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1 AMENDMENT TO SENATE BILL 2981

2 AMENDMENT NO. _____. Amend Senate Bill 2981 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Regional Cooperation and Smart Growth in Eastern Will County
6 Act.

7 Section 5. Findings and purpose.

8 (1) The purpose of this Act is promoting responsible
9 growth, regional cooperation, a regional approach to land use
10 planning and design standards, revenue sharing among member
11 entities, and preserving and enhancing the quality of life
12 within the District.

13 (2) The south suburban airport to be sited in eastern Will
14 County, Illinois, will generate development in and around
15 surrounding jurisdictions. This development will have a
16 significant impact upon the region and will provide burdens as
17 well as benefits upon existing infrastructure. These burdens
18 and benefits need to be shared and apportioned equitably.

19 (3) Cooperation among the surrounding local governments
20 and agencies will support economic development and increase the
21 potential benefits of the airport while limiting the adverse
22 impacts upon the region. Sharing of certain revenues among the
23 municipal members of the District will encourage cooperation,
24 promote a regional approach to land use planning, and assist

1 each member in dealing with adverse impact upon their
2 municipality.

3 (4) It is also a purpose of this Act to ensure that future
4 land uses within the area designated as the Eastern Will County
5 Development District are compatible with the airport and its
6 operations so that future operations and growth are not unduly
7 constrained.

8 (5) This Act creates an entity, entitled the Eastern Will
9 County Development District, to implement the purpose of this
10 Act. The District should have adequate powers to achieve its
11 goals and objectives, to be self-supporting, and to raise
12 revenue in order to assist local governments address negative
13 impacts upon infrastructure.

14 Section 10. Definitions. As used in this Act:

15 "Airport" or "south suburban airport" means a south
16 suburban airport, as defined by the Federal Aviation
17 Administration, located in eastern Will County, Illinois.

18 "Airport authority" means an authority created to
19 establish and maintain a south suburban airport located in
20 eastern Will County, Illinois.

21 "Airport-dependent uses" means uses that are typically
22 found on or near an airport and must, by the nature of their
23 operations, services, or products, be located on an airport or
24 have direct and immediate access to an airport or airport
25 runway. Such uses include, but are not limited to, airport
26 terminals and control towers; airport runways, taxiways, taxi
27 lanes, aircraft parking lanes, and auxiliary roads; hangars;
28 aircraft rescue and firefighting facilities; air cargo
29 storage, but not large distribution facilities; aircraft
30 maintenance, washing, and repair shops; restaurants and hotels
31 within a terminal; airline catering services; express mail and
32 package sorting facilities, aviation fuel farms and services;
33 aircraft testing facilities; airport administrative offices;

1 airport authority offices and maintenance facilities; on-site
2 parking; corporate facilities, including aircraft storage and
3 operations; and any other use deemed to be necessary for the
4 flight operation of the airport.

5 "Board" means the Board of Directors of the Eastern Will
6 County Development District.

7 "Compatible land use" means any use of lands, buildings,
8 and structures which is harmonious to the uses and activities
9 being conducted on the adjoining lands and properties and which
10 does not adversely affect or unreasonably impact any use or
11 enjoyment of the adjoined land.

12 "County" means Will County.

13 "District" means the Eastern Will County Development
14 District.

15 "District Land Use Plan" means a written statement of land
16 use policies, goals, and objectives, together with maps,
17 graphs, charts, illustrations or any other form of written or
18 visual communication, as appropriate, that is adopted by the
19 District.

20 "Member entities" means the villages of Beecher, Crete,
21 Monee, Peotone, University Park, the County of Will, and any
22 new municipality incorporated under the laws of the State of
23 Illinois which becomes a member of the Eastern Will County
24 Development District.

25 "Member villages" means the villages of Beecher, Crete,
26 Monee, Peotone, and University Park and any new municipality
27 incorporated under the laws of the State of Illinois and
28 located entirely within the boundaries of the Eastern Will
29 County Development District.

30 Section 15. Creation of District.

31 (a) The Eastern Will County Development District is created
32 as a political subdivision, body politic, and municipal
33 corporation. The territorial jurisdiction of the District is

1 the rectangular geographic area within the following
2 boundaries: commencing at the southwest corner of Peotone
3 Township and the southern boundary line of Will County, East to
4 the Indiana state line, then north to a line one mile south of
5 the Northern Will-Cook County line, then west to the western
6 boundary line of Green Garden and Peotone townships, then south
7 to the southern boundary of Will County.

8 (b) The governing and administrative powers of the District
9 are vested in its Board of Directors, consisting of one member
10 appointed by the President of the Village of Beecher with the
11 consent of the Village Board, one member appointed by the
12 President of the Village of Crete with the consent of the
13 Village Board, one member appointed by the President of the
14 Village of Monee with the consent of the Village Board, one
15 member appointed by the President of the Village of Peotone
16 with the consent of the Village Board, one member appointed by
17 the Mayor of the Village of University Park with the consent of
18 the Village Board, one member appointed by the County Executive
19 of Will County with the consent of the County Board, and one
20 member appointed by the governing body of the airport
21 authority.

22 (c) The members of the Board shall be residents of Will
23 County, Illinois, with their primary residence located within
24 the Eastern Will County Development District.

25 (d) The terms of the initial appointees shall commence 30
26 days after the effective date of this Act. The duration of the
27 term of each of the initial appointees shall be determined by
28 lot as follows: one of the appointees shall serve a term
29 expiring on the third Monday in May in the second year
30 following the effective date of this Act; 2 of the appointees
31 shall serve terms expiring on the third Monday in May in the
32 third year following the effective date of this Act; 2 of the
33 appointees shall serve terms expiring on the third Monday in
34 May in the fourth year following the effective date of this

1 Act, and 2 of the appointees shall be appointed to serve terms
2 expiring on the third Monday in May in the fifth year following
3 the effective date of this Act. All successors shall be
4 appointed by the original appointing authority and hold office
5 for a term of 4 years commencing the third Monday in May of the
6 year in which their term commences, except in case of an
7 appointment to fill a vacancy. Vacancies shall be filled for
8 the remainder of the vacated term by the original appointing
9 authority. Each member appointed to the Board shall serve until
10 his or her successor is appointed and qualified.
11 Notwithstanding the time remaining on a specific board member's
12 term, board members shall serve at the pleasure of the
13 appointing authority and a board member may be replaced by the
14 appointing entity during that board member's term of office. A
15 new board member who is appointed to replace a current board
16 member during the current board member's term shall serve the
17 remainder of the current board member's term in office. The
18 appointing authority shall give notice of the appointment of
19 the new board member, including a certified copy of the
20 resolution appointing the new member, to the Board via
21 certified mail. The new member will commence serving at the
22 next meeting of the Board following notice of appointment.

23 (e) The Board shall annually choose one of its members to
24 serve as Chair and one of its members to serve as Secretary.
25 The Board shall appoint a Treasurer for the District who is not
26 required to be a member of the Board.

27 (f) Members of the Board shall serve without compensation
28 for their services as members but may be reimbursed for all
29 necessary expenses incurred in connection with the performance
30 of their duties as members.

31 (g) Within 30 days after appointment of the initial
32 members, the Board shall organize for the transaction of
33 business, select members to serve as Chair and Secretary, and
34 adopt by-laws. Thereafter, the Board shall meet on the call of

1 the Chair or upon written notice by 4 members of the Board. A
2 majority of the members of the Board must be present in person
3 to constitute a quorum for the transaction of business. The
4 affirmative vote of a majority of a quorum of the members shall
5 be necessary for the adoption of any ordinance or resolution.
6 All ordinances and resolutions, before taking effect, shall be
7 in writing, signed by the Chair, and attested by the Secretary.

8 (h) The Board shall appoint an Executive Director, who is
9 not a member of the Board, who shall hold office at the
10 discretion of the Board. The Executive Director shall be the
11 chief administrative and operational officer of the District,
12 direct and supervise its administrative affairs and general
13 management, perform such other duties as may be prescribed from
14 time to time by the Board, and receive compensation fixed by
15 the Board. The Executive Director shall attend all meetings of
16 the Board, but no action of the Board shall be invalid on
17 account of the absence of the Executive Director from a
18 meeting.

19 (i) Should a new municipality incorporate within the
20 District, that new municipality shall become a member of the
21 District and shall be entitled to all rights and
22 responsibilities of membership including voting membership
23 upon the Board and revenue sharing, so long as the following
24 criteria are met:

25 (1) The new municipality is incorporated as a village
26 or city under Illinois law, and

27 (2) the entire corporate boundaries of the new
28 municipality are within the District at the time of
29 incorporation.

30 (j) The Board may set, through its by-laws, a process by
31 which other municipalities may become a member of the District.
32 A recommendation by a majority vote of the Board to add an
33 additional member entity shall be considered persuasive by the
34 General Assembly in considering an amendment to this Act to

1 include the additional municipality.

2 Section 20. Administration. The District has the authority
3 to establish a budget, raise revenue for administration, and
4 retain staff, agents, and consultants to carry out planning,
5 development review, and other duties and exercise all other
6 powers incidental, necessary, convenient, or desirable to
7 carry out and effectuate the powers granted in this Act.
8 Without limitation, the District may enter into
9 intergovernmental agreements under the Intergovernmental
10 Cooperation Act, engage the services of the Illinois Finance
11 Authority, sue and be sued, have and use a corporate seal,
12 designate a fiscal year, and enter into contracts and leases.

13 Section 25. Planning. The District shall adopt an overall
14 land use plan that identifies likely key development areas
15 within the airport environs and lays the foundation for design
16 and development standards and development review in that area.
17 The District Land Use Plan is to be prepared by staff and
18 consultants. Key elements shall include open space,
19 transportation needs, compatibility of uses, and noise
20 mitigation. Preparation of the land use plan shall include an
21 opportunity for input from the governing body of each township
22 with land within the District, and those Illinois cities and
23 villages having a statutory planning area within the District
24 boundaries. Prior to final approval of the District Land Use
25 Plan by the Board, the Board shall hold a public hearing,
26 pursuant to public notice of not less than 5 days and not more
27 than 20 days, for the purpose of providing an opportunity for
28 input by these townships and municipalities and the public.

29 The land use plan shall be transmitted to the governing
30 bodies of the member villages and Will County for review and
31 consideration. The land use plan shall not become effective
32 until the governing bodies of Will County and of each member

1 village of the District has approved the plan. However,
2 approval of the District land use plan shall not be
3 unreasonably withheld. Should any member village fail to
4 approve or reject the land use plan for a period greater than
5 90 days after receipt of the plan from the District, that
6 failure to act shall be deemed to be an approval of the land
7 use plan. In the event that a member village shall reject the
8 land use plan, that member village shall provide written notice
9 of the rejection of the plan to the District. Said rejection
10 notice shall include the specific reasons for said rejection of
11 the land use plan. The District and its member villages and
12 Will County shall make good faith efforts to come to an
13 agreement regarding the land use plan. It shall be public
14 policy that a District Land Use Plan be approved by the members
15 of the District in order that the District may effectively
16 perform its statutory mission.

17 The land use plan shall cover all territory within the
18 District, including land uses within the member villages,
19 focusing particularly on peripheral properties that may be
20 directly affected by airport-related development.

21 The land use plan shall be reviewed and revised every 5
22 years, or at such times as may be deemed necessary by a
23 majority vote of the Board, to reflect recent developments,
24 annexations, and changing land use needs within the region.

25 Section 30. Design and development standards and
26 development review. After adopting a land use plan, the
27 District shall promulgate design and development standards.
28 The design and development standards shall establish baseline
29 requirements within the District in order to ensure that
30 baseline design and development standards are consistent
31 throughout the District. The District shall work with each
32 member entity to encourage that the member villages and county
33 shall adopt said baseline design and development standards.

1 The District shall review the design and development
2 standards of each member village and of Will County and the
3 District shall certify that said village or county standards
4 conform to the District's baseline design and development
5 standards. Notwithstanding adoption by the District of design
6 and development standards, any member village or County may
7 adopt land use regulations that are more stringent than those
8 of the District.

9 Development applications shall be handled by the
10 jurisdiction within which the project is located. The host
11 jurisdiction shall review the application, applying the
12 District's design and development standards, in addition to any
13 other normal development requirements. The host jurisdiction
14 shall forward the development application to the District for
15 comment and certification. The District shall review the
16 application and make specific findings regarding the impact of
17 the project and determinations regarding mitigation of
18 negative impact.

19 The certification process shall be determined by the Board
20 and shall require a finding by a majority of the Board that a
21 proposed development conforms to the District Land Use Plan,
22 conforms to the District's design and development standards,
23 and has adequately addressed the need to mitigate negative
24 impact upon regional infrastructure in order for the District
25 to make a positive finding. If the District finds that the
26 proposed development satisfies the preceding criteria, the
27 District shall notify the affected municipality that the
28 District has reached a positive finding regarding the proposed
29 development. The District shall issue a Certificate of
30 Conformance to the host jurisdiction as evidence of the
31 positive finding.

32 If any member entity shall object to a proposed
33 development, that development shall be subject to a review
34 process to be determined by the Board that shall require a

1 two-thirds majority of the Board for a positive finding and
2 issuance of a Certificate of Conformance.

3 If the District makes a finding that a proposed development
4 fails to conform to the District Land Use Plan, fails to
5 satisfy the applicable design and development standards, or
6 fails to adequately address the need to mitigate negative
7 impact upon regional infrastructure, the District shall notify
8 the affected municipality of the District's negative finding. A
9 negative finding by the District shall trigger a requirement
10 that the affected host jurisdiction reach an extraordinary
11 majority within their approval process in order to approve the
12 proposed development. If a municipality should approve a
13 development by an extraordinary majority and that development
14 has failed to cure the defects that resulted in a negative
15 finding by the District, then the proposed development shall be
16 deemed a non-conforming development.

17 The District shall act in a timely manner in reviewing
18 development proposals. After this timely review, the District
19 shall convey, in writing, to the host jurisdiction the
20 District's certification of a positive finding or a negative
21 finding regarding the proposed development. A negative finding
22 shall include the reasons for the negative finding and
23 suggestions for ways to cure the negative aspects of the
24 proposed development.

25 The District's authority is subject to all pre-annexation
26 or other governmental agreements of the member villages and
27 county in existence on the effective date of this Act.

28 If land in the District is annexed into a member village,
29 the District shall continue to have development review power
30 over that property as set forth in this Section and the design
31 and development standards shall continue to apply. It shall be
32 the policy of the District that when development is proposed in
33 any unincorporated area, the District shall encourage, and
34 assist in, annexation to an appropriate municipality.

1 Notwithstanding any other provision of this Section,
2 undeveloped land within each member village on the effective
3 date of this Act that has not received development approval or
4 has not been the subject of a pre-existing annexation or
5 development agreement must comply with uniform airport noise
6 and safety and hazard mitigation land use regulations
7 promulgated by the District, the airport authority, or other
8 governmental agencies.

9 Building code and zoning enforcement authority shall be
10 exercised by the village in which the property is located and
11 shall be exercised by the County if the property is not located
12 in a village.

13 The review and certification authority of the District
14 shall be limited to non-residential development within the
15 District, except the District may require notice of all
16 proposed development for the purpose of determining
17 consistency with the District Land Use Plan. Airport-dependent
18 uses on land owned by the airport authority shall be exempt
19 from the District's review and certification process.

20 Section 35. Land acquisition. The District may acquire by
21 purchase or gift and hold or dispose of real or personal
22 property or rights or interests therein. The District may
23 acquire property from willing sellers, but the District may not
24 exercise the power of eminent domain. Prior to the acquisition
25 of real property, the District shall provide 30 days' notice to
26 the airport authority in order that the airport authority may
27 make a determination that the land acquisition will not hinder
28 any airport uses or future expansion.

29 Section 40. Airport noise monitoring, mitigation, and
30 enforcement programs. Appropriate notations, in a form to be
31 determined by the District, shall be required on all property
32 deeds of land within the District that are within delineated

1 noise impacted areas as defined by the airport authority.

2 The District may act as a representative of the member
3 villages in discussing noise issues and cooperative mitigation
4 measures with the airport authority and the Federal Aviation
5 Administration.

6 Section 45. Economic development and marketing. The
7 District may market and promote economic development
8 activities in cooperation with the County, member villages, and
9 other agencies. The District may help fund economic development
10 activities by the County, villages, townships, and other
11 entities. The District may seek grants, loans, or other
12 financing opportunities to promote its planning and economic
13 development mission or for operations.

14 Section 50. Infrastructure and service mitigation fees.
15 The District may impose infrastructure and service mitigation
16 fees on new industrial and commercial development within the
17 District to pay for infrastructure and services necessitated by
18 that development. New industrial and commercial development
19 shall be industrial and commercial property that is developed,
20 as evidenced by an application for building permit, within the
21 District, after the effective date of this Act.

22 Section 55. Property taxes. The District may levy ad
23 valorem property taxes upon all new industrial and commercial
24 taxable property in the District. New industrial and commercial
25 property shall be property that is developed, as evidenced by
26 an application for building permit within the District, after
27 the effective date of this Act. Proceeds shall be used for the
28 administrative and operating expenses of the District, to carry
29 out planning and development review functions, and to fund
30 infrastructure improvements within the District.

1 Section 60. Use and occupation taxes.

2 (a) The District shall not have the authority to levy taxes
3 for any purpose, except as provided in subsections (b), (c),
4 (d), (e), and (f).

5 (b) By ordinance the District shall, as soon as practicable
6 from the effective date of this Act, impose an occupation tax
7 upon all persons engaged within the corporate limits of the
8 District in the business of renting, leasing, or letting rooms
9 in a hotel, as defined in the Hotel Operators' Occupation Tax
10 Act, at a rate of 2.5% of the gross rental receipts from the
11 renting, leasing, or letting of rooms within the District,
12 excluding, however, from gross rental receipts the proceeds of
13 renting, leasing, or letting to permanent residents of a hotel
14 as defined in that Act. Gross rental receipts shall not include
15 charges that are added on account of the liability arising from
16 any tax imposed by the State or any governmental agency on the
17 occupation of renting, leasing or letting rooms in a hotel.

18 The tax imposed by the District under this subsection and
19 all civil penalties that may be assessed as an incident to that
20 tax shall be collected and enforced by the Illinois Department
21 of Revenue. The certificate of registration that is issued by
22 the Department to a lessor under the Hotel Operators'
23 Occupation Tax Act shall permit that registrant to engage in a
24 business that is taxable under any ordinance enacted under this
25 subsection without registering separately with the Department
26 under that ordinance or under this subsection. The Department
27 shall have full power to administer and enforce this
28 subsection, to collect all taxes and penalties due under this
29 subsection, to dispose of taxes and penalties so collected in
30 the manner provided in this subsection, and to determine all
31 rights to memoranda arising on account of the erroneous payment
32 of tax or penalty under this subsection. In the administration
33 of, and compliance with, this subsection, the Department and
34 persons who are subject to this subsection shall have the same

1 rights, remedies, privileges, powers, and duties, shall be
2 subject to the same conditions, restrictions, limitations,
3 penalties, and definitions of terms, and shall employ the same
4 modes of procedure as are prescribed in the Hotel Operators'
5 Occupation Tax Act (except where the Act is inconsistent with
6 this subsection), as fully as the Act were set out in this
7 subsection.

8 Whenever the Department determines that a refund should be
9 made under this subsection to a claimant instead of issuing a
10 credit memorandum, the Department shall notify the State
11 Comptroller, who shall cause a warrant to be drawn for the
12 amount specified and to the person named in the notification
13 from the Department. The refund shall be paid by the State
14 Treasurer.

15 Persons subject to any tax under the authority imposed in
16 this subsection may reimburse themselves for their tax
17 liability for that tax by separately stating that tax as an
18 additional charge, which charge may be stated in combination,
19 in a single amount, with State taxes imposed under the Hotel
20 Operators' Occupation Tax Act and the municipal tax imposed
21 under Section 8-3-13 of the Illinois Municipal Code.

22 The person filing the return shall, at the time of filing
23 the return, pay to the Department the amount of the tax, less a
24 discount of 2.1% or \$25 per calendar year, whichever is
25 greater, which is allowed to reimburse the operator for the
26 expenses incurred in keeping records, preparing and filing
27 returns, remitting the tax, and supplying data to the
28 Department on request.

29 The Department shall forthwith pay over to the State
30 Treasurer, ex officio, as trustee for the District, all taxes
31 and penalties collected under this subsection for deposit into
32 a trust fund held outside the State Treasury. On or before the
33 25th day of each calendar month, the Department shall certify
34 to the Comptroller the amounts to be paid, which shall be the

1 amounts (not including credit memoranda) collected under this
2 subsection during the second preceding calendar month by the
3 Department, less any amounts determined by the Department to be
4 necessary for payment of refunds.

5 A certified copy of any ordinance imposing or discontinuing
6 a tax under this subsection or effecting a change in the rate
7 of that tax shall be filed with the Illinois Department of
8 Revenue, whereupon the Department shall proceed to administer
9 and enforce this subsection on behalf of the District as of the
10 first day of the third calendar month following the date of
11 filing.

12 (c) By ordinance the Authority shall, as soon as
13 practicable after the effective date of this Act, impose a tax
14 upon all persons engaged in the business of renting automobiles
15 in the District at the rate of 6% of the gross receipts from
16 that business, except that no tax shall be imposed on the
17 business of renting automobiles for use as taxicabs or in
18 livery service. The tax imposed under this subsection and all
19 civil penalties that may be assessed as an incident to that tax
20 shall be collected and enforced by the Illinois Department of
21 Revenue. The certificate of registration issued by the
22 Department to a retailer under the Retailers' Occupation Tax
23 Act or under the Automobile Renting Occupation and Use Tax Act
24 shall permit that person to engage in a business that is
25 taxable under any ordinance enacted under this subsection
26 without registering separately with the Department under that
27 ordinance or under this subsection. The Department shall have
28 full power to administer and enforce this subsection, to
29 collect all taxes and penalties due under this subsection, to
30 dispose of taxes and penalties so collected in the manner
31 provided in this subsection, and to determine all rights to
32 credit memoranda arising on account of the erroneous payment of
33 tax or penalty under this subsection. In the administration of
34 and compliance with this subsection, the Department and persons

1 who are subject to this subsection shall have the same rights,
2 remedies, privileges, immunities, powers, and duties, be
3 subject to the same conditions, restrictions, limitations,
4 penalties, and definitions of terms, and employ the same modes
5 of procedure as are as the Department may prescribe.

6 Whenever the Department determines that a refund should be
7 made under this subsection to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 prescribed in Sections 2 and 3 (in respect to all provisions of
10 those Sections other than the State rate of tax; and in respect
11 to the provisions of the Retailers' Occupation Tax Act referred
12 to in those Sections, except as to the disposition of taxes and
13 penalties collected, except for the provision allowing
14 retailers a deduction from the tax to cover certain costs, and
15 except that credit memoranda issued under this subsection may
16 not be used to discharge any State tax liability) of the
17 Automobile Renting Occupation and Use Tax Act, as fully as if
18 provisions contained in those Sections of that Act were set
19 forth in this subsection.

20 Persons subject to any tax imposed under the authority
21 granted in this subsection may reimburse themselves for their
22 tax liability under this subsection by separately stating that
23 tax as an additional charge, which charge may be stated in
24 combination, in a single amount, with State tax that sellers
25 are required to collect under the Automobile Renting Occupation
26 and Use Tax Act, pursuant to bracket schedules as the
27 Department may prescribe. Whenever the Department determines
28 that a refund should be made under this Section to a claimant
29 instead of issuing a credit memorandum, the Department shall
30 notify the State Comptroller, who shall cause a warrant to be
31 drawn for the amount specified and to the person named in the
32 notification from the Department. The refund shall be paid by
33 the State Treasurer.

34 The Department shall forthwith pay over to the State

1 Treasurer, ex officio, as trustee, all taxes and penalties
2 collected under this subsection for deposit into a trust fund
3 held outside the State Treasury. On or before the 25th day of
4 each calendar month, the Department shall certify to the
5 Comptroller the amounts to be paid under this Section (not
6 including credit memoranda) or collected under this subsection
7 during the second preceding calendar month by the Department,
8 less any amount determined by the Department to be necessary
9 for payment of refunds. Within 10 days after receipt by the
10 Comptroller of the Department's certification, the Comptroller
11 shall cause the orders to be drawn for such amounts, and the
12 Treasurer shall administer those amounts.

13 Nothing in this subsection authorizes the Authority to
14 impose a tax upon the privilege of engaging in any business
15 that under the Constitution of the United States may not be
16 made the subject of taxation by this State.

17 A certified copy of any ordinance imposing or discontinuing
18 a tax under this subsection or effecting a change in the rate
19 of that tax shall be filed with the Illinois Department of
20 Revenue, whereupon the Department shall proceed to administer
21 and enforce this subsection on behalf of the Authority as of
22 the first day of the third calendar month following the date of
23 filing.

24 (d) By ordinance the District shall, as soon as practicable
25 after the effective date of this Act, impose a tax upon the
26 privilege of using in the District an automobile that is rented
27 from a rentor outside Illinois and is titled or registered with
28 an agency of this State's government at a rate of 6% of the
29 rental price of that automobile, except that no tax shall be
30 imposed on the privilege of using automobiles rented for use as
31 taxicabs or in livery service. The tax shall be collected from
32 persons whose Illinois address for titling or registration
33 purposes is given as being in the District. The tax shall be
34 collected by the Department of Revenue for the District. The

1 tax must be paid to the State or an exemption determination
2 must be obtained from the Department of Revenue before the
3 title or certificate of registration for the property may be
4 issued. The tax or proof of exemption may be transmitted to the
5 Department by way of the State agency with which or State
6 officer with whom the tangible personal property must be titled
7 or registered if the Department and that agency or State
8 officer determine that this procedure will expedite the
9 processing of applications for title or registration.

10 The Department shall have full power to administer and
11 enforce this subsection, to collect all taxes, penalties, and
12 interest due under this subsection, to dispose of taxes,
13 penalties, and interest so collected in the manner provided in
14 this subsection, and to determine all rights to credit
15 memoranda or refunds arising on account of the erroneous
16 payment of tax, penalty, or interest under this subsection. In
17 the administration of and compliance with this subsection, the
18 Department and persons who are subject to this subsection shall
19 have the same rights, remedies, privileges, immunities,
20 powers, and duties, be subject to the same conditions,
21 restrictions, limitations, penalties, and definitions of
22 terms, and employ the same modes of procedure as are prescribed
23 in Sections 2 and 4 (except provisions pertaining to the State
24 rate of tax; and in respect to the provisions of the Use Tax
25 Act referred to in that Section, except provisions concerning
26 collection or refunding of the tax by retailers, except the
27 provisions of Section 19 pertaining to claims by retailers,
28 except the last paragraph concerning refunds, and except that
29 credit memoranda issued under this subsection may not be used
30 to discharge any State tax liability) of the Automobile Renting
31 Occupation and Use Tax Act, as fully as if provisions contained
32 in those Sections of that Act were set forth in this
33 subsection.

34 Whenever the Department determines that a refund should be

1 made under this subsection to a claimant instead of issuing a
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause a warrant to be drawn for the
4 amount specified and to the person named in the notification
5 from the Department. The refund shall be paid by the State
6 Treasurer.

7 The Department shall forthwith pay over to the State
8 Treasurer, ex officio, as trustee, all taxes, penalties, and
9 interest collected under this subsection for deposit into a
10 trust fund held outside the State Treasury. On or before the
11 25th day of each calendar month, the Department shall certify
12 to the State Comptroller the amounts to be paid, which shall be
13 the amounts (not including credit memoranda) collected under
14 this subsection during the second preceding calendar month by
15 the Department, less any amounts determined by the Department
16 to be necessary for payment of refunds. Within 10 days after
17 receipt by the State Comptroller of the Department's
18 certification, the Comptroller shall cause the orders to be
19 drawn for such amounts, and the Treasurer shall administer
20 those amounts.

21 A certified copy of any ordinance imposing or discontinuing
22 a tax or effecting a change in the rate of that tax shall be
23 filed with the Illinois Department of Revenue, whereupon the
24 Department shall proceed to administer and enforce this
25 subsection on behalf of the District as of the first day of the
26 third calendar month following the date of filing.

27 (f) By ordinance the District shall, as soon as practicable
28 after the effective date of this Act, impose an occupation tax
29 on all persons, other than a governmental agency, engaged in
30 the business of providing ground transportation for hire to
31 passengers in the District at a rate of (i) \$2 per taxi or
32 livery vehicle departure with passengers for hire from
33 commercial service airports in the District, (ii) for each
34 departure with passengers for hire from a commercial service

1 airport in the District in a bus or van operated by a person
2 other than a person described in item (iii): \$9 per bus or van
3 with a capacity of one to 12 passengers, \$18 per bus or van
4 with a capacity of 13 to 24 passengers, and \$27 per bus or van
5 with a capacity of over 24 passengers, and (iii) for each
6 departure with passengers for hire from a commercial service
7 airport in the District in a bus or van operated by a person
8 regulated by the Interstate Commerce Commission or Illinois
9 Commerce Commission, operating scheduled service from the
10 airport, and charging fares on a per passenger basis: \$1 per
11 passenger for hire in each bus or van. The term "commercial
12 service airport" means the south suburban airport as defined by
13 this Act.

14 In the ordinance imposing the tax, the Authority may
15 provide for the administration and enforcement of the tax and
16 the collection of the tax from persons subject to the tax as
17 the District determines to be necessary or practicable for the
18 effective administration of the tax. The District may enter
19 into agreements as it deems appropriate with any governmental
20 agency providing for that agency to act as the District's agent
21 to collect the tax.

22 In the ordinance imposing the tax, the District may
23 designate a method or methods for persons subject to the tax to
24 reimburse themselves for the tax liability arising under the
25 ordinance (i) by separately stating the full amount of the tax
26 liability as an additional charge to passengers departing the
27 airports, (ii) by separately stating one-half of the tax
28 liability as an additional charge to both passengers departing
29 from and to passengers arriving at the airports, or (iii) by
30 some other method determined by the District.

31 All taxes, penalties, and interest collected under any
32 ordinance adopted under this subsection, less any amounts
33 determined to be necessary for the payment of refunds, shall be
34 paid forthwith to the State Treasurer, ex officio, for

1 disbursement.

2 Section 65. Initial funding. The member entities and the
3 State of Illinois shall provide funding for the first 3 years
4 of the District's expenses pursuant to the following formula:

5 (i) Each member entity shall contribute to the District
6 a sum equal to \$2 per person for each resident of that
7 member entity, as determined by the most recent census,
8 residing within the District per annum for 3 consecutive
9 years. The total of this annual contribution shall be
10 deemed the Local Contribution; and

11 (ii) The State of Illinois shall provide matching funds
12 to the District in an amount equal to the Local
13 Contribution for 3 consecutive years.

14 Section 70. Special assessments. The District may levy,
15 assess, and collect special assessments, except with respect to
16 property that is not subject to special assessments, on new
17 industrial and commercial development. New industrial and
18 commercial development shall be industrial and commercial
19 property that is developed, as evidenced by an application for
20 building permit, within the District, after the effective date
21 of this Act.

22 Section 75. Revenue Bonds. The District may borrow money
23 from the United States Government or an agency thereof, or from
24 any other public or private source, for the purposes of the
25 District and, as evidence thereof, may issue its revenue bonds
26 payable solely from the revenue from the operation of the
27 District and any other funds available to the District for such
28 purposes. These bonds may be issued with maturities not
29 exceeding 40 years from the date of the bonds, and in such
30 amounts as may be necessary to provide sufficient funds,
31 together with interest, for the purposes of the District. These

1 bonds shall bear interest at a rate not more than the maximum
2 rate authorized by the Bond Authorization Act, payable
3 semi-annually, may be made registerable as to principal, and
4 may be made payable and callable as provided on any interest
5 payment date at a price of par and accrued interest under such
6 terms and conditions as may be fixed by the ordinance
7 authorizing the issuance of the bonds. Bonds issued under this
8 Section are negotiable instruments. They shall be executed by
9 the Chair and members of the Board, attested by the Secretary,
10 and shall be sealed with the corporate seal of the District. In
11 case any Board member or officer whose signature appears on the
12 bonds or coupons ceases to hold that office before the bonds
13 are delivered, such officer's signature shall nevertheless be
14 valid and sufficient for all purposes as though the officer had
15 remained in office until the bonds were delivered. The bonds
16 shall be sold in such manner and upon such terms as the Board
17 shall determine, except that the selling price shall be such
18 that the interest cost to the District of the proceeds of the
19 bonds shall not exceed the maximum rate authorized by the Bond
20 Authorization Act, payable semi-annually, computed to maturity
21 according to the standard table of bond values. The ordinance
22 shall fix the amount of the revenue bonds proposed to be
23 issued, the maturity or maturities, the interest rate, which
24 shall not exceed the maximum rate authorized by the Bond
25 Authorization Act, and all the details in connection with the
26 bonds. The ordinance may contain such covenants and
27 restrictions upon the issuance of additional revenue bonds
28 thereafter, which shall share equally in the revenue of the
29 District, as may be deemed necessary or advisable for the
30 assurance of the payment of the bonds first issued. The
31 District may also provide in the ordinance authorizing the
32 issuance of bonds under this Section that the bonds, or such
33 ones thereof may be specified, shall, to the extent and manner
34 prescribed, be subordinated and be junior in standing, with

1 respect to the payment of principal and interest and the
2 security thereof, to such other bonds as are designated in the
3 ordinance. The ordinance shall pledge the revenue derived from
4 the operations of the District for the cost of paying the cost
5 and operation of the District, and, as applicable, providing
6 adequate depreciation funds, and paying the principal of and
7 interest on the bonds of the District issued under this
8 Section.

9 Section 80. Fees and charges. The District may levy,
10 assess, and collect fees and charges for services as it deems
11 appropriate.

12 Section 85. Loans, grants, voluntary contributions and
13 appropriations. The District may accept loans, grants,
14 voluntary contributions, or appropriations of money or
15 materials or property of any kind from a federal or State
16 agency or officer, a unit of local government, or a private
17 person or entity.

18 Section 90. Revenue sharing. The District, member
19 villages, and county may share tax revenues subject to the
20 following restrictions:

21 (i) District-wide use and occupation taxes are not
22 subject to revenue sharing.

23 (ii) Funds generated by the existing rates of the
24 member villages and the county are not subject to revenue
25 sharing; and

26 (iii) Taxes imposed by other entities are not subject
27 to revenue sharing.

28 The member entities shall share certain revenue generated
29 within the District for new commercial and industrial
30 development occurring after the effective date of this
31 legislation. The amount of revenue subject to revenue sharing

1 is as follows: (i) one-half of the corporate ad valorem
2 property tax on new commercial and industrial development
3 within the District shall be shared among the member entities,
4 up to a limit of the first 0.2500 of the member entity's
5 corporate levy, and (ii) one-half of any new local sales tax
6 shall be shared among the member entities. The first half of
7 the revenue from new ad valorem property taxes on new
8 commercial and industrial development shall be retained by the
9 host community and the second half of this revenue shall be
10 distributed in one-sixth shares to the 6 member entities. The
11 first half of any new sales taxes within the District shall be
12 retained by the host community and the second half of this
13 revenue shall be distributed in one-sixth shares to the 6
14 member entities. Should any additional municipalities become
15 member villages, the distribution formula shall be amended to
16 provide for equal shares of shared revenue for each member
17 entity.

18 Existing and future ad valorem property tax proceeds for
19 all taxing bodies, except the member entities, shall remain
20 with the entity that assessed them.

21 Should a member entity offer an incentive for development
22 in the form of a tax rebate, the rebate shall not include funds
23 that are subject to revenue sharing unless the entity offering
24 the incentive reimburses the other member entity entitled to
25 receive revenue sharing for lost revenue, or the entitled
26 members waive their right to reimbursement for lost revenue as
27 evidenced by an intergovernmental agreement. Establishment of
28 any new or expanded Tax Increment Financing districts within
29 the District shall be subject to the revenue sharing
30 requirements and restrictions of this Act.

31 Section 95. Infrastructure improvements. The District does
32 not have independent authority to directly undertake
33 infrastructure improvements, such as roads and water and sewer

1 lines. However, the District may pass through funds it collects
2 under this Act to other entities, such as the Illinois
3 Department of Transportation, the county, townships, or
4 villages. These funds shall be used to undertake infrastructure
5 improvements, off-airport, according to a capital improvement
6 plan approved by the Board or upon a finding of a majority of
7 the Board that such improvements promote economic development
8 within the District, provide community services or amenities,
9 or help advance or realize other purposes for which the
10 District was created.

11 Section 100. Annexation. Property within the District that
12 is unincorporated on the effective date of this Act may be
13 annexed by a village in accordance with State law; however, the
14 District shall continue to have review and approval authority
15 with respect to that property under Section 30.

16 Section 900. The Illinois Finance Authority Act is amended
17 by changing Section 820-50 as follows:

18 (20 ILCS 3501/820-50)

19 Sec. 820-50. Pledge of Funds by Units of Local Government.

20 (a) Pledge of Funds. Any unit of local government which
21 receives funds from the Department of Revenue, including
22 without limitation funds received pursuant to Sections 8-11-1,
23 8-11-1.4, 8-11-5 or 8-11-6 of the Illinois Municipal Code, the
24 Home Rule County Retailers' Occupation Tax Act, the Home Rule
25 County Service Occupation Tax Act, Sections 25.05-2, 25.05-3 or
26 25.05-10 of "An Act to revise the law in relation to counties",
27 Section 5.01 of the Local Mass Transit District Act, Section
28 4.03 of the Regional Transportation Authority Act, Sections 2
29 or 12 of the State Revenue Sharing Act, Section 60 of the
30 Regional Cooperation and Smart Growth in Eastern Will County
31 Act, or from the Department of Transportation pursuant to

1 Section 8 of the Motor Fuel Tax Law, or from the State
2 Superintendent of Education (directly or indirectly through
3 regional superintendents of schools) pursuant to Article 18 of
4 the School Code, or any unit of government which receives other
5 funds which are at any time in the custody of the State
6 Treasurer, the State Comptroller, the Department of Revenue,
7 the Department of Transportation or the State Superintendent of
8 Education may by appropriate proceedings, pledge to the
9 Authority or any entity acting on behalf of the Authority
10 (including, without limitation, any trustee), any or all of
11 such receipts to the extent that such receipts are necessary to
12 provide revenues to pay the principal of, premium, if any, and
13 interest on, and other fees related to, or to secure, any of
14 the local government securities of such unit of local
15 government which have been sold or delivered to the Authority
16 or its designee or to pay lease rental payments to be made by
17 such unit of local government to the extent that such lease
18 rental payments secure the payment of the principal of,
19 premium, if any, and interest on, and other fees related to,
20 any local government securities which have been sold or
21 delivered to the Authority or its designee. Any pledge of such
22 receipts (or any portion thereof) shall constitute a first and
23 prior lien thereon and shall be binding from the time the
24 pledge is made.

25 (b) Direct Payment of Pledged Receipts. Any such unit of
26 local government may, by such proceedings, direct that all or
27 any of such pledged receipts payable to such unit of local
28 government be paid directly to the Authority or such other
29 entity (including, without limitation, any trustee) for the
30 purpose of paying the principal of, premium, if any, and
31 interest on, and fees relating to, such local government
32 securities or for the purpose of paying such lease rental
33 payments to the extent necessary to pay the principal of,
34 premium, if any, and interest on, and other fees related to,

1 such local government securities secured by such lease rental
2 payments. Upon receipt of a certified copy of such proceedings
3 by the State Treasurer, the State Comptroller, the Department
4 of Revenue, the Department of Transportation or the State
5 Superintendent of Education, as the case may be, such
6 Department or State Superintendent shall direct the State
7 Comptroller and State Treasurer to pay to, or on behalf of, the
8 Authority or such other entity (including, without limitation,
9 any trustee) all or such portion of the pledged receipts from
10 the Department of Revenue, or the Department of Transportation
11 or the State Superintendent of Education (directly or
12 indirectly through regional superintendents of schools), as
13 the case may be, sufficient to pay the principal of and
14 premium, if any, and interest on, and other fees related to,
15 the local governmental securities for which the pledge was made
16 or to pay such lease rental payments securing such local
17 government securities for which the pledge was made. The
18 proceedings shall constitute authorization for such a
19 directive to the State Comptroller to cause orders to be drawn
20 and to the State Treasurer to pay in accordance with such
21 directive. To the extent that the Authority or its designee
22 notifies the Department of Revenue, the Department of
23 Transportation or the State Superintendent of Education, as the
24 case may be, that the unit of local government has previously
25 paid to the Authority or its designee the amount of any
26 principal, premium, interest and fees payable from such pledged
27 receipts, the State Comptroller shall cause orders to be drawn
28 and the State Treasurer shall pay such pledged receipts to the
29 unit of local government as if they were not pledged receipts.
30 To the extent that such receipts are pledged and paid to the
31 Authority or such other entity, any taxes which have been
32 levied or fees or charges assessed pursuant to law on account
33 of the issuance of such local government securities shall be
34 paid to the unit of local government and may be used for the

1 purposes for which the pledged receipts would have been used.

2 (c) Payment of Pledged Receipts upon Default. Any such unit
3 of local government may, by such proceedings, direct that such
4 pledged receipts payable to such unit of local government be
5 paid to the Authority or such other entity (including, without
6 limitation, any trustee) upon a default in the payment of any
7 principal of, premium, if any, or interest on, or fees relating
8 to, any of the local government securities of such unit of
9 local government which have been sold or delivered to the
10 Authority or its designee or any of the local government
11 securities which have been sold or delivered to the Authority
12 or its designee and which are secured by such lease rental
13 payments. If such local governmental security is in default as
14 to the payment of principal thereof, premium, if any, or
15 interest thereon, or fees relating thereto, to the extent that
16 the State Treasurer, the State Comptroller, the Department of
17 Revenue, the Department of Transportation or the State
18 Superintendent of Education (directly or indirectly through
19 regional superintendents of schools) shall be the custodian at
20 any time of any other available funds or moneys pledged to the
21 payment of such local government securities or such lease
22 rental payments securing such local government securities
23 pursuant to this Section and due or payable to such a unit of
24 local government at any time subsequent to written notice to
25 the State Comptroller and State Treasurer from the Authority or
26 any entity acting on behalf of the Authority (including,
27 without limitation, any trustee) to the effect that such unit
28 of local government has not paid or is in default as to payment
29 of the principal of, premium, if any, or interest on, or fees
30 relating to, any local government security sold or delivered to
31 the Authority or any such entity (including, without
32 limitation, any trustee) or has not paid or is in default as to
33 the payment of such lease rental payments securing the payment
34 of the principal of, premium, if any, or interest on, or other

1 fees relating to, any local government security sold or
2 delivered to the Authority or such other entity (including,
3 without limitation, any trustee):

4 (i) The State Comptroller and the State Treasurer shall
5 withhold the payment of such funds or moneys from such unit
6 of local government until the amount of such principal,
7 premium, if any, interest or fees then due and unpaid has
8 been paid to the Authority or any such entity (including,
9 without limitation, any trustee), or the State Comptroller
10 and the State Treasurer have been advised that
11 arrangements, satisfactory to the Authority or such
12 entity, have been made for the payment of such principal,
13 premium, if any, interest and fees; and

14 (ii) Within 10 days after a demand for payment by the
15 Authority or such entity given to such unit of local
16 government, the State Treasurer and the State Comptroller,
17 the State Treasurer shall pay such funds or moneys as are
18 legally available therefor to the Authority or such entity
19 for the payment of principal of, premium, if any, or
20 interest on, or fees relating to, such local government
21 securities. The Authority or any such entity may carry out
22 this Section and exercise all the rights, remedies and
23 provisions provided or referred to in this Section.

24 (d) Remedies. Upon the sale or delivery of any local
25 government securities of the Authority or its designee, the
26 local government which issued such local government securities
27 shall be deemed to have agreed that upon its failure to pay
28 interest or premium, if any, on, or principal of, or fees
29 relating to, the local government securities sold or delivered
30 to the Authority or any entity acting on behalf of the
31 Authority (including, without limitation, any trustee) when
32 payable, all statutory defenses to nonpayment are thereby
33 waived. Upon a default in payment of principal of or interest
34 on any local government securities issued by a unit of local

1 government and sold or delivered to the Authority or its
2 designee, and upon demand on the unit of local government for
3 payment, if the local government securities are payable from
4 property taxes and funds are not legally available in the
5 treasury of the unit of local government to make payment, an
6 action in mandamus for the levy of a tax by the unit of local
7 government to pay the principal of or interest on the local
8 government securities shall lie, and the Authority or such
9 entity shall be constituted a holder or owner of the local
10 government securities as being in default. Upon the occurrence
11 of any failure or default with respect to any local government
12 securities issued by a unit of local government, the Authority
13 or such entity may thereupon avail itself of all remedies,
14 rights and provisions of law applicable in the circumstances,
15 and the failure to exercise or exert any rights or remedies
16 within a time or period provided by law may not be raised as a
17 defense by the unit of local government.

18 (Source: P.A. 93-205, eff. 1-1-04.)

19 Section 905. The State Officers and Employees Money
20 Disposition Act is amended by changing Section 2a as follows:

21 (30 ILCS 230/2a) (from Ch. 127, par. 172)

22 Sec. 2a. Every officer, board, commission, commissioner,
23 department, institute, arm, or agency to whom or to which this
24 Act applies is to notify the State Treasurer as to money paid
25 to him, her, or it under protest as provided in Section 2a.1,
26 and the Treasurer is to place the money in a special fund to be
27 known as the protest fund. At the expiration of 30 days from
28 the date of payment, the money is to be transferred from the
29 protest fund to the appropriate fund in which it would have
30 been placed had there been payment without protest unless the
31 party making that payment under protest has filed a complaint
32 and secured within that 30 days a temporary restraining order

1 or a preliminary injunction, restraining the making of that
2 transfer and unless, in addition, within that 30 days, a copy
3 of the temporary restraining order or preliminary injunction
4 has been served upon the State Treasurer and also upon the
5 officer, board, commission, commissioner, department,
6 institute, arm, or agency to whom or to which the payment under
7 protest was made, in which case the payment and such other
8 payments as are subsequently made under notice of protest, as
9 provided in Section 2a.1, by the same person, the transfer of
10 which payments is restrained by such temporary restraining
11 order or preliminary injunction, are to be held in the protest
12 fund until the final order or judgment of the court. The
13 judicial remedy herein provided, however, relates only to
14 questions which must be decided by the court in determining the
15 proper disposition of the moneys paid under protest. Any
16 authorized payment from the protest fund shall bear simple
17 interest at a rate equal to the average of the weekly rates at
18 issuance on 13-week U.S. Treasury Bills from the date of
19 deposit into the protest fund to the date of disbursement from
20 the protest fund. In cases involving temporary restraining
21 orders or preliminary injunctions entered March 10, 1982, or
22 thereafter, pursuant to this Section, when the party paying
23 under protest fails in the protest action the State Treasurer
24 shall determine if any moneys paid under protest were paid as a
25 result of assessments under the following provisions: the
26 Municipal Retailers' Occupation Tax Act, the Municipal Service
27 Occupation Tax Act, the Municipal Use Tax Act, the Municipal
28 Automobile Renting Occupation Tax Act, the Municipal
29 Automobile Renting Use Tax Act, Section 8-11-9 of the Illinois
30 Municipal Code, the Tourism, Conventions and Other Special
31 Events Promotion Act of 1967, the County Automobile Renting
32 Occupation Tax Act, the County Automobile Renting Use Tax Act,
33 Section 5-1034 of the Counties Code, Section 5.01 of the Local
34 Mass Transit District Act, the Downstate Public Transportation

1 Act, Section 4.03 of the Regional Transportation Authority Act,
2 subsections (c) and (d) of Section 201 of the Illinois Income
3 Tax Act, Section 2a.1 of the Messages Tax Act, Section 2a.1 of
4 the Gas Revenue Tax Act, Section 2a.1 of the Public Utilities
5 Revenue Act, Section 60 of the Regional Cooperation and Smart
6 Growth in Eastern Will County Act, and the Water Company
7 Invested Capital Tax Act. Any such moneys paid under protest
8 shall bear simple interest at a rate equal to the average of
9 the weekly rates at issuance on 13-week U.S. Treasury Bills
10 from the date of deposit into the protest fund to the date of
11 disbursement from the protest fund.

12 It is unlawful for the Clerk of a court, a bank or any
13 person other than the State Treasurer to be appointed as
14 trustee with respect to any purported payment under protest, or
15 otherwise to be authorized by a court to hold any purported
16 payment under protest, during the pendency of the litigation
17 involving such purported payment under protest, it being the
18 expressed intention of the General Assembly that no one is to
19 act as custodian of any such purported payment under protest
20 except the State Treasurer.

21 No payment under protest within the meaning of this Act has
22 been made unless paid to an officer, board, commission,
23 commissioner, department, institute, arm or agency brought
24 within this Act by Section 1 and unless made in the form
25 specified by Section 2a.1. No payment into court or to a
26 circuit clerk or other court-appointed trustee is a payment
27 under protest within the meaning of this Act.

28 (Source: P.A. 87-950.)

29 Section 910. The Use Tax Act is amended by changing Section
30 22 as follows:

31 (35 ILCS 105/22) (from Ch. 120, par. 439.22)

32 Sec. 22. If it is determined that the Department should

1 issue a credit or refund under this Act, the Department may
2 first apply the amount thereof against any amount of tax or
3 penalty or interest due hereunder, or under the Retailers'
4 Occupation Tax Act, the Service Occupation Tax Act, the Service
5 Use Tax Act, any local occupation or use tax administered by
6 the Department, Section 4 of the Water Commission Act of 1985,
7 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
8 Transit District Act, Section 60 of the Regional Cooperation
9 and Smart Growth in Eastern Will County Act, or subsections
10 (e), (f) and (g) of Section 4.03 of the Regional Transportation
11 Authority Act, from the person entitled to such credit or
12 refund. For this purpose, if proceedings are pending to
13 determine whether or not any tax or penalty or interest is due
14 under this Act or under the Retailers' Occupation Tax Act, the
15 Service Occupation Tax Act, the Service Use Tax Act, any local
16 occupation or use tax administered by the Department, Section 4
17 of the Water Commission Act of 1985, subsections (b), (c) and
18 (d) of Section 5.01 of the Local Mass Transit District Act,
19 Section 60 of the Regional Cooperation and Smart Growth in
20 Eastern Will County Act, or subsections (e), (f) and (g) of
21 Section 4.03 of the Regional Transportation Authority Act, from
22 such person, the Department may withhold issuance of the credit
23 or refund pending the final disposition of such proceedings and
24 may apply such credit or refund against any amount found to be
25 due to the Department as a result of such proceedings. The
26 balance, if any, of the credit or refund shall be issued to the
27 person entitled thereto.

28 Any credit memorandum issued hereunder may be used by the
29 authorized holder thereof to pay any tax or penalty or interest
30 due or to become due under this Act or under the Retailers'
31 Occupation Tax Act, the Service Occupation Tax Act, the Service
32 Use Tax Act, any local occupation or use tax administered by
33 the Department, Section 4 of the Water Commission Act of 1985,
34 subsections (b), (c) and (d) of Section 5.01 of the Local Mass

1 Transit District Act, Section 60 of the Regional Cooperation
2 and Smart Growth in Eastern Will County Act, or subsections
3 (e), (f) and (g) of Section 4.03 of the Regional Transportation
4 Authority Act, from such holder. Subject to reasonable rules of
5 the Department, a credit memorandum issued hereunder may be
6 assigned by the holder thereof to any other person for use in
7 paying tax or penalty or interest which may be due or become
8 due under this Act or under the Retailers' Occupation Tax Act,
9 the Service Occupation Tax Act or the Service Use Tax Act, from
10 the assignee.

11 In any case in which there has been an erroneous refund of
12 tax payable under this Act, a notice of tax liability may be
13 issued at any time within 3 years from the making of that
14 refund, or within 5 years from the making of that refund if it
15 appears that any part of the refund was induced by fraud or the
16 misrepresentation of a material fact. The amount of any
17 proposed assessment set forth in the notice shall be limited to
18 the amount of the erroneous refund.

19 (Source: P.A. 91-901, eff. 1-1-01.)

20 Section 915. The Service Use Tax Act is amended by changing
21 Section 20 as follows:

22 (35 ILCS 110/20) (from Ch. 120, par. 439.50)

23 Sec. 20. If it is determined that the Department should
24 issue a credit or refund hereunder, the Department may first
25 apply the amount thereof against any amount of tax or penalty
26 or interest due hereunder, or under the Service Occupation Tax
27 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any
28 local occupation or use tax administered by the Department,
29 Section 4 of the Water Commission Act of 1985, subsections (b),
30 (c) and (d) of Section 5.01 of the Local Mass Transit District
31 Act, Section 60 of the Regional Cooperation and Smart Growth in
32 Eastern Will County Act, or subsections (e), (f) and (g) of

1 Section 4.03 of the Regional Transportation Authority Act, from
2 the person entitled to such credit or refund. For this purpose,
3 if proceedings are pending to determine whether or not any tax
4 or penalty or interest is due hereunder, or under the Service
5 Occupation Tax Act, the Retailers' Occupation Tax Act, the Use
6 Tax Act, any local occupation or use tax administered by the
7 Department, Section 4 of the Water Commission Act of 1985,
8 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
9 Transit District Act, Section 60 of the Regional Cooperation
10 and Smart Growth in Eastern Will County Act, or subsections
11 (e), (f) and (g) of Section 4.03 of the Regional Transportation
12 Authority Act, from such person, the Department may withhold
13 issuance of the credit or refund pending the final disposition
14 of such proceedings and may apply such credit or refund against
15 any amount found to be due to the Department as a result of
16 such proceedings. The balance, if any, of the credit or refund
17 shall be issued to the person entitled thereto.

18 Any credit memorandum issued hereunder may be used by the
19 authorized holder thereof to pay any tax or penalty or interest
20 due or to become due under this Act, the Service Occupation Tax
21 Act, the Retailers' Occupation Tax Act, the Use Tax Act, any
22 local occupation or use tax administered by the Department,
23 Section 4 of the Water Commission Act of 1985, subsections (b),
24 (c) and (d) of Section 5.01 of the Local Mass Transit District
25 Act, Section 60 of the Regional Cooperation and Smart Growth in
26 Eastern Will County Act, or subsections (e), (f) and (g) of
27 Section 4.03 of the Regional Transportation Authority Act, from
28 such holder. Subject to reasonable rules of the Department, a
29 credit memorandum issued hereunder may be assigned by the
30 holder thereof to any other person for use in paying tax or
31 penalty or interest which may be due or become due under this
32 Act, the Service Occupation Tax Act, the Retailers' Occupation
33 Tax Act, the Use Tax Act, any local occupation or use tax
34 administered by the Department, Section 4 of the Water

1 Commission Act of 1985, subsections (b), (c) and (d) of Section
2 5.01 of the Local Mass Transit District Act, Section 60 of the
3 Regional Cooperation and Smart Growth in Eastern Will County
4 Act, or subsections (e), (f) and (g) of Section 4.03 of the
5 Regional Transportation Authority Act, from the assignee.

6 In any case which there has been an erroneous refund of tax
7 payable under this Act, a notice of tax liability may be issued
8 at any time within 3 years from the making of that refund, or
9 within 5 years from the making of that refund if it appears
10 that any part of the refund was induced by fraud or the
11 misrepresentation of a material fact. The amount of any
12 proposed assessment set forth in the notice shall be limited to
13 the amount of the erroneous refund.

14 (Source: P.A. 91-901, eff. 1-1-01.)

15 Section 920. The Service Occupation Tax Act is amended by
16 changing Section 20 as follows:

17 (35 ILCS 115/20) (from Ch. 120, par. 439.120)

18 Sec. 20. If it is determined that the Department should
19 issue a credit or refund hereunder, the Department may first
20 apply the amount thereof against any amount of tax or penalty
21 or interest due hereunder, or under the Service Use Tax Act,
22 the Retailers' Occupation Tax Act, the Use Tax Act, any local
23 occupation or use tax administered by the Department, Section 4
24 of the Water Commission Act of 1985, subsections (b), (c) and
25 (d) of Section 5.01 of the Local Mass Transit District Act,
26 Section 60 of the Regional Cooperation and Smart Growth in
27 Eastern Will County Act, or subsections (e), (f) and (g) of
28 Section 4.03 of the Regional Transportation Authority Act, from
29 the person entitled to such credit or refund. For this purpose,
30 if proceedings are pending to determine whether or not any tax
31 or penalty or interest is due hereunder, or under the Service
32 Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax

1 Act, any local occupation or use tax administered by the
2 Department, Section 4 of the Water Commission Act of 1985,
3 subsections (b), (c) and (d) of Section 5.01 of the Local Mass
4 Transit District Act, Section 60 of the Regional Cooperation
5 and Smart Growth in Eastern Will County Act, or subsections
6 (e), (f) and (g) of Section 4.03 of the Regional Transportation
7 Authority Act, from such person, the Department may withhold
8 issuance of the credit or refund pending the final disposition
9 of such proceedings and may apply such credit or refund against
10 any amount found to be due to the Department as a result of
11 such proceedings. The balance, if any, of the credit or refund
12 shall be issued to the person entitled thereto.

13 Any credit memorandum issued hereunder may be used by the
14 authorized holder thereof to pay any tax or penalty or interest
15 due or to become due under this Act, or under the Service Use
16 Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act,
17 any local occupation or use tax administered by the Department,
18 Section 4 of the Water Commission Act of 1985, subsections (b),
19 (c) and (d) of Section 5.01 of the Local Mass Transit District
20 Act, Section 60 of the Regional Cooperation and Smart Growth in
21 Eastern Will County Act, or subsections (e), (f) and (g) of
22 Section 4.03 of the Regional Transportation Authority Act, from
23 such holder. Subject to reasonable rules of the Department, a
24 credit memorandum issued hereunder may be assigned by the
25 holder thereof to any other person for use in paying tax or
26 penalty or interest which may be due or become due under this
27 Act, the Service Use Tax Act, the Retailers' Occupation Tax
28 Act, the Use Tax Act, any local occupation or use tax
29 administered by the Department, Section 4 of the Water
30 Commission Act of 1985, subsections (b), (c) and (d) of Section
31 5.01 of the Local Mass Transit District Act, Section 60 of the
32 Regional Cooperation and Smart Growth in Eastern Will County
33 Act, or subsections (e), (f) and (g) of Section 4.03 of the
34 Regional Transportation Authority Act, from the assignee.

1 In any case in which there has been an erroneous refund of
2 tax payable under this Act, a notice of tax liability may be
3 issued at any time within 3 years from the making of that
4 refund, or within 5 years from the making of that refund if it
5 appears that any part of the refund was induced by fraud or the
6 misrepresentation of a material fact. The amount of any
7 proposed assessment set forth in the notice shall be limited to
8 the amount of the erroneous refund.

9 (Source: P.A. 91-901, eff. 1-1-01.)

10 Section 925. The Retailers' Occupation Tax Act is amended
11 by changing Section 6 as follows:

12 (35 ILCS 120/6) (from Ch. 120, par. 445)

13 Sec. 6. Credit memorandum or refund. If it appears, after
14 claim therefor filed with the Department, that an amount of tax
15 or penalty or interest has been paid which was not due under
16 this Act, whether as the result of a mistake of fact or an
17 error of law, except as hereinafter provided, then the
18 Department shall issue a credit memorandum or refund to the
19 person who made the erroneous payment or, if that person died
20 or became a person under legal disability, to his or her legal
21 representative, as such. For purposes of this Section, the tax
22 is deemed to be erroneously paid by a retailer when the
23 manufacturer of a motor vehicle sold by the retailer accepts
24 the return of that automobile and refunds to the purchaser the
25 selling price of that vehicle as provided in the New Vehicle
26 Buyer Protection Act. When a motor vehicle is returned for a
27 refund of the purchase price under the New Vehicle Buyer
28 Protection Act, the Department shall issue a credit memorandum
29 or a refund for the amount of tax paid by the retailer under
30 this Act attributable to the initial sale of that vehicle.
31 Claims submitted by the retailer are subject to the same
32 restrictions and procedures provided for in this Act. If it is

1 determined that the Department should issue a credit memorandum
2 or refund, the Department may first apply the amount thereof
3 against any tax or penalty or interest due or to become due
4 under this Act or under the Use Tax Act, the Service Occupation
5 Tax Act, the Service Use Tax Act, any local occupation or use
6 tax administered by the Department, Section 4 of the Water
7 Commission Act of 1985, subsections (b), (c) and (d) of Section
8 5.01 of the Local Mass Transit District Act, Section 60 of the
9 Regional Cooperation and Smart Growth in Eastern Will County
10 Act, or subsections (e), (f) and (g) of Section 4.03 of the
11 Regional Transportation Authority Act, from the person who made
12 the erroneous payment. If no tax or penalty or interest is due
13 and no proceeding is pending to determine whether such person
14 is indebted to the Department for tax or penalty or interest,
15 the credit memorandum or refund shall be issued to the
16 claimant; or (in the case of a credit memorandum) the credit
17 memorandum may be assigned and set over by the lawful holder
18 thereof, subject to reasonable rules of the Department, to any
19 other person who is subject to this Act, the Use Tax Act, the
20 Service Occupation Tax Act, the Service Use Tax Act, any local
21 occupation or use tax administered by the Department, Section 4
22 of the Water Commission Act of 1985, subsections (b), (c) and
23 (d) of Section 5.01 of the Local Mass Transit District Act,
24 Section 60 of the Regional Cooperation and Smart Growth in
25 Eastern Will County Act, or subsections (e), (f) and (g) of
26 Section 4.03 of the Regional Transportation Authority Act, and
27 the amount thereof applied by the Department against any tax or
28 penalty or interest due or to become due under this Act or
29 under the Use Tax Act, the Service Occupation Tax Act, the
30 Service Use Tax Act, any local occupation or use tax
31 administered by the Department, Section 4 of the Water
32 Commission Act of 1985, subsections (b), (c) and (d) of Section
33 5.01 of the Local Mass Transit District Act, Section 60 of the
34 Regional Cooperation and Smart Growth in Eastern Will County

1 Act, or subsections (e), (f) and (g) of Section 4.03 of the
2 Regional Transportation Authority Act, from such assignee.
3 However, as to any claim for credit or refund filed with the
4 Department on and after each January 1 and July 1 no amount of
5 tax or penalty or interest erroneously paid (either in total or
6 partial liquidation of a tax or penalty or amount of interest
7 under this Act) more than 3 years prior to such January 1 and
8 July 1, respectively, shall be credited or refunded, except
9 that if both the Department and the taxpayer have agreed to an
10 extension of time to issue a notice of tax liability as
11 provided in Section 4 of this Act, such claim may be filed at
12 any time prior to the expiration of the period agreed upon.

13 No claim may be allowed for any amount paid to the
14 Department, whether paid voluntarily or involuntarily, if paid
15 in total or partial liquidation of an assessment which had
16 become final before the claim for credit or refund to recover
17 the amount so paid is filed with the Department, or if paid in
18 total or partial liquidation of a judgment or order of court.
19 No credit may be allowed or refund made for any amount paid by
20 or collected from any claimant unless it appears (a) that the
21 claimant bore the burden of such amount and has not been
22 relieved thereof nor reimbursed therefor and has not shifted
23 such burden directly or indirectly through inclusion of such
24 amount in the price of the tangible personal property sold by
25 him or her or in any manner whatsoever; and that no
26 understanding or agreement, written or oral, exists whereby he
27 or she or his or her legal representative may be relieved of
28 the burden of such amount, be reimbursed therefor or may shift
29 the burden thereof; or (b) that he or she or his or her legal
30 representative has repaid unconditionally such amount to his or
31 her vendee (1) who bore the burden thereof and has not shifted
32 such burden directly or indirectly, in any manner whatsoever;
33 (2) who, if he or she has shifted such burden, has repaid
34 unconditionally such amount to his own vendee; and (3) who is

1 not entitled to receive any reimbursement therefor from any
2 other source than from his or her vendor, nor to be relieved of
3 such burden in any manner whatsoever. No credit may be allowed
4 or refund made for any amount paid by or collected from any
5 claimant unless it appears that the claimant has
6 unconditionally repaid, to the purchaser, any amount collected
7 from the purchaser and retained by the claimant with respect to
8 the same transaction under the Use Tax Act.

9 Any credit or refund that is allowed under this Section
10 shall bear interest at the rate and in the manner specified in
11 the Uniform Penalty and Interest Act.

12 In case the Department determines that the claimant is
13 entitled to a refund, such refund shall be made only from such
14 appropriation as may be available for that purpose. If it
15 appears unlikely that the amount appropriated would permit
16 everyone having a claim allowed during the period covered by
17 such appropriation to elect to receive a cash refund, the
18 Department, by rule or regulation, shall provide for the
19 payment of refunds in hardship cases and shall define what
20 types of cases qualify as hardship cases.

21 If a retailer who has failed to pay retailers' occupation
22 tax on gross receipts from retail sales is required by the
23 Department to pay such tax, such retailer, without filing any
24 formal claim with the Department, shall be allowed to take
25 credit against such retailers' occupation tax liability to the
26 extent, if any, to which such retailer has paid an amount
27 equivalent to retailers' occupation tax or has paid use tax in
28 error to his or her vendor or vendors of the same tangible
29 personal property which such retailer bought for resale and did
30 not first use before selling it, and no penalty or interest
31 shall be charged to such retailer on the amount of such credit.
32 However, when such credit is allowed to the retailer by the
33 Department, the vendor is precluded from refunding any of that
34 tax to the retailer and filing a claim for credit or refund

1 with respect thereto with the Department. The provisions of
2 this amendatory Act shall be applied retroactively, regardless
3 of the date of the transaction.

4 (Source: P.A. 91-901, eff. 1-1-01.)

5 Section 999. Effective date. This Act takes effect upon the
6 earlier of (i) the date of the Record of Decision by the
7 Federal Aviation Authority or (ii) the date of any transfer of
8 land for the airport from the State of Illinois to the airport
9 authority. The governing body of the airport authority shall
10 promptly file a written certification with the Index Department
11 of the Secretary of State indicating the dates on which each of
12 these events occurred.".