

1                                   AMENDMENT TO SENATE BILL 392

2           AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 392 by replacing  
3 everything after the enacting clause with the following:

4           "Section 1. Short title. This Act may be cited as the  
5 Energy Resources Policy Act.

6           Section 5. Findings. The General Assembly finds that:

7           (a) There is a need to build new electric generation  
8 facilities in Illinois.

9           (b) Illinois has a large amount of natural resources and  
10 infrastructure that is conducive to building new electric  
11 generation plants.

12           (c) The recent energy crisis in California has shown  
13 that it is imperative that we have ample generation  
14 available.

15           (d) The development of new generating capacity will help  
16 the economy of the entire State of Illinois.

17           (e) Many communities in Illinois are looking for  
18 economic development projects.

19           (f) The State of Illinois needs to coordinate the  
20 matching of energy companies who are looking to build in  
21 Illinois with communities that are willing to host the  
22 generating plants.

1 (g) The cost of building a baseload electric generation  
2 plant with a nameplate capacity of 1,000 megawatts is over  
3 \$500,000,000.

4 Section 10. Definitions.

5 "Council" means the Energy Generation Resources  
6 Development Coordinating Council.

7 "Department" means the Department of Commerce and  
8 Community Affairs.

9 Section 15. Purpose. The State of Illinois is in need  
10 of new electric generation facilities. The purpose of this  
11 Act is to provide financial and other incentives that will  
12 result in (i) the construction of 8 new baseload electric  
13 generation plants in Illinois that are under construction  
14 before December 31, 2004, (ii) a pilot program for a  
15 wind-powered electric generating plant in Illinois that is  
16 under construction before December 31, 2004, and (iii) the  
17 construction of new transmission lines and the upgrading of  
18 existing transmission lines before December 31, 2004.

19 Section 20. Energy Generation Resources Development  
20 Coordinating Council.

21 (a) There is created the Energy Generation Resources  
22 Development Coordinating Council. The Council shall consist  
23 of 18 members as follows: the Director of Commerce and  
24 Community Affairs and the Chairman of the Illinois Commerce  
25 Commission, who shall serve as co-chairs; one member  
26 appointed by the Director of Natural Resources, one member  
27 appointed by the Director of Natural Resources from the State  
28 Water Survey Division of the Department; one member appointed  
29 by the Director of the Environmental Protection Agency; one  
30 member appointed by the Governor and representing the  
31 Governor's Energy Cabinet; one member appointed by the

1 Governor and representing the Illinois Environmental Council;  
2 one member appointed by the Governor and representing the  
3 Environmental Law and Policy Center; one member appointed by  
4 the Governor and representing the Illinois Energy Association  
5 on behalf of Illinois electric utilities; one member  
6 appointed by the Governor and representing the Illinois Coal  
7 Association; one member appointed by the Governor and  
8 representing the Alliance Regional Transmission Organization;  
9 one member appointed by the Governor and representing the  
10 Midwest Independent Power Producers; one member appointed by  
11 the Governor and representing natural gas public utilities;  
12 one member appointed by the Governor and representing gas  
13 pipeline companies; one member of the Senate appointed by the  
14 President of the Senate; one member of the Senate appointed  
15 by the Minority Leader of the Senate; one member of the House  
16 of Representatives appointed by the Speaker of the House of  
17 Representatives; and one member of the House of  
18 Representatives appointed by the Minority Leader of the House  
19 of Representatives.

20 (b) The Council shall study the availability in Illinois  
21 of natural resources such as coal and groundwater and the  
22 availability of infrastructure such as natural gas pipelines  
23 and transmission and distribution systems.

24 (c) The Council shall identify the following:

25 (1) Locations suitable for the development of new  
26 generating capacity in each region of the State.

27 (2) Communities that are willing to host new  
28 generating capacity.

29 (3) Financial incentives available to generators  
30 who are building new capacity in Illinois.

31 Section 25. Energy summit. On or before July 1, 2002,  
32 the Council shall hold an energy summit, bringing together  
33 those persons that wish to build generating capacity in

1 Illinois and communities that wish to host generation plants.  
2 The Council shall encourage the groups to make presentations  
3 and network with each other.

4 Section 30. Report. On or before July 1, 2002, the  
5 Council shall submit a report to the General Assembly and the  
6 Governor. The report shall do the following:

- 7 (1) Summarize the activities of the council.
- 8 (2) List the sites the Council has identified for  
9 development of generation.
- 10 (3) List the communities willing to host generation  
11 facilities.
- 12 (4) Identify any projects that have started due to  
13 the efforts of the Council.
- 14 (5) Make recommendations for any legislative  
15 changes that may be necessary to further facilitate the  
16 development of generating plants in Illinois.

17 Section 35. Incentives for coal-fired electric  
18 generating plants and clean-coal gasification process  
19 electric generating plants.

20 (a) The entities chosen to construct the new Illinois  
21 coal-fired electric generation plants or the clean-coal  
22 gasification process electric generating plants in Illinois  
23 must be allowed expedited access to funds and assistance from  
24 the Coal Research Program, the Coal Development Program, and  
25 the Coal Demonstration Program administered by the  
26 Department.

27 (b) The entities chosen to construct the new Illinois  
28 coal-fired electric generation plants the clean-coal  
29 gasification process electric generating plants in Illinois  
30 must be encouraged by the Council to seek a grant from the  
31 Illinois Clean Energy Community Trust Fund.

1 Section 40. Incentives for wind-powered electric  
2 generating plants.

3 (a) The entity chosen for the pilot program to construct  
4 a wind-powered electric generating plant must be encouraged  
5 by the Council to apply for a one-time grant from the  
6 Renewable Resources Energy Grant Program administered by the  
7 Department.

8 (b) The entity chosen for the pilot program to construct  
9 a wind-powered electric generating plant must be encouraged  
10 by the Council to seek a grant from the Illinois Clean Energy  
11 Community Trust Fund.

12 Section 45. Preparation by units of local government  
13 interested in hosting new electric generation plants. The  
14 Council must encourage any unit of local government  
15 interested in hosting an electric generating plant to do the  
16 following:

17 (1) Offer an abatement of property taxes for the  
18 new generating plants.

19 (2) Make or accommodate the making of  
20 infrastructure improvements.

21 (3) Expedite zoning and planning.

22 Section 50. Requirements to qualify for State  
23 incentives. To qualify to receive the State incentives  
24 offered under this Act, an entity proposing to build a new  
25 electric generation plant must meet the following  
26 requirements:

27 (1) Except for wind-powered electric generating  
28 plants, the proposed plant must have a nameplate capacity  
29 of 1,000 megawatts or greater.

30 (2) The entity must obtain a resolution of support  
31 for the new plant from the unit of local government where  
32 the plant is proposed to be built.

1           (3) To the extent practical, the entity must commit  
2           to sell its electricity to residential and business  
3           customers in Illinois.

4           Section 55. Eligibility for incentives determined by  
5           rule. The Department must adopt rules governing the award of  
6           the State incentives provided for in this Act for (i) the  
7           construction of 8 new baseload electric generation plants in  
8           Illinois that will be under construction before December 31,  
9           2004 and (ii) a pilot program for a wind-powered electric  
10          generating plant in Illinois that will be under construction  
11          before December 31, 2004. The rules must provide that the  
12          incentives will be awarded on a "first-come, first-served"  
13          basis. The Department must adopt the rules on or before  
14          January 1, 2002. The Department may implement this Act  
15          through the use of emergency rules in accordance with the  
16          provisions of Section 5-45 of the Illinois Administrative  
17          Procedure Act. For purposes of the Illinois Administrative  
18          Procedure Act, the adoption of rules to implement this Act  
19          shall be deemed an emergency and necessary for the public  
20          interest, safety, and welfare.

21          Section 910. The Use Tax Act is amended by changing  
22          Section 3-5 as follows:

23               (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

26               (1) Personal property purchased from a corporation,  
27          society, association, foundation, institution, or  
28          organization, other than a limited liability company, that is  
29          organized and operated as a not-for-profit service enterprise  
30          for the benefit of persons 65 years of age or older if the  
31          personal property was not purchased by the enterprise for the

1 purpose of resale by the enterprise.

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

5 (3) Personal property purchased by a not-for-profit arts  
6 or cultural organization that establishes, by proof required  
7 by the Department by rule, that it has received an exemption  
8 under Section 501(c)(3) of the Internal Revenue Code and that  
9 is organized and operated for the presentation or support of  
10 arts or cultural programming, activities, or services. These  
11 organizations include, but are not limited to, music and  
12 dramatic arts organizations such as symphony orchestras and  
13 theatrical groups, arts and cultural service organizations,  
14 local arts councils, visual arts organizations, and media  
15 arts organizations.

16 (4) Personal property purchased by a governmental body,  
17 by a corporation, society, association, foundation, or  
18 institution organized and operated exclusively for  
19 charitable, religious, or educational purposes, or by a  
20 not-for-profit corporation, society, association, foundation,  
21 institution, or organization that has no compensated officers  
22 or employees and that is organized and operated primarily for  
23 the recreation of persons 55 years of age or older. A limited  
24 liability company may qualify for the exemption under this  
25 paragraph only if the limited liability company is organized  
26 and operated exclusively for educational purposes. On and  
27 after July 1, 1987, however, no entity otherwise eligible for  
28 this exemption shall make tax-free purchases unless it has an  
29 active exemption identification number issued by the  
30 Department.

31 (5) A passenger car that is a replacement vehicle to the  
32 extent that the purchase price of the car is subject to the  
33 Replacement Vehicle Tax.

34 (6) Graphic arts machinery and equipment, including

1 repair and replacement parts, both new and used, and  
2 including that manufactured on special order, certified by  
3 the purchaser to be used primarily for graphic arts  
4 production, and including machinery and equipment purchased  
5 for lease.

6 (7) Farm chemicals.

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

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

14 (10) A motor vehicle of the first division, a motor  
15 vehicle of the second division that is a self-contained motor  
16 vehicle designed or permanently converted to provide living  
17 quarters for recreational, camping, or travel use, with  
18 direct walk through to the living quarters from the driver's  
19 seat, or a motor vehicle of the second division that is of  
20 the van configuration designed for the transportation of not  
21 less than 7 nor more than 16 passengers, as defined in  
22 Section 1-146 of the Illinois Vehicle Code, that is used for  
23 automobile renting, as defined in the Automobile Renting  
24 Occupation and Use Tax Act.

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



1 Code, but excluding other motor vehicles required to be  
2 registered under the Illinois Vehicle Code. Horticultural  
3 polyhouses or hoop houses used for propagating, growing, or  
4 overwintering plants shall be considered farm machinery and  
5 equipment under this item (11). Agricultural chemical tender  
6 tanks and dry boxes shall include units sold separately from  
7 a motor vehicle required to be licensed and units sold  
8 mounted on a motor vehicle required to be licensed if the  
9 selling price of the 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,  
14 seeders, or spreaders. Precision farming equipment includes,  
15 but is not limited to, soil testing sensors, computers,  
16 monitors, software, global positioning and mapping systems,  
17 and other such equipment.

18 Farm machinery and equipment also includes computers,  
19 sensors, software, and related equipment used primarily in  
20 the computer-assisted operation of production agriculture  
21 facilities, equipment, and activities such as, but not  
22 limited to, the collection, monitoring, and correlation of  
23 animal and crop data for the purpose of formulating animal  
24 diets and agricultural chemicals. This item (11) is exempt  
25 from the provisions of Section 3-90.

26 (12) Fuel and petroleum products sold to or used by an  
27 air 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  
30 or returning from a location or locations outside the United  
31 States without regard to previous or subsequent domestic  
32 stopovers.

33 (13) Proceeds of mandatory service charges separately  
34 stated on customers' bills for the purchase and consumption

1 of food and beverages purchased at retail from a retailer, to  
2 the extent that the proceeds of the service charge are in  
3 fact turned over as tips or as a substitute for tips to the  
4 employees who participate directly in preparing, serving,  
5 hosting or cleaning up the food or beverage function with  
6 respect to which the service charge is imposed.

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

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

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

27 (17) Distillation machinery and equipment, sold as a  
28 unit or kit, assembled or installed by the retailer,  
29 certified by the user to be used only for the production of  
30 ethyl alcohol that will be used for consumption as motor fuel  
31 or as a component of motor fuel for the personal use of the  
32 user, and not subject to sale or resale.

33 (18) Manufacturing and assembling machinery and  
34 equipment used primarily in the process of manufacturing or

1 assembling tangible personal property for wholesale or retail  
2 sale or lease, whether that sale or lease is made directly by  
3 the manufacturer or by some other person, whether the  
4 materials used in the process are owned by the manufacturer  
5 or some other person, or whether that sale or lease is made  
6 apart from or as an incident to the seller's engaging in the  
7 service occupation of producing machines, tools, dies, jigs,  
8 patterns, gauges, or other similar items of no commercial  
9 value on special order for a particular purchaser.

10 (19) Personal property delivered to a purchaser or  
11 purchaser's donee inside Illinois when the purchase order for  
12 that personal property was received by a florist located  
13 outside Illinois who has a florist located inside Illinois  
14 deliver the personal property.

15 (20) Semen used for artificial insemination of livestock  
16 for direct agricultural production.

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

23 (22) Computers and communications equipment utilized for  
24 any hospital purpose and equipment used in the diagnosis,  
25 analysis, or treatment of hospital patients purchased by a  
26 lessor who leases the equipment, under a lease of one year or  
27 longer executed or in effect at the time the lessor would  
28 otherwise be subject to the tax imposed by this Act, to a  
29 hospital that has been issued an active tax exemption  
30 identification number by the Department under Section 1g of  
31 the Retailers' Occupation Tax Act. If the equipment is  
32 leased in a manner that does not qualify for this exemption  
33 or is used in any other non-exempt manner, the lessor shall  
34 be liable for the tax imposed under this Act or the Service

1 Use Tax Act, as the case may be, based on the fair market  
2 value of the property at the time the non-qualifying use  
3 occurs. No lessor shall collect or attempt to collect an  
4 amount (however designated) that purports to reimburse that  
5 lessor for the tax imposed by this Act or the Service Use Tax  
6 Act, as the case may be, if the tax has not been paid by the  
7 lessor. If a lessor improperly collects any such amount from  
8 the lessee, the lessee shall have a legal right to claim a  
9 refund of that amount from the lessor. If, however, that  
10 amount is not refunded to the lessee for any reason, the  
11 lessor is liable to pay that amount to the Department.

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

33 (24) Beginning with taxable years ending on or after  
34 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is donated  
2 for disaster relief to be used in a State or federally  
3 declared disaster area in Illinois or bordering Illinois by a  
4 manufacturer or retailer that is registered in this State to  
5 a corporation, society, association, foundation, or  
6 institution that has been issued a sales tax exemption  
7 identification number by the Department that assists victims  
8 of the disaster who reside within the declared disaster area.

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

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

28 (27) A motor vehicle, as that term is defined in Section  
29 1-146 of the Illinois Vehicle Code, that is donated to a  
30 corporation, limited liability company, society, association,  
31 foundation, or institution that is determined by the  
32 Department to be organized and operated exclusively for  
33 educational purposes. For purposes of this exemption, "a  
34 corporation, limited liability company, society, association,

1 foundation, or institution organized and operated exclusively  
2 for educational purposes" means all tax-supported public  
3 schools, private schools that offer systematic instruction in  
4 useful branches of learning by methods common to public  
5 schools and that compare favorably in their scope and  
6 intensity with the course of study presented in tax-supported  
7 schools, and vocational or technical schools or institutes  
8 organized and operated exclusively to provide a course of  
9 study of not less than 6 weeks duration and designed to  
10 prepare individuals to follow a trade or to pursue a manual,  
11 technical, mechanical, industrial, business, or commercial  
12 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  
16 school, a group of those schools, or one or more school  
17 districts if the events are sponsored by an entity recognized  
18 by the school district that consists primarily of volunteers  
19 and includes parents and teachers of the school children.  
20 This paragraph does not apply to fundraising events (i) for  
21 the benefit of private home instruction or (ii) for which the  
22 fundraising entity purchases the personal property sold at  
23 the events from another individual or entity that sold the  
24 property for the purpose of resale by the fundraising entity  
25 and that profits from the sale to the fundraising entity.  
26 This paragraph is exempt from the provisions of Section 3-90.

27 (29) Beginning January 1, 2000, new or used automatic  
28 vending machines that prepare and serve hot food and  
29 beverages, including coffee, soup, and other items, and  
30 replacement parts for these machines. This paragraph is  
31 exempt from the provisions of Section 3-90.

32 (30) Food for human consumption that is to be consumed  
33 off the premises where it is sold (other than alcoholic  
34 beverages, soft drinks, and food that has been prepared for

1 immediate consumption) and prescription and nonprescription  
 2 medicines, drugs, medical appliances, and insulin, urine  
 3 testing materials, syringes, and needles used by diabetics,  
 4 for human use, when purchased for use by a person receiving  
 5 medical assistance under Article 5 of the Illinois Public Aid  
 6 Code who resides in a licensed long-term care facility, as  
 7 defined in the Nursing Home Care Act.

8 (31) Beginning on the effective date of this amendatory  
 9 Act of the 92nd General Assembly and ending on the date on  
 10 which electricity is first generated at a new plant built  
 11 under the incentives provided under the Energy Resources  
 12 Policy Act, the construction of which begins on or after July  
 13 1, 2001, machinery and equipment used at that plant primarily  
 14 in the generation or production of electricity for wholesale  
 15 or retail sale, including repair and replacement parts and  
 16 equipment, both new and used, including repair and  
 17 replacement parts manufactured on special order, and  
 18 including machinery and equipment purchased for lease, but  
 19 excluding motor vehicles required to be registered under the  
 20 Illinois Vehicle Code.

21 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
 22 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
 23 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,  
 24 eff. 8-20-99; 91-901, eff. 1-1-01.)

25 Section 915. The Service Use Tax Act is amended by  
 26 changing Section 3-5 as follows:

27 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)  
 28 Sec. 3-5. Exemptions. Use of the following tangible  
 29 personal property is exempt from the tax imposed by this Act:  
 30 (1) Personal property purchased from a corporation,  
 31 society, association, foundation, institution, or  
 32 organization, other than a limited liability company, that is

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

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

8 (3) Personal property purchased by a not-for-profit arts  
9 or cultural organization that establishes, by proof required  
10 by the Department by rule, that it has received an exemption  
11 under Section 501(c)(3) of the Internal Revenue Code and that  
12 is organized and operated for the presentation or support of  
13 arts or cultural programming, activities, or services. These  
14 organizations include, but are not limited to, music and  
15 dramatic arts organizations such as symphony orchestras and  
16 theatrical groups, arts and cultural service organizations,  
17 local arts councils, visual arts organizations, and media  
18 arts organizations.

19 (4) Legal tender, currency, medallions, or gold or  
20 silver coinage issued by the State of Illinois, the  
21 government of the United States of America, or the government  
22 of any foreign country, and bullion.

23 (5) Graphic arts machinery and equipment, including  
24 repair and replacement parts, both new and used, and  
25 including that manufactured on special order or purchased for  
26 lease, certified by the purchaser to be used primarily for  
27 graphic arts production.

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

31 (7) Farm machinery and equipment, both new and used,  
32 including that manufactured on special order, certified by  
33 the purchaser to be used primarily for production agriculture  
34 or State or federal agricultural programs, including



1 individual replacement parts for the machinery and equipment,  
2 including machinery and equipment purchased for lease, and  
3 including implements of husbandry defined in Section 1-130 of  
4 the Illinois Vehicle Code, farm machinery and agricultural  
5 chemical and fertilizer spreaders, and nurse wagons required  
6 to be registered under Section 3-809 of the Illinois Vehicle  
7 Code, but excluding other motor vehicles required to be  
8 registered under the Illinois Vehicle Code. Horticultural  
9 polyhouses or hoop houses used for propagating, growing, or  
10 overwintering plants shall be considered farm machinery and  
11 equipment under this item (7). Agricultural chemical tender  
12 tanks and dry boxes shall include units sold separately from  
13 a motor vehicle required to be licensed and units sold  
14 mounted on a motor vehicle required to be licensed if the  
15 selling price of the tender is separately stated.

16 Farm machinery and equipment shall include precision  
17 farming equipment that is installed or purchased to be  
18 installed on farm machinery and equipment including, but not  
19 limited to, tractors, harvesters, sprayers, planters,  
20 seeders, or spreaders. Precision farming equipment includes,  
21 but is not limited to, soil testing sensors, computers,  
22 monitors, software, global positioning and mapping systems,  
23 and other such equipment.

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

32 (8) Fuel and petroleum products sold to or used by an  
33 air common carrier, certified by the carrier to be used for  
34 consumption, shipment, or storage in the conduct of its

1 business as an air common carrier, for a flight destined for  
2 or returning from a location or locations outside the United  
3 States without regard to previous or subsequent domestic  
4 stopovers.

5 (9) Proceeds of mandatory service charges separately  
6 stated on customers' bills for the purchase and consumption  
7 of food and beverages acquired as an incident to the purchase  
8 of a service from a serviceman, to the extent that the  
9 proceeds of the service charge are in fact turned over as  
10 tips or as a substitute for tips to the employees who  
11 participate directly in preparing, serving, hosting or  
12 cleaning up the food or beverage function with respect to  
13 which the service charge is imposed.

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

23 (11) Proceeds from the sale of photoprocessing machinery  
24 and equipment, including repair and replacement parts, both  
25 new and used, including that manufactured on special order,  
26 certified by the purchaser to be used primarily for  
27 photoprocessing, and including photoprocessing machinery and  
28 equipment purchased for lease.

29 (12) Coal exploration, mining, offhighway hauling,  
30 processing, maintenance, and reclamation equipment, including  
31 replacement parts and equipment, and including equipment  
32 purchased for lease, but excluding motor vehicles required to  
33 be registered under the Illinois Vehicle Code.

34 (13) Semen used for artificial insemination of livestock

1 for direct agricultural production.

2 (14) Horses, or interests in horses, registered with and  
3 meeting the requirements of any of the Arabian Horse Club  
4 Registry of America, Appaloosa Horse Club, American Quarter  
5 Horse Association, United States Trotting Association, or  
6 Jockey Club, as appropriate, used for purposes of breeding or  
7 racing for prizes.

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

31 (16) Personal property purchased by a lessor who leases  
32 the property, under a lease of one year or longer executed or  
33 in effect at the time the lessor would otherwise be subject  
34 to the tax imposed by this Act, to a governmental body that

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

18 (17) Beginning with taxable years ending on or after  
19 December 31, 1995 and ending with taxable years ending on or  
20 before December 31, 2004, personal property that is donated  
21 for disaster relief to be used in a State or federally  
22 declared disaster area in Illinois or bordering Illinois by a  
23 manufacturer or retailer that is registered in this State to  
24 a corporation, society, association, foundation, or  
25 institution that has been issued a sales tax exemption  
26 identification number by the Department that assists victims  
27 of the disaster who reside within the declared disaster area.

28 (18) Beginning with taxable years ending on or after  
29 December 31, 1995 and ending with taxable years ending on or  
30 before December 31, 2004, personal property that is used in  
31 the performance of infrastructure repairs in this State,  
32 including but not limited to municipal roads and streets,  
33 access roads, bridges, sidewalks, waste disposal systems,  
34 water and sewer line extensions, water distribution and

1 purification facilities, storm water drainage and retention  
2 facilities, and sewage treatment facilities, resulting from a  
3 State or federally declared disaster in Illinois or bordering  
4 Illinois when such repairs are initiated on facilities  
5 located in the declared disaster area within 6 months after  
6 the disaster.

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

13 (20) ~~(19)~~ A motor vehicle, as that term is defined in  
14 Section 1-146 of the Illinois Vehicle Code, that is donated  
15 to a corporation, limited liability company, society,  
16 association, foundation, or institution that is determined by  
17 the Department to be organized and operated exclusively for  
18 educational purposes. For purposes of this exemption, "a  
19 corporation, limited liability company, society, association,  
20 foundation, or institution organized and operated exclusively  
21 for educational purposes" means all tax-supported public  
22 schools, private schools that offer systematic instruction in  
23 useful branches of learning by methods common to public  
24 schools and that compare favorably in their scope and  
25 intensity with the course of study presented in tax-supported  
26 schools, and vocational or technical schools or institutes  
27 organized and operated exclusively to provide a course of  
28 study of not less than 6 weeks duration and designed to  
29 prepare individuals to follow a trade or to pursue a manual,  
30 technical, mechanical, industrial, business, or commercial  
31 occupation.

32 (21) ~~(20)~~ Beginning January 1, 2000, personal property,  
33 including food, purchased through fundraising events for the  
34 benefit of a public or private elementary or secondary

1 school, a group of those schools, or one or more school  
 2 districts if the events are sponsored by an entity recognized  
 3 by the school district that consists primarily of volunteers  
 4 and includes parents and teachers of the school children.  
 5 This paragraph does not apply to fundraising events (i) for  
 6 the benefit of private home instruction or (ii) for which the  
 7 fundraising entity purchases the personal property sold at  
 8 the events from another individual or entity that sold the  
 9 property for the purpose of resale by the fundraising entity  
 10 and that profits from the sale to the fundraising entity.  
 11 This paragraph is exempt from the provisions of Section 3-75.

12 (22) ~~(19)~~ Beginning January 1, 2000, new or used  
 13 automatic vending machines that prepare and serve hot food  
 14 and beverages, including coffee, soup, and other items, and  
 15 replacement parts for these machines. This paragraph is  
 16 exempt from the provisions of Section 3-75.

17 (23) Beginning on the effective date of this amendatory  
 18 Act of the 92nd General Assembly and ending on the date on  
 19 which electricity is first generated at a new plant built  
 20 under the incentives provided under the Energy Resources  
 21 Policy Act, the construction of which begins on or after July  
 22 1, 2001, machinery and equipment used at that plant primarily  
 23 in the generation or production of electricity for wholesale  
 24 or retail sale, including repair and replacement parts and  
 25 equipment, both new and used, including repair and  
 26 replacement parts manufactured on special order, and  
 27 including machinery and equipment purchased for lease, but  
 28 excluding motor vehicles required to be registered under the  
 29 Illinois Vehicle Code.

30 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
 31 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
 32 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,  
 33 eff. 8-20-99; revised 9-29-99.)

1 Section 920. The Service Occupation Tax Act is amended  
2 by changing Section 3-5 as follows:

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

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

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

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

16 (3) Personal property purchased by any not-for-profit  
17 arts or cultural organization that establishes, by proof  
18 required by the Department by rule, that it has received an  
19 exemption under Section 501(c)(3) of the Internal Revenue  
20 Code and that is organized and operated for the presentation  
21 or support of arts or cultural programming, activities, or  
22 services. These organizations include, but are not limited  
23 to, music and dramatic arts organizations such as symphony  
24 orchestras and theatrical groups, arts and cultural service  
25 organizations, local arts councils, visual arts  
26 organizations, and media arts organizations.

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

31 (5) Graphic arts machinery and equipment, including  
32 repair and replacement parts, both new and used, and  
33 including that manufactured on special order or purchased for

1 lease, certified by the purchaser to be used primarily for  
2 graphic arts production.

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

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

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

33 Farm machinery and equipment also includes computers,  
34 sensors, software, and related equipment used primarily in



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

7 (8) Fuel and petroleum products sold to or used by an  
8 air 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  
11 or 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  
16 of 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) Oil field exploration, drilling, and production  
23 equipment, including (i) rigs and parts of rigs, rotary rigs,  
24 cable tool rigs, and workover rigs, (ii) pipe and tubular  
25 goods, including casing and drill strings, (iii) pumps and  
26 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  
33 that manufactured on special order, certified by the  
34 purchaser to be used primarily for photoprocessing, and

1 including photoprocessing machinery and equipment purchased  
2 for lease.

3 (12) Coal exploration, mining, offhighway hauling,  
4 processing, maintenance, and reclamation equipment, including  
5 replacement parts and equipment, and including equipment  
6 purchased for lease, but excluding motor vehicles required to  
7 be registered under the Illinois Vehicle Code.

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

18 (14) Semen used for artificial insemination of livestock  
19 for direct agricultural production.

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

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

34 (17) 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  
3 that has been issued an active tax exemption identification  
4 number by the Department under Section 1g of the Retailers'  
5 Occupation Tax Act.

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

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

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

1        (21) ~~(20)~~ A motor vehicle, as that term is defined in  
2 Section 1-146 of the Illinois Vehicle Code, that is donated  
3 to a corporation, limited liability company, society,  
4 association, foundation, or institution that is determined by  
5 the Department to be organized and operated exclusively for  
6 educational purposes. For purposes of this exemption, "a  
7 corporation, limited liability company, society, association,  
8 foundation, or institution organized and operated exclusively  
9 for educational purposes" means all tax-supported public  
10 schools, private schools that offer systematic instruction in  
11 useful branches of learning by methods common to public  
12 schools and that compare favorably in their scope and  
13 intensity with the course of study presented in tax-supported  
14 schools, and vocational or technical schools or institutes  
15 organized and operated exclusively to provide a course of  
16 study of not less than 6 weeks duration and designed to  
17 prepare individuals to follow a trade or to pursue a manual,  
18 technical, mechanical, industrial, business, or commercial  
19 occupation.

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

34        (23) ~~(20)~~ Beginning January 1, 2000, new or used

1 automatic vending machines that prepare and serve hot food  
 2 and beverages, including coffee, soup, and other items, and  
 3 replacement parts for these machines. This paragraph is  
 4 exempt from the provisions of Section 3-55.

5 (24) Beginning on the effective date of this amendatory  
 6 Act of the 92nd General Assembly and ending on the date on  
 7 which electricity is first generated at a new plant built  
 8 under the incentives provided under the Energy Resources  
 9 Policy Act, the construction of which begins on or after July  
 10 1, 2001, machinery and equipment used at that plant primarily  
 11 in the generation or production of electricity for wholesale  
 12 or retail sale, including repair and replacement parts and  
 13 equipment, both new and used, including repair and  
 14 replacement parts manufactured on special order, and  
 15 including machinery and equipment purchased for lease, but  
 16 excluding motor vehicles required to be registered under the  
 17 Illinois Vehicle Code.

18 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
 19 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
 20 7-20-99; 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637,  
 21 eff. 8-20-99; 91-644, eff. 8-20-99; revised 9-29-99.)

22 Section 925. The Retailers' Occupation Tax Act is  
 23 amended by changing Section 2-5 as follows:

24 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

- 28 (1) Farm chemicals.
- 29 (2) Farm machinery and equipment, both new and used,  
 30 including that manufactured on special order, certified by  
 31 the purchaser to be used primarily for production agriculture  
 32 or State or federal agricultural programs, including

1 individual replacement parts for the machinery and equipment,  
2 including machinery and equipment purchased for lease, and  
3 including implements of husbandry defined in Section 1-130 of  
4 the Illinois Vehicle Code, farm machinery and agricultural  
5 chemical and fertilizer spreaders, and nurse wagons required  
6 to be registered under Section 3-809 of the Illinois Vehicle  
7 Code, but excluding other motor vehicles required to be  
8 registered under the Illinois Vehicle Code. Horticultural  
9 polyhouses or hoop houses used for propagating, growing, or  
10 overwintering plants shall be considered farm machinery and  
11 equipment under this item (2). Agricultural chemical tender  
12 tanks and dry boxes shall include units sold separately from  
13 a motor vehicle required to be licensed and units sold  
14 mounted on a motor vehicle required to be licensed, if the  
15 selling price of the tender is separately stated.

16 Farm machinery and equipment shall include precision  
17 farming equipment that is installed or purchased to be  
18 installed on farm machinery and equipment including, but not  
19 limited to, tractors, harvesters, sprayers, planters,  
20 seeders, or spreaders. Precision farming equipment includes,  
21 but is not limited to, soil testing sensors, computers,  
22 monitors, software, global positioning and mapping systems,  
23 and other such equipment.

24 Farm machinery and equipment also includes computers,  
25 sensors, software, and related equipment used primarily in  
26 the computer-assisted operation of production agriculture  
27 facilities, equipment, and activities such as, but not  
28 limited to, the collection, monitoring, and correlation of  
29 animal and crop data for the purpose of formulating animal  
30 diets and agricultural chemicals. This item (7) is exempt  
31 from the provisions of Section 2-70.

32 (3) Distillation machinery and equipment, sold as a unit  
33 or kit, assembled or installed by the retailer, certified by  
34 the user to be used only for the production of ethyl alcohol

1 that will be used for consumption as motor fuel or as a  
2 component of motor fuel for the personal use of the user, and  
3 not subject to sale or resale.

4 (4) Graphic arts machinery and equipment, including  
5 repair and replacement parts, both new and used, and  
6 including that manufactured on special order or purchased for  
7 lease, certified by the purchaser to be used primarily for  
8 graphic arts production.

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

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

23 (7) Proceeds of that portion of the selling price of a  
24 passenger car the sale of which is subject to the Replacement  
25 Vehicle Tax.

26 (8) Personal property sold to an Illinois county fair  
27 association for use in conducting, operating, or promoting  
28 the county fair.

29 (9) Personal property sold to a not-for-profit arts or  
30 cultural organization that establishes, by proof required by  
31 the Department by rule, that it has received an exemption  
32 under Section 501(c)(3) of the Internal Revenue Code and that  
33 is organized and operated for the presentation or support of  
34 arts or cultural programming, activities, or services. These

1 organizations include, but are not limited to, music and  
2 dramatic arts organizations such as symphony orchestras and  
3 theatrical groups, arts and cultural service organizations,  
4 local arts councils, visual arts organizations, and media  
5 arts organizations.

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

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

27 (12) Personal property sold to interstate carriers for  
28 hire for use as rolling stock moving in interstate commerce  
29 or to lessors under leases of one year or longer executed or  
30 in effect at the time of purchase by interstate carriers for  
31 hire for use as rolling stock moving in interstate commerce  
32 and equipment operated by a telecommunications provider,  
33 licensed as a common carrier by the Federal Communications  
34 Commission, which is permanently installed in or affixed to



1 aircraft moving in interstate commerce.

2 (13) Proceeds from sales to owners, lessors, or shippers  
3 of tangible personal property that is utilized by interstate  
4 carriers for hire for use as rolling stock moving in  
5 interstate commerce and equipment operated by a  
6 telecommunications provider, licensed as a common carrier by  
7 the Federal Communications Commission, which is permanently  
8 installed in or affixed to aircraft moving in interstate  
9 commerce.

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

22 (15) Proceeds of mandatory service charges separately  
23 stated on customers' bills for purchase and consumption of  
24 food and beverages, to the extent that the proceeds of the  
25 service charge are in fact turned over as tips or as a  
26 substitute for tips to the employees who participate directly  
27 in preparing, serving, hosting or cleaning up the food or  
28 beverage function with respect to which the service charge is  
29 imposed.

30 (16) Petroleum products sold to a purchaser if the  
31 seller is prohibited by federal law from charging tax to the  
32 purchaser.

33 (17) Tangible personal property sold to a common carrier  
34 by rail or motor that receives the physical possession of the

1 property in Illinois and that transports the property, or  
2 shares with another common carrier in the transportation of  
3 the property, out of Illinois on a standard uniform bill of  
4 lading showing the seller of the property as the shipper or  
5 consignor of the property to a destination outside Illinois,  
6 for use outside Illinois.

7 (18) Legal tender, currency, medallions, or gold or  
8 silver coinage issued by the State of Illinois, the  
9 government of the United States of America, or the government  
10 of any foreign country, and bullion.

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

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

26 (21) Coal exploration, mining, offhighway hauling,  
27 processing, maintenance, and reclamation equipment, including  
28 replacement parts and equipment, and including equipment  
29 purchased for lease, but excluding motor vehicles required to  
30 be registered under the Illinois Vehicle Code.

31 (22) Fuel and petroleum products sold to or used by an  
32 air carrier, certified by the carrier to be used for  
33 consumption, shipment, or storage in the conduct of its  
34 business as an air common carrier, for a flight destined for

1 or returning from a location or locations outside the United  
2 States without regard to previous or subsequent domestic  
3 stopovers.

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

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

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

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

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

33 (28) Computers and communications equipment utilized for  
34 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients sold to a lessor  
2 who leases the equipment, under a lease of one year or longer  
3 executed or in effect at the time of the purchase, to a  
4 hospital that has been issued an active tax exemption  
5 identification number by the Department under Section 1g of  
6 this Act.

7 (29) Personal property sold to a lessor who leases the  
8 property, under a lease of one year or longer executed or in  
9 effect at the time of the purchase, to a governmental body  
10 that has been issued an active tax exemption identification  
11 number by the Department under Section 1g of this Act.

12 (30) 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 donated  
15 for disaster relief to be used in a State or federally  
16 declared disaster area in Illinois or bordering Illinois by a  
17 manufacturer or retailer that is registered in this State to  
18 a corporation, society, association, foundation, or  
19 institution that has been issued a sales tax exemption  
20 identification number by the Department that assists victims  
21 of the disaster who reside within the declared disaster area.

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

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

7           (33) ~~(32)~~ A motor vehicle, as that term is defined in  
8 Section 1-146 of the Illinois Vehicle Code, that is donated  
9 to a corporation, limited liability company, society,  
10 association, foundation, or institution that is determined by  
11 the Department to be organized and operated exclusively for  
12 educational purposes. For purposes of this exemption, "a  
13 corporation, limited liability company, society, association,  
14 foundation, or institution organized and operated exclusively  
15 for educational purposes" means all tax-supported public  
16 schools, private schools that offer systematic instruction in  
17 useful branches of learning by methods common to public  
18 schools and that compare favorably in their scope and  
19 intensity with the course of study presented in tax-supported  
20 schools, and vocational or technical schools or institutes  
21 organized and operated exclusively to provide a course of  
22 study of not less than 6 weeks duration and designed to  
23 prepare individuals to follow a trade or to pursue a manual,  
24 technical, mechanical, industrial, business, or commercial  
25 occupation.

26           (34) ~~(33)~~ Beginning January 1, 2000, personal property,  
27 including food, purchased through fundraising events for the  
28 benefit of a public or private elementary or secondary  
29 school, a group of those schools, or one or more school  
30 districts if the events are sponsored by an entity recognized  
31 by the school district that consists primarily of volunteers  
32 and includes parents and teachers of the school children.  
33 This paragraph does not apply to fundraising events (i) for  
34 the benefit of private home instruction or (ii) for which the

1 fundraising entity purchases the personal property sold at  
 2 the events from another individual or entity that sold the  
 3 property for the purpose of resale by the fundraising entity  
 4 and that profits from the sale to the fundraising entity.  
 5 This paragraph is exempt from the provisions of Section 2-70.

6 (35) ~~(32)~~ Beginning January 1, 2000, new or used  
 7 automatic vending machines that prepare and serve hot food  
 8 and beverages, including coffee, soup, and other items, and  
 9 replacement parts for these machines. This paragraph is  
 10 exempt from the provisions of Section 2-70.

11 (36) Beginning on the effective date of this amendatory  
 12 Act of the 92nd General Assembly and ending on the date on  
 13 which electricity is first generated at a new plant built  
 14 under the incentives provided under the Energy Resources  
 15 Policy Act, the construction of which begins on or after July  
 16 1, 2001, machinery and equipment used at that plant primarily  
 17 in the generation or production of electricity for wholesale  
 18 or retail sale, including repair and replacement parts and  
 19 equipment, both new and used, including repair and  
 20 replacement parts manufactured on special order, and  
 21 including machinery and equipment purchased for lease, but  
 22 excluding motor vehicles required to be registered under the  
 23 Illinois Vehicle Code.

24 (Source: P.A. 90-14, eff. 7-1-97; 90-519, eff. 6-1-98;  
 25 90-552, eff. 12-12-97; 90-605, eff. 6-30-98; 91-51, eff.  
 26 6-30-99; 91-200, eff. 7-20-99; 91-439, eff. 8-6-99; 91-533,  
 27 eff. 8-13-99; 91-637, eff. 8-20-99; 91-644, eff. 8-20-99;  
 28 revised 9-28-99.)

29 Section 930. The Property Tax Code is amended by  
 30 changing Section 18-165 as follows:

31 (35 ILCS 200/18-165)

32 Sec. 18-165. Abatement of taxes.

1 (a) Any taxing district, upon a majority vote of its  
2 governing authority, may, after the determination of the  
3 assessed valuation of its property, order the clerk of that  
4 county to abate any portion of its taxes on the following  
5 types of property:

6 (1) Commercial and industrial.

7 (A) The property of any commercial or  
8 industrial firm, including but not limited to the  
9 property of (i) any firm that is used for  
10 collecting, separating, storing, or processing  
11 recyclable materials or (ii) any firm that is used  
12 for producing or generating electricity, locating  
13 within the taxing district during the immediately  
14 preceding year from another state, territory, or  
15 country, or having been newly created within this  
16 State during the immediately preceding year, or  
17 expanding an existing facility. The abatement shall  
18 not exceed a period of 10 years and the aggregate  
19 amount of abated taxes for all taxing districts  
20 combined shall not exceed \$4,000,000; or

21 (B) The property of any commercial or  
22 industrial development of at least 500 acres having  
23 been created within the taxing district. The  
24 abatement shall not exceed a period of 20 years and  
25 the aggregate amount of abated taxes for all taxing  
26 districts combined shall not exceed \$12,000,000.

27 (C) The property of any commercial or  
28 industrial firm currently located in the taxing  
29 district that expands a facility or its number of  
30 employees. The abatement shall not exceed a period  
31 of 10 years and the aggregate amount of abated taxes  
32 for all taxing districts combined shall not exceed  
33 \$4,000,000. The abatement period may be renewed at  
34 the option of the taxing districts.

1           (2) Horse racing. Any property in the taxing  
2 district which is used for the racing of horses and upon  
3 which capital improvements consisting of expansion,  
4 improvement or replacement of existing facilities have  
5 been made since July 1, 1987. The combined abatements  
6 for such property from all taxing districts in any county  
7 shall not exceed \$5,000,000 annually and shall not exceed  
8 a period of 10 years.

9           (3) Auto racing. Any property designed exclusively  
10 for the racing of motor vehicles. Such abatement shall  
11 not exceed a period of 10 years.

12           (4) Academic or research institute. The property  
13 of any academic or research institute in the taxing  
14 district that (i) is an exempt organization under  
15 paragraph (3) of Section 501(c) of the Internal Revenue  
16 Code, (ii) operates for the benefit of the public by  
17 actually and exclusively performing scientific research  
18 and making the results of the research available to the  
19 interested public on a non-discriminatory basis, and  
20 (iii) employs more than 100 employees. An abatement  
21 granted under this paragraph shall be for at least 15  
22 years and the aggregate amount of abated taxes for all  
23 taxing districts combined shall not exceed \$5,000,000.

24           (5) Housing for older persons. Any property in the  
25 taxing district that is devoted exclusively to affordable  
26 housing for older households. For purposes of this  
27 paragraph, "older households" means those households (i)  
28 living in housing provided under any State or federal  
29 program that the Department of Human Rights determines is  
30 specifically designed and operated to assist elderly  
31 persons and is solely occupied by persons 55 years of age  
32 or older and (ii) whose annual income does not exceed 80%  
33 of the area gross median income, adjusted for family  
34 size, as such gross income and median income are



1 determined from time to time by the United States  
 2 Department of Housing and Urban Development. The  
 3 abatement shall not exceed a period of 15 years, and the  
 4 aggregate amount of abated taxes for all taxing districts  
 5 shall not exceed \$3,000,000.

6 (6) Historical society. For assessment years 1998  
 7 through 2000, the property of an historical society  
 8 qualifying as an exempt organization under Section  
 9 501(c)(3) of the federal Internal Revenue Code.

10 (7) Recreational facilities. Any property in the  
 11 taxing district (i) that is used for a municipal airport,  
 12 (ii) that is subject to a leasehold assessment under  
 13 Section 9-195 of this Code and (iii) which is sublet from  
 14 a park district that is leasing the property from a  
 15 municipality, but only if the property is used  
 16 exclusively for recreational facilities or for parking  
 17 lots used exclusively for those facilities. The  
 18 abatement shall not exceed a period of 10 years.

19 (b) Upon a majority vote of its governing authority, any  
 20 municipality may, after the determination of the assessed  
 21 valuation of its property, order the county clerk to abate  
 22 any portion of its taxes on any property that is located  
 23 within the corporate limits of the municipality in accordance  
 24 with Section 8-3-18 of the Illinois Municipal Code.

25 (Source: P.A. 90-46, eff. 7-3-97; 90-415, eff. 8-15-97;  
 26 90-568, eff. 1-1-99; 90-655, eff. 7-30-98; 91-644, eff.  
 27 8-20-99; 91-885, eff. 7-6-00.)

28 Section 935. The Environmental Protection Act is amended  
 29 by changing Section 39 as follows:

30 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

31 Sec. 39. Issuance of permits; procedures.

32 (a) When the Board has by regulation required a permit

1 for the construction, installation, or operation of any type  
2 of facility, equipment, vehicle, vessel, or aircraft, the  
3 applicant shall apply to the Agency for such permit and it  
4 shall be the duty of the Agency to issue such a permit upon  
5 proof by the applicant that the facility, equipment, vehicle,  
6 vessel, or aircraft will not cause a violation of this Act or  
7 of regulations hereunder. The Agency shall adopt such  
8 procedures as are necessary to carry out its duties under  
9 this Section. In granting permits the Agency may impose such  
10 conditions as may be necessary to accomplish the purposes of  
11 this Act, and as are not inconsistent with the regulations  
12 promulgated by the Board hereunder. Except as otherwise  
13 provided in this Act, a bond or other security shall not be  
14 required as a condition for the issuance of a permit. If the  
15 Agency denies any permit under this Section, the Agency shall  
16 transmit to the applicant within the time limitations of this  
17 Section specific, detailed statements as to the reasons the  
18 permit application was denied. Such statements shall  
19 include, but not be limited to the following:

20 (i) the Sections of this Act which may be violated  
21 if the permit were granted;

22 (ii) the provision of the regulations, promulgated  
23 under this Act, which may be violated if the permit were  
24 granted;

25 (iii) the specific type of information, if any,  
26 which the Agency deems the applicant did not provide the  
27 Agency; and

28 (iv) a statement of specific reasons why the Act  
29 and the regulations might not be met if the permit were  
30 granted.

31 If there is no final action by the Agency within 90 days  
32 after the filing of the application for permit, the applicant  
33 may deem the permit issued; except that this time period  
34 shall be extended to 180 days when (1) notice and

1 opportunity for public hearing are required by State or  
2 federal law or regulation, (2) the application which was  
3 filed is for any permit to develop a landfill subject to  
4 issuance pursuant to this subsection, or (3) the application  
5 that was filed is for a MSWLF unit required to issue public  
6 notice under subsection (p) of Section 39.

7 The Agency shall publish notice of all final permit  
8 determinations for development permits for MSWLF units and  
9 for significant permit modifications for lateral expansions  
10 for existing MSWLF units one time in a newspaper of general  
11 circulation in the county in which the unit is or is proposed  
12 to be located.

13 After January 1, 1994 and until July 1, 1998, operating  
14 permits issued under this Section by the Agency for sources  
15 of air pollution permitted to emit less than 25 tons per year  
16 of any combination of regulated air pollutants, as defined in  
17 Section 39.5 of this Act, shall be required to be renewed  
18 only upon written request by the Agency consistent with  
19 applicable provisions of this Act and regulations promulgated  
20 hereunder. Such operating permits shall expire 180 days  
21 after the date of such a request. The Board shall revise its  
22 regulations for the existing State air pollution operating  
23 permit program consistent with this provision by January 1,  
24 1994.

25 After June 30, 1998, operating permits issued under this  
26 Section by the Agency for sources of air pollution that are  
27 not subject to Section 39.5 of this Act and are not required  
28 to have a federally enforceable State operating permit shall  
29 be required to be renewed only upon written request by the  
30 Agency consistent with applicable provisions of this Act and  
31 its rules. Such operating permits shall expire 180 days  
32 after the date of such a request. Before July 1, 1998, the  
33 Board shall revise its rules for the existing State air  
34 pollution operating permit program consistent with this

1 paragraph and shall adopt rules that require a source to  
2 demonstrate that it qualifies for a permit under this  
3 paragraph.

4 Notwithstanding any other provision of this Section, for  
5 permits issued to an entity that is determined by the  
6 Department of Commerce and Community Affairs to be eligible  
7 for State incentives under the Energy Resources Policy Act,  
8 if there is no final action by the Agency within 90 days  
9 after filing the application for permit, the applicant may  
10 deem the permit issued. The Agency shall also waive the fee  
11 for obtaining an initial operating permit for an entity that  
12 is determined by the Department of Commerce and Community  
13 Affairs to be eligible for State incentives under the Energy  
14 Resources Policy Act.

15 (b) The Agency may issue NPDES permits exclusively under  
16 this subsection for the discharge of contaminants from point  
17 sources into navigable waters, all as defined in the Federal  
18 Water Pollution Control Act, as now or hereafter amended,  
19 within the jurisdiction of the State, or into any well.

20 All NPDES permits shall contain those terms and  
21 conditions, including but not limited to schedules of  
22 compliance, which may be required to accomplish the purposes  
23 and provisions of this Act.

24 The Agency may issue general NPDES permits for discharges  
25 from categories of point sources which are subject to the  
26 same permit limitations and conditions. Such general permits  
27 may be issued without individual applications and shall  
28 conform to regulations promulgated under Section 402 of the  
29 Federal Water Pollution Control Act, as now or hereafter  
30 amended.

31 The Agency may include, among such conditions, effluent  
32 limitations and other requirements established under this  
33 Act, Board regulations, the Federal Water Pollution Control  
34 Act, as now or hereafter amended, and regulations pursuant

1 thereto, and schedules for achieving compliance therewith at  
2 the earliest reasonable date.

3 The Agency shall adopt filing requirements and procedures  
4 which are necessary and appropriate for the issuance of NPDES  
5 permits, and which are consistent with the Act or regulations  
6 adopted by the Board, and with the Federal Water Pollution  
7 Control Act, as now or hereafter amended, and regulations  
8 pursuant thereto.

9 The Agency, subject to any conditions which may be  
10 prescribed by Board regulations, may issue NPDES permits to  
11 allow discharges beyond deadlines established by this Act or  
12 by regulations of the Board without the requirement of a  
13 variance, subject to the Federal Water Pollution Control Act,  
14 as now or hereafter amended, and regulations pursuant  
15 thereto.

16 (c) Except for those facilities owned or operated by  
17 sanitary districts organized under the Metropolitan Water  
18 Reclamation District Act, no permit for the development or  
19 construction of a new pollution control facility may be  
20 granted by the Agency unless the applicant submits proof to  
21 the Agency that the location of the facility has been  
22 approved by the County Board of the county if in an  
23 unincorporated area, or the governing body of the  
24 municipality when in an incorporated area, in which the  
25 facility is to be located in accordance with Section 39.2 of  
26 this Act.

27 In the event that siting approval granted pursuant to  
28 Section 39.2 has been transferred to a subsequent owner or  
29 operator, that subsequent owner or operator may apply to the  
30 Agency for, and the Agency may grant, a development or  
31 construction permit for the facility for which local siting  
32 approval was granted. Upon application to the Agency for a  
33 development or construction permit by that subsequent owner  
34 or operator, the permit applicant shall cause written notice

1 of the permit application to be served upon the appropriate  
2 county board or governing body of the municipality that  
3 granted siting approval for that facility and upon any party  
4 to the siting proceeding pursuant to which siting approval  
5 was granted. In that event, the Agency shall conduct an  
6 evaluation of the subsequent owner or operator's prior  
7 experience in waste management operations in the manner  
8 conducted under subsection (i) of Section 39 of this Act.

9 Beginning August 20, 1993, if the pollution control  
10 facility consists of a hazardous or solid waste disposal  
11 facility for which the proposed site is located in an  
12 unincorporated area of a county with a population of less  
13 than 100,000 and includes all or a portion of a parcel of  
14 land that was, on April 1, 1993, adjacent to a municipality  
15 having a population of less than 5,000, then the local siting  
16 review required under this subsection (c) in conjunction with  
17 any permit applied for after that date shall be performed by  
18 the governing body of that adjacent municipality rather than  
19 the county board of the county in which the proposed site is  
20 located; and for the purposes of that local siting review,  
21 any references in this Act to the county board shall be  
22 deemed to mean the governing body of that adjacent  
23 municipality; provided, however, that the provisions of this  
24 paragraph shall not apply to any proposed site which was, on  
25 April 1, 1993, owned in whole or in part by another  
26 municipality.

27 In the case of a pollution control facility for which a  
28 development permit was issued before November 12, 1981, if an  
29 operating permit has not been issued by the Agency prior to  
30 August 31, 1989 for any portion of the facility, then the  
31 Agency may not issue or renew any development permit nor  
32 issue an original operating permit for any portion of such  
33 facility unless the applicant has submitted proof to the  
34 Agency that the location of the facility has been approved by

1 the appropriate county board or municipal governing body  
2 pursuant to Section 39.2 of this Act.

3 After January 1, 1994, if a solid waste disposal  
4 facility, any portion for which an operating permit has been  
5 issued by the Agency, has not accepted waste disposal for 5  
6 or more consecutive calendar years, before that facility may  
7 accept any new or additional waste for disposal, the owner  
8 and operator must obtain a new operating permit under this  
9 Act for that facility unless the owner and operator have  
10 applied to the Agency for a permit authorizing the temporary  
11 suspension of waste acceptance. The Agency may not issue a  
12 new operation permit under this Act for the facility unless  
13 the applicant has submitted proof to the Agency that the  
14 location of the facility has been approved or re-approved by  
15 the appropriate county board or municipal governing body  
16 under Section 39.2 of this Act after the facility ceased  
17 accepting waste.

18 Except for those facilities owned or operated by sanitary  
19 districts organized under the Metropolitan Water Reclamation  
20 District Act, and except for new pollution control facilities  
21 governed by Section 39.2, and except for fossil fuel mining  
22 facilities, the granting of a permit under this Act shall not  
23 relieve the applicant from meeting and securing all necessary  
24 zoning approvals from the unit of government having zoning  
25 jurisdiction over the proposed facility.

26 Before beginning construction on any new sewage treatment  
27 plant or sludge drying site to be owned or operated by a  
28 sanitary district organized under the Metropolitan Water  
29 Reclamation District Act for which a new permit (rather than  
30 the renewal or amendment of an existing permit) is required,  
31 such sanitary district shall hold a public hearing within the  
32 municipality within which the proposed facility is to be  
33 located, or within the nearest community if the proposed  
34 facility is to be located within an unincorporated area, at

1 which information concerning the proposed facility shall be  
2 made available to the public, and members of the public shall  
3 be given the opportunity to express their views concerning  
4 the proposed facility.

5 The Agency may issue a permit for a municipal waste  
6 transfer station without requiring approval pursuant to  
7 Section 39.2 provided that the following demonstration is  
8 made:

9 (1) the municipal waste transfer station was in  
10 existence on or before January 1, 1979 and was in  
11 continuous operation from January 1, 1979 to January 1,  
12 1993;

13 (2) the operator submitted a permit application to  
14 the Agency to develop and operate the municipal waste  
15 transfer station during April of 1994;

16 (3) the operator can demonstrate that the county  
17 board of the county, if the municipal waste transfer  
18 station is in an unincorporated area, or the governing  
19 body of the municipality, if the station is in an  
20 incorporated area, does not object to resumption of the  
21 operation of the station; and

22 (4) the site has local zoning approval.

23 (d) The Agency may issue RCRA permits exclusively under  
24 this subsection to persons owning or operating a facility for  
25 the treatment, storage, or disposal of hazardous waste as  
26 defined under this Act.

27 All RCRA permits shall contain those terms and  
28 conditions, including but not limited to schedules of  
29 compliance, which may be required to accomplish the purposes  
30 and provisions of this Act. The Agency may include among  
31 such conditions standards and other requirements established  
32 under this Act, Board regulations, the Resource Conservation  
33 and Recovery Act of 1976 (P.L. 94-580), as amended, and  
34 regulations pursuant thereto, and may include schedules for



1 achieving compliance therewith as soon as possible. The  
2 Agency shall require that a performance bond or other  
3 security be provided as a condition for the issuance of a  
4 RCRA permit.

5 In the case of a permit to operate a hazardous waste or  
6 PCB incinerator as defined in subsection (k) of Section 44,  
7 the Agency shall require, as a condition of the permit, that  
8 the operator of the facility perform such analyses of the  
9 waste to be incinerated as may be necessary and appropriate  
10 to ensure the safe operation of the incinerator.

11 The Agency shall adopt filing requirements and procedures  
12 which are necessary and appropriate for the issuance of RCRA  
13 permits, and which are consistent with the Act or regulations  
14 adopted by the Board, and with the Resource Conservation and  
15 Recovery Act of 1976 (P.L. 94-580), as amended, and  
16 regulations pursuant thereto.

17 The applicant shall make available to the public for  
18 inspection all documents submitted by the applicant to the  
19 Agency in furtherance of an application, with the exception  
20 of trade secrets, at the office of the county board or  
21 governing body of the municipality. Such documents may be  
22 copied upon payment of the actual cost of reproduction during  
23 regular business hours of the local office. The Agency shall  
24 issue a written statement concurrent with its grant or denial  
25 of the permit explaining the basis for its decision.

26 (e) The Agency may issue UIC permits exclusively under  
27 this subsection to persons owning or operating a facility for  
28 the underground injection of contaminants as defined under  
29 this Act.

30 All UIC permits shall contain those terms and conditions,  
31 including but not limited to schedules of compliance, which  
32 may be required to accomplish the purposes and provisions of  
33 this Act. The Agency may include among such conditions  
34 standards and other requirements established under this Act,

1 Board regulations, the Safe Drinking Water Act (P.L. 93-523),  
2 as amended, and regulations pursuant thereto, and may include  
3 schedules for achieving compliance therewith. The Agency  
4 shall require that a performance bond or other security be  
5 provided as a condition for the issuance of a UIC permit.

6 The Agency shall adopt filing requirements and procedures  
7 which are necessary and appropriate for the issuance of UIC  
8 permits, and which are consistent with the Act or regulations  
9 adopted by the Board, and with the Safe Drinking Water Act  
10 (P.L. 93-523), as amended, and regulations pursuant thereto.

11 The applicant shall make available to the public for  
12 inspection, all documents submitted by the applicant to the  
13 Agency in furtherance of an application, with the exception  
14 of trade secrets, at the office of the county board or  
15 governing body of the municipality. Such documents may be  
16 copied upon payment of the actual cost of reproduction during  
17 regular business hours of the local office. The Agency shall  
18 issue a written statement concurrent with its grant or denial  
19 of the permit explaining the basis for its decision.

20 (f) In making any determination pursuant to Section 9.1  
21 of this Act:

22 (1) The Agency shall have authority to make the  
23 determination of any question required to be determined  
24 by the Clean Air Act, as now or hereafter amended, this  
25 Act, or the regulations of the Board, including the  
26 determination of the Lowest Achievable Emission Rate,  
27 Maximum Achievable Control Technology, or Best Available  
28 Control Technology, consistent with the Board's  
29 regulations, if any.

30 (2) The Agency shall, after conferring with the  
31 applicant, give written notice to the applicant of its  
32 proposed decision on the application including the terms  
33 and conditions of the permit to be issued and the facts,  
34 conduct or other basis upon which the Agency will rely to

1 support its proposed action.

2 (3) Following such notice, the Agency shall give  
3 the applicant an opportunity for a hearing in accordance  
4 with the provisions of Sections 10-25 through 10-60 of  
5 the Illinois Administrative Procedure Act.

6 (g) The Agency shall include as conditions upon all  
7 permits issued for hazardous waste disposal sites such  
8 restrictions upon the future use of such sites as are  
9 reasonably necessary to protect public health and the  
10 environment, including permanent prohibition of the use of  
11 such sites for purposes which may create an unreasonable risk  
12 of injury to human health or to the environment. After  
13 administrative and judicial challenges to such restrictions  
14 have been exhausted, the Agency shall file such restrictions  
15 of record in the Office of the Recorder of the county in  
16 which the hazardous waste disposal site is located.

17 (h) A hazardous waste stream may not be deposited in a  
18 permitted hazardous waste site unless specific authorization  
19 is obtained from the Agency by the generator and disposal  
20 site owner and operator for the deposit of that specific  
21 hazardous waste stream. The Agency may grant specific  
22 authorization for disposal of hazardous waste streams only  
23 after the generator has reasonably demonstrated that,  
24 considering technological feasibility and economic  
25 reasonableness, the hazardous waste cannot be reasonably  
26 recycled for reuse, nor incinerated or chemically, physically  
27 or biologically treated so as to neutralize the hazardous  
28 waste and render it nonhazardous. In granting authorization  
29 under this Section, the Agency may impose such conditions as  
30 may be necessary to accomplish the purposes of the Act and  
31 are consistent with this Act and regulations promulgated by  
32 the Board hereunder. If the Agency refuses to grant  
33 authorization under this Section, the applicant may appeal as  
34 if the Agency refused to grant a permit, pursuant to the

1 provisions of subsection (a) of Section 40 of this Act. For  
2 purposes of this subsection (h), the term "generator" has the  
3 meaning given in Section 3.12 of this Act, unless: (1) the  
4 hazardous waste is treated, incinerated, or partially  
5 recycled for reuse prior to disposal, in which case the last  
6 person who treats, incinerates, or partially recycles the  
7 hazardous waste prior to disposal is the generator; or (2)  
8 the hazardous waste is from a response action, in which case  
9 the person performing the response action is the generator.  
10 This subsection (h) does not apply to any hazardous waste  
11 that is restricted from land disposal under 35 Ill. Adm. Code  
12 728.

13 (i) Before issuing any RCRA permit or any permit for a  
14 waste storage site, sanitary landfill, waste disposal site,  
15 waste transfer station, waste treatment facility, waste  
16 incinerator, or any waste-transportation operation, the  
17 Agency shall conduct an evaluation of the prospective owner's  
18 or operator's prior experience in waste management  
19 operations. The Agency may deny such a permit if the  
20 prospective owner or operator or any employee or officer of  
21 the prospective owner or operator has a history of:

22 (1) repeated violations of federal, State, or local  
23 laws, regulations, standards, or ordinances in the  
24 operation of waste management facilities or sites; or

25 (2) conviction in this or another State of any  
26 crime which is a felony under the laws of this State, or  
27 conviction of a felony in a federal court; or

28 (3) proof of gross carelessness or incompetence in  
29 handling, storing, processing, transporting or disposing  
30 of waste.

31 (j) The issuance under this Act of a permit to engage in  
32 the surface mining of any resources other than fossil fuels  
33 shall not relieve the permittee from its duty to comply with  
34 any applicable local law regulating the commencement,

1 location or operation of surface mining facilities.

2 (k) A development permit issued under subsection (a) of  
3 Section 39 for any facility or site which is required to have  
4 a permit under subsection (d) of Section 21 shall expire at  
5 the end of 2 calendar years from the date upon which it was  
6 issued, unless within that period the applicant has taken  
7 action to develop the facility or the site. In the event that  
8 review of the conditions of the development permit is sought  
9 pursuant to Section 40 or 41, or permittee is prevented from  
10 commencing development of the facility or site by any other  
11 litigation beyond the permittee's control, such two-year  
12 period shall be deemed to begin on the date upon which such  
13 review process or litigation is concluded.

14 (l) No permit shall be issued by the Agency under this  
15 Act for construction or operation of any facility or site  
16 located within the boundaries of any setback zone established  
17 pursuant to this Act, where such construction or operation is  
18 prohibited.

19 (m) The Agency may issue permits to persons owning or  
20 operating a facility for composting landscape waste. In  
21 granting such permits, the Agency may impose such conditions  
22 as may be necessary to accomplish the purposes of this Act,  
23 and as are not inconsistent with applicable regulations  
24 promulgated by the Board. Except as otherwise provided in  
25 this Act, a bond or other security shall not be required as a  
26 condition for the issuance of a permit. If the Agency denies  
27 any permit pursuant to this subsection, the Agency shall  
28 transmit to the applicant within the time limitations of this  
29 subsection specific, detailed statements as to the reasons  
30 the permit application was denied. Such statements shall  
31 include but not be limited to the following:

32 (1) the Sections of this Act that may be violated  
33 if the permit were granted;

34 (2) the specific regulations promulgated pursuant

1 to this Act that may be violated if the permit were  
2 granted;

3 (3) the specific information, if any, the Agency  
4 deems the applicant did not provide in its application to  
5 the Agency; and

6 (4) a statement of specific reasons why the Act and  
7 the regulations might be violated if the permit were  
8 granted.

9 If no final action is taken by the Agency within 90 days  
10 after the filing of the application for permit, the applicant  
11 may deem the permit issued. Any applicant for a permit may  
12 waive the 90 day limitation by filing a written statement  
13 with the Agency.

14 The Agency shall issue permits for such facilities upon  
15 receipt of an application that includes a legal description  
16 of the site, a topographic map of the site drawn to the scale  
17 of 200 feet to the inch or larger, a description of the  
18 operation, including the area served, an estimate of the  
19 volume of materials to be processed, and documentation that:

20 (1) the facility includes a setback of at least 200  
21 feet from the nearest potable water supply well;

22 (2) the facility is located outside the boundary of  
23 the 10-year floodplain or the site will be floodproofed;

24 (3) the facility is located so as to minimize  
25 incompatibility with the character of the surrounding  
26 area, including at least a 200 foot setback from any  
27 residence, and in the case of a facility that is  
28 developed or the permitted composting area of which is  
29 expanded after November 17, 1991, the composting area is  
30 located at least 1/8 mile from the nearest residence  
31 (other than a residence located on the same property as  
32 the facility);

33 (4) the design of the facility will prevent any  
34 compost material from being placed within 5 feet of the

1 water table, will adequately control runoff from the  
2 site, and will collect and manage any leachate that is  
3 generated on the site;

4 (5) the operation of the facility will include  
5 appropriate dust and odor control measures, limitations  
6 on operating hours, appropriate noise control measures  
7 for shredding, chipping and similar equipment, management  
8 procedures for composting, containment and disposal of  
9 non-compostable wastes, procedures to be used for  
10 terminating operations at the site, and recordkeeping  
11 sufficient to document the amount of materials received,  
12 composted and otherwise disposed of; and

13 (6) the operation will be conducted in accordance  
14 with any applicable rules adopted by the Board.

15 The Agency shall issue renewable permits of not longer  
16 than 10 years in duration for the composting of landscape  
17 wastes, as defined in Section 3.70 of this Act, based on the  
18 above requirements.

19 The operator of any facility permitted under this  
20 subsection (m) must submit a written annual statement to the  
21 Agency on or before April 1 of each year that includes an  
22 estimate of the amount of material, in tons, received for  
23 composting.

24 (n) The Agency shall issue permits jointly with the  
25 Department of Transportation for the dredging or deposit of  
26 material in Lake Michigan in accordance with Section 18 of  
27 the Rivers, Lakes, and Streams Act.

28 (o) From September 4, 1990 until December 31, 1993, no  
29 permit shall be issued by the Agency for the development or  
30 construction of any new facility intended to be used for the  
31 incineration of any hazardous waste. This subsection shall  
32 not apply to facilities intended for use for combustion of  
33 potentially infectious medical waste, for use as part of a  
34 State or federally designated clean-up action, or for use

1 solely for the conduct of research and the development and  
2 demonstration of technologies for the incineration of  
3 hazardous waste.

4 (p) (1) Any person submitting an application for a  
5 permit for a new MSWLF unit or for a lateral expansion under  
6 subsection (t) of Section 21 of this Act for an existing  
7 MSWLF unit that has not received and is not subject to local  
8 siting approval under Section 39.2 of this Act shall publish  
9 notice of the application in a newspaper of general  
10 circulation in the county in which the MSWLF unit is or is  
11 proposed to be located. The notice must be published at  
12 least 15 days before submission of the permit application to  
13 the Agency. The notice shall state the name and address of  
14 the applicant, the location of the MSWLF unit or proposed  
15 MSWLF unit, the nature and size of the MSWLF unit or proposed  
16 MSWLF unit, the nature of the activity proposed, the probable  
17 life of the proposed activity, the date the permit  
18 application will be submitted, and a statement that persons  
19 may file written comments with the Agency concerning the  
20 permit application within 30 days after the filing of the  
21 permit application unless the time period to submit comments  
22 is extended by the Agency.

23 When a permit applicant submits information to the Agency  
24 to supplement a permit application being reviewed by the  
25 Agency, the applicant shall not be required to reissue the  
26 notice under this subsection.

27 (2) The Agency shall accept written comments concerning  
28 the permit application that are postmarked no later than 30  
29 days after the filing of the permit application, unless the  
30 time period to accept comments is extended by the Agency.

31 (3) Each applicant for a permit described in part (1) of  
32 this subsection shall file a copy of the permit application  
33 with the county board or governing body of the municipality  
34 in which the MSWLF unit is or is proposed to be located at



1 the same time the application is submitted to the Agency.  
2 The permit application filed with the county board or  
3 governing body of the municipality shall include all  
4 documents submitted to or to be submitted to the Agency,  
5 except trade secrets as determined under Section 7.1 of this  
6 Act. The permit application and other documents on file with  
7 the county board or governing body of the municipality shall  
8 be made available for public inspection during regular  
9 business hours at the office of the county board or the  
10 governing body of the municipality and may be copied upon  
11 payment of the actual cost of reproduction.

12 (Source: P.A. 89-487, eff. 6-21-96; 89-556, eff. 7-26-96;  
13 90-14, eff. 7-1-97; 90-367, eff. 8-10-97; 90-537, eff.  
14 11-26-97; 90-655, eff 7-30-98.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law."