

1 AN ACT concerning taxes.

2 WHEREAS, Article IX, Section 5, subsection (c) of the
3 Illinois Constitution of 1970 provides that "On or before
4 January 1, 1979, the General Assembly by law shall abolish
5 all ad valorem personal property taxes and concurrently
6 therewith and thereafter shall replace all revenue lost by
7 units of local government and school districts as a result of
8 the abolition of ad valorem personal property taxes
9 subsequent to January 2, 1971."; and

10 WHEREAS, Public Act 81-1, 1st Special Session, abolished
11 the personal property tax and created the personal property
12 tax replacement income tax and the invested capital tax; and

13 WHEREAS, During the period between the ratification of
14 the Illinois Constitution of 1970 and December 31, 1977 a
15 number of counties in Illinois changed the way personal
16 property and real property were designated; and

17 WHEREAS, This change in the designation of personal and
18 real property was frozen by the passage of Public Act 81-1st.
19 S.S.-1, effective September 19, 1979; and

20 WHEREAS, As a result, in some counties, what is otherwise
21 commonly considered as personal property is taxed as real
22 property by the county under the Property Tax Code, and at
23 the same time taxpayers in those counties are required to pay
24 personal property tax replacement income tax and invested
25 capital tax; therefore

26 Be it enacted by the People of the State of Illinois,
27 represented in the General Assembly:

28 Section 2. The State Revenue Sharing Act is amended by
29 changing Section 12 as follows:

1 (30 ILCS 115/12) (from Ch. 85, par. 616)

2 Sec. 12. Personal Property Tax Replacement Fund. There
3 is hereby created the Personal Property Tax Replacement Fund,
4 a special fund in the State Treasury into which shall be paid
5 all revenue realized:

6 (a) all amounts realized from the additional personal
7 property tax replacement income tax imposed by subsections
8 (c) and (d) of Section 201 of the Illinois Income Tax Act,
9 except for those amounts deposited into the Income Tax Refund
10 Fund pursuant to subsection (c) of Section 901 of the
11 Illinois Income Tax Act; and

12 (b) all amounts realized from the additional personal
13 property replacement invested capital taxes imposed by
14 Section 2a.1 of the Messages Tax Act, Section 2a.1 of the Gas
15 Revenue Tax Act, Section 2a.1 of the Public Utilities
16 Revenue Act, and Section 3 of the Water Company Invested
17 Capital Tax Act, and amounts payable to the Department of
18 Revenue under the Telecommunications Infrastructure
19 Maintenance Fee Act.

20 As soon as may be after the end of each month, the
21 Department of Revenue shall certify to the Treasurer and the
22 Comptroller the amount of all refunds paid out of the General
23 Revenue Fund through the preceding month on account of
24 overpayment of liability on taxes paid into the Personal
25 Property Tax Replacement Fund. Upon receipt of such
26 certification, the Treasurer and the Comptroller shall
27 transfer the amount so certified from the Personal Property
28 Tax Replacement Fund into the General Revenue Fund.

29 The payments of revenue into the Personal Property Tax
30 Replacement Fund shall be used exclusively for distribution
31 to taxing districts as provided in this Section, payment of
32 the expenses of the Department of Revenue incurred in
33 administering the collection and distribution of monies paid
34 into the Personal Property Tax Replacement Fund and transfers

1 due to refunds to taxpayers for overpayment of liability for
2 taxes paid into the Personal Property Tax Replacement Fund.

3 As soon as may be after the effective date of this
4 amendatory Act of 1980, the Department of Revenue shall
5 certify to the Treasurer the amount of net replacement
6 revenue paid into the General Revenue Fund prior to that
7 effective date from the additional tax imposed by Section
8 2a.1 of the Messages Tax Act; Section 2a.1 of the Gas Revenue
9 Tax Act; Section 2a.1 of the Public Utilities Revenue Act;
10 Section 3 of the Water Company Invested Capital Tax Act;
11 amounts collected by the Department of Revenue under the
12 Telecommunications Infrastructure Maintenance Fee Act; and
13 the additional personal property tax replacement income tax
14 imposed by the Illinois Income Tax Act, as amended by Public
15 Act 81-1st Special Session-1. Net replacement revenue shall
16 be defined as the total amount paid into and remaining in the
17 General Revenue Fund as a result of those Acts minus the
18 amount outstanding and obligated from the General Revenue
19 Fund in state vouchers or warrants prior to the effective
20 date of this amendatory Act of 1980 as refunds to taxpayers
21 for overpayment of liability under those Acts.

22 All interest earned by monies accumulated in the Personal
23 Property Tax Replacement Fund shall be deposited in such
24 Fund. All amounts allocated pursuant to this Section are
25 appropriated on a continuing basis.

26 Prior to December 31, 1980, as soon as may be after the
27 end of each quarter beginning with the quarter ending
28 December 31, 1979, and on and after December 31, 1980, as
29 soon as may be after January 1, March 1, April 1, May 1, July
30 1, August 1, October 1 and December 1 of each year, the
31 Department of Revenue shall allocate to each taxing district
32 as defined in Section 1-150 of the Property Tax Code, in
33 accordance with the provisions of paragraph (2) of this
34 Section the portion of the funds held in the Personal

1 Property Tax Replacement Fund which is required to be
2 distributed, as provided in paragraph (1), for each quarter.
3 Provided, however, under no circumstances shall any taxing
4 district during each of the first two years of distribution
5 of the taxes imposed by this amendatory Act of 1979 be
6 entitled to an annual allocation which is less than the funds
7 such taxing district collected from the 1978 personal
8 property tax. Provided further that under no circumstances
9 shall any taxing district during the third year of
10 distribution of the taxes imposed by this amendatory Act of
11 1979 receive less than 60% of the funds such taxing district
12 collected from the 1978 personal property tax. In the event
13 that the total of the allocations made as above provided for
14 all taxing districts, during either of such 3 years, exceeds
15 the amount available for distribution the allocation of each
16 taxing district shall be proportionately reduced. Except as
17 provided in Section 13 of this Act, the Department shall then
18 certify, pursuant to appropriation, such allocations to the
19 State Comptroller who shall pay over to the several taxing
20 districts the respective amounts allocated to them.

21 Any township which receives an allocation based in whole
22 or in part upon personal property taxes which it levied
23 pursuant to Section 6-507 or 6-512 of the Illinois Highway
24 Code and which was previously required to be paid over to a
25 municipality shall immediately pay over to that municipality
26 a proportionate share of the personal property replacement
27 funds which such township receives.

28 Any municipality or township, other than a municipality
29 with a population in excess of 500,000, which receives an
30 allocation based in whole or in part on personal property
31 taxes which it levied pursuant to Sections 3-1, 3-4 and 3-6
32 of the Illinois Local Library Act and which was previously
33 required to be paid over to a public library shall
34 immediately pay over to that library a proportionate share of

1 the personal property tax replacement funds which such
2 municipality or township receives; provided that if such a
3 public library has converted to a library organized under The
4 Illinois Public Library District Act, regardless of whether
5 such conversion has occurred on, after or before January 1,
6 1988, such proportionate share shall be immediately paid over
7 to the library district which maintains and operates the
8 library. However, any library that has converted prior to
9 January 1, 1988, and which hitherto has not received the
10 personal property tax replacement funds, shall receive such
11 funds commencing on January 1, 1988.

12 Any township which receives an allocation based in whole
13 or in part on personal property taxes which it levied
14 pursuant to Section 1c of the Public Graveyards Act and which
15 taxes were previously required to be paid over to or used for
16 such public cemetery or cemeteries shall immediately pay over
17 to or use for such public cemetery or cemeteries a
18 proportionate share of the personal property tax replacement
19 funds which the township receives.

20 Any taxing district which receives an allocation based in
21 whole or in part upon personal property taxes which it levied
22 for another governmental body or school district in Cook
23 County in 1976 or for another governmental body or school
24 district in the remainder of the State in 1977 shall
25 immediately pay over to that governmental body or school
26 district the amount of personal property replacement funds
27 which such governmental body or school district would receive
28 directly under the provisions of paragraph (2) of this
29 Section, had it levied its own taxes.

30 (1) The portion of the Personal Property Tax
31 Replacement Fund required to be distributed as of the
32 time allocation is required to be made shall be the
33 amount available in such Fund as of the time allocation
34 is required to be made.

1 The amount available for distribution shall be the
2 total amount in the fund at such time minus the necessary
3 administrative expenses as limited by the appropriation
4 and the amount determined by: (a) \$2.8 million for
5 fiscal year 1981; (b) for fiscal year 1982, .54% of the
6 funds distributed from the fund during the preceding
7 fiscal year; (c) for fiscal year 1983 through fiscal year
8 1988, .54% of the funds distributed from the fund during
9 the preceding fiscal year less .02% of such fund for
10 fiscal year 1983 and less .02% of such funds for each
11 fiscal year thereafter, or (d) for fiscal year 1989 and
12 beyond no more than 105% of the actual administrative
13 expenses of the prior fiscal year. Such portion of the
14 fund shall be determined after the transfer into the
15 General Revenue Fund due to refunds, if any, paid from
16 the General Revenue Fund during the preceding quarter. If
17 at any time, for any reason, there is insufficient amount
18 in the Personal Property Tax Replacement Fund for payment
19 of costs of administration or for transfers due to
20 refunds at the end of any particular month, the amount of
21 such insufficiency shall be carried over for the purposes
22 of transfers into the General Revenue Fund and for
23 purposes of costs of administration to the following
24 month or months. Net replacement revenue held, and
25 defined above, shall be transferred by the Treasurer and
26 Comptroller to the Personal Property Tax Replacement Fund
27 within 10 days of such certification.

28 (2) Each quarterly allocation shall first be
29 apportioned in the following manner: 51.65% for taxing
30 districts in Cook County and 48.35% for taxing districts
31 in the remainder of the State.

32 Until January 1, 2004, the Personal Property Replacement
33 Ratio of each taxing district outside Cook County shall be
34 the ratio which the Tax Base of that taxing district bears to

1 the Downstate Tax Base. The Tax Base of each taxing district
2 outside of Cook County is the personal property tax
3 collections for that taxing district for the 1977 tax year.
4 The Downstate Tax Base is the personal property tax
5 collections for all taxing districts in the State outside of
6 Cook County for the 1977 tax year. The Department of Revenue
7 shall have authority to review for accuracy and completeness
8 the personal property tax collections for each taxing
9 district outside Cook County for the 1977 tax year.

10 Within 60 days after the effective date of this
11 amendatory Act of the 93rd General Assembly, the Department
12 of Revenue shall review and adjust the Tax Base of any taxing
13 district located in any county in which, during the period
14 between the ratification of the Illinois Constitution of 1970
15 and December 31, 1977, the supervisor of assessments
16 reclassified as real property on a county-wide basis for
17 purposes of taxation, property that had been classified as
18 personal property during that period by creating a new
19 assessment category to identify such reclassified property.
20 The Department of Revenue shall determine the Tax Base of the
21 taxing district without regard to that reclassification as
22 provided in this amendatory Act of the 93rd General Assembly.
23 The Downstate Tax Base shall also be adjusted by an amount
24 equal to any adjustment in the Tax Base of a taxing district
25 made in accordance with this amendatory Act of the 93rd
26 General Assembly.

27 Beginning on January 1, 2004, the Personal Property
28 Replacement Ratio of each taxing district outside Cook County
29 shall be the ratio which the Tax Base of that taxing district
30 bears to the Downstate Tax Base. The Tax Base of each taxing
31 district outside Cook County is the personal property tax
32 collections for that taxing district for the 1977 tax year,
33 as adjusted by the Department of Revenue in accordance with
34 this amendatory Act of the 93rd General Assembly. In

1 adjusting the Tax Base of a taxing district, the Department
2 of Revenue shall rely upon the certification of the
3 supervisor of assessments for the county in which the taxing
4 district is located, in whole or in part, certifying the
5 taxing district's 1977 personal property tax collections as
6 adjusted by including in the taxing district's 1977 personal
7 property tax collections, the taxing district's share of the
8 1977 tax collections on the property that was identified in
9 the new assessment category created in the county for
10 reclassified property, as referred to above, determined by
11 multiplying the 2002 assessed value of the Terminated
12 Property (as defined in Section 24-5 of the Property Tax
13 Code) located in the taxing district by the taxing district's
14 1977 tax rate. The certification of the supervisor of
15 assessments shall be supported by such documents as the
16 Department of Revenue may request.

17 The allocation to any taxing district outside of Cook
18 County, except for the fire protection districts, shall be
19 reduced by the amount allowed to taxpayers in that taxing
20 district as an income tax credit during the preceding tax
21 year under Section 213 of the Illinois Income Tax Act. If the
22 allocation reduction for the amount allowed to taxpayers as
23 an income tax credit exceeds the allocation amount for a
24 taxing district, the excess amount shall be carried forward
25 and reduce the subsequent allocation to that taxing district.
26 The amount by which any taxing district's allocation is
27 reduced shall be distributed to the remaining taxing
28 districts outside of Cook County according to the Personal
29 Property Replacement Ratio of each taxing district outside of
30 Cook County.

31 The Personal Property Replacement Ratio of each Cook
32 County taxing district shall be the ratio which the Tax Base
33 of that taxing district bears to the Cook County Tax Base.
34 The Tax Base of each Cook County taxing district is the

1 personal property tax collections for that taxing district
2 for the 1976 tax year. The Cook County Tax Base is the
3 personal property tax collections for all taxing districts in
4 Cook County for the 1976 tax year. The Department of Revenue
5 shall have authority to review for accuracy and completeness
6 the personal property tax collections for each taxing
7 district within Cook County for the 1976 tax year.

8 For all purposes of this Section 12, amounts paid to a
9 taxing district for such tax years as may be applicable by a
10 foreign corporation under the provisions of Section 7-202 of
11 the Public Utilities Act, as amended, shall be deemed to be
12 personal property taxes collected by such taxing district for
13 such tax years as may be applicable. The Director shall
14 determine from the Illinois Commerce Commission, for any tax
15 year as may be applicable, the amounts so paid by any such
16 foreign corporation to any and all taxing districts. The
17 Illinois Commerce Commission shall furnish such information
18 to the Director. For all purposes of this Section 12, the
19 Director shall deem such amounts to be collected personal
20 property taxes of each such taxing district for the
21 applicable tax year or years.

22 Taxing districts located both in Cook County and in one
23 or more other counties shall receive both a Cook County
24 allocation and a Downstate allocation determined in the same
25 way as all other taxing districts.

26 If any taxing district in existence on July 1, 1979
27 ceases to exist, or discontinues its operations, its Tax Base
28 shall thereafter be deemed to be zero. If the powers, duties
29 and obligations of the discontinued taxing district are
30 assumed by another taxing district, the Tax Base of the
31 discontinued taxing district shall be added to the Tax Base
32 of the taxing district assuming such powers, duties and
33 obligations.

34 If two or more taxing districts in existence on July 1,

1 1979, or a successor or successors thereto shall consolidate
2 into one taxing district, the Tax Base of such consolidated
3 taxing district shall be the sum of the Tax Bases of each of
4 the taxing districts which have consolidated.

5 If a single taxing district in existence on July 1, 1979,
6 or a successor or successors thereto shall be divided into
7 two or more separate taxing districts, the tax base of the
8 taxing district so divided shall be allocated to each of the
9 resulting taxing districts in proportion to the then current
10 equalized assessed value of each resulting taxing district.

11 If a portion of the territory of a taxing district is
12 disconnected and annexed to another taxing district of the
13 same type, the Tax Base of the taxing district from which
14 disconnection was made shall be reduced in proportion to the
15 then current equalized assessed value of the disconnected
16 territory as compared with the then current equalized
17 assessed value within the entire territory of the taxing
18 district prior to disconnection, and the amount of such
19 reduction shall be added to the Tax Base of the taxing
20 district to which annexation is made.

21 If a community college district is created after July 1,
22 1979, beginning on the effective date of this amendatory Act
23 of 1995, its Tax Base shall be 3.5% of the sum of the
24 personal property tax collected for the 1977 tax year within
25 the territorial jurisdiction of the district.

26 The amounts allocated and paid to taxing districts
27 pursuant to the provisions of this amendatory Act of 1979
28 shall be deemed to be substitute revenues for the revenues
29 derived from taxes imposed on personal property pursuant to
30 the provisions of the "Revenue Act of 1939" or "An Act for
31 the assessment and taxation of private car line companies",
32 approved July 22, 1943, as amended, or Section 414 of the
33 Illinois Insurance Code, prior to the abolition of such taxes
34 and shall be used for the same purposes as the revenues

1 derived from ad valorem taxes on real estate.

2 Monies received by any taxing districts from the Personal
3 Property Tax Replacement Fund shall be first applied toward
4 payment of the proportionate amount of debt service which was
5 previously levied and collected from extensions against
6 personal property on bonds outstanding as of December 31,
7 1978 and next applied toward payment of the proportionate
8 share of the pension or retirement obligations of the taxing
9 district which were previously levied and collected from
10 extensions against personal property. For each such
11 outstanding bond issue, the County Clerk shall determine the
12 percentage of the debt service which was collected from
13 extensions against real estate in the taxing district for
14 1978 taxes payable in 1979, as related to the total amount of
15 such levies and collections from extensions against both real
16 and personal property. For 1979 and subsequent years' taxes,
17 the County Clerk shall levy and extend taxes against the real
18 estate of each taxing district which will yield the said
19 percentage or percentages of the debt service on such
20 outstanding bonds. The balance of the amount necessary to
21 fully pay such debt service shall constitute a first and
22 prior lien upon the monies received by each such taxing
23 district through the Personal Property Tax Replacement Fund
24 and shall be first applied or set aside for such purpose. In
25 counties having fewer than 3,000,000 inhabitants, the
26 amendments to this paragraph as made by this amendatory Act
27 of 1980 shall be first applicable to 1980 taxes to be
28 collected in 1981.

29 (Source: P.A. 92-526, eff. 1-1-03.)

30 Section 5. The Illinois Income Tax Act is amended by
31 adding Section 213 as follows:

32 (35 ILCS 5/213 new)

1 Sec. 213. Personal property tax credit. For taxable
2 years beginning on or after January 1, 2004, each taxpayer is
3 entitled to a credit against the tax imposed by subsections
4 (c) and (d) of Section 201 in an amount equal to the amount
5 of real property tax paid in the taxable year for property in
6 the taxpayer's possession on December 31, 2002 and for
7 property of like kind that is placed in use on or after
8 January 1, 2003, the property taxes on which are cumulatively
9 reduced to zero under Section 24-5 of the Property Tax Code;
10 provided, however, that a taxpayer entitled to receive real
11 property tax rebates on such like kind property or Terminated
12 Property pursuant the Tax Increment Allocation Redevelopment
13 Act (Division 74.4 of Article 11 of the Illinois Municipal
14 Code) or any other statute allowing real property tax
15 rebates, or a taxpayer entitled to receive real property tax
16 abatements on such like kind property or Terminated Property
17 pursuant to any agreement authorized by statute, shall not be
18 entitled to the credit against the tax imposed by subsections
19 (c) and (d) of Section 201 allowed by this Section for any
20 tax year commencing prior to the termination of the agreement
21 providing for the real property tax rebates or abatements. If
22 a credit allowed under this Section exceeds the tax due by a
23 taxpayer pursuant to subsections (c) and (d) of Section 201
24 for any taxable year, the excess credit may be carried
25 forward for the 5 subsequent tax years and applied against
26 the tax imposed by subsections (c) and (d) of Section 201 for
27 each of those years. A partner that qualifies its partnership
28 for a subtraction under subparagraph (I) of paragraph (2) of
29 subsection (d) of Section 203 or a shareholder that qualifies
30 a Subchapter S corporation for a subtraction under
31 subparagraph (S) of paragraph (2) of subsection (b) of
32 Section 203 shall be allowed a credit under this Section
33 equal to its share of the credit earned under this Section
34 during the taxable year by the partnership or Subchapter S

1 corporation, determined in accordance with the determination
 2 of income and distributive share of income under Sections 702
 3 and 704 and Subchapter S of the Internal Revenue Code. All
 4 tax credits allowed under this Section shall be charged
 5 against that portion of the Personal Property Tax Replacement
 6 Fund allocated to taxing districts located outside of Cook
 7 County. The Department must adopt rules concerning the
 8 administration of this credit. This Section is exempt from
 9 the provisions of Section 250.

10 Section 10. The Property Tax Code is amended by changing
 11 Section 24-5 as follows:

12 (35 ILCS 200/24-5)

13 Sec. 24-5. Tax on personal property. Ad valorem personal
 14 property taxes shall not be levied on any personal property
 15 having tax situs in this State. However, this Section shall
 16 not prohibit the collection after January 1, 1979 of any
 17 taxes levied under this Code prior to January 1, 1979, on
 18 personal property subject to assessment and taxation under
 19 this Code prior to January 1, 1979. No property lawfully
 20 assessed and taxed as personal property prior to January 1,
 21 1979, or property of like kind acquired or placed in use
 22 after January 1, 1979, shall be classified as real property
 23 subject to assessment and taxation. No property lawfully
 24 assessed and taxed as real property prior to January 1, 1979,
 25 or property of like kind acquired or placed in use after
 26 January 1, 1979, shall be classified as personal property.
 27 Property acquired before January 1, 2003 that is identified
 28 in the new assessment category referred to in subdivision
 29 (b)(2) of Section 12 of the State Revenue Sharing Act and is,
 30 on the effective date of this amendatory Act of the 93rd
 31 General Assembly, taxed as real property under this Code
 32 shall be referred to herein as Stranded Property. The ratio

1 resulting from dividing the 1977 assessed value of all
2 Stranded Property located in the county by the 2002 assessed
3 value of all Stranded Property located in the county shall be
4 referred to herein as the Terminated Property Ratio. The
5 2003 assessed value of each taxpayer's Stranded Property
6 located in the county on December 31, 2002 shall be
7 proportionately reduced by the Terminated Property Ratio.
8 Terminated Property is that portion of Stranded Property that
9 has been reduced by the Terminated Property Ratio. The
10 remainder resulting from the subtraction of the Terminated
11 Property from the Stranded Property shall continue to be
12 taxed as real property. Notwithstanding any other provision
13 of law to the contrary, taxation of Terminated Property as
14 real property shall be cumulatively terminated over a 20-year
15 period as provided herein.

16 Commencing January 1, 2003, the assessed value of the
17 Terminated Property for purposes of taxes on real property
18 shall be cumulatively decreased by 5% of the initial amount
19 each year by the supervisor of assessments and shall be
20 reduced to zero in the 20th year. The assessed value of
21 property of like kind to the Terminated Property that is
22 placed in use on or after January 1, 2003 shall be reduced
23 uniformly with the assessed value of the Terminated Property.
24 The reduction shall begin at the percentage applicable for
25 the year in which it is first placed in use. The changes made
26 to this Section by this amendatory Act of the 93rd General
27 Assembly are a denial and limitation of home rule powers and
28 functions under subsection (g) of Section 6 of Article VII of
29 the Illinois Constitution.

30 Nothing in this amendatory Act of the 93rd General
31 Assembly shall be used or construed to in any manner affect
32 the definitions of what constitutes real property or personal
33 property as of the effective date of this amendatory Act of
34 the 93rd General Assembly.

1 (Source: P.A. 82-935; 88-455.)

2 Section 99. Effective date. This Act takes effect on

3 July 1, 2003.