



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2330

Introduced 1/12/2006, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2420/Act rep.

35 ILCS 105/3-5

35 ILCS 110/3-5

35 ILCS 115/3-5

35 ILCS 120/2-5

from Ch. 120, par. 439.3-5

from Ch. 120, par. 439.33-5

from Ch. 120, par. 439.103-5

from Ch. 120, par. 441-5

Creates the Blind Vendors Act. Provides that the Department of Human Services, Bureau of Blind Services, shall operate and promote the Business Enterprise Program for the Blind. Sets forth that the federal Randolph-Sheppard Act and the regulations adopted pursuant to that Act shall serve as the minimum standards for the operation of the Business Enterprise Program for the Blind. Provides that under the Program: (1) blind vendors have priority in the operation of all vending facilities on State property; (2) vending machine income from all vending machines on State property shall be assigned to the blind vendor on the property or to the Blind Vendors Trust Fund; (3) no State agency may impose any commission, service charge, rent, or utility charge on a blind vendor operating on State property; (4) sales made at a blind vendor's vending facility are exempt from all occupation and use taxes; and (5) State agencies may not allow competition with a blind vendor. Sets forth that the Bureau Director for the Bureau of the Blind and the Committee of Blind Vendors shall jointly develop regulations to ensure that priority is given to blind vendors in the operation of vending facilities on State property. Provides that the Department may provide for set-asides of the net proceeds of vending operations under certain conditions. Requires set-aside funds to be deposited in the Blind Vendors Trust Fund, a separate account managed by the Department for the State's blind vendors. Sets forth provisions for the distribution of vending machine income from vending machines on State property. Provides certain conditions for the licensing of blind vendors. Creates the Committee of Blind Vendors to jointly participate in the development and implementation of all policies, plans, and major decisions affecting the Business Enterprise Program for the Blind. Sets forth provisions for the composition of the Committee. Provides certain procedures for the resolution of disputes arising within the Program. Provides for the promulgation of regulations relating to the operation of this Act. Requires the Department to make regular surveys and reports on State property and vending facilities. Sets forth conditions and information to be contained in the surveys and reports. Preempts home rule powers. Repeals the Blind Persons Operating Vending Facilities Act. Amends the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act to provide that personal property purchased from a blind vendor's vending facility licensed by the Department of Human Services under the Blind Vendors Act is exempt from the taxes imposed by those Acts and that these exemptions are not subject to the sunset provisions of those Acts.

LRB094 16692 RSP 51962 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the Blind
5 Vendors Act.

6 Section 5. Definitions.

7 As used in this Act:

8 "Assistant Director" means the individual primarily
9 responsible for the State's management and operation of the
10 Business Enterprise Program for the Blind.

11 "Blind licensee" means a blind person licensed by the
12 Department to operate a vending facility on State, federal, or
13 other property.

14 "Blind person" means a person whose central visual acuity
15 does not exceed 20/200 in the better eye with correcting lenses
16 or whose visual acuity, if better than 20/200, is accompanied
17 by a limit to the field of vision in the better eye to such a
18 degree that its widest diameter subtends an angle of no greater
19 than 20 degrees. In determining whether an individual is blind,
20 there shall be an examination by a physician skilled in
21 diseases of the eye, or by an optometrist, whichever the
22 individual shall select.

23 "Cafeteria" means a food dispensing facility capable of
24 providing a broad variety of prepared foods and beverages
25 (including hot meals) primarily through the use of a line where
26 the customer serves himself from displayed selections. A
27 cafeteria may be fully automatic or some limited waiter or
28 waitress service may be available and provided within a
29 cafeteria and table or booth seating facilities are always
30 provided.

31 "Committee" means the Illinois Committee of Blind Vendors,
32 an independent representative body for blind vendors

1 established by the federal Randolph-Sheppard Act.

2 "Department" means the Department of Human Services.

3 "Director" means the Bureau Director of the Bureau for the
4 Blind in the Department of Human Services.

5 "Federal property" means any building, land, or other real
6 property owned, leased, or occupied by any department, agency
7 or instrumentality of the United States (including the
8 Department of Defense and the U.S. Postal Service), or any
9 other instrumentality wholly owned by the United States, or by
10 any department or agency of the District of Columbia or any
11 territory or possession of the United States.

12 "License" means a written instrument issued by the
13 Department to a blind person, authorizing such person to
14 operate a vending facility on State, federal, or other
15 property.

16 "Net proceeds" means the amount remaining from the sale of
17 articles or services of vending facilities, and any vending
18 machine or other income accruing to blind vendors after
19 deducting the cost of such sale and other expenses (excluding
20 any set-aside charges required to be paid by the blind
21 vendors).

22 "Normal working hours" means an 8 hour work period between
23 the approximate hours of 8:00 a.m., to 6:00 p.m., Monday
24 through Friday.

25 "Other property" means property that is not State or
26 federal property and on which vending facilities are
27 established or operated by the use of any funds derived in
28 whole or in part, directly or indirectly, from the operation of
29 vending facilities on any State or federal property.

30 "Secretary" means the Secretary of Human Services.

31 "Set-aside funds" means funds that accrue to the Department
32 from an assessment against the net proceeds of each vending
33 facility in the State's vending facility program and any income
34 from vending machines on State or federal property that accrues
35 to the Department.

36 "State agency" means any department, board, commission, or

1 agency created by the Constitution or public Act, whether in
2 the executive, legislative or judicial branch.

3 "State property" means all real property, or part thereof,
4 owned, leased, rented, or otherwise controlled or occupied by
5 any agency, department, or other governing body of this State.
6 For purposes of this Act, "State property" does not include
7 property owned or controlled by a unit of local government or
8 school district.

9 "Vending facility" means automatic vending machines,
10 cafeterias, snack bars, cart service, shelters, counters, and
11 such other appropriate auxiliary equipment that may be operated
12 by blind licensees and which is necessary for the sale of
13 newspapers, periodicals, confections, tobacco products, foods,
14 beverages, and other articles or services dispensed
15 automatically or manually and prepared on or off the premises
16 in accordance with all applicable health laws, and including
17 the vending or exchange of changes for any lottery authorized
18 by State law and conducted by a State agency within the State.

19 "Vending machine", for the purpose of assigning vending
20 machine income under this Act, means a coin or currency
21 operated machine which dispenses articles or services, except
22 that those machines operated by the United States Postal
23 Service for the sale of postage stamps or other postal products
24 and services, machines providing services of a recreational
25 nature, and telephones shall not be considered to be vending
26 machines.

27 "Vending machine income" means receipts (other than those
28 of a blind vendor) from vending machine operations on State or
29 federal property, after deducting the cost of goods sold
30 (including reasonable service and maintenance costs in
31 accordance with customary business practices of commercial
32 vending concerns), where the machines are operated, serviced,
33 or maintained by, or with the approval of, a department,
34 agency, or instrumentality of the United States or the State of
35 Illinois, or commissions paid (other than to a blind vendor) by
36 a commercial vending concern that operates, services, and

1 maintains vending machines on State or federal property for, or
2 with the approval of, a department, agency, or instrumentality
3 of the United States or the State of Illinois.

4 "Vendor" means a blind licensee who is operating a vending
5 facility on State, federal, or other property.

6 Section 10. Business Enterprise Program for the Blind.

7 (a) The Business Enterprise Program for the Blind is
8 created for the purpose of providing blind persons with
9 remunerative employment, enlarging the economic opportunities
10 of the blind, and stimulating the blind to greater efforts in
11 striving to make themselves self-supporting. In order to
12 achieve these goals blind persons licensed under this Act shall
13 be authorized to operate vending facilities on any property
14 within this State as provided by this Act.

15 It is the intent of the General Assembly that the
16 Randolph-Sheppard Act, 20 U. S. C. §§107-107f, and the federal
17 regulations for its administration set forth in Part 395 of
18 title 34 of the Code of Federal Regulations, shall serve as the
19 minimum standards for the operation of the Business Enterprise
20 Program for the Blind.

21 (b) The Secretary, through the Director, shall continue,
22 maintain, and promote the Business Enterprise Program for the
23 Blind. Some or all of the functions of the program may be
24 provided by the Department of Human Services. The Business
25 Enterprise Program for the Blind must provide that:

26 (1) priority is given to blind vendors in the operation
27 of vending facilities on State property;

28 (2) vending machine income from all vending machines on
29 State property is assigned as provided for by Section 30 of
30 this Act;

31 (3) no State agency may impose any commission, service
32 charge, rent, or utility charge on a licensed blind vendor
33 who is operating a vending facility on State property;

34 (4) sales made at a blind vendor's vending facility are
35 exempt from all occupation and use taxes; and

1 (5) State agencies may not allow competition with a
2 blind vendor. For purposes of this item (5), "competition"
3 includes, but is not limited to, vending machines, coffee
4 services, bake sales, or other fund raising or commercial
5 mechanisms in the same building as a licensed blind vendor.

6 (c) With respect to vending facilities on federal property
7 within this State, priority shall be given as provided in the
8 federal Randolph-Sheppard Act, 20 U. S. C. §§107-107f,
9 including any amendments thereto. This Act, as it applies to
10 federal property, is intended to conform to the federal Act,
11 and is to be of no force or effect if, and to the extent that,
12 any provision of this Act or any regulation adopted under this
13 Act is in conflict with the federal Act. Nothing in this
14 subsection shall be construed to impose limitations on the
15 operation of vending facilities on State property, or property
16 other than federal property, or to allow only those activities
17 specifically enumerated in the Randolph-Sheppard Act.

18 (d) On all other property within this State, whether owned
19 or controlled privately or by a unit of local government or
20 school district, the Department directly or by delegation shall
21 take all feasible steps to encourage and establish vending by
22 blind persons licensed under this Act. The Department may enter
23 into appropriate agreements with the entities or persons owning
24 or controlling the property. All such agreements shall be in
25 writing and shall be in conformity with this Act.

26 (e) The Assistant Director shall actively pursue all
27 commissions from vending facilities not operated by blind
28 vendors as provided in Section 30 of this Act, and shall
29 propose new placements of vending facilities on State property
30 where a facility is not yet in place.

31 (f) Partnerships and teaming arrangements between blind
32 vendors and private industry, including franchise operations,
33 shall be fostered and encouraged by the Department.

34 Section 15. Vending facilities on State property.

35 (a) In order to ensure that priority is given to blind

1 vendors in the operation of vending facilities on State
2 property as provided in Section 10, the Director, directly or
3 by delegation to the Assistant Director, and the Committee
4 shall jointly develop regulations to ensure the following:

5 (1) That priority is given to blind persons licensed
6 under this Act or under its predecessor Act (the Blind
7 Persons Operating Vending Facilities Act 20 ILCS 2420/),
8 including the assignment of vending machine income as
9 provided in this Act.

10 (2) That one or more vending facilities shall be
11 established on all State property to the extent feasible.
12 Where a larger vending facility is determined by the
13 Director and the Committee to be infeasible, every effort
14 shall be made to place vending machines on the property
15 whenever possible. The Director and the Committee shall
16 take into account the following criteria when determining
17 whether establishment of a vending facility is feasible:

18 (A) the number of State employees, visitors, and
19 other potential facility customers on the property in a
20 given period;

21 (B) the size, in square feet, of the area owned,
22 leased, occupied, or otherwise controlled by the
23 State;

24 (C) the duration the property is expected to be
25 leased or occupied by the State;

26 (D) whether establishment of a vending facility
27 would adversely affect the interests of the State; and

28 (E) the likelihood that the vending facility would
29 produce an adequate net income for a blind vendor as
30 determined by the average income of all blind vendors
31 in the State.

32 (b) Any determination by the Director, or by the agency or
33 department controlling the property, that the placement or
34 operation of a vending facility is not feasible, or that the
35 placement or operation would adversely affect the interests of
36 the State shall be in writing and shall be transmitted to the

1 Committee for review and ratification or rejection.

2 (c) The Director, through the Assistant Director, subject
3 to the regulations developed and adopted pursuant to subsection
4 (a) of this Section and the requirements of federal law and
5 regulations, is authorized to select a location for a vending
6 facility and the type of facility to be provided.

7 (d) Upon the development of plans by any State agency to
8 occupy, acquire, renovate, or relocate a property, the State
9 agency shall notify the Director, who shall determine whether
10 the plans include a satisfactory site or sites for one or more
11 vending facilities.

12 (e) After January 1, 2006, no State agency shall undertake
13 to acquire by ownership, rent or lease, or to otherwise occupy,
14 in whole or in part, any property unless, after consultation
15 with the head of the State agency, it is determined by the
16 Director in accordance with regulations developed pursuant to
17 subsection (a) either: (1) that the property includes a
18 satisfactory site or sites for the location and operation of a
19 vending facility by a blind person; or (2) that, if a building
20 is to be constructed, substantially altered, or renovated, or,
21 in the case of a building that is already occupied by the State
22 agency, is to be substantially altered or renovated for use by
23 the State agency, the design for the construction, substantial
24 alteration, or renovation includes a satisfactory site or sites
25 for the location and operation of a vending facility by a blind
26 person.

27 (f) The provisions of subsection (e) shall not apply when
28 the Director, in consultation with the Committee, determines
29 that the number of people using the location is or will be
30 insufficient to support a vending facility.

31 Section 20. Other vending facilities. The governing body of
32 any unit of local government or school board owning property or
33 persons or entities owning or controlling private property are
34 authorized and encouraged to construct or install on the
35 property, or permit the construction or installation of,

1 vending facilities for operation by blind persons licensed
2 under this Act. In constructing or installing these vending
3 facilities, the amount of space allotted for this purpose
4 should be sufficient to adequately serve the number of persons
5 at the site and to provide the kind of services to be rendered.

6 Section 25. Set-aside funds; Blind Vendors Trust Fund.

7 (a) The Department may provide, by regulation, for
8 set-asides similar to those provided in Section 107d-3 of the
9 Randolph-Sheppard Act. If any funds are set aside, or caused to
10 be set aside, from the net proceeds of the operation of vending
11 facilities by blind vendors, the funds shall be set aside only
12 to the extent necessary in a percentage amount not to exceed
13 that determined jointly by the Director and the Committee and
14 published in State regulation, and that these funds may be used
15 only for the following purposes: (1) maintenance and
16 replacement of equipment; (2) purchase of new equipment; (3)
17 construction of new vending facilities; (4) funding the
18 functions of the Committee, including legal and other
19 professional services; and (5) retirement or pension funds,
20 health insurance, paid sick leave, and vacation time for blind
21 licensees, so long as these benefits are approved by a majority
22 vote of all blind vendors that occurs after the Department
23 provides these vendors with information on all matters relevant
24 to these purposes.

25 (b) No set-aside funds shall be collected from a blind
26 vendor when the monthly net proceeds of that vendor are less
27 than \$1,000. This amount may be adjusted annually by the
28 Director and the Committee to reflect changes in the cost of
29 living.

30 (c) The Department shall establish, with full
31 participation by the Committee, the Blind Vendors Trust Fund as
32 a separate account managed by the Department for the State's
33 blind vendors.

34 (d) Set-aside funds collected from the operation of all
35 vending facilities administered by the Business Enterprise

1 Program for the Blind shall be placed in the Blind Vendors
2 Trust Fund which shall include set-aside funds from facilities
3 on federal property. The Fund must provide separately
4 identified sub-accounts for moneys from (i) federal, and (ii)
5 State and other facilities, as well as vending machine income
6 generated pursuant to Section 30 of this Act. These funds shall
7 be available until expended and shall not revert to the General
8 Revenue Fund or to any other State account.

9 (e) It is the intent of the General Assembly that the
10 expenditure of set-aside funds authorized by this Section shall
11 be supplemental to any current appropriation or other moneys
12 made available for these purposes and shall not constitute an
13 offset or diminution of any previously existing appropriation
14 or other funding source.

15 (f) An amount equal to 10% of the wages paid by a blind
16 vendor to any employee who is blind or otherwise disabled shall
17 be deducted from any set-aside charge paid by the vendor each
18 month, in order to encourage vendors to employ blind and
19 disabled workers and to set an example for industry and
20 government. No deduction shall be made for any employee paid
21 less than the State or federal minimum wage.

22 Section 30. Vending machine income and compliance.

23 (a) After January 1, 2006, all vending machine income from
24 vending machines on State property shall accrue to (1) the
25 blind vendor operating the vending facilities on the property,
26 or (2) in the event there is no blind vendor operating a
27 facility on the property, to the Blind Vendors Trust Fund for
28 use exclusively as set forth in subsection (a) of Section 25 of
29 this Act.

30 (b) The Secretary, directly or by delegation of authority,
31 shall ensure compliance with this Section and Section 15 of
32 this Act with respect to buildings, installations, facilities,
33 roadside rest stops, and any other State property, and shall be
34 responsible for the collection of, and accounting for, all
35 vending machine income on this property. The Secretary shall

1 enforce these provisions through litigation, arbitration, or
2 any other legal means available to the State, and each State
3 agency in control of this property shall be subject to the
4 enforcement. State agencies or departments failing to comply
5 with an order of the Department may be held in contempt in any
6 court of general jurisdiction.

7 (c) Any limitation on the placement or operation of a
8 vending machine by a State agency based on a determination that
9 such placement or operation would adversely affect the
10 interests of the State must be explained in writing to the
11 Secretary. The Secretary shall promptly determine whether the
12 limitation is justified. If the Secretary determines that the
13 limitation is not justified, the State agency seeking the
14 limitation shall immediately remove the limitation.

15 (d) The amount of vending machine income accruing from
16 vending machines on State property that may be used for the
17 functions of the Committee shall be determined annually by a
18 two-thirds vote of the Committee, except that no more than 25%
19 of the annual vending machine income may be used by the
20 Committee for this purpose, based upon the income accruing to
21 the Blind Vendors Trust Fund in the preceding year. The
22 Committee may establish its budget and expend funds through
23 contract or otherwise without the approval of the Department.

24 Section 40. Licenses.

25 (a) Licenses shall be issued only to blind persons who are
26 qualified to operate vending facilities. The continuing
27 eligibility of a vendor as a blind person shall be reviewed
28 biennially for partially sighted individuals or whenever the
29 Director has information indicating the vendor is no longer
30 blind as defined under this Act.

31 (b) Following agreement by the Director, the Assistant
32 Director, and the Committee, the Secretary shall adopt and
33 publish regulations providing for (1) the requirements for
34 licensure as a blind vendor; (2) a curriculum for training,
35 inservice training, and upward mobility training for blind

1 vendors; and (3) a regular schedule for offering the training,
2 classes to be offered at least once per year.

3 (c) Each license issued pursuant to this Section shall be
4 for an indefinite period. The license of a blind vendor may be
5 terminated or suspended for good cause, but only after
6 affording the licensee an opportunity for a full and fair
7 hearing in accordance with the provisions of this Act.

8 Section 45. Committee of Blind Vendors.

9 (a) The Director, through the Assistant Director, shall
10 provide for the biennial election of the Committee, which shall
11 be fully representative of all blind licensees in the State.
12 There shall be no fewer than one committee member for each 15
13 licensed blind vendors in the State.

14 (b) The Committee is empowered to hire staff; contract for
15 consultants including, but not limited to, legal counsel; set
16 agendas and call meetings; create a constitution and bylaws,
17 subcommittees, and budgets; and do any other thing a not for
18 profit organization may do. At the discretion of the Committee
19 major issues may be referred for initial consideration to a
20 subcommittee, or to all blind vendors in order to ascertain
21 their views. The Committee is not a State agency, board, or
22 commission and is not subject to State ethics, sunshine, or
23 procurement laws.

24 (c) The Secretary shall ensure that the Committee jointly
25 participates with the State in the development and
26 implementation of all policies, plans, Program development,
27 and major administrative and management decisions affecting
28 the Business Enterprise Program for the Blind. The Director,
29 through the Assistant Director, shall provide to the Committee
30 all relevant financial information and data, including
31 quarterly and annual financial reports, on the operation of the
32 vending facility program in order that the Committee may fully
33 participate in budget development and formulation, the
34 establishment of set-aside levels, and other program
35 requirements. A copy of all completed audits, reports, and

1 investigations affecting the Business Enterprise Program for
2 the Blind shall be distributed to the Committee in a timely
3 manner. Any implementation of changes in administrative policy
4 or program development that are within the discretion of the
5 Department shall occur only after Committee review.

6 Section 50. Hearings; arbitration.

7 (a) Any blind vendor dissatisfied with any act or omission
8 arising from the operation or administration of the vending
9 facility program may submit to the Assistant Director a request
10 for a full evidentiary hearing. This hearing shall be provided
11 in a timely manner by the Department. Damages, including
12 compensatory damages, attorney's fees, and expenses, must be
13 paid to any operator who prevails in the full evidentiary
14 hearing; however, payment of damages may only be paid from the
15 general funds of the State treasury and not from any program
16 funds, the Blind Vendors Trust Fund, or federal rehabilitation
17 funds. If the blind vendor is dissatisfied with any action
18 taken or decision rendered as a result of the hearing, that
19 vendor may file a complaint for arbitration with the Secretary.

20 (b) If the Secretary determines that any State agency has
21 failed to comply with the requirements of this Act, the
22 Secretary must establish a panel to arbitrate the dispute and
23 the decision of the panel shall be final and binding on the
24 parties. Any arbitration panel convened by the Secretary shall
25 be composed of 3 members, appointed as follows:

26 (1) one individual appointed by the Secretary;

27 (2) one individual appointed by the State agency
28 determined by the Secretary to be in noncompliance with the
29 Act; and

30 (3) one individual, who shall serve as chairman,
31 jointly designated by the members appointed under items (1)
32 and (2); provided that, if within 30 days following the
33 Secretary's determination of noncompliance either party
34 fails to appoint a panel member, or if the parties are
35 unable to agree on the appointment of the chairman, the

1 Secretary shall select the final panel member or may
2 designated a hearing officer of the Department who shall
3 preside.

4 (c) The Assistant Director may issue a letter of reprimand
5 to a blind vendor who violates program regulations or policy.
6 Depending upon the seriousness of the alleged violation, the
7 letter of reprimand may indicate the intention to suspend or
8 terminate the license of the vendor. All reprimand letters
9 shall be sent in a medium accessible by the vendor, and shall
10 be sent by certified mail, return receipt requested. The
11 Assistant Director must make every reasonable effort to assist
12 the subject vendor to correct the problem for which the vendor
13 is reprimanded. No process to suspend or terminate a license
14 shall be initiated before the vendor is accorded the
15 opportunity for a full evidentiary hearing as provided under
16 subsection (a). A vendor may be summarily removed from a
17 facility only in an emergency.

18 Section 60. General provisions.

19 (a) Blind vendors operating vending facilities are subject
20 to the applicable license or permit requirements of the county
21 or city in which the facility is located necessary for the
22 conduct of their business; however, any such license or permit
23 shall be issued free of charge to vendors licensed by the
24 Department, and shall not be unreasonably withheld.

25 (b) Vendors licensed pursuant to this Act are authorized to
26 keep guide animals with them while operating vending
27 facilities.

28 (c) The Director, Assistant Director, and the Committee
29 shall cooperate in the development of regulations to be
30 promulgated by the Department regarding life standards for
31 vending facility equipment. Such regulations shall include,
32 but are not limited to, the life expectancy of equipment; time
33 periods within which equipment should be replaced; exceptions
34 to the replacement time periods for equipment with no service
35 problem history, and replacement schedules for equipment

1 subject to excessive failures not the fault of the vendor.

2 (d) The Secretary, through the Director, shall assign
3 adequate personnel to carry out duties related to the
4 administration and management of this Act. In selecting
5 personnel to fill any program position under this subsection,
6 the Secretary shall ensure that the Committee has full advance
7 opportunity to review the selections, to submit comments
8 thereon, and to assess the adequacy of staffing levels for the
9 program.

10 (e) The Assistant Director shall provide each vendor access
11 to: all financial information, his or her performance ratings,
12 and all other individual personnel documents and data
13 maintained by the Department. This includes providing each
14 vendor a written copy of all rules and policies adopted
15 pursuant to the Act. Upon request, the information shall be
16 furnished in the medium most accessible by the vendor.

17 (f) The surviving spouse of a vendor who dies during the
18 operation of a vending facility under this Act may continue to
19 operate the facility for a period of 6 months following the
20 death of the vendor, provided that the surviving spouse is
21 qualified by experience or training to manage the facility.

22 Section 65. Program regulations.

23 (a) The Secretary shall promulgate and adopt necessary
24 regulations, and do all things necessary and proper to carry
25 out this Act. The Secretary by delegation shall review these
26 regulations with the Committee at least every 3 years.

27 (b) The regulations shall include, but are not limited to,
28 the following: (1) uniform procedures for vendor licensing and
29 termination; (2) criteria and standards for selecting vendors
30 and matching them to facilities to ensure that the most
31 qualified person is selected; (3) equipment life standards and
32 service standards for the inventory, repair, and purchase of
33 equipment; (4) minimum requirements for the establishment of a
34 vending facility; (5) standards for training, in-service
35 training, and upward mobility; and (6) policies and procedures

1 for the collection, deposit, reimbursement, and use of all
2 program income, including vending machine income.

3 Section 70. Property Survey and Report.

4 (a) The Department shall survey and report on State
5 property and vending facilities not later than December 31,
6 2005. The report shall contain the following information:

7 (1) A list of all State property and all federal
8 buildings or other property within the State that does or
9 reasonably could accommodate a vending facility as
10 provided for in this Act or as provided for in the federal
11 Randolph-Sheppard Act.

12 (2) For the buildings or locations that have vending
13 facilities or vending machines in place, an indication of
14 the facilities operated by licensed blind vendors under the
15 Business Enterprise Program for the Blind and an indication
16 of the facilities operated by private entities.

17 (3) For the vending facilities or vending machines
18 operated by private entities, an indication of the
19 facilities from which commissions for the Business
20 Enterprise Program for the Blind have been or are being
21 collected.

22 (4) For the buildings or other property that do not
23 have vending facilities in place, an indication of the
24 locations where a vending facility could appropriately be
25 placed, or the reasons why a vending facility is not
26 feasible in the building or property.

27 (b) The Department shall obtain all available information
28 and conduct a survey, before June 30 of every odd numbered year
29 after the effective date of this Act. This survey shall
30 identify but not be limited to the following information:

31 (1) The number and identity of the buildings owned,
32 leased, acquired, or occupied by the State.

33 (2) The number and identity of the State buildings
34 where vending facilities or vending machines are located.

35 (3) The number of employees located in or visiting

1 these buildings during normal working hours.

2 (4) The usable interior square footage of the building;
3 and

4 (5) Any other information the Department may determine
5 to be useful in expanding the Business Enterprise Program
6 for the Blind to the maximum extent feasible consist with
7 the purposes of this Act.

8 (c) All State agencies controlling State property or parts
9 thereof where vending machines or vending facilities are
10 located must cooperate with the Department by providing
11 information on the vending machines or facilities at those
12 locations. This information shall include, but is not limited
13 to, the terms of contracts for vending, including financial
14 terms, and the disbursement practices for vending machine
15 income. The Department shall incorporate this information in
16 its reports and updates.

17 (d) The Department shall use the reports and updates
18 mandated by this Section to develop greater opportunities for
19 the placement of blind vendors, to increase vending machine
20 income to the program, and to aid in establishing vending
21 machines and facilities on State property.

22 (e) The reports and surveys prepared pursuant to this
23 Section shall be provided to the Committee and to the
24 appropriate committees of the General Assembly.

25 Section 85. Home rule. A home rule unit may not impose or
26 collect any occupation or use tax with respect to sales made at
27 a blind vendor's vending facility. This Section is a denial and
28 limitation of home rule powers and functions under subsection
29 (g) of Section 6 of Article VII of the Illinois Constitution.

30 (20 ILCS 2420/Act rep.)

31 Section 90. The Blind Persons Operating Vending Facilities
32 Act is repealed.

33 Section 93. The Use Tax Act is amended by changing Section

1 3-5 as follows:

2 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

3 Sec. 3-5. Exemptions. Use of the following tangible
4 personal property is exempt from the tax imposed by this Act:

5 (1) Personal property purchased from a corporation,
6 society, association, foundation, institution, or
7 organization, other than a limited liability company, that is
8 organized and operated as a not-for-profit service enterprise
9 for the benefit of persons 65 years of age or older if the
10 personal property was not purchased by the enterprise for the
11 purpose of resale by the enterprise.

12 (2) Personal property purchased by a not-for-profit
13 Illinois county fair association for use in conducting,
14 operating, or promoting the county fair.

15 (3) Personal property purchased by a not-for-profit arts or
16 cultural organization that establishes, by proof required by
17 the Department by rule, that it has received an exemption under
18 Section 501(c)(3) of the Internal Revenue Code and that is
19 organized and operated primarily for the presentation or
20 support of arts or cultural programming, activities, or
21 services. These organizations include, but are not limited to,
22 music and dramatic arts organizations such as symphony
23 orchestras and theatrical groups, arts and cultural service
24 organizations, local arts councils, visual arts organizations,
25 and media arts organizations. On and after the effective date
26 of this amendatory Act of the 92nd General Assembly, however,
27 an entity otherwise eligible for this exemption shall not make
28 tax-free purchases unless it has an active identification
29 number issued by the Department.

30 (4) Personal property purchased by a governmental body, by
31 a corporation, society, association, foundation, or
32 institution organized and operated exclusively for charitable,
33 religious, or educational purposes, or by a not-for-profit
34 corporation, society, association, foundation, institution, or
35 organization that has no compensated officers or employees and

1 that is organized and operated primarily for the recreation of
2 persons 55 years of age or older. A limited liability company
3 may qualify for the exemption under this paragraph only if the
4 limited liability company is organized and operated
5 exclusively for educational purposes. On and after July 1,
6 1987, however, no entity otherwise eligible for this exemption
7 shall make tax-free purchases unless it has an active exemption
8 identification number issued by the Department.

9 (5) Until July 1, 2003, a passenger car that is a
10 replacement vehicle to the extent that the purchase price of
11 the car is subject to the Replacement Vehicle Tax.

12 (6) Until July 1, 2003 and beginning again on September 1,
13 2004, graphic arts machinery and equipment, including repair
14 and replacement parts, both new and used, and including that
15 manufactured on special order, certified by the purchaser to be
16 used primarily for graphic arts production, and including
17 machinery and equipment purchased for lease. Equipment
18 includes chemicals or chemicals acting as catalysts but only if
19 the chemicals or chemicals acting as catalysts effect a direct
20 and immediate change upon a graphic arts product.

21 (7) Farm chemicals.

22 (8) Legal tender, currency, medallions, or gold or silver
23 coinage issued by the State of Illinois, the government of the
24 United States of America, or the government of any foreign
25 country, and bullion.

26 (9) Personal property purchased from a teacher-sponsored
27 student organization affiliated with an elementary or
28 secondary school located in Illinois.

29 (10) A motor vehicle of the first division, a motor vehicle
30 of the second division that is a self-contained motor vehicle
31 designed or permanently converted to provide living quarters
32 for recreational, camping, or travel use, with direct walk
33 through to the living quarters from the driver's seat, or a
34 motor vehicle of the second division that is of the van
35 configuration designed for the transportation of not less than
36 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,
2 as defined in the Automobile Renting Occupation and Use Tax
3 Act.

4 (11) Farm machinery and equipment, both new and used,
5 including that manufactured on special order, certified by the
6 purchaser to be used primarily for production agriculture or
7 State or federal agricultural programs, including individual
8 replacement parts for the machinery and equipment, including
9 machinery and equipment purchased for lease, and including
10 implements of husbandry defined in Section 1-130 of the
11 Illinois Vehicle Code, farm machinery and agricultural
12 chemical and fertilizer spreaders, and nurse wagons required to
13 be registered under Section 3-809 of the Illinois Vehicle Code,
14 but excluding other motor vehicles required to be registered
15 under the Illinois Vehicle Code. Horticultural polyhouses or
16 hoop houses used for propagating, growing, or overwintering
17 plants shall be considered farm machinery and equipment under
18 this item (11). Agricultural chemical tender tanks and dry
19 boxes shall include units sold separately from a motor vehicle
20 required to be licensed and units sold mounted on a motor
21 vehicle required to be licensed if the selling price of the
22 tender is separately stated.

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,
27 or spreaders. Precision farming equipment includes, but is not
28 limited to, soil testing sensors, computers, monitors,
29 software, global positioning and mapping systems, and other
30 such equipment.

31 Farm machinery and equipment also includes computers,
32 sensors, software, and related equipment used primarily in the
33 computer-assisted operation of production agriculture
34 facilities, equipment, and activities such as, but not limited
35 to, the collection, monitoring, and correlation of animal and
36 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (11) is exempt from the
2 provisions of Section 3-90.

3 (12) Fuel and petroleum products sold to or used by an air
4 common carrier, certified by the carrier to be used for
5 consumption, shipment, or storage in the conduct of its
6 business as an air common carrier, for a flight destined for or
7 returning from a location or locations outside the United
8 States without regard to previous or subsequent domestic
9 stopovers.

10 (13) Proceeds of mandatory service charges separately
11 stated on customers' bills for the purchase and consumption of
12 food and beverages purchased at retail from a retailer, to the
13 extent that the proceeds of the service charge are in fact
14 turned over as tips or as a substitute for tips to the
15 employees who participate directly in preparing, serving,
16 hosting or cleaning up the food or beverage function with
17 respect to which the service charge is imposed.

18 (14) Until July 1, 2003, oil field exploration, drilling,
19 and production equipment, including (i) rigs and parts of rigs,
20 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
21 tubular goods, including casing and drill strings, (iii) pumps
22 and pump-jack units, (iv) storage tanks and flow lines, (v) any
23 individual replacement part for oil field exploration,
24 drilling, and production equipment, and (vi) machinery and
25 equipment purchased for lease; but excluding motor vehicles
26 required to be registered under the Illinois Vehicle Code.

27 (15) Photoprocessing machinery and equipment, including
28 repair and replacement parts, both new and used, including that
29 manufactured on special order, certified by the purchaser to be
30 used primarily for photoprocessing, and including
31 photoprocessing machinery and equipment purchased for lease.

32 (16) Until July 1, 2003, coal exploration, mining,
33 offhighway hauling, processing, maintenance, and reclamation
34 equipment, including replacement parts and equipment, and
35 including equipment purchased for lease, but excluding motor
36 vehicles required to be registered under the Illinois Vehicle

1 Code.

2 (17) Until July 1, 2003, distillation machinery and
3 equipment, sold as a unit or kit, assembled or installed by the
4 retailer, certified by the user to be used only for the
5 production of ethyl alcohol that will be used for consumption
6 as motor fuel or as a component of motor fuel for the personal
7 use of the user, and not subject to sale or resale.

8 (18) Manufacturing and assembling machinery and equipment
9 used primarily in the process of manufacturing or assembling
10 tangible personal property for wholesale or retail sale or
11 lease, whether that sale or lease is made directly by the
12 manufacturer or by some other person, whether the materials
13 used in the process are owned by the manufacturer or some other
14 person, or whether that sale or lease is made apart from or as
15 an incident to the seller's engaging in the service occupation
16 of producing machines, tools, dies, jigs, patterns, gauges, or
17 other similar items of no commercial value on special order for
18 a particular purchaser.

19 (19) Personal property delivered to a purchaser or
20 purchaser's donee inside Illinois when the purchase order for
21 that personal property was received by a florist located
22 outside Illinois who has a florist located inside Illinois
23 deliver the personal property.

24 (20) Semen used for artificial insemination of livestock
25 for direct agricultural production.

26 (21) Horses, or interests in horses, registered with and
27 meeting the requirements of any of the Arabian Horse Club
28 Registry of America, Appaloosa Horse Club, American Quarter
29 Horse Association, United States Trotting Association, or
30 Jockey Club, as appropriate, used for purposes of breeding or
31 racing for prizes.

32 (22) Computers and communications equipment utilized for
33 any hospital purpose and equipment used in the diagnosis,
34 analysis, or treatment of hospital patients purchased by a
35 lessor who leases the equipment, under a lease of one year or
36 longer executed or in effect at the time the lessor would

1 otherwise be subject to the tax imposed by this Act, to a
2 hospital that has been issued an active tax exemption
3 identification number by the Department under Section 1g of the
4 Retailers' Occupation Tax Act. If the equipment is leased in a
5 manner that does not qualify for this exemption or is used in
6 any other non-exempt manner, the lessor shall be liable for the
7 tax imposed under this Act or the Service Use Tax Act, as the
8 case may be, based on the fair market value of the property at
9 the time the non-qualifying use occurs. No lessor shall collect
10 or attempt to collect an amount (however designated) that
11 purports to reimburse that lessor for the tax imposed by this
12 Act or the Service Use Tax Act, as the case may be, if the tax
13 has not been paid by the lessor. If a lessor improperly
14 collects any such amount from the lessee, the lessee shall have
15 a legal right to claim a refund of that amount from the lessor.
16 If, however, that amount is not refunded to the lessee for any
17 reason, the lessor is liable to pay that amount to the
18 Department.

19 (23) Personal property purchased by a lessor who leases the
20 property, under a lease of one year or longer executed or in
21 effect at the time the lessor would otherwise be subject to the
22 tax imposed by this Act, to a governmental body that has been
23 issued an active sales tax exemption identification number by
24 the Department under Section 1g of the Retailers' Occupation
25 Tax Act. If the property is leased in a manner that does not
26 qualify for this exemption or used in any other non-exempt
27 manner, the lessor shall be liable for the tax imposed under
28 this Act or the Service Use Tax Act, as the case may be, based
29 on the fair market value of the property at the time the
30 non-qualifying use occurs. No lessor shall collect or attempt
31 to collect an amount (however designated) that purports to
32 reimburse that lessor for the tax imposed by this Act or the
33 Service Use Tax Act, as the case may be, if the tax has not been
34 paid by the lessor. If a lessor improperly collects any such
35 amount from the lessee, the lessee shall have a legal right to
36 claim a refund of that amount from the lessor. If, however,

1 that amount is not refunded to the lessee for any reason, the
2 lessor is liable to pay that amount to the Department.

3 (24) Beginning with taxable years ending on or after
4 December 31, 1995 and ending with taxable years ending on or
5 before December 31, 2004, personal property that is donated for
6 disaster relief to be used in a State or federally declared
7 disaster area in Illinois or bordering Illinois by a
8 manufacturer or retailer that is registered in this State to a
9 corporation, society, association, foundation, or institution
10 that has been issued a sales tax exemption identification
11 number by the Department that assists victims of the disaster
12 who reside within the declared disaster area.

13 (25) Beginning with taxable years ending on or after
14 December 31, 1995 and ending with taxable years ending on or
15 before December 31, 2004, personal property that is used in the
16 performance of infrastructure repairs in this State, including
17 but not limited to municipal roads and streets, access roads,
18 bridges, sidewalks, waste disposal systems, water and sewer
19 line extensions, water distribution and purification
20 facilities, storm water drainage and retention facilities, and
21 sewage treatment facilities, resulting from a State or
22 federally declared disaster in Illinois or bordering Illinois
23 when such repairs are initiated on facilities located in the
24 declared disaster area within 6 months after the disaster.

25 (26) Beginning July 1, 1999, game or game birds purchased
26 at a "game breeding and hunting preserve area" or an "exotic
27 game hunting area" as those terms are used in the Wildlife Code
28 or at a hunting enclosure approved through rules adopted by the
29 Department of Natural Resources. This paragraph is exempt from
30 the provisions of Section 3-90.

31 (27) A motor vehicle, as that term is defined in Section
32 1-146 of the Illinois Vehicle Code, that is donated to a
33 corporation, limited liability company, society, association,
34 foundation, or institution that is determined by the Department
35 to be organized and operated exclusively for educational
36 purposes. For purposes of this exemption, "a corporation,

1 limited liability company, society, association, foundation,
2 or institution organized and operated exclusively for
3 educational purposes" means all tax-supported public schools,
4 private schools that offer systematic instruction in useful
5 branches of learning by methods common to public schools and
6 that compare favorably in their scope and intensity with the
7 course of study presented in tax-supported schools, and
8 vocational or technical schools or institutes organized and
9 operated exclusively to provide a course of study of not less
10 than 6 weeks duration and designed to prepare individuals to
11 follow a trade or to pursue a manual, technical, mechanical,
12 industrial, business, or commercial occupation.

13 (28) Beginning January 1, 2000, personal property,
14 including food, purchased through fundraising events for the
15 benefit of a public or private elementary or secondary school,
16 a group of those schools, or one or more school districts if
17 the events are sponsored by an entity recognized by the school
18 district that consists primarily of volunteers and includes
19 parents and teachers of the school children. This paragraph
20 does not apply to fundraising events (i) for the benefit of
21 private home instruction or (ii) for which the fundraising
22 entity purchases the personal property sold at the events from
23 another individual or entity that sold the property for the
24 purpose of resale by the fundraising entity and that profits
25 from the sale to the fundraising entity. This paragraph is
26 exempt from the provisions of Section 3-90.

27 (29) Beginning January 1, 2000 and through December 31,
28 2001, new or used automatic vending machines that prepare and
29 serve hot food and beverages, including coffee, soup, and other
30 items, and replacement parts for these machines. Beginning
31 January 1, 2002 and through June 30, 2003, machines and parts
32 for machines used in commercial, coin-operated amusement and
33 vending business if a use or occupation tax is paid on the
34 gross receipts derived from the use of the commercial,
35 coin-operated amusement and vending machines. This paragraph
36 is exempt from the provisions of Section 3-90.

1 (30) Food for human consumption that is to be consumed off
2 the premises where it is sold (other than alcoholic beverages,
3 soft drinks, and food that has been prepared for immediate
4 consumption) and prescription and nonprescription medicines,
5 drugs, medical appliances, and insulin, urine testing
6 materials, syringes, and needles used by diabetics, for human
7 use, when purchased for use by a person receiving medical
8 assistance under Article 5 of the Illinois Public Aid Code who
9 resides in a licensed long-term care facility, as defined in
10 the Nursing Home Care Act.

11 (31) Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly, computers and communications
13 equipment utilized for any hospital purpose and equipment used
14 in the diagnosis, analysis, or treatment of hospital patients
15 purchased by a lessor who leases the equipment, under a lease
16 of one year or longer executed or in effect at the time the
17 lessor would otherwise be subject to the tax imposed by this
18 Act, to a hospital that has been issued an active tax exemption
19 identification number by the Department under Section 1g of the
20 Retailers' Occupation Tax Act. If the equipment is leased in a
21 manner that does not qualify for this exemption or is used in
22 any other nonexempt manner, the lessor shall be liable for the
23 tax imposed under this Act or the Service Use Tax Act, as the
24 case may be, based on the fair market value of the property at
25 the time the nonqualifying use occurs. No lessor shall collect
26 or attempt to collect an amount (however designated) that
27 purports to reimburse that lessor for the tax imposed by this
28 Act or the Service Use Tax Act, as the case may be, if the tax
29 has not been paid by the lessor. If a lessor improperly
30 collects any such amount from the lessee, the lessee shall have
31 a legal right to claim a refund of that amount from the lessor.
32 If, however, that amount is not refunded to the lessee for any
33 reason, the lessor is liable to pay that amount to the
34 Department. This paragraph is exempt from the provisions of
35 Section 3-90.

36 (32) Beginning on the effective date of this amendatory Act

1 of the 92nd General Assembly, personal property purchased by a
2 lessor who leases the property, under a lease of one year or
3 longer executed or in effect at the time the lessor would
4 otherwise be subject to the tax imposed by this Act, to a
5 governmental body that has been issued an active sales tax
6 exemption identification number by the Department under
7 Section 1g of the Retailers' Occupation Tax Act. If the
8 property is leased in a manner that does not qualify for this
9 exemption or used in any other nonexempt manner, the lessor
10 shall be liable for the tax imposed under this Act or the
11 Service Use Tax Act, as the case may be, based on the fair
12 market value of the property at the time the nonqualifying use
13 occurs. No lessor shall collect or attempt to collect an amount
14 (however designated) that purports to reimburse that lessor for
15 the tax imposed by this Act or the Service Use Tax Act, as the
16 case may be, if the tax has not been paid by the lessor. If a
17 lessor improperly collects any such amount from the lessee, the
18 lessee shall have a legal right to claim a refund of that
19 amount from the lessor. If, however, that amount is not
20 refunded to the lessee for any reason, the lessor is liable to
21 pay that amount to the Department. This paragraph is exempt
22 from the provisions of Section 3-90.

23 (33) On and after July 1, 2003 and through June 30, 2004,
24 the use in this State of motor vehicles of the second division
25 with a gross vehicle weight in excess of 8,000 pounds and that
26 are subject to the commercial distribution fee imposed under
27 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
28 1, 2004 and through June 30, 2005, the use in this State of
29 motor vehicles of the second division: (i) with a gross vehicle
30 weight rating in excess of 8,000 pounds; (ii) that are subject
31 to the commercial distribution fee imposed under Section
32 3-815.1 of the Illinois Vehicle Code; and (iii) that are
33 primarily used for commercial purposes. Through June 30, 2005,
34 this exemption applies to repair and replacement parts added
35 after the initial purchase of such a motor vehicle if that
36 motor vehicle is used in a manner that would qualify for the

1 rolling stock exemption otherwise provided for in this Act. For
2 purposes of this paragraph, the term "used for commercial
3 purposes" means the transportation of persons or property in
4 furtherance of any commercial or industrial enterprise,
5 whether for-hire or not.

6 (34) Beginning on and after the effective date of this
7 amendatory Act of the 94th General assembly, personal property
8 purchased from a blind vendor's vending facility licensed by
9 the Department of Human Services under the Blind Vendors Act.
10 This paragraph is exempt from the provisions of Section 3-90.

11 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
12 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
13 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
14 93-1033, eff. 9-3-04; revised 10-21-04.)

15 Section 94. The Service Use Tax Act is amended by changing
16 Section 3-5 as follows:

17 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

18 Sec. 3-5. Exemptions. Use of the following tangible
19 personal property is exempt from the tax imposed by this Act:

20 (1) Personal property purchased from a corporation,
21 society, association, foundation, institution, or
22 organization, other than a limited liability company, that is
23 organized and operated as a not-for-profit service enterprise
24 for the benefit of persons 65 years of age or older if the
25 personal property was not purchased by the enterprise for the
26 purpose of resale by the enterprise.

27 (2) Personal property purchased by a non-profit Illinois
28 county fair association for use in conducting, operating, or
29 promoting the county fair.

30 (3) Personal property purchased by a not-for-profit arts or
31 cultural organization that establishes, by proof required by
32 the Department by rule, that it has received an exemption under
33 Section 501(c)(3) of the Internal Revenue Code and that is
34 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or
2 services. These organizations include, but are not limited to,
3 music and dramatic arts organizations such as symphony
4 orchestras and theatrical groups, arts and cultural service
5 organizations, local arts councils, visual arts organizations,
6 and media arts organizations. On and after the effective date
7 of this amendatory Act of the 92nd General Assembly, however,
8 an entity otherwise eligible for this exemption shall not make
9 tax-free purchases unless it has an active identification
10 number issued by the Department.

11 (4) Legal tender, currency, medallions, or gold or silver
12 coinage issued by the State of Illinois, the government of the
13 United States of America, or the government of any foreign
14 country, and bullion.

15 (5) Until July 1, 2003 and beginning again on September 1,
16 2004, graphic arts machinery and equipment, including repair
17 and replacement parts, both new and used, and including that
18 manufactured on special order or purchased for lease, certified
19 by the purchaser to be used primarily for graphic arts
20 production. Equipment includes chemicals or chemicals acting
21 as catalysts but only if the chemicals or chemicals acting as
22 catalysts effect a direct and immediate change upon a graphic
23 arts product.

24 (6) Personal property purchased from a teacher-sponsored
25 student organization affiliated with an elementary or
26 secondary school located in Illinois.

27 (7) Farm machinery and equipment, both new and used,
28 including that manufactured on special order, certified by the
29 purchaser to be used primarily for production agriculture or
30 State or federal agricultural programs, including individual
31 replacement parts for the machinery and equipment, including
32 machinery and equipment purchased for lease, and including
33 implements of husbandry defined in Section 1-130 of the
34 Illinois Vehicle Code, farm machinery and agricultural
35 chemical and fertilizer spreaders, and nurse wagons required to
36 be registered under Section 3-809 of the Illinois Vehicle Code,

1 but excluding other motor vehicles required to be registered
2 under the Illinois Vehicle Code. Horticultural polyhouses or
3 hoop houses used for propagating, growing, or overwintering
4 plants shall be considered farm machinery and equipment under
5 this item (7). Agricultural chemical tender tanks and dry boxes
6 shall include units sold separately from a motor vehicle
7 required to be licensed and units sold mounted on a motor
8 vehicle required to be licensed if the selling price of the
9 tender is separately stated.

10 Farm machinery and equipment shall include precision
11 farming equipment that is installed or purchased to be
12 installed on farm machinery and equipment including, but not
13 limited to, tractors, harvesters, sprayers, planters, seeders,
14 or spreaders. Precision farming equipment includes, but is not
15 limited to, soil testing sensors, computers, monitors,
16 software, global positioning and mapping systems, and other
17 such equipment.

18 Farm machinery and equipment also includes computers,
19 sensors, software, and related equipment used primarily in the
20 computer-assisted operation of production agriculture
21 facilities, equipment, and activities such as, but not limited
22 to, the collection, monitoring, and correlation of animal and
23 crop data for the purpose of formulating animal diets and
24 agricultural chemicals. This item (7) is exempt from the
25 provisions of Section 3-75.

26 (8) Fuel and petroleum products sold to or used by an air
27 common carrier, certified by the carrier to be used for
28 consumption, shipment, or storage in the conduct of its
29 business as an air common carrier, for a flight destined for or
30 returning from a location or locations outside the United
31 States without regard to previous or subsequent domestic
32 stopovers.

33 (9) Proceeds of mandatory service charges separately
34 stated on customers' bills for the purchase and consumption of
35 food and beverages acquired as an incident to the purchase of a
36 service from a serviceman, to the extent that the proceeds of

1 the service charge are in fact turned over as tips or as a
2 substitute for tips to the employees who participate directly
3 in preparing, serving, hosting or cleaning up the food or
4 beverage function with respect to which the service charge is
5 imposed.

6 (10) Until July 1, 2003, oil field exploration, drilling,
7 and production equipment, including (i) rigs and parts of rigs,
8 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
9 tubular goods, including casing and drill strings, (iii) pumps
10 and pump-jack units, (iv) storage tanks and flow lines, (v) any
11 individual replacement part for oil field exploration,
12 drilling, and production equipment, and (vi) machinery and
13 equipment purchased for lease; but excluding motor vehicles
14 required to be registered under the Illinois Vehicle Code.

15 (11) Proceeds from the sale of photoprocessing machinery
16 and equipment, including repair and replacement parts, both new
17 and used, including that manufactured on special order,
18 certified by the purchaser to be used primarily for
19 photoprocessing, and including photoprocessing machinery and
20 equipment purchased for lease.

21 (12) Until July 1, 2003, coal exploration, mining,
22 offhighway hauling, processing, maintenance, and reclamation
23 equipment, including replacement parts and equipment, and
24 including equipment purchased for lease, but excluding motor
25 vehicles required to be registered under the Illinois Vehicle
26 Code.

27 (13) Semen used for artificial insemination of livestock
28 for direct agricultural production.

29 (14) Horses, or interests in horses, registered with and
30 meeting the requirements of any of the Arabian Horse Club
31 Registry of America, Appaloosa Horse Club, American Quarter
32 Horse Association, United States Trotting Association, or
33 Jockey Club, as appropriate, used for purposes of breeding or
34 racing for prizes.

35 (15) Computers and communications equipment utilized for
36 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients purchased by a
2 lessor who leases the equipment, under a lease of one year or
3 longer executed or in effect at the time the lessor would
4 otherwise be subject to the tax imposed by this Act, to a
5 hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of the
7 Retailers' Occupation Tax Act. If the equipment is leased in a
8 manner that does not qualify for this exemption or is used in
9 any other non-exempt manner, the lessor shall be liable for the
10 tax imposed under this Act or the Use Tax Act, as the case may
11 be, based on the fair market value of the property at the time
12 the non-qualifying use occurs. No lessor shall collect or
13 attempt to collect an amount (however designated) that purports
14 to reimburse that lessor for the tax imposed by this Act or the
15 Use Tax Act, as the case may be, if the tax has not been paid by
16 the lessor. If a lessor improperly collects any such amount
17 from the lessee, the lessee shall have a legal right to claim a
18 refund of that amount from the lessor. If, however, that amount
19 is not refunded to the lessee for any reason, the lessor is
20 liable to pay that amount to the Department.

21 (16) Personal property purchased by a lessor who leases the
22 property, under a lease of one year or longer executed or in
23 effect at the time the lessor would otherwise be subject to the
24 tax imposed by this Act, to a governmental body that has been
25 issued an active tax exemption identification number by the
26 Department under Section 1g of the Retailers' Occupation Tax
27 Act. If the property is leased in a manner that does not
28 qualify for this exemption or is used in any other non-exempt
29 manner, the lessor shall be liable for the tax imposed under
30 this Act or the Use Tax Act, as the case may be, based on the
31 fair market value of the property at the time the
32 non-qualifying use occurs. No lessor shall collect or attempt
33 to collect an amount (however designated) that purports to
34 reimburse that lessor for the tax imposed by this Act or the
35 Use Tax Act, as the case may be, if the tax has not been paid by
36 the lessor. If a lessor improperly collects any such amount

1 from the lessee, the lessee shall have a legal right to claim a
2 refund of that amount from the lessor. If, however, that amount
3 is not refunded to the lessee for any reason, the lessor is
4 liable to pay that amount to the Department.

5 (17) Beginning with taxable years ending on or after
6 December 31, 1995 and ending with taxable years ending on or
7 before December 31, 2004, personal property that is donated for
8 disaster relief to be used in a State or federally declared
9 disaster area in Illinois or bordering Illinois by a
10 manufacturer or retailer that is registered in this State to a
11 corporation, society, association, foundation, or institution
12 that has been issued a sales tax exemption identification
13 number by the Department that assists victims of the disaster
14 who reside within the declared disaster area.

15 (18) Beginning with taxable years ending on or after
16 December 31, 1995 and ending with taxable years ending on or
17 before December 31, 2004, personal property that is used in the
18 performance of infrastructure repairs in this State, including
19 but not limited to municipal roads and streets, access roads,
20 bridges, sidewalks, waste disposal systems, water and sewer
21 line extensions, water distribution and purification
22 facilities, storm water drainage and retention facilities, and
23 sewage treatment facilities, resulting from a State or
24 federally declared disaster in Illinois or bordering Illinois
25 when such repairs are initiated on facilities located in the
26 declared disaster area within 6 months after the disaster.

27 (19) Beginning July 1, 1999, game or game birds purchased
28 at a "game breeding and hunting preserve area" or an "exotic
29 game hunting area" as those terms are used in the Wildlife Code
30 or at a hunting enclosure approved through rules adopted by the
31 Department of Natural Resources. This paragraph is exempt from
32 the provisions of Section 3-75.

33 (20) A motor vehicle, as that term is defined in Section
34 1-146 of the Illinois Vehicle Code, that is donated to a
35 corporation, limited liability company, society, association,
36 foundation, or institution that is determined by the Department

1 to be organized and operated exclusively for educational
2 purposes. For purposes of this exemption, "a corporation,
3 limited liability company, society, association, foundation,
4 or institution organized and operated exclusively for
5 educational purposes" means all tax-supported public schools,
6 private schools that offer systematic instruction in useful
7 branches of learning by methods common to public schools and
8 that compare favorably in their scope and intensity with the
9 course of study presented in tax-supported schools, and
10 vocational or technical schools or institutes organized and
11 operated exclusively to provide a course of study of not less
12 than 6 weeks duration and designed to prepare individuals to
13 follow a trade or to pursue a manual, technical, mechanical,
14 industrial, business, or commercial occupation.

15 (21) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits
27 from the sale to the fundraising entity. This paragraph is
28 exempt from the provisions of Section 3-75.

29 (22) Beginning January 1, 2000 and through December 31,
30 2001, new or used automatic vending machines that prepare and
31 serve hot food and beverages, including coffee, soup, and other
32 items, and replacement parts for these machines. Beginning
33 January 1, 2002 and through June 30, 2003, machines and parts
34 for machines used in commercial, coin-operated amusement and
35 vending business if a use or occupation tax is paid on the
36 gross receipts derived from the use of the commercial,

1 coin-operated amusement and vending machines. This paragraph
2 is exempt from the provisions of Section 3-75.

3 (23) Food for human consumption that is to be consumed off
4 the premises where it is sold (other than alcoholic beverages,
5 soft drinks, and food that has been prepared for immediate
6 consumption) and prescription and nonprescription medicines,
7 drugs, medical appliances, and insulin, urine testing
8 materials, syringes, and needles used by diabetics, for human
9 use, when purchased for use by a person receiving medical
10 assistance under Article 5 of the Illinois Public Aid Code who
11 resides in a licensed long-term care facility, as defined in
12 the Nursing Home Care Act.

13 (24) Beginning on the effective date of this amendatory Act
14 of the 92nd General Assembly, computers and communications
15 equipment utilized for any hospital purpose and equipment used
16 in the diagnosis, analysis, or treatment of hospital patients
17 purchased by a lessor who leases the equipment, under a lease
18 of one year or longer executed or in effect at the time the
19 lessor would otherwise be subject to the tax imposed by this
20 Act, to a hospital that has been issued an active tax exemption
21 identification number by the Department under Section 1g of the
22 Retailers' Occupation Tax Act. If the equipment is leased in a
23 manner that does not qualify for this exemption or is used in
24 any other nonexempt manner, the lessor shall be liable for the
25 tax imposed under this Act or the Use Tax Act, as the case may
26 be, based on the fair market value of the property at the time
27 the nonqualifying use occurs. No lessor shall collect or
28 attempt to collect an amount (however designated) that purports
29 to reimburse that lessor for the tax imposed by this Act or the
30 Use Tax Act, as the case may be, if the tax has not been paid by
31 the lessor. If a lessor improperly collects any such amount
32 from the lessee, the lessee shall have a legal right to claim a
33 refund of that amount from the lessor. If, however, that amount
34 is not refunded to the lessee for any reason, the lessor is
35 liable to pay that amount to the Department. This paragraph is
36 exempt from the provisions of Section 3-75.

1 (25) Beginning on the effective date of this amendatory Act
2 of the 92nd General Assembly, personal property purchased by a
3 lessor who leases the property, under a lease of one year or
4 longer executed or in effect at the time the lessor would
5 otherwise be subject to the tax imposed by this Act, to a
6 governmental body that has been issued an active tax exemption
7 identification number by the Department under Section 1g of the
8 Retailers' Occupation Tax Act. If the property is leased in a
9 manner that does not qualify for this exemption or is used in
10 any other nonexempt manner, the lessor shall be liable for the
11 tax imposed under this Act or the Use Tax Act, as the case may
12 be, based on the fair market value of the property at the time
13 the nonqualifying use occurs. No lessor shall collect or
14 attempt to collect an amount (however designated) that purports
15 to reimburse that lessor for the tax imposed by this Act or the
16 Use Tax Act, as the case may be, if the tax has not been paid by
17 the lessor. If a lessor improperly collects any such amount
18 from the lessee, the lessee shall have a legal right to claim a
19 refund of that amount from the lessor. If, however, that amount
20 is not refunded to the lessee for any reason, the lessor is
21 liable to pay that amount to the Department. This paragraph is
22 exempt from the provisions of Section 3-75.

23 (26) Beginning on and after the effective date of this
24 amendatory Act of the 94th General assembly, personal property
25 purchased from a blind vendor's vending facility licensed by
26 the Department of Human Services under the Blind Vendors Act.
27 This paragraph is exempt from the provisions of Section 3-75.

28 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
29 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
30 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.
31 7-30-04.)

32 Section 95. The Service Occupation Tax Act is amended by
33 changing Section 3-5 as follows:

34 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

1 Sec. 3-5. Exemptions. The following tangible personal
2 property is exempt from the tax imposed by this Act:

3 (1) Personal property sold by a corporation, society,
4 association, foundation, institution, or organization, other
5 than a limited liability company, that is organized and
6 operated as a not-for-profit service enterprise for the benefit
7 of persons 65 years of age or older if the personal property
8 was not purchased by the enterprise for the purpose of resale
9 by the enterprise.

10 (2) Personal property purchased by a not-for-profit
11 Illinois county fair association for use in conducting,
12 operating, or promoting the county fair.

13 (3) Personal property purchased by any not-for-profit arts
14 or cultural organization that establishes, by proof required by
15 the Department by rule, that it has received an exemption under
16 Section 501(c)(3) of the Internal Revenue Code and that is
17 organized and operated primarily for the presentation or
18 support of arts or cultural programming, activities, or
19 services. These organizations include, but are not limited to,
20 music and dramatic arts organizations such as symphony
21 orchestras and theatrical groups, arts and cultural service
22 organizations, local arts councils, visual arts organizations,
23 and media arts organizations. On and after the effective date
24 of this amendatory Act of the 92nd General Assembly, however,
25 an entity otherwise eligible for this exemption shall not make
26 tax-free purchases unless it has an active identification
27 number issued by the Department.

28 (4) Legal tender, currency, medallions, or gold or silver
29 coinage issued by the State of Illinois, the government of the
30 United States of America, or the government of any foreign
31 country, and bullion.

32 (5) Until July 1, 2003 and beginning again on September 1,
33 2004, graphic arts machinery and equipment, including repair
34 and replacement parts, both new and used, and including that
35 manufactured on special order or purchased for lease, certified
36 by the purchaser to be used primarily for graphic arts

1 production. Equipment includes chemicals or chemicals acting
2 as catalysts but only if the chemicals or chemicals acting as
3 catalysts effect a direct and immediate change upon a graphic
4 arts product.

5 (6) Personal property sold by a teacher-sponsored student
6 organization affiliated with an elementary or secondary school
7 located in Illinois.

8 (7) Farm machinery and equipment, both new and used,
9 including that manufactured on special order, certified by the
10 purchaser to be used primarily for production agriculture or
11 State or federal agricultural programs, including individual
12 replacement parts for the machinery and equipment, including
13 machinery and equipment purchased for lease, and including
14 implements of husbandry defined in Section 1-130 of the
15 Illinois Vehicle Code, farm machinery and agricultural
16 chemical and fertilizer spreaders, and nurse wagons required to
17 be registered under Section 3-809 of the Illinois Vehicle Code,
18 but excluding other motor vehicles required to be registered
19 under the Illinois Vehicle Code. Horticultural polyhouses or
20 hoop houses used for propagating, growing, or overwintering
21 plants shall be considered farm machinery and equipment under
22 this item (7). Agricultural chemical tender tanks and dry boxes
23 shall include units sold separately from a motor vehicle
24 required to be licensed and units sold mounted on a motor
25 vehicle required to be licensed if the selling price of the
26 tender is separately stated.

27 Farm machinery and equipment shall include precision
28 farming equipment that is installed or purchased to be
29 installed on farm machinery and equipment including, but not
30 limited to, tractors, harvesters, sprayers, planters, seeders,
31 or spreaders. Precision farming equipment includes, but is not
32 limited to, soil testing sensors, computers, monitors,
33 software, global positioning and mapping systems, and other
34 such equipment.

35 Farm machinery and equipment also includes computers,
36 sensors, software, and related equipment used primarily in the

1 computer-assisted operation of production agriculture
2 facilities, equipment, and activities such as, but not limited
3 to, the collection, monitoring, and correlation of animal and
4 crop data for the purpose of formulating animal diets and
5 agricultural chemicals. This item (7) is exempt from the
6 provisions of Section 3-55.

7 (8) Fuel and petroleum products sold to or used by an air
8 common carrier, certified by the carrier to be used for
9 consumption, shipment, or storage in the conduct of its
10 business as an air common carrier, for a flight destined for or
11 returning from a location or locations outside the United
12 States without regard to previous or subsequent domestic
13 stopovers.

14 (9) Proceeds of mandatory service charges separately
15 stated on customers' bills for the purchase and consumption of
16 food and beverages, to the extent that the proceeds of the
17 service charge are in fact turned over as tips or as a
18 substitute for tips to the employees who participate directly
19 in preparing, serving, hosting or cleaning up the food or
20 beverage function with respect to which the service charge is
21 imposed.

22 (10) Until July 1, 2003, oil field exploration, drilling,
23 and production equipment, including (i) rigs and parts of rigs,
24 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
25 tubular goods, including casing and drill strings, (iii) pumps
26 and pump-jack units, (iv) storage tanks and flow lines, (v) any
27 individual replacement part for oil field exploration,
28 drilling, and production equipment, and (vi) machinery and
29 equipment purchased for lease; but excluding motor vehicles
30 required to be registered under the Illinois Vehicle Code.

31 (11) Photoprocessing machinery and equipment, including
32 repair and replacement parts, both new and used, including that
33 manufactured on special order, certified by the purchaser to be
34 used primarily for photoprocessing, and including
35 photoprocessing machinery and equipment purchased for lease.

36 (12) Until July 1, 2003, coal exploration, mining,

1 offhighway hauling, processing, maintenance, and reclamation
2 equipment, including replacement parts and equipment, and
3 including equipment purchased for lease, but excluding motor
4 vehicles required to be registered under the Illinois Vehicle
5 Code.

6 (13) Food for human consumption that is to be consumed off
7 the premises where it is sold (other than alcoholic beverages,
8 soft drinks and food that has been prepared for immediate
9 consumption) and prescription and non-prescription medicines,
10 drugs, medical appliances, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, when purchased for use by a person receiving medical
13 assistance under Article 5 of the Illinois Public Aid Code who
14 resides in a licensed long-term care facility, as defined in
15 the Nursing Home Care Act.

16 (14) Semen used for artificial insemination of livestock
17 for direct agricultural production.

18 (15) Horses, or interests in horses, registered with and
19 meeting the requirements of any of the Arabian Horse Club
20 Registry of America, Appaloosa Horse Club, American Quarter
21 Horse Association, United States Trotting Association, or
22 Jockey Club, as appropriate, used for purposes of breeding or
23 racing for prizes.

24 (16) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients sold to a lessor
27 who leases the equipment, under a lease of one year or longer
28 executed or in effect at the time of the purchase, to a
29 hospital that has been issued an active tax exemption
30 identification number by the Department under Section 1g of the
31 Retailers' Occupation Tax Act.

32 (17) Personal property sold to a lessor who leases the
33 property, under a lease of one year or longer executed or in
34 effect at the time of the purchase, to a governmental body that
35 has been issued an active tax exemption identification number
36 by the Department under Section 1g of the Retailers' Occupation

1 Tax Act.

2 (18) Beginning with taxable years ending on or after
3 December 31, 1995 and ending with taxable years ending on or
4 before December 31, 2004, personal property that is donated for
5 disaster relief to be used in a State or federally declared
6 disaster area in Illinois or bordering Illinois by a
7 manufacturer or retailer that is registered in this State to a
8 corporation, society, association, foundation, or institution
9 that has been issued a sales tax exemption identification
10 number by the Department that assists victims of the disaster
11 who reside within the declared disaster area.

12 (19) Beginning with taxable years ending on or after
13 December 31, 1995 and ending with taxable years ending on or
14 before December 31, 2004, personal property that is used in the
15 performance of infrastructure repairs in this State, including
16 but not limited to municipal roads and streets, access roads,
17 bridges, sidewalks, waste disposal systems, water and sewer
18 line extensions, water distribution and purification
19 facilities, storm water drainage and retention facilities, and
20 sewage treatment facilities, resulting from a State or
21 federally declared disaster in Illinois or bordering Illinois
22 when such repairs are initiated on facilities located in the
23 declared disaster area within 6 months after the disaster.

24 (20) Beginning July 1, 1999, game or game birds sold at a
25 "game breeding and hunting preserve area" or an "exotic game
26 hunting area" as those terms are used in the Wildlife Code or
27 at a hunting enclosure approved through rules adopted by the
28 Department of Natural Resources. This paragraph is exempt from
29 the provisions of Section 3-55.

30 (21) A motor vehicle, as that term is defined in Section
31 1-146 of the Illinois Vehicle Code, that is donated to a
32 corporation, limited liability company, society, association,
33 foundation, or institution that is determined by the Department
34 to be organized and operated exclusively for educational
35 purposes. For purposes of this exemption, "a corporation,
36 limited liability company, society, association, foundation,

1 or institution organized and operated exclusively for
2 educational purposes" means all tax-supported public schools,
3 private schools that offer systematic instruction in useful
4 branches of learning by methods common to public schools and
5 that compare favorably in their scope and intensity with the
6 course of study presented in tax-supported schools, and
7 vocational or technical schools or institutes organized and
8 operated exclusively to provide a course of study of not less
9 than 6 weeks duration and designed to prepare individuals to
10 follow a trade or to pursue a manual, technical, mechanical,
11 industrial, business, or commercial occupation.

12 (22) Beginning January 1, 2000, personal property,
13 including food, purchased through fundraising events for the
14 benefit of a public or private elementary or secondary school,
15 a group of those schools, or one or more school districts if
16 the events are sponsored by an entity recognized by the school
17 district that consists primarily of volunteers and includes
18 parents and teachers of the school children. This paragraph
19 does not apply to fundraising events (i) for the benefit of
20 private home instruction or (ii) for which the fundraising
21 entity purchases the personal property sold at the events from
22 another individual or entity that sold the property for the
23 purpose of resale by the fundraising entity and that profits
24 from the sale to the fundraising entity. This paragraph is
25 exempt from the provisions of Section 3-55.

26 (23) Beginning January 1, 2000 and through December 31,
27 2001, new or used automatic vending machines that prepare and
28 serve hot food and beverages, including coffee, soup, and other
29 items, and replacement parts for these machines. Beginning
30 January 1, 2002 and through June 30, 2003, machines and parts
31 for machines used in commercial, coin-operated amusement and
32 vending business if a use or occupation tax is paid on the
33 gross receipts derived from the use of the commercial,
34 coin-operated amusement and vending machines. This paragraph
35 is exempt from the provisions of Section 3-55.

36 (24) Beginning on the effective date of this amendatory Act

1 of the 92nd General Assembly, computers and communications
2 equipment utilized for any hospital purpose and equipment used
3 in the diagnosis, analysis, or treatment of hospital patients
4 sold to a lessor who leases the equipment, under a lease of one
5 year or longer executed or in effect at the time of the
6 purchase, to a hospital that has been issued an active tax
7 exemption identification number by the Department under
8 Section 1g of the Retailers' Occupation Tax Act. This paragraph
9 is exempt from the provisions of Section 3-55.

10 (25) Beginning on the effective date of this amendatory Act
11 of the 92nd General Assembly, personal property sold to a
12 lessor who leases the property, under a lease of one year or
13 longer executed or in effect at the time of the purchase, to a
14 governmental body that has been issued an active tax exemption
15 identification number by the Department under Section 1g of the
16 Retailers' Occupation Tax Act. This paragraph is exempt from
17 the provisions of Section 3-55.

18 (26) Beginning on January 1, 2002, tangible personal
19 property purchased from an Illinois retailer by a taxpayer
20 engaged in centralized purchasing activities in Illinois who
21 will, upon receipt of the property in Illinois, temporarily
22 store the property in Illinois (i) for the purpose of
23 subsequently transporting it outside this State for use or
24 consumption thereafter solely outside this State or (ii) for
25 the purpose of being processed, fabricated, or manufactured
26 into, attached to, or incorporated into other tangible personal
27 property to be transported outside this State and thereafter
28 used or consumed solely outside this State. The Director of
29 Revenue shall, pursuant to rules adopted in accordance with the
30 Illinois Administrative Procedure Act, issue a permit to any
31 taxpayer in good standing with the Department who is eligible
32 for the exemption under this paragraph (26). The permit issued
33 under this paragraph (26) shall authorize the holder, to the
34 extent and in the manner specified in the rules adopted under
35 this Act, to purchase tangible personal property from a
36 retailer exempt from the taxes imposed by this Act. Taxpayers

1 shall maintain all necessary books and records to substantiate
2 the use and consumption of all such tangible personal property
3 outside of the State of Illinois.

4 (27) Beginning on and after the effective date of this
5 amendatory Act of the 94th General assembly, personal property
6 purchased from a blind vendor's vending facility licensed by
7 the Department of Human Services under the Blind Vendors Act.
8 This paragraph is exempt from the provisions of Section 3-55.

9 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
10 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
11 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
12 6-20-03; 93-840, eff. 7-30-04.)

13 Section 96. Retailers' Occupation Tax Act is amended by
14 changing Section 2-5 as follows:

15 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

16 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
17 sale of the following tangible personal property are exempt
18 from the tax imposed by this Act:

19 (1) Farm chemicals.

20 (2) Farm machinery and equipment, both new and used,
21 including that manufactured on special order, certified by the
22 purchaser to be used primarily for production agriculture or
23 State or federal agricultural programs, including individual
24 replacement parts for the machinery and equipment, including
25 machinery and equipment purchased for lease, and including
26 implements of husbandry defined in Section 1-130 of the
27 Illinois Vehicle Code, farm machinery and agricultural
28 chemical and fertilizer spreaders, and nurse wagons required to
29 be registered under Section 3-809 of the Illinois Vehicle Code,
30 but excluding other motor vehicles required to be registered
31 under the Illinois Vehicle Code. Horticultural polyhouses or
32 hoop houses used for propagating, growing, or overwintering
33 plants shall be considered farm machinery and equipment under
34 this item (2). Agricultural chemical tender tanks and dry boxes

1 shall include units sold separately from a motor vehicle
2 required to be licensed and units sold mounted on a motor
3 vehicle required to be licensed, if the selling price of the
4 tender is separately stated.

5 Farm machinery and equipment shall include precision
6 farming equipment that is installed or purchased to be
7 installed on farm machinery and equipment including, but not
8 limited to, tractors, harvesters, sprayers, planters, seeders,
9 or spreaders. Precision farming equipment includes, but is not
10 limited to, soil testing sensors, computers, monitors,
11 software, global positioning and mapping systems, and other
12 such equipment.

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (7) is exempt from the
20 provisions of Section 2-70.

21 (3) Until July 1, 2003, distillation machinery and
22 equipment, sold as a unit or kit, assembled or installed by the
23 retailer, certified by the user to be used only for the
24 production of ethyl alcohol that will be used for consumption
25 as motor fuel or as a component of motor fuel for the personal
26 use of the user, and not subject to sale or resale.

27 (4) Until July 1, 2003 and beginning again September 1,
28 2004, graphic arts machinery and equipment, including repair
29 and replacement parts, both new and used, and including that
30 manufactured on special order or purchased for lease, certified
31 by the purchaser to be used primarily for graphic arts
32 production. Equipment includes chemicals or chemicals acting
33 as catalysts but only if the chemicals or chemicals acting as
34 catalysts effect a direct and immediate change upon a graphic
35 arts product.

36 (5) A motor vehicle of the first division, a motor vehicle

1 of the second division that is a self-contained motor vehicle
2 designed or permanently converted to provide living quarters
3 for recreational, camping, or travel use, with direct walk
4 through access to the living quarters from the driver's seat,
5 or a motor vehicle of the second division that is of the van
6 configuration designed for the transportation of not less than
7 7 nor more than 16 passengers, as defined in Section 1-146 of
8 the Illinois Vehicle Code, that is used for automobile renting,
9 as defined in the Automobile Renting Occupation and Use Tax
10 Act.

11 (6) Personal property sold by a teacher-sponsored student
12 organization affiliated with an elementary or secondary school
13 located in Illinois.

14 (7) Until July 1, 2003, proceeds of that portion of the
15 selling price of a passenger car the sale of which is subject
16 to the Replacement Vehicle Tax.

17 (8) Personal property sold to an Illinois county fair
18 association for use in conducting, operating, or promoting the
19 county fair.

20 (9) Personal property sold to a not-for-profit arts or
21 cultural organization that establishes, by proof required by
22 the Department by rule, that it has received an exemption under
23 Section 501(c)(3) of the Internal Revenue Code and that is
24 organized and operated primarily for the presentation or
25 support of arts or cultural programming, activities, or
26 services. These organizations include, but are not limited to,
27 music and dramatic arts organizations such as symphony
28 orchestras and theatrical groups, arts and cultural service
29 organizations, local arts councils, visual arts organizations,
30 and media arts organizations. On and after the effective date
31 of this amendatory Act of the 92nd General Assembly, however,
32 an entity otherwise eligible for this exemption shall not make
33 tax-free purchases unless it has an active identification
34 number issued by the Department.

35 (10) Personal property sold by a corporation, society,
36 association, foundation, institution, or organization, other

1 than a limited liability company, that is organized and
2 operated as a not-for-profit service enterprise for the benefit
3 of persons 65 years of age or older if the personal property
4 was not purchased by the enterprise for the purpose of resale
5 by the enterprise.

6 (11) Personal property sold to a governmental body, to a
7 corporation, society, association, foundation, or institution
8 organized and operated exclusively for charitable, religious,
9 or educational purposes, or to a not-for-profit corporation,
10 society, association, foundation, institution, or organization
11 that has no compensated officers or employees and that is
12 organized and operated primarily for the recreation of persons
13 55 years of age or older. A limited liability company may
14 qualify for the exemption under this paragraph only if the
15 limited liability company is organized and operated
16 exclusively for educational purposes. On and after July 1,
17 1987, however, no entity otherwise eligible for this exemption
18 shall make tax-free purchases unless it has an active
19 identification number issued by the Department.

20 (12) Tangible personal property sold to interstate
21 carriers for hire for use as rolling stock moving in interstate
22 commerce or to lessors under leases of one year or longer
23 executed or in effect at the time of purchase by interstate
24 carriers for hire for use as rolling stock moving in interstate
25 commerce and equipment operated by a telecommunications
26 provider, licensed as a common carrier by the Federal
27 Communications Commission, which is permanently installed in
28 or affixed to aircraft moving in interstate commerce.

29 (12-5) On and after July 1, 2003 and through June 30, 2004,
30 motor vehicles of the second division with a gross vehicle
31 weight in excess of 8,000 pounds that are subject to the
32 commercial distribution fee imposed under Section 3-815.1 of
33 the Illinois Vehicle Code. Beginning on July 1, 2004 and
34 through June 30, 2005, the use in this State of motor vehicles
35 of the second division: (i) with a gross vehicle weight rating
36 in excess of 8,000 pounds; (ii) that are subject to the

1 commercial distribution fee imposed under Section 3-815.1 of
2 the Illinois Vehicle Code; and (iii) that are primarily used
3 for commercial purposes. Through June 30, 2005, this exemption
4 applies to repair and replacement parts added after the initial
5 purchase of such a motor vehicle if that motor vehicle is used
6 in a manner that would qualify for the rolling stock exemption
7 otherwise provided for in this Act. For purposes of this
8 paragraph, "used for commercial purposes" means the
9 transportation of persons or property in furtherance of any
10 commercial or industrial enterprise whether for-hire or not.

11 (13) Proceeds from sales to owners, lessors, or shippers of
12 tangible personal property that is utilized by interstate
13 carriers for hire for use as rolling stock moving in interstate
14 commerce and equipment operated by a telecommunications
15 provider, licensed as a common carrier by the Federal
16 Communications Commission, which is permanently installed in
17 or affixed to aircraft moving in interstate commerce.

18 (14) Machinery and equipment that will be used by the
19 purchaser, or a lessee of the purchaser, primarily in the
20 process of manufacturing or assembling tangible personal
21 property for wholesale or retail sale or lease, whether the
22 sale or lease is made directly by the manufacturer or by some
23 other person, whether the materials used in the process are
24 owned by the manufacturer or some other person, or whether the
25 sale or lease is made apart from or as an incident to the
26 seller's engaging in the service occupation of producing
27 machines, tools, dies, jigs, patterns, gauges, or other similar
28 items of no commercial value on special order for a particular
29 purchaser.

30 (15) Proceeds of mandatory service charges separately
31 stated on customers' bills for purchase and consumption of food
32 and beverages, to the extent that the proceeds of the service
33 charge are in fact turned over as tips or as a substitute for
34 tips to the employees who participate directly in preparing,
35 serving, hosting or cleaning up the food or beverage function
36 with respect to which the service charge is imposed.

1 (16) Petroleum products sold to a purchaser if the seller
2 is prohibited by federal law from charging tax to the
3 purchaser.

4 (17) Tangible personal property sold to a common carrier by
5 rail or motor that receives the physical possession of the
6 property in Illinois and that transports the property, or
7 shares with another common carrier in the transportation of the
8 property, out of Illinois on a standard uniform bill of lading
9 showing the seller of the property as the shipper or consignor
10 of the property to a destination outside Illinois, for use
11 outside Illinois.

12 (18) Legal tender, currency, medallions, or gold or silver
13 coinage issued by the State of Illinois, the government of the
14 United States of America, or the government of any foreign
15 country, and bullion.

16 (19) Until July 1 2003, oil field exploration, drilling,
17 and production equipment, including (i) rigs and parts of rigs,
18 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
19 tubular goods, including casing and drill strings, (iii) pumps
20 and pump-jack units, (iv) storage tanks and flow lines, (v) any
21 individual replacement part for oil field exploration,
22 drilling, and production equipment, and (vi) machinery and
23 equipment purchased for lease; but excluding motor vehicles
24 required to be registered under the Illinois Vehicle Code.

25 (20) Photoprocessing machinery and equipment, including
26 repair and replacement parts, both new and used, including that
27 manufactured on special order, certified by the purchaser to be
28 used primarily for photoprocessing, and including
29 photoprocessing machinery and equipment purchased for lease.

30 (21) Until July 1, 2003, coal exploration, mining,
31 offhighway hauling, processing, maintenance, and reclamation
32 equipment, including replacement parts and equipment, and
33 including equipment purchased for lease, but excluding motor
34 vehicles required to be registered under the Illinois Vehicle
35 Code.

36 (22) Fuel and petroleum products sold to or used by an air

1 carrier, certified by the carrier to be used for consumption,
2 shipment, or storage in the conduct of its business as an air
3 common carrier, for a flight destined for or returning from a
4 location or locations outside the United States without regard
5 to previous or subsequent domestic stopovers.

6 (23) A transaction in which the purchase order is received
7 by a florist who is located outside Illinois, but who has a
8 florist located in Illinois deliver the property to the
9 purchaser or the purchaser's donee in Illinois.

10 (24) Fuel consumed or used in the operation of ships,
11 barges, or vessels that are used primarily in or for the
12 transportation of property or the conveyance of persons for
13 hire on rivers bordering on this State if the fuel is delivered
14 by the seller to the purchaser's barge, ship, or vessel while
15 it is afloat upon that bordering river.

16 (25) Except as provided in item (25-5) of this Section, a
17 motor vehicle sold in this State to a nonresident even though
18 the motor vehicle is delivered to the nonresident in this
19 State, if the motor vehicle is not to be titled in this State,
20 and if a drive-away permit is issued to the motor vehicle as
21 provided in Section 3-603 of the Illinois Vehicle Code or if
22 the nonresident purchaser has vehicle registration plates to
23 transfer to the motor vehicle upon returning to his or her home
24 state. The issuance of the drive-away permit or having the
25 out-of-state registration plates to be transferred is prima
26 facie evidence that the motor vehicle will not be titled in
27 this State.

28 (25-5) The exemption under item (25) does not apply if the
29 state in which the motor vehicle will be titled does not allow
30 a reciprocal exemption for a motor vehicle sold and delivered
31 in that state to an Illinois resident but titled in Illinois.
32 The tax collected under this Act on the sale of a motor vehicle
33 in this State to a resident of another state that does not
34 allow a reciprocal exemption shall be imposed at a rate equal
35 to the state's rate of tax on taxable property in the state in
36 which the purchaser is a resident, except that the tax shall

1 not exceed the tax that would otherwise be imposed under this
2 Act. At the time of the sale, the purchaser shall execute a
3 statement, signed under penalty of perjury, of his or her
4 intent to title the vehicle in the state in which the purchaser
5 is a resident within 30 days after the sale and of the fact of
6 the payment to the State of Illinois of tax in an amount
7 equivalent to the state's rate of tax on taxable property in
8 his or her state of residence and shall submit the statement to
9 the appropriate tax collection agency in his or her state of
10 residence. In addition, the retailer must retain a signed copy
11 of the statement in his or her records. Nothing in this item
12 shall be construed to require the removal of the vehicle from
13 this state following the filing of an intent to title the
14 vehicle in the purchaser's state of residence if the purchaser
15 titles the vehicle in his or her state of residence within 30
16 days after the date of sale. The tax collected under this Act
17 in accordance with this item (25-5) shall be proportionately
18 distributed as if the tax were collected at the 6.25% general
19 rate imposed under this Act.

20 (26) Semen used for artificial insemination of livestock
21 for direct agricultural production.

22 (27) Horses, or interests in horses, registered with and
23 meeting the requirements of any of the Arabian Horse Club
24 Registry of America, Appaloosa Horse Club, American Quarter
25 Horse Association, United States Trotting Association, or
26 Jockey Club, as appropriate, used for purposes of breeding or
27 racing for prizes.

28 (28) Computers and communications equipment utilized for
29 any hospital purpose and equipment used in the diagnosis,
30 analysis, or treatment of hospital patients sold to a lessor
31 who leases the equipment, under a lease of one year or longer
32 executed or in effect at the time of the purchase, to a
33 hospital that has been issued an active tax exemption
34 identification number by the Department under Section 1g of
35 this Act.

36 (29) Personal property sold to a lessor who leases the

1 property, under a lease of one year or longer executed or in
2 effect at the time of the purchase, to a governmental body that
3 has been issued an active tax exemption identification number
4 by the Department under Section 1g of this Act.

5 (30) Beginning with taxable years ending on or after
6 December 31, 1995 and ending with taxable years ending on or
7 before December 31, 2004, personal property that is donated for
8 disaster relief to be used in a State or federally declared
9 disaster area in Illinois or bordering Illinois by a
10 manufacturer or retailer that is registered in this State to a
11 corporation, society, association, foundation, or institution
12 that has been issued a sales tax exemption identification
13 number by the Department that assists victims of the disaster
14 who reside within the declared disaster area.

15 (31) Beginning with taxable years ending on or after
16 December 31, 1995 and ending with taxable years ending on or
17 before December 31, 2004, personal property that is used in the
18 performance of infrastructure repairs in this State, including
19 but not limited to municipal roads and streets, access roads,
20 bridges, sidewalks, waste disposal systems, water and sewer
21 line extensions, water distribution and purification
22 facilities, storm water drainage and retention facilities, and
23 sewage treatment facilities, resulting from a State or
24 federally declared disaster in Illinois or bordering Illinois
25 when such repairs are initiated on facilities located in the
26 declared disaster area within 6 months after the disaster.

27 (32) Beginning July 1, 1999, game or game birds sold at a
28 "game breeding and hunting preserve area" or an "exotic game
29 hunting area" as those terms are used in the Wildlife Code or
30 at a hunting enclosure approved through rules adopted by the
31 Department of Natural Resources. This paragraph is exempt from
32 the provisions of Section 2-70.

33 (33) A motor vehicle, as that term is defined in Section
34 1-146 of the Illinois Vehicle Code, that is donated to a
35 corporation, limited liability company, society, association,
36 foundation, or institution that is determined by the Department

1 to be organized and operated exclusively for educational
2 purposes. For purposes of this exemption, "a corporation,
3 limited liability company, society, association, foundation,
4 or institution organized and operated exclusively for
5 educational purposes" means all tax-supported public schools,
6 private schools that offer systematic instruction in useful
7 branches of learning by methods common to public schools and
8 that compare favorably in their scope and intensity with the
9 course of study presented in tax-supported schools, and
10 vocational or technical schools or institutes organized and
11 operated exclusively to provide a course of study of not less
12 than 6 weeks duration and designed to prepare individuals to
13 follow a trade or to pursue a manual, technical, mechanical,
14 industrial, business, or commercial occupation.

15 (34) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits
27 from the sale to the fundraising entity. This paragraph is
28 exempt from the provisions of Section 2-70.

29 (35) Beginning January 1, 2000 and through December 31,
30 2001, new or used automatic vending machines that prepare and
31 serve hot food and beverages, including coffee, soup, and other
32 items, and replacement parts for these machines. Beginning
33 January 1, 2002 and through June 30, 2003, machines and parts
34 for machines used in commercial, coin-operated amusement and
35 vending business if a use or occupation tax is paid on the
36 gross receipts derived from the use of the commercial,

1 coin-operated amusement and vending machines. This paragraph
2 is exempt from the provisions of Section 2-70.

3 (35-5) Food for human consumption that is to be consumed
4 off the premises where it is sold (other than alcoholic
5 beverages, soft drinks, and food that has been prepared for
6 immediate consumption) and prescription and nonprescription
7 medicines, drugs, medical appliances, and insulin, urine
8 testing materials, syringes, and needles used by diabetics, for
9 human use, when purchased for use by a person receiving medical
10 assistance under Article 5 of the Illinois Public Aid Code who
11 resides in a licensed long-term care facility, as defined in
12 the Nursing Home Care Act.

13 (36) Beginning August 2, 2001, computers and
14 communications equipment utilized for any hospital purpose and
15 equipment used in the diagnosis, analysis, or treatment of
16 hospital patients sold to a lessor who leases the equipment,
17 under a lease of one year or longer executed or in effect at
18 the time of the purchase, to a hospital that has been issued an
19 active tax exemption identification number by the Department
20 under Section 1g of this Act. This paragraph is exempt from the
21 provisions of Section 2-70.

22 (37) Beginning August 2, 2001, personal property sold to a
23 lessor who leases the property, under a lease of one year or
24 longer executed or in effect at the time of the purchase, to a
25 governmental body that has been issued an active tax exemption
26 identification number by the Department under Section 1g of
27 this Act. This paragraph is exempt from the provisions of
28 Section 2-70.

29 (38) Beginning on January 1, 2002, tangible personal
30 property purchased from an Illinois retailer by a taxpayer
31 engaged in centralized purchasing activities in Illinois who
32 will, upon receipt of the property in Illinois, temporarily
33 store the property in Illinois (i) for the purpose of
34 subsequently transporting it outside this State for use or
35 consumption thereafter solely outside this State or (ii) for
36 the purpose of being processed, fabricated, or manufactured

1 into, attached to, or incorporated into other tangible personal
2 property to be transported outside this State and thereafter
3 used or consumed solely outside this State. The Director of
4 Revenue shall, pursuant to rules adopted in accordance with the
5 Illinois Administrative Procedure Act, issue a permit to any
6 taxpayer in good standing with the Department who is eligible
7 for the exemption under this paragraph (38). The permit issued
8 under this paragraph (38) shall authorize the holder, to the
9 extent and in the manner specified in the rules adopted under
10 this Act, to purchase tangible personal property from a
11 retailer exempt from the taxes imposed by this Act. Taxpayers
12 shall maintain all necessary books and records to substantiate
13 the use and consumption of all such tangible personal property
14 outside of the State of Illinois.

15 (34) Beginning on and after the effective date of this
16 amendatory Act of the 94th General assembly, personal property
17 purchased from a blind vendor's vending facility licensed by
18 the Department of Human Services under the Blind Vendors Act.
19 This paragraph is exempt from the provisions of Section 2-70.

20 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
21 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
22 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
23 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
24 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)