



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5820

Introduced 8/8/2006, by Rep. William B. Black - Terry R. Parke
- Patricia R. Bellock

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	from Ch. 120, par. 439.3-10
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	from Ch. 120, par. 441-10

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning 7 days after the effective date of this Act and continuing through October 20, 2006, 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.

LRB094 21278 BDD 59614 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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
24 distributed to municipalities as provided in this paragraph.
25 Each municipality shall receive the amount attributable to
26 sales for which Illinois addresses for titling or registration
27 purposes are given as being in such municipality. The remainder
28 of the money paid into the Local Government Tax Fund from such
29 sales shall be distributed to counties. Each county shall
30 receive the amount attributable to sales for which Illinois
31 addresses for titling or registration purposes are given as
32 being located in the unincorporated area of such county.

1 A portion of the money paid into the Local Government Tax
2 Fund from the 6.25% general rate (and, beginning July 1, 2000
3 and through December 31, 2000 and beginning again 7 days after
4 the effective date of this amendatory Act of the 94th General
5 Assembly and continuing through October 20, 2006, the 1.25%
6 rate on motor fuel and gasohol) on sales subject to taxation
7 under the Retailers' Occupation Tax Act and the Service
8 Occupation Tax Act, which occurred in municipalities, shall be
9 distributed to each municipality, based upon the sales which
10 occurred in that municipality. The remainder shall be
11 distributed to each county, based upon the sales which occurred
12 in the unincorporated area of such county.

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

22 Whenever the Department determines that a refund of money
23 paid into the Local Government Tax Fund should be made to a
24 claimant instead of issuing a credit memorandum, the Department
25 shall notify the State Comptroller, who shall cause the order
26 to be drawn for the amount specified, and to the person named,
27 in such notification from the Department. Such refund shall be
28 paid by the State Treasurer out of the Local Government Tax
29 Fund.

30 On or before the 25th day of each calendar month, the
31 Department shall prepare and certify to the Comptroller the
32 disbursement of stated sums of money to named municipalities
33 and counties, the municipalities and counties to be those
34 entitled to distribution of taxes or penalties paid to the
35 Department during the second preceding calendar month. The
36 amount to be paid to each municipality or county shall be the

1 amount (not including credit memoranda) collected during the
2 second preceding calendar month by the Department and paid into
3 the Local Government Tax Fund, plus an amount the Department
4 determines is necessary to offset any amounts which were
5 erroneously paid to a different taxing body, and not including
6 an amount equal to the amount of refunds made during the second
7 preceding calendar month by the Department, and not including
8 any amount which the Department determines is necessary to
9 offset any amounts which are payable to a different taxing body
10 but were erroneously paid to the municipality or county. Within
11 10 days after receipt, by the Comptroller, of the disbursement
12 certification to the municipalities and counties, provided for
13 in this Section to be given to the Comptroller by the
14 Department, the Comptroller shall cause the orders to be drawn
15 for the respective amounts in accordance with the directions
16 contained in such certification.

17 When certifying the amount of monthly disbursement to a
18 municipality or county under this Section, the Department shall
19 increase or decrease that amount by an amount necessary to
20 offset any misallocation of previous disbursements. The offset
21 amount shall be the amount erroneously disbursed within the 6
22 months preceding the time a misallocation is discovered.

23 The provisions directing the distributions from the
24 special fund in the State Treasury provided for in this Section
25 shall constitute an irrevocable and continuing appropriation
26 of all amounts as provided herein. The State Treasurer and
27 State Comptroller are hereby authorized to make distributions
28 as provided in this Section.

29 In construing any development, redevelopment, annexation,
30 preannexation or other lawful agreement in effect prior to
31 September 1, 1990, which describes or refers to receipts from a
32 county or municipal retailers' occupation tax, use tax or
33 service occupation tax which now cannot be imposed, such
34 description or reference shall be deemed to include the
35 replacement revenue for such abolished taxes, distributed from
36 the Local Government Tax Fund.

1 (Source: P.A. 90-491, eff. 1-1-98; 91-51, eff. 6-30-99; 91-872,
2 eff. 7-1-00.)

3 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

4 Sec. 6z-20. Of the money received from the 6.25% general
5 rate (and, beginning July 1, 2000 and through December 31, 2000
6 and beginning again 7 days after the effective date of this
7 amendatory Act of the 94th General Assembly and continuing
8 through October 20, 2006, the 1.25% rate on motor fuel and
9 gasohol) on sales subject to taxation under the Retailers'
10 Occupation Tax Act and Service Occupation Tax Act and paid into
11 the County and Mass Transit District Fund, distribution to the
12 Regional Transportation Authority tax fund, created pursuant
13 to Section 4.03 of the Regional Transportation Authority Act,
14 for deposit therein shall be made based upon the retail sales
15 occurring in a county having more than 3,000,000 inhabitants.
16 The remainder shall be distributed to each county having
17 3,000,000 or fewer inhabitants based upon the retail sales
18 occurring in each such county.

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

28 Of the money received from the 6.25% general use tax rate
29 on tangible personal property which is purchased outside
30 Illinois at retail from a retailer and which is titled or
31 registered by any agency of this State's government and paid
32 into the County and Mass Transit District Fund, the amount for
33 which Illinois addresses for titling or registration purposes
34 are given as being in each county having more than 3,000,000
35 inhabitants shall be distributed into the Regional

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

12 Whenever the Department determines that a refund of money
13 paid into the County and Mass Transit District Fund should be
14 made to a claimant instead of issuing a credit memorandum, the
15 Department shall notify the State Comptroller, who shall cause
16 the order to be drawn for the amount specified, and to the
17 person named, in such notification from the Department. Such
18 refund shall be paid by the State Treasurer out of the County
19 and Mass Transit District 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
27 Transportation Authority and each county having 3,000,000 or
28 fewer inhabitants shall be the amount (not including credit
29 memoranda) collected during the second preceding calendar
30 month by the Department and paid into the County and Mass
31 Transit District Fund, plus an amount the Department determines
32 is necessary to offset any amounts which were erroneously paid
33 to a different taxing body, and not including an amount equal
34 to the amount of refunds made during the second preceding
35 calendar month by the Department, and not including any amount
36 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. Within 10 days after receipt, by the Comptroller, of
4 the disbursement certification to the Regional Transportation
5 Authority and counties, provided for in this Section to be
6 given to the Comptroller by the Department, the Comptroller
7 shall cause the orders to be drawn for the respective amounts
8 in accordance with the directions contained in such
9 certification.

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

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

25 In construing any development, redevelopment, annexation,
26 preannexation or other lawful agreement in effect prior to
27 September 1, 1990, which describes or refers to receipts from a
28 county or municipal retailers' occupation tax, use tax or
29 service occupation tax which now cannot be imposed, such
30 description or reference shall be deemed to include the
31 replacement revenue for such abolished taxes, distributed from
32 the County and Mass Transit District Fund or Local Government
33 Distributive Fund, as the case may be.

34 (Source: P.A. 90-491, eff. 1-1-98; 91-872, eff. 7-1-00.)

35 Section 10. The Use Tax Act is amended by changing Sections

1 3-10 and 9 as follows:

2 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

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 7 days after the effective date of this
26 amendatory Act of the 94th General Assembly and continuing
27 through October 20, 2006, with respect to motor fuel, as
28 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
29 as defined in Section 3-40 of the Use Tax Act, the tax is
30 imposed at the rate of 1.25%.

31 With respect to gasohol, the tax imposed by this Act
32 applies to (i) 70% of the proceeds of sales made on or after
33 January 1, 1990, and before July 1, 2003, (ii) 80% of the
34 proceeds of sales made on or after July 1, 2003 and on or
35 before December 31, 2013, and (iii) 100% of the proceeds of

1 sales made thereafter. If, at any time, however, the tax under
2 this Act on sales of gasohol is imposed at the rate of 1.25%,
3 then the tax imposed by this Act applies to 100% of the
4 proceeds of sales of gasohol made during that time.

5 With respect to majority blended ethanol fuel, the tax
6 imposed by this Act does not apply to the proceeds of sales
7 made on or after July 1, 2003 and on or before December 31,
8 2013 but applies to 100% of the proceeds of sales made
9 thereafter.

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

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

25 With respect to food for human consumption that is to be
26 consumed off the premises where it is sold (other than
27 alcoholic beverages, soft drinks, and food that has been
28 prepared for immediate consumption) and prescription and
29 nonprescription medicines, drugs, medical appliances,
30 modifications to a motor vehicle for the purpose of rendering
31 it usable by a disabled person, and insulin, urine testing
32 materials, syringes, and needles used by diabetics, for human
33 use, the tax is imposed at the rate of 1%. For the purposes of
34 this Section, the term "soft drinks" means any complete,
35 finished, ready-to-use, non-alcoholic drink, whether
36 carbonated or not, including but not limited to soda water,

1 cola, fruit juice, vegetable juice, carbonated water, and all
2 other preparations commonly known as soft drinks of whatever
3 kind or description that are contained in any closed or sealed
4 bottle, can, carton, or container, regardless of size. "Soft
5 drinks" does not include coffee, tea, non-carbonated water,
6 infant formula, milk or milk products as defined in the Grade A
7 Pasteurized Milk and Milk Products Act, or drinks containing
8 50% or more natural fruit or vegetable juice.

9 Notwithstanding any other provisions of this Act, "food for
10 human consumption that is to be consumed off the premises where
11 it is sold" includes all food sold through a vending machine,
12 except soft drinks and food products that are dispensed hot
13 from a vending machine, regardless of the location of the
14 vending machine.

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

22 (Source: P.A. 93-17, eff. 6-11-03.)

23 Section 15. The Service Use Tax Act is amended by changing
24 Sections 3-10 and 9 as follows:

25 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

32 Beginning on July 1, 2000 and through December 31, 2000 and
33 beginning again 7 days after the effective date of this
34 amendatory Act of the 94th General Assembly and continuing

1 through October 20, 2006, with respect to motor fuel, as
2 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
3 as defined in Section 3-40 of the Use Tax Act, the tax is
4 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 applies to (i) 70% of the selling price
7 of property transferred as an incident to the sale of service
8 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
9 of 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, and (iii) 100% of the selling 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
27 (ii) 100% of the proceeds of the selling price thereafter. If,
28 at any time, however, the tax under this Act on sales of
29 biodiesel blends, as defined in the Use Tax Act, with no less
30 than 1% and no more than 10% biodiesel is imposed at the rate
31 of 1.25%, then the tax imposed by this Act applies to 100% of
32 the proceeds of sales of biodiesel blends with no less than 1%
33 and no more than 10% biodiesel made during that time.

34 With respect to 100% biodiesel, as defined in the Use Tax
35 Act, and biodiesel blends, as defined in the Use Tax Act, with
36 more than 10% but no more than 99% biodiesel, the tax imposed

1 by this Act does not apply to the proceeds 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 but
4 applies to 100% of the selling price thereafter.

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

15 The tax shall be imposed at the rate of 1% on food prepared
16 for immediate consumption and transferred incident to a sale of
17 service subject to this Act or the Service Occupation Tax Act
18 by an entity licensed under the Hospital Licensing Act, the
19 Nursing Home Care Act, or the Child Care Act of 1969. The tax
20 shall also be imposed at the rate of 1% on food for human
21 consumption that is to be consumed off the premises where it is
22 sold (other than alcoholic beverages, soft drinks, and food
23 that has been prepared for immediate consumption and is not
24 otherwise included in this paragraph) and prescription and
25 nonprescription medicines, drugs, medical appliances,
26 modifications to a motor vehicle for the purpose of rendering
27 it usable by a disabled person, and insulin, urine testing
28 materials, syringes, and needles used by diabetics, for human
29 use. For the purposes of this Section, the term "soft drinks"
30 means any complete, finished, ready-to-use, non-alcoholic
31 drink, whether carbonated or not, including but not limited to
32 soda water, cola, fruit juice, vegetable juice, carbonated
33 water, and all other preparations commonly known as soft drinks
34 of whatever kind or description that are contained in any
35 closed or sealed bottle, can, carton, or container, regardless
36 of size. "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, "food for
6 human consumption that is to be consumed off the premises where
7 it is sold" includes all food sold through a vending machine,
8 except soft drinks and food products that are dispensed hot
9 from a vending machine, regardless of the location of the
10 vending machine.

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

18 (Source: P.A. 93-17, eff. 6-11-03.)

19 Section 20. The Service Occupation Tax Act is amended by
20 changing Sections 3-10 and 9 as follows:

21 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this
23 Section, the tax imposed by this Act is at the rate of 6.25% of
24 the "selling price", as defined in Section 2 of the Service Use
25 Tax Act, of the tangible personal property. For the purpose of
26 computing this tax, in no event shall the "selling price" be
27 less than the cost price to the serviceman of the tangible
28 personal property transferred. The selling price of each item
29 of tangible personal property transferred as an incident of a
30 sale of service may be shown as a distinct and separate item on
31 the serviceman's billing to the service customer. If the
32 selling price is not so shown, the selling price of the
33 tangible personal property is deemed to be 50% of the
34 serviceman's entire billing to the service customer. When,

1 however, a serviceman contracts to design, develop, and produce
2 special order machinery or equipment, the tax imposed by this
3 Act shall be based on the serviceman's cost price of the
4 tangible personal property transferred incident to the
5 completion of the contract.

6 Beginning on July 1, 2000 and through December 31, 2000 and
7 beginning again 7 days after the effective date of this
8 amendatory Act of the 94th General Assembly and continuing
9 through October 20, 2006, with respect to motor fuel, as
10 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
11 as defined in Section 3-40 of the Use Tax Act, the tax is
12 imposed at the rate of 1.25%.

13 With respect to gasohol, as defined in the Use Tax Act, the
14 tax imposed by this Act shall apply to (i) 70% of the cost
15 price of property transferred as an incident to the sale of
16 service on or after January 1, 1990, and before July 1, 2003,
17 (ii) 80% of the selling price of property transferred as an
18 incident to the sale of service on or after July 1, 2003 and on
19 or before December 31, 2013, and (iii) 100% of the cost price
20 thereafter. If, at any time, however, the tax under this Act on
21 sales of gasohol, as defined in the Use Tax Act, is imposed at
22 the rate of 1.25%, then the tax imposed by this Act applies to
23 100% of the proceeds of 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 selling price of property transferred as an incident to
27 the sale of service on or after July 1, 2003 and on or before
28 December 31, 2013 but applies to 100% of the selling price
29 thereafter.

30 With respect to biodiesel blends, as defined in the Use Tax
31 Act, with no less than 1% and no more than 10% biodiesel, the
32 tax imposed by this Act applies to (i) 80% of the selling price
33 of property transferred as an incident to the sale of service
34 on or after July 1, 2003 and on or before December 31, 2013 and
35 (ii) 100% of the proceeds of the selling price thereafter. If,
36 at any time, however, the tax under this Act on sales of

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

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

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

24 The tax shall be imposed at the rate of 1% on food prepared
25 for immediate consumption and transferred incident to a sale of
26 service subject to this Act or the Service Occupation Tax Act
27 by an entity licensed under the Hospital Licensing Act, the
28 Nursing Home Care Act, or the Child Care Act of 1969. The tax
29 shall also be imposed at the rate of 1% on food for human
30 consumption that is to be consumed off the premises where it is
31 sold (other than alcoholic beverages, soft drinks, and food
32 that has been prepared for immediate consumption and is not
33 otherwise included in this paragraph) and prescription and
34 nonprescription medicines, drugs, medical appliances,
35 modifications to a motor vehicle for the purpose of rendering
36 it usable by a disabled person, and insulin, urine testing

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

13 Notwithstanding any other provisions of this Act, "food for
14 human consumption that is to be consumed off the premises where
15 it is sold" includes all food sold through a vending machine,
16 except soft drinks and food products that are dispensed hot
17 from a vending machine, regardless of the location of the
18 vending machine.

19 (Source: P.A. 93-17, eff. 6-11-03.)

20 Section 25. The Retailers' Occupation Tax Act is amended by
21 changing Sections 2-10 and 3 as follows:

22 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

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
25 gross receipts from sales of tangible personal property made in
26 the course of business.

27 Beginning on July 1, 2000 and through December 31, 2000 and
28 beginning again 7 days after the effective date of this
29 amendatory Act of the 94th General Assembly and continuing
30 through October 20, 2006, with respect to motor fuel, as
31 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
32 as defined in Section 3-40 of the Use Tax Act, the tax is
33 imposed at the rate of 1.25%.

34 Within 14 days after the effective date of this amendatory

1 Act of the 91st 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, 2000, the State of Illinois has
6 eliminated the State's share of sales tax on motor fuel and
7 gasohol through December 31, 2000. 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, 2000 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
27 to the proceeds of sales made on or after July 1, 2003 and on or
28 before December 31, 2013 but applies to 100% of the proceeds of
29 sales made thereafter.

30 With respect to biodiesel blends, as defined in the Use Tax
31 Act, with no less than 1% and no more than 10% biodiesel, the
32 tax imposed by this Act applies to (i) 80% of the proceeds of
33 sales made on or after July 1, 2003 and on or before December
34 31, 2013 and (ii) 100% of the proceeds of sales made
35 thereafter. If, at any time, however, the tax under this Act on
36 sales of biodiesel blends, as defined in the Use Tax Act, with

1 no less than 1% and no more than 10% biodiesel 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 biodiesel blends with no less
4 than 1% and no more than 10% biodiesel made during that time.

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

11 With respect to food for human consumption that is to be
12 consumed off the premises where it is sold (other than
13 alcoholic beverages, soft drinks, and food that has been
14 prepared for immediate consumption) and prescription and
15 nonprescription medicines, drugs, medical appliances,
16 modifications to a motor vehicle for the purpose of rendering
17 it usable by a disabled person, and insulin, urine testing
18 materials, syringes, and needles used by diabetics, for human
19 use, the tax is imposed at the rate of 1%. For the purposes of
20 this Section, the term "soft drinks" means any complete,
21 finished, ready-to-use, non-alcoholic drink, whether
22 carbonated or not, including but not limited to soda water,
23 cola, fruit juice, vegetable juice, carbonated water, and all
24 other preparations commonly known as soft drinks of whatever
25 kind or description that are contained in any closed or sealed
26 bottle, can, carton, or container, regardless of size. "Soft
27 drinks" does not include coffee, tea, non-carbonated water,
28 infant formula, milk or milk products as defined in the Grade A
29 Pasteurized Milk and Milk Products Act, or drinks containing
30 50% or more natural fruit or vegetable juice.

31 Notwithstanding any other provisions of this Act, "food for
32 human consumption that is to be consumed off the premises where
33 it is sold" includes all food sold through a vending machine,
34 except soft drinks and food products that are dispensed hot
35 from a vending machine, regardless of the location of the
36 vending machine.

1 (Source: P.A. 93-17, eff. 6-11-03.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.