



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2756

Introduced 1/20/2006, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

| | |
|-------------------|-------------------------------|
| 30 ILCS 105/6z-18 | from Ch. 127, par. 142z-18 |
| 30 ILCS 105/6z-20 | from Ch. 127, par. 142z-20 |
| 35 ILCS 105/3-10 | from Ch. 120, par. 439.3-10 |
| 35 ILCS 110/3-10 | from Ch. 120, par. 439.33-10 |
| 35 ILCS 115/3-10 | from Ch. 120, par. 439.103-10 |
| 35 ILCS 120/2-10 | from Ch. 120, par. 441-10 |

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, with respect to motor fuel and gasohol, the tax under the Acts is imposed at the rate of 1.25% (eliminating the State's portion). Amends the State Finance Act to make corresponding changes. Effective immediately.

LRB094 16144 BDD 51559 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

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

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

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

19 A portion of the money paid into the Local Government Tax
20 Fund from the 6.25% general use tax rate on the selling price
21 of tangible personal property which is purchased outside
22 Illinois at retail from a retailer and which is titled or
23 registered by any agency of this State's government shall be
24 distributed to municipalities as provided in this paragraph.
25 Each municipality shall receive the amount attributable to
26 sales for which Illinois addresses for titling or registration
27 purposes are given as being in such municipality. The remainder
28 of the money paid into the Local Government Tax Fund from such
29 sales shall be distributed to counties. Each county shall
30 receive the amount attributable to sales for which Illinois
31 addresses for titling or registration purposes are given as
32 being located in the unincorporated area of such county.

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

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

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

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

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

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

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

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

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

1 eff. 7-1-00.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Beginning on July 1, 2000 and through December 31, 2000 and
24 beginning again on the effective date of this amendatory Act of
25 the 94th General Assembly, with respect to motor fuel, as
26 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
27 as defined in Section 3-40 of the Use Tax Act, the tax is
28 imposed at the rate of 1.25%.

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

1 proceeds of sales of gasohol made during that time.

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

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

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

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

1 bottle, can, carton, or container, regardless of size. "Soft
2 drinks" does not include coffee, tea, non-carbonated water,
3 infant formula, milk or milk products as defined in the Grade A
4 Pasteurized Milk and Milk Products Act, or drinks containing
5 50% or more natural fruit or vegetable juice.

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

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

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

20 Section 15. The Service Use Tax Act is amended by changing
21 Sections 3-10 as follows:

22 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

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

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

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

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

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

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

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

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

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

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

17 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

1 completion of the contract.

2 Beginning on July 1, 2000 and through December 31, 2000 and
3 beginning again on the effective date of this amendatory Act of
4 the 94th General Assembly, with respect to motor fuel, as
5 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
6 as defined in Section 3-40 of the Use Tax Act, the tax is
7 imposed at the rate of 1.25%.

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

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

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

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

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

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

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

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

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

15 Section 25. The Retailers' Occupation Tax Act is amended by
16 changing Sections 2-10 as follows:

17 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

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

22 Beginning on July 1, 2000 and through December 31, 2000 and
23 beginning again on the effective date of this amendatory Act of
24 the 94th General Assembly, with respect to motor fuel, as
25 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
26 as defined in Section 3-40 of the Use Tax Act, the tax is
27 imposed at the rate of 1.25%.

28 Within 14 days after the effective date of this amendatory
29 Act of the 91st General Assembly, each retailer of motor fuel
30 and gasohol shall cause the following notice to be posted in a
31 prominently visible place on each retail dispensing device that
32 is used to dispense motor fuel or gasohol in the State of
33 Illinois: "As of July 1, 2000, the State of Illinois has
34 eliminated the State's share of sales tax on motor fuel and

1 gasohol through December 31, 2000. The price on this pump
2 should reflect the elimination of the tax." The notice shall be
3 printed in bold print on a sign that is no smaller than 4
4 inches by 8 inches. The sign shall be clearly visible to
5 customers. Any retailer who fails to post or maintain a
6 required sign through December 31, 2000 is guilty of a petty
7 offense for which the fine shall be \$500 per day per each
8 retail premises where a violation occurs.

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

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

24 With respect to biodiesel blends, as defined in the Use Tax
25 Act, with no less than 1% and no more than 10% biodiesel, the
26 tax imposed by this Act applies to (i) 80% of the proceeds of
27 sales made on or after July 1, 2003 and on or before December
28 31, 2013 and (ii) 100% of the proceeds of sales made
29 thereafter. If, at any time, however, the tax under this Act on
30 sales of biodiesel blends, as defined in the Use Tax Act, with
31 no less than 1% and no more than 10% biodiesel is imposed at
32 the rate of 1.25%, then the tax imposed by this Act applies to
33 100% of the proceeds of sales of biodiesel blends with no less
34 than 1% and no more than 10% biodiesel made during that time.

35 With respect to 100% biodiesel, as defined in the Use Tax
36 Act, and biodiesel blends, as defined in the Use Tax Act, with

1 more than 10% but no more than 99% biodiesel, the tax imposed
2 by this Act does not apply to the proceeds of sales made on or
3 after July 1, 2003 and on or before December 31, 2013 but
4 applies to 100% of the proceeds of sales made thereafter.

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

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

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

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.