  
2 beverages that contain natural or artificial sweeteners. "Soft  
3 drinks" do not include beverages that contain milk or milk  
4 products, soy, rice or similar milk substitutes, or greater  
5 than 50% of vegetable or fruit juice by volume.

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

18       Notwithstanding any other provisions of this Act,  
19 beginning September 1, 2009, "food for human consumption that  
20 is to be consumed off the premises where it is sold" does not  
21 include candy. For purposes of this Section, "candy" means a  
22 preparation of sugar, honey, or other natural or artificial  
23 sweeteners in combination with chocolate, fruits, nuts or other  
24 ingredients or flavorings in the form of bars, drops, or  
25 pieces. "Candy" does not include any preparation that contains  
26 flour or requires refrigeration.

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

- 14           (A) A "Drug Facts" panel; or  
15           (B) A statement of the "active ingredient(s)" with a  
16 list of those ingredients contained in the compound,  
17 substance or preparation.  
18 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
19 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

20           Section 25. The Retailers' Occupation Tax Act is amended by  
21 changing Section 2-10 as follows:

22           (35 ILCS 120/2-10)

23           Sec. 2-10. Rate of tax. Unless otherwise provided in this  
24 Section, the tax imposed by this Act is at the rate of 6.25% of

1 gross receipts from sales of tangible personal property made in  
2 the course of business.

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

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

11 Within 14 days after the effective date of this amendatory  
12 Act of the 91st General Assembly, each retailer of motor fuel  
13 and gasohol shall cause the following notice to be posted in a  
14 prominently visible place on each retail dispensing device that  
15 is used to dispense motor fuel or gasohol in the State of  
16 Illinois: "As of July 1, 2000, the State of Illinois has  
17 eliminated the State's share of sales tax on motor fuel and  
18 gasohol through December 31, 2000. The price on this pump  
19 should reflect the elimination of the tax." The notice shall be  
20 printed in bold print on a sign that is no smaller than 4  
21 inches by 8 inches. The sign shall be clearly visible to  
22 customers. Any retailer who fails to post or maintain a  
23 required sign through December 31, 2000 is guilty of a petty  
24 offense for which the fine shall be \$500 per day per each  
25 retail premises where a violation occurs.

26 Within 14 days after the effective date of this amendatory

1 Act of the 97th General Assembly, each retailer of motor fuel  
2 and gasohol shall cause the following notice to be posted in a  
3 prominently visible place on each retail dispensing device that  
4 is used to dispense motor fuel or gasohol in the State of  
5 Illinois: "As of July 1, 2011, the State of Illinois has  
6 eliminated the State's share of sales tax on motor fuel and  
7 gasohol through December 31, 2011. The price on this pump  
8 should reflect the elimination of the tax." The notice shall be  
9 printed in bold print on a sign that is no smaller than 4  
10 inches by 8 inches. The sign shall be clearly visible to  
11 customers. Any retailer who fails to post or maintain a  
12 required sign through December 31, 2011 is guilty of a petty  
13 offense for which the fine shall be \$500 per day per each  
14 retail premises where a violation occurs.

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

25 With respect to majority blended ethanol fuel, as defined  
26 in the Use Tax Act, the tax imposed by this Act does not apply

1 to the proceeds of sales made on or after July 1, 2003 and on or  
2 before December 31, 2013 but applies to 100% of the proceeds of  
3 sales made thereafter.

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

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

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

1 it usable by a disabled person, and insulin, urine testing  
2 materials, syringes, and needles used by diabetics, for human  
3 use, the tax is imposed at the rate of 1%. For the purposes of  
4 this Section, until September 1, 2009: the term "soft drinks"  
5 means any complete, finished, ready-to-use, non-alcoholic  
6 drink, whether carbonated or not, including but not limited to  
7 soda water, cola, fruit juice, vegetable juice, carbonated  
8 water, and all other preparations commonly known as soft drinks  
9 of whatever kind or description that are contained in any  
10 closed or sealed bottle, can, carton, or container, regardless  
11 of size; but "soft drinks" does not include coffee, tea,  
12 non-carbonated water, infant formula, milk or milk products as  
13 defined in the Grade A Pasteurized Milk and Milk Products Act,  
14 or drinks containing 50% or more natural fruit or vegetable  
15 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 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
9 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.