



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4366

Introduced 1/4/2006, by Rep. William B. Black

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
35 ILCS 505/2	from Ch. 120, par. 418
35 ILCS 505/2a	from Ch. 120, par. 418a
35 ILCS 505/13a	from Ch. 120, par. 429a

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 May 1, 2006 through May 31, 2006, with respect to motor fuel and gasohol the tax under the Acts is imposed at the rate of 1.25% (now, 6.25%). Amends the Motor Fuel Tax Law. Provides that taxes are not imposed under the Act for the period beginning on May 1, 2006 and continuing through May 31, 2006. Effective immediately.

LRB094 16644 BDD 51912 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
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 on May 1,
4 2006 through May 31, 2006 the 1.25% rate on motor fuel and
5 gasohol) on sales subject to taxation under the Retailers'
6 Occupation Tax Act and the Service Occupation Tax Act, which
7 occurred in municipalities, shall be distributed to each
8 municipality, based upon the sales which occurred in that
9 municipality. The remainder shall be distributed to each
10 county, based upon the sales which occurred in the
11 unincorporated area of 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 Whenever the Department determines that a refund of money
22 paid into the Local Government Tax Fund should be made to a
23 claimant instead of issuing a credit memorandum, the Department
24 shall notify the State Comptroller, who shall cause the order
25 to be drawn for the amount specified, and to the person named,
26 in such notification from the Department. Such refund shall be
27 paid by the State Treasurer out of the Local Government Tax
28 Fund.

29 On or before the 25th day of each calendar month, the
30 Department shall prepare and certify to the Comptroller the
31 disbursement of stated sums of money to named municipalities
32 and counties, the municipalities and counties to be those
33 entitled to distribution of taxes or penalties paid to the
34 Department during the second preceding calendar month. The
35 amount to be paid to each municipality or county shall be the
36 amount (not including credit memoranda) collected during the

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

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

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

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

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

1 eff. 7-1-00.)

2 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

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

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

26 Of the money received from the 6.25% general use tax rate
27 on tangible personal property which is purchased outside
28 Illinois at retail from a retailer and which is titled or
29 registered by any agency of this State's government and paid
30 into the County and Mass Transit District Fund, the amount for
31 which Illinois addresses for titling or registration purposes
32 are given as being in each county having more than 3,000,000
33 inhabitants shall be distributed into the Regional
34 Transportation Authority tax fund, created pursuant to Section
35 4.03 of the Regional Transportation Authority Act. The

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

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

18 On or before the 25th day of each calendar month, the
19 Department shall prepare and certify to the Comptroller the
20 disbursement of stated sums of money to the Regional
21 Transportation Authority and to named counties, the counties to
22 be those entitled to distribution, as hereinabove provided, of
23 taxes or penalties paid to the Department during the second
24 preceding calendar month. The amount to be paid to the Regional
25 Transportation Authority and each county having 3,000,000 or
26 fewer inhabitants shall be the amount (not including credit
27 memoranda) collected during the second preceding calendar
28 month by the Department and paid into the County and Mass
29 Transit District Fund, plus an amount the Department determines
30 is necessary to offset any amounts which were erroneously paid
31 to a different taxing body, and not including an amount equal
32 to the amount of refunds made during the second preceding
33 calendar month by the Department, and not including any amount
34 which the Department determines is necessary to offset any
35 amounts which were payable to a different taxing body but were
36 erroneously paid to the Regional Transportation Authority or

1 county. Within 10 days after receipt, by the Comptroller, of
2 the disbursement certification to the Regional Transportation
3 Authority and counties, provided for in this Section to be
4 given to the Comptroller by the Department, the Comptroller
5 shall cause the orders to be drawn for the respective amounts
6 in accordance with the directions contained in such
7 certification.

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

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

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

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

33 Section 10. The Use Tax Act is amended by changing Sections
34 3-10 and 9 as follows:

1 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

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

23 Beginning on July 1, 2000 and through December 31, 2000 and
24 beginning again on May 1, 2006 through May 31, 2006, with
25 respect to motor fuel, as defined in Section 1.1 of the Motor
26 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the
27 Use Tax Act, the tax is imposed at the rate of 1.25%.

28 With respect to gasohol, the tax imposed by this Act
29 applies to (i) 70% of the proceeds of sales made on or after
30 January 1, 1990, and before July 1, 2003, (ii) 80% of the
31 proceeds of sales made on or after July 1, 2003 and on or
32 before December 31, 2013, and (iii) 100% of the proceeds of
33 sales made thereafter. If, at any time, however, the tax under
34 this Act on sales of gasohol is imposed at the rate of 1.25%,
35 then the tax imposed by this Act applies to 100% of the
36 proceeds of sales of gasohol made during that time.

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

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

16 With respect to 100% biodiesel and biodiesel blends 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
27 it usable by a disabled person, and insulin, urine testing
28 materials, syringes, and needles used by diabetics, for human
29 use, the tax is imposed at the rate of 1%. For the purposes of
30 this Section, the term "soft drinks" means any complete,
31 finished, ready-to-use, non-alcoholic drink, whether
32 carbonated or not, including but not limited to soda water,
33 cola, fruit juice, vegetable juice, carbonated water, and all
34 other preparations commonly known as soft drinks of whatever
35 kind or description that are contained in any closed or sealed
36 bottle, can, carton, or container, regardless of size. "Soft

1 drinks" does not include coffee, tea, non-carbonated water,
2 infant formula, milk or milk products as defined in the Grade A
3 Pasteurized Milk and Milk Products Act, or drinks containing
4 50% or more natural fruit or vegetable 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 purchased at retail from a retailer
12 is 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 15. The Service Use Tax Act is amended by changing
20 Sections 3-10 and 9 as follows:

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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 of tangible personal property transferred as
25 an incident to the sale of service, but, for the purpose of
26 computing this tax, in no event shall the selling price be less
27 than the cost price of the property to the serviceman.

28 Beginning on July 1, 2000 and through December 31, 2000 and
29 beginning again on May 1, 2006 through May 31, 2006, with
30 respect to motor fuel, as defined in Section 1.1 of the Motor
31 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the
32 Use Tax Act, the tax is imposed at the rate of 1.25%.

33 With respect to gasohol, as defined in the Use Tax Act, the
34 tax imposed by this Act applies to (i) 70% of the selling price

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

10 With respect to majority blended ethanol fuel, as defined
11 in the Use Tax Act, the tax imposed by this Act does not apply
12 to 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 but applies to 100% of the selling price
15 thereafter.

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

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

35 At the election of any registered serviceman made for each
36 fiscal year, sales of service in which the aggregate annual

1 cost price of tangible personal property transferred as an
2 incident to the sales of service is less than 35%, or 75% in
3 the case of servicemen transferring prescription drugs or
4 servicemen engaged in graphic arts production, of the aggregate
5 annual total gross receipts from all sales of service, the tax
6 imposed by this Act shall be based on the serviceman's cost
7 price of the tangible personal property transferred as an
8 incident to the sale of those services.

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

35 Notwithstanding any other provisions of this Act, "food for
36 human consumption that is to be consumed off the premises where

1 it is sold" includes all food sold through a vending machine,
2 except soft drinks and food products that are dispensed hot
3 from a vending machine, regardless of the location of the
4 vending machine.

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

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

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

15 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

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

1 beginning again on May 1, 2006 through May 31, 2006, with
2 respect to motor fuel, as defined in Section 1.1 of the Motor
3 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the
4 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
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 material, the tax

1 imposed by this Act does not apply to the proceeds of the
2 selling price of property transferred as an incident to the
3 sale of service on or after July 1, 2003 and on or before
4 December 31, 2013 but applies to 100% of the selling price
5 thereafter.

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

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

1 "Soft drinks" does not include coffee, tea, non-carbonated
2 water, infant formula, milk or milk products as defined in the
3 Grade A Pasteurized Milk and Milk Products Act, or drinks
4 containing 50% or more natural fruit or vegetable 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 (Source: P.A. 93-17, eff. 6-11-03.)

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

14 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

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

19 Beginning on July 1, 2000 and through December 31, 2000 and
20 beginning again on May 1, 2006 through May 31, 2006, with
21 respect to motor fuel, as defined in Section 1.1 of the Motor
22 Fuel Tax Law, and gasohol, as defined in Section 3-40 of the
23 Use Tax Act, the tax is imposed at the rate of 1.25%.

24 Within 14 days after the effective date of this amendatory
25 Act of the 91st General Assembly, each retailer of motor fuel
26 and gasohol shall cause the following notice to be posted in a
27 prominently visible place on each retail dispensing device that
28 is used to dispense motor fuel or gasohol in the State of
29 Illinois: "As of July 1, 2000, the State of Illinois has
30 eliminated the State's share of sales tax on motor fuel and
31 gasohol through December 31, 2000. The price on this pump
32 should reflect the elimination of the tax." The notice shall be
33 printed in bold print on a sign that is no smaller than 4
34 inches by 8 inches. The sign shall be clearly visible to

1 customers. Any retailer who fails to post or maintain a
2 required sign through December 31, 2000 is guilty of a petty
3 offense for which the fine shall be \$500 per day per each
4 retail premises where a violation occurs.

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

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

20 With respect to biodiesel blends, as defined in the Use Tax
21 Act, with no less than 1% and no more than 10% biodiesel, the
22 tax imposed by this Act applies to (i) 80% of the proceeds of
23 sales made on or after July 1, 2003 and on or before December
24 31, 2013 and (ii) 100% of the proceeds of sales made
25 thereafter. If, at any time, however, the tax under this Act on
26 sales of biodiesel blends, as defined in the Use Tax Act, with
27 no less than 1% and no more than 10% biodiesel is imposed at
28 the rate of 1.25%, then the tax imposed by this Act applies to
29 100% of the proceeds of sales of biodiesel blends with no less
30 than 1% and no more than 10% biodiesel made during that time.

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

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

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

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

28 Section 30. The Motor Fuel Tax Law is amended by changing
29 Sections 2, 2a, and 13a as follows:

30 (35 ILCS 505/2) (from Ch. 120, par. 418)

31 Sec. 2. Tax on the operation of motor vehicles and
32 watercraft; exceptions. A tax is imposed on the privilege of
33 operating motor vehicles upon the public highways and
34 recreational-type watercraft upon the waters of this State.

1 (a) Prior to August 1, 1989, the tax is imposed at the rate
2 of 13 cents per gallon on all motor fuel used in motor vehicles
3 operating on the public highways and recreational type
4 watercraft operating upon the waters of this State. Beginning
5 on August 1, 1989 and until January 1, 1990, the rate of the
6 tax imposed in this paragraph shall be 16 cents per gallon.
7 Beginning January 1, 1990, the rate of tax imposed in this
8 paragraph shall be 19 cents per gallon.

9 (b) The tax on the privilege of operating motor vehicles
10 which use diesel fuel shall be the rate according to paragraph
11 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is
12 defined as any product intended for use or offered for sale as
13 a fuel for engines in which the fuel is injected into the
14 combustion chamber and ignited by pressure without electric
15 spark.

16 (c) A tax is imposed upon the privilege of engaging in the
17 business of selling motor fuel as a retailer or reseller on all
18 motor fuel used in motor vehicles operating on the public
19 highways and recreational type watercraft operating upon the
20 waters of this State: (1) at the rate of 3 cents per gallon on
21 motor fuel owned or possessed by such retailer or reseller at
22 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per
23 gallon on motor fuel owned or possessed by such retailer or
24 reseller at 12:01 A.M. on January 1, 1990.

25 Retailers and resellers who are subject to this additional
26 tax shall be required to inventory such motor fuel and pay this
27 additional tax in a manner prescribed by the Department of
28 Revenue.

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

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

35 (e) The collection of a tax, based on gallonage of all
36 products commonly or commercially known or sold as 1-K

1 kerosene, regardless of its classification or uses, is
2 prohibited (i) on and after July 1, 1992 until December 31,
3 1999, except when the 1-K kerosene is either: (1) delivered
4 into bulk storage facilities of a bulk user, or (2) delivered
5 directly into the fuel supply tanks of motor vehicles and (ii)
6 on and after January 1, 2000. Beginning on January 1, 2000, the
7 collection of a tax, based on gallonage of all products
8 commonly or commercially known or sold as 1-K kerosene,
9 regardless of its classification or uses, is prohibited except
10 when the 1-K kerosene is delivered directly into a storage tank
11 that is located at a facility that has withdrawal facilities
12 that are readily accessible to and are capable of dispensing
13 1-K kerosene into the fuel supply tanks of motor vehicles.

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

18 (f) No tax is imposed under this Section for the period
19 beginning on May 1, 2006 and continuing through May 31, 2006.

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

21 (35 ILCS 505/2a) (from Ch. 120, par. 418a)

22 Sec. 2a. Tax on receivers of fuel for sale or use. Except
23 as hereinafter provided, on and after January 1, 1990 and
24 before January 1, 2013, a tax of three-tenths of a cent per
25 gallon is imposed upon the privilege of being a receiver in
26 this State of fuel for sale or use.

27 The tax shall be paid by the receiver in this State who
28 first sells or uses fuel. In the case of a sale, the tax shall
29 be stated as a separate item on the invoice.

30 No tax is imposed under this Section for the period
31 beginning on May 1, 2006 and continuing through May 31, 2006.

32 For the purpose of the tax imposed by this Section, being a
33 receiver of "motor fuel" as defined by Section 1.1 of this Act,
34 and aviation fuels, home heating oil and kerosene, but
35 excluding liquified petroleum gases, is subject to tax without

1 regard to whether the fuel is intended to be used for operation
2 of motor vehicles on the public highways and waters. However,
3 no such tax shall be imposed upon the importation or receipt of
4 aviation fuels and kerosene at airports with over 300,000
5 operations per year, for years prior to 1991, and over 170,000
6 operations per year beginning in 1991, located in a city of
7 more than 1,000,000 inhabitants for sale to or use by holders
8 of certificates of public convenience and necessity or foreign
9 air carrier permits, issued by the United States Department of
10 Transportation, and their air carrier affiliates, or upon the
11 importation or receipt of aviation fuels and kerosene at
12 facilities owned or leased by those certificate or permit
13 holders and used in their activities at an airport described
14 above. In addition, no such tax shall be imposed upon the
15 importation or receipt of diesel fuel sold to or used by a rail
16 carrier registered pursuant to Section 18c-7201 of the Illinois
17 Vehicle Code or otherwise recognized by the Illinois Commerce
18 Commission as a rail carrier, to the extent used directly in
19 railroad operations. In addition, no such tax shall be imposed
20 when the sale is made with delivery to a purchaser outside this
21 State or when the sale is made to a person holding a valid
22 license as a receiver. In addition, no tax shall be imposed
23 upon diesel fuel consumed or used in the operation of ships,
24 barges, or vessels, that are used primarily in or for the
25 transportation of property in interstate commerce for hire on
26 rivers bordering on this State, if the diesel fuel is delivered
27 by a licensed receiver to the purchaser's barge, ship, or
28 vessel while it is afloat upon that bordering river. A specific
29 notation thereof shall be made on the invoices or sales slips
30 covering each sale.

31 (Source: P.A. 92-232, eff. 8-2-01.)

32 (35 ILCS 505/13a) (from Ch. 120, par. 429a)

33 Sec. 13a. Motor fuel use tax for commercial vehicles.

34 (1) A tax is hereby imposed upon the use of motor fuel upon
35 highways of this State by commercial motor vehicles. The tax

1 shall be comprised of 2 parts. Part (a) shall be at the rate
2 established by Section 2 of this Act, as heretofore or
3 hereafter amended. Part (b) shall be at the rate established by
4 subsection (2) of this Section as now or hereafter amended.

5 (2) A rate shall be established by the Department as of
6 January 1 of each year using the average "selling price", as
7 defined in the Retailers' Occupation Tax Act, per gallon of
8 motor fuel sold in this State during the previous 12 months and
9 multiplying it by 6 1/4% to determine the cents per gallon
10 rate. For the period beginning on July 1, 2000 and through
11 December 31, 2000, the Department shall establish a rate using
12 the average "selling price", as defined in the Retailers'
13 Occupation Tax Act, per gallon of motor fuel sold in this State
14 during calendar year 1999 and multiplying it by 1.25% to
15 determine the cents per gallon rate.

16 (3) No tax is imposed under this Section for the period
17 beginning on May 1, 2006 and continuing through May 31, 2006.

18 (Source: P.A. 91-872, eff. 7-1-00.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.