



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4155

Introduced 2/27/2009, by Rep. Mike Fortner

#### SYNOPSIS AS INTRODUCED:

30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
30 ILCS 105/8.3	from Ch. 127, par. 144.3
30 ILCS 105/8h	
35 ILCS 105/3-10	from Ch. 120, par. 439.3-10
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	from Ch. 120, par. 441-10
35 ILCS 505/2	from Ch. 120, par. 418
35 ILCS 505/8	from Ch. 120, par. 424
35 ILCS 505/8b new	

Amends the State Finance Act. Provides that, beginning with fiscal year 2010 and thereafter, Road Fund moneys may not be appropriated to certain executive agencies. Prohibits certain transfers from the Road Fund or the State Construction Account Fund. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning on July 1, 2009, motor fuel and gasohol must be taxed under the Acts at the rate of 1.25% (now, 6.25%). Amends the Motor Fuel Tax Law. Imposes an additional tax of \$0.150 per gallon on motor fuel sold in the State. Provides that this additional tax must be adjusted each fiscal year to account for inflation. Provides that the proceeds of this additional tax must be deposited into the Metropolitan Transit and Road Improvement Fund and sets forth certain requirements regarding distributions from that Fund. Effective July 1, 2009.

LRB096 11814 HLH 22657 b

1 AN ACT concerning finance.

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

4 Section 5. The State Finance Act is amended by changing  
5 Sections 6z-18, 6z-20, 8.3, and 8h as follows:

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

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

19 A portion of the money paid into the Local Government Tax  
20 Fund from the 6.25% general use tax rate on the selling price  
21 of tangible personal property which is purchased outside  
22 Illinois at retail from a retailer and which is titled or  
23 registered by any agency of this State's government shall be

1 distributed to municipalities as provided in this paragraph.  
2 Each municipality shall receive the amount attributable to  
3 sales for which Illinois addresses for titling or registration  
4 purposes are given as being in such municipality. The remainder  
5 of the money paid into the Local Government Tax Fund from such  
6 sales shall be distributed to counties. Each county shall  
7 receive the amount attributable to sales for which Illinois  
8 addresses for titling or registration purposes are given as  
9 being located in the unincorporated area of such county.

10 A portion of the money paid into the Local Government Tax  
11 Fund from the 6.25% general rate (and, beginning July 1, 2000  
12 and through December 31, 2000 and beginning again on July 1,  
13 2009, the 1.25% rate on motor fuel and gasohol) on sales  
14 subject to taxation under the Retailers' Occupation Tax Act and  
15 the Service Occupation Tax Act, which occurred in  
16 municipalities, shall be distributed to each municipality,  
17 based upon the sales which occurred in that municipality. The  
18 remainder shall be distributed to each county, based upon the  
19 sales which occurred in the unincorporated area of such county.

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

1 exempt under the United States Constitution as a sale in  
2 interstate or foreign commerce.

3 Whenever the Department determines that a refund of money  
4 paid into the Local Government Tax Fund should be made to a  
5 claimant instead of issuing a credit memorandum, the Department  
6 shall notify the State Comptroller, who shall cause the order  
7 to be drawn for the amount specified, and to the person named,  
8 in such notification from the Department. Such refund shall be  
9 paid by the State Treasurer out of the Local Government Tax  
10 Fund.

11 On or before the 25th day of each calendar month, the  
12 Department shall prepare and certify to the Comptroller the  
13 disbursement of stated sums of money to named municipalities  
14 and counties, the municipalities and counties to be those  
15 entitled to distribution of taxes or penalties paid to the  
16 Department during the second preceding calendar month. The  
17 amount to be paid to each municipality or county shall be the  
18 amount (not including credit memoranda) collected during the  
19 second preceding calendar month by the Department and paid into  
20 the Local Government Tax Fund, plus an amount the Department  
21 determines is necessary to offset any amounts which were  
22 erroneously paid to a different taxing body, and not including  
23 an amount equal to the amount of refunds made during the second  
24 preceding calendar month by the Department, and not including  
25 any amount which the Department determines is necessary to  
26 offset any amounts which are payable to a different taxing body

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

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

14 The provisions directing the distributions from the  
15 special fund in the State Treasury provided for in this Section  
16 shall constitute an irrevocable and continuing appropriation  
17 of all amounts as provided herein. The State Treasurer and  
18 State Comptroller are hereby authorized to make distributions  
19 as provided in this Section.

20 In construing any development, redevelopment, annexation,  
21 preannexation or other lawful agreement in effect prior to  
22 September 1, 1990, which describes or refers to receipts from a  
23 county or municipal retailers' occupation tax, use tax or  
24 service occupation tax which now cannot be imposed, such  
25 description or reference shall be deemed to include the  
26 replacement revenue for such abolished taxes, distributed from

1 the Local Government Tax Fund.

2 (Source: P.A. 90-491, eff. 1-1-98; 91-51, eff. 6-30-99; 91-872,  
3 eff. 7-1-00.)

4 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

5 Sec. 6z-20. Of the money received from the 6.25% general  
6 rate (and, beginning July 1, 2000 and through December 31, 2000  
7 and beginning again on July 1, 2009, the 1.25% rate on motor  
8 fuel and gasohol) on sales subject to taxation under the  
9 Retailers' Occupation Tax Act and Service Occupation Tax Act  
10 and paid into the County and Mass Transit District Fund,  
11 distribution to the Regional Transportation Authority tax  
12 fund, created pursuant to Section 4.03 of the Regional  
13 Transportation Authority Act, for deposit therein shall be made  
14 based upon the retail sales occurring in a county having more  
15 than 3,000,000 inhabitants. The remainder shall be distributed  
16 to each county having 3,000,000 or fewer inhabitants based upon  
17 the retail sales occurring in each such county.

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

1 interstate or foreign commerce.

2 Of the money received from the 6.25% general use tax rate  
3 on tangible personal property which is purchased outside  
4 Illinois at retail from a retailer and which is titled or  
5 registered by any agency of this State's government and paid  
6 into the County and Mass Transit District Fund, the amount for  
7 which Illinois addresses for titling or registration purposes  
8 are given as being in each county having more than 3,000,000  
9 inhabitants shall be distributed into the Regional  
10 Transportation Authority tax fund, created pursuant to Section  
11 4.03 of the Regional Transportation Authority Act. The  
12 remainder of the money paid from such sales shall be  
13 distributed to each county based on sales for which Illinois  
14 addresses for titling or registration purposes are given as  
15 being located in the county. Any money paid into the Regional  
16 Transportation Authority Occupation and Use Tax Replacement  
17 Fund from the County and Mass Transit District Fund prior to  
18 January 14, 1991, which has not been paid to the Authority  
19 prior to that date, shall be transferred to the Regional  
20 Transportation Authority tax fund.

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

1 refund shall be paid by the State Treasurer out of the County  
2 and Mass Transit District Fund.

3 On or before the 25th day of each calendar month, the  
4 Department shall prepare and certify to the Comptroller the  
5 disbursement of stated sums of money to the Regional  
6 Transportation Authority and to named counties, the counties to  
7 be those entitled to distribution, as hereinabove provided, of  
8 taxes or penalties paid to the Department during the second  
9 preceding calendar month. The amount to be paid to the Regional  
10 Transportation Authority and each county having 3,000,000 or  
11 fewer inhabitants shall be the amount (not including credit  
12 memoranda) collected during the second preceding calendar  
13 month by the Department and paid into the County and Mass  
14 Transit District Fund, plus an amount the Department determines  
15 is necessary to offset any amounts which were erroneously paid  
16 to a different taxing body, and not including an amount equal  
17 to the amount of refunds made during the second preceding  
18 calendar month by the Department, and not including any amount  
19 which the Department determines is necessary to offset any  
20 amounts which were payable to a different taxing body but were  
21 erroneously paid to the Regional Transportation Authority or  
22 county. Within 10 days after receipt, by the Comptroller, of  
23 the disbursement certification to the Regional Transportation  
24 Authority and counties, provided for in this Section to be  
25 given to the Comptroller by the Department, the Comptroller  
26 shall cause the orders to be drawn for the respective amounts

1 in accordance with the directions contained in such  
2 certification.

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

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

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

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

2 (30 ILCS 105/8.3) (from Ch. 127, par. 144.3)

3 Sec. 8.3. Money in the Road Fund shall, if and when the  
4 State of Illinois incurs any bonded indebtedness for the  
5 construction of permanent highways, be set aside and used for  
6 the purpose of paying and discharging annually the principal  
7 and interest on that bonded indebtedness then due and payable,  
8 and for no other purpose. The surplus, if any, in the Road Fund  
9 after the payment of principal and interest on that bonded  
10 indebtedness then annually due shall be used as follows:

11 first -- to pay the cost of administration of Chapters  
12 2 through 10 of the Illinois Vehicle Code, except the cost  
13 of administration of Articles I and II of Chapter 3 of that  
14 Code; and

15 secondly -- for expenses of the Department of  
16 Transportation for construction, reconstruction,  
17 improvement, repair, maintenance, operation, and  
18 administration of highways in accordance with the  
19 provisions of laws relating thereto, or for any purpose  
20 related or incident to and connected therewith, including  
21 the separation of grades of those highways with railroads  
22 and with highways and including the payment of awards made  
23 by the Illinois Workers' Compensation Commission under the  
24 terms of the Workers' Compensation Act or Workers'  
25 Occupational Diseases Act for injury or death of an

1 employee of the Division of Highways in the Department of  
2 Transportation; or for the acquisition of land and the  
3 erection of buildings for highway purposes, including the  
4 acquisition of highway right-of-way or for investigations  
5 to determine the reasonably anticipated future highway  
6 needs; or for making of surveys, plans, specifications and  
7 estimates for and in the construction and maintenance of  
8 flight strips and of highways necessary to provide access  
9 to military and naval reservations, to defense industries  
10 and defense-industry sites, and to the sources of raw  
11 materials and for replacing existing highways and highway  
12 connections shut off from general public use at military  
13 and naval reservations and defense-industry sites, or for  
14 the purchase of right-of-way, except that the State shall  
15 be reimbursed in full for any expense incurred in building  
16 the flight strips; or for the operating and maintaining of  
17 highway garages; or for patrolling and policing the public  
18 highways and conserving the peace; or for the operating  
19 expenses of the Department relating to the administration  
20 of public transportation programs; or for any of those  
21 purposes or any other purpose that may be provided by law.

22 Appropriations for any of those purposes are payable from  
23 the Road Fund. Appropriations may also be made from the Road  
24 Fund for the administrative expenses of any State agency that  
25 are related to motor vehicles or arise from the use of motor  
26 vehicles.

1           Beginning with fiscal year 1980 and thereafter, no Road  
2 Fund monies shall be appropriated to the following Departments  
3 or agencies of State government for administration, grants, or  
4 operations; but this limitation is not a restriction upon  
5 appropriating for those purposes any Road Fund monies that are  
6 eligible for federal reimbursement;

7           1. Department of Public Health;

8           2. Department of Transportation, only with respect to  
9 subsidies for one-half fare Student Transportation and  
10 Reduced Fare for Elderly;

11           3. Department of Central Management Services, except  
12 for expenditures incurred for group insurance premiums of  
13 appropriate personnel;

14           4. Judicial Systems and Agencies.

15           Beginning with fiscal year 1981 and thereafter, no Road  
16 Fund monies shall be appropriated to the following Departments  
17 or agencies of State government for administration, grants, or  
18 operations; but this limitation is not a restriction upon  
19 appropriating for those purposes any Road Fund monies that are  
20 eligible for federal reimbursement:

21           1. Department of State Police, except for expenditures  
22 with respect to the Division of Operations;

23           2. Department of Transportation, only with respect to  
24 Intercity Rail Subsidies and Rail Freight Services.

25           Beginning with fiscal year 1982 and thereafter, no Road  
26 Fund monies shall be appropriated to the following Departments

1 or agencies of State government for administration, grants, or  
2 operations; but this limitation is not a restriction upon  
3 appropriating for those purposes any Road Fund monies that are  
4 eligible for federal reimbursement: Department of Central  
5 Management Services, except for awards made by the Illinois  
6 Workers' Compensation Commission under the terms of the  
7 Workers' Compensation Act or Workers' Occupational Diseases  
8 Act for injury or death of an employee of the Division of  
9 Highways in the Department of Transportation.

10 Beginning with fiscal year 1984 and thereafter, no Road  
11 Fund monies shall be appropriated to the following Departments  
12 or agencies of State government for administration, grants, or  
13 operations; but this limitation is not a restriction upon  
14 appropriating for those purposes any Road Fund monies that are  
15 eligible for federal reimbursement:

- 16 1. Department of State Police, except not more than 40%
- 17 of the funds appropriated for the Division of Operations;
- 18 2. State Officers.

19 Beginning with fiscal year 1984 and thereafter, no Road  
20 Fund monies shall be appropriated to any Department or agency  
21 of State government for administration, grants, or operations  
22 except as provided hereafter; but this limitation is not a  
23 restriction upon appropriating for those purposes any Road Fund  
24 monies that are eligible for federal reimbursement. It shall  
25 not be lawful to circumvent the above appropriation limitations  
26 by governmental reorganization or other methods.

1 Appropriations shall be made from the Road Fund only in  
2 accordance with the provisions of this Section.

3 Money in the Road Fund shall, if and when the State of  
4 Illinois incurs any bonded indebtedness for the construction of  
5 permanent highways, be set aside and used for the purpose of  
6 paying and discharging during each fiscal year the principal  
7 and interest on that bonded indebtedness as it becomes due and  
8 payable as provided in the Transportation Bond Act, and for no  
9 other purpose. The surplus, if any, in the Road Fund after the  
10 payment of principal and interest on that bonded indebtedness  
11 then annually due shall be used as follows:

12 first -- to pay the cost of administration of Chapters  
13 2 through 10 of the Illinois Vehicle Code; and

14 secondly -- no Road Fund monies derived from fees,  
15 excises, or license taxes relating to registration,  
16 operation and use of vehicles on public highways or to  
17 fuels used for the propulsion of those vehicles, shall be  
18 appropriated or expended other than for costs of  
19 administering the laws imposing those fees, excises, and  
20 license taxes, statutory refunds and adjustments allowed  
21 thereunder, administrative costs of the Department of  
22 Transportation, including, but not limited to, the  
23 operating expenses of the Department relating to the  
24 administration of public transportation programs, payment  
25 of debts and liabilities incurred in construction and  
26 reconstruction of public highways and bridges, acquisition

1 of rights-of-way for and the cost of construction,  
2 reconstruction, maintenance, repair, and operation of  
3 public highways and bridges under the direction and  
4 supervision of the State, political subdivision, or  
5 municipality collecting those monies, and the costs for  
6 patrolling and policing the public highways (by State,  
7 political subdivision, or municipality collecting that  
8 money) for enforcement of traffic laws. The separation of  
9 grades of such highways with railroads and costs associated  
10 with protection of at-grade highway and railroad crossing  
11 shall also be permissible.

12 Appropriations for any of such purposes are payable from  
13 the Road Fund or the Grade Crossing Protection Fund as provided  
14 in Section 8 of the Motor Fuel Tax Law.

15 Except as provided in this paragraph, beginning with fiscal  
16 year 1991 and thereafter, no Road Fund monies shall be  
17 appropriated to the Department of State Police for the purposes  
18 of this Section in excess of its total fiscal year 1990 Road  
19 Fund appropriations for those purposes unless otherwise  
20 provided in Section 5g of this Act. For fiscal years 2003,  
21 2004, 2005, 2006, and 2007 only, no Road Fund monies shall be  
22 appropriated to the Department of State Police for the purposes  
23 of this Section in excess of \$97,310,000. For fiscal year 2008  
24 only, no Road Fund monies shall be appropriated to the  
25 Department of State Police for the purposes of this Section in  
26 excess of \$106,100,000. For fiscal year 2009 only, no Road Fund

1 monies shall be appropriated to the Department of State Police  
2 for the purposes of this Section in excess of \$114,700,000. It  
3 shall not be lawful to circumvent this limitation on  
4 appropriations by governmental reorganization or other methods  
5 unless otherwise provided in Section 5g of this Act.

6 In fiscal year 1994, no Road Fund monies shall be  
7 appropriated to the Secretary of State for the purposes of this  
8 Section in excess of the total fiscal year 1991 Road Fund  
9 appropriations to the Secretary of State for those purposes,  
10 plus \$9,800,000. It shall not be lawful to circumvent this  
11 limitation on appropriations by governmental reorganization or  
12 other method.

13 Beginning with fiscal year 1995 and thereafter, no Road  
14 Fund monies shall be appropriated to the Secretary of State for  
15 the purposes of this Section in excess of the total fiscal year  
16 1994 Road Fund appropriations to the Secretary of State for  
17 those purposes. It shall not be lawful to circumvent this  
18 limitation on appropriations by governmental reorganization or  
19 other methods.

20 Beginning with fiscal year 2000, total Road Fund  
21 appropriations to the Secretary of State for the purposes of  
22 this Section shall not exceed the amounts specified for the  
23 following fiscal years:

24	Fiscal Year 2000	\$80,500,000;
25	Fiscal Year 2001	\$80,500,000;
26	Fiscal Year 2002	\$80,500,000;

1	Fiscal Year 2003	\$130,500,000;
2	Fiscal Year 2004	\$130,500,000;
3	Fiscal Year 2005	\$130,500,000;
4	Fiscal Year 2006	\$130,500,000;
5	Fiscal Year 2007	\$130,500,000;
6	Fiscal Year 2008	\$130,500,000;
7	Fiscal Year 2009	\$130,500,000;
8	Fiscal Year 2010 and each year thereafter	\$30,500,000.

9           It shall not be lawful to circumvent this limitation on  
10 appropriations by governmental reorganization or other  
11 methods.

12           No new program may be initiated in fiscal year 1991 and  
13 thereafter that is not consistent with the limitations imposed  
14 by this Section for fiscal year 1984 and thereafter, insofar as  
15 appropriation of Road Fund monies is concerned.

16           Nothing in this Section prohibits transfers from the Road  
17 Fund to the State Construction Account Fund under Section 5e of  
18 this Act; nor to the General Revenue Fund, as authorized by  
19 this amendatory Act of the 93rd General Assembly.

20           The additional amounts authorized for expenditure in this  
21 Section by Public Acts 92-0600, 93-0025, 93-0839, and 94-91  
22 shall be repaid to the Road Fund from the General Revenue Fund  
23 in the next succeeding fiscal year that the General Revenue  
24 Fund has a positive budgetary balance, as determined by  
25 generally accepted accounting principles applicable to  
26 government.

1       Beginning with fiscal year 2010 and thereafter, no Road  
2       Fund moneys may be appropriated to the Department of Central  
3       Management Services, the Department of Employment Security,  
4       the Department of Revenue, the Court of Claims, or any other  
5       State agency (other than the Department of State Police and the  
6       Department of Transportation and the Secretary of State) for  
7       the purposes of this Section. Appropriations to those entities  
8       for those purposes shall, instead, be made from the General  
9       Revenue Fund. It shall not be lawful to circumvent this  
10       limitation on appropriations by governmental reorganization or  
11       other methods. Nothing in this paragraph prohibits  
12       appropriations from the Road Fund to the Department of State  
13       Police for the purposes of the highway patrol budget only.

14       The additional amounts authorized for expenditure by the  
15       Secretary of State and the Department of State Police in this  
16       Section by this amendatory Act of the 94th General Assembly  
17       shall be repaid to the Road Fund from the General Revenue Fund  
18       in the next succeeding fiscal year that the General Revenue  
19       Fund has a positive budgetary balance, as determined by  
20       generally accepted accounting principles applicable to  
21       government.

22       (Source: P.A. 94-91, eff. 7-1-05; 94-839, eff. 6-6-06; 95-707,  
23       eff. 1-11-08; 95-744, eff. 7-18-08.)

24       (30 ILCS 105/8h)

25       Sec. 8h. Transfers to General Revenue Fund.

1           (a) Except as otherwise provided in this Section and  
2 Section 8n of this Act, and notwithstanding any other State law  
3 to the contrary, the Governor may, through June 30, 2007, from  
4 time to time direct the State Treasurer and Comptroller to  
5 transfer a specified sum from any fund held by the State  
6 Treasurer to the General Revenue Fund in order to help defray  
7 the State's operating costs for the fiscal year. The total  
8 transfer under this Section from any fund in any fiscal year  
9 shall not exceed the lesser of (i) 8% of the revenues to be  
10 deposited into the fund during that fiscal year or (ii) an  
11 amount that leaves a remaining fund balance of 25% of the July  
12 1 fund balance of that fiscal year. In fiscal year 2005 only,  
13 prior to calculating the July 1, 2004 final balances, the  
14 Governor may calculate and direct the State Treasurer with the  
15 Comptroller to transfer additional amounts determined by  
16 applying the formula authorized in Public Act 93-839 to the  
17 funds balances on July 1, 2003. No transfer may be made from a  
18 fund under this Section that would have the effect of reducing  
19 the available balance in the fund to an amount less than the  
20 amount remaining unexpended and unreserved from the total  
21 appropriation from that fund estimated to be expended for that  
22 fiscal year. This Section does not apply to any funds that are  
23 restricted by federal law to a specific use, to any funds in  
24 the Motor Fuel Tax Fund, the Intercity Passenger Rail Fund, the  
25 Hospital Provider Fund, the Medicaid Provider Relief Fund, the  
26 Teacher Health Insurance Security Fund, the Reviewing Court

1 Alternative Dispute Resolution Fund, the Voters' Guide Fund,  
2 the Foreign Language Interpreter Fund, the Lawyers' Assistance  
3 Program Fund, the Supreme Court Federal Projects Fund, the  
4 Supreme Court Special State Projects Fund, the Supplemental  
5 Low-Income Energy Assistance Fund, the Good Samaritan Energy  
6 Trust Fund, the Low-Level Radioactive Waste Facility  
7 Development and Operation Fund, the Horse Racing Equity Trust  
8 Fund, the Metabolic Screening and Treatment Fund, or the  
9 Hospital Basic Services Preservation Fund, or to any funds to  
10 which Section 70-50 of the Nurse Practice Act applies. No  
11 transfers may be made under this Section from the Pet  
12 Population Control Fund. Notwithstanding any other provision  
13 of this Section, for fiscal year 2004, the total transfer under  
14 this Section from the Road Fund or the State Construction  
15 Account Fund shall not exceed the lesser of (i) 5% of the  
16 revenues to be deposited into the fund during that fiscal year  
17 or (ii) 25% of the beginning balance in the fund. For fiscal  
18 year 2005 through fiscal year 2007, no amounts may be  
19 transferred under this Section from the Road Fund, the State  
20 Construction Account Fund, the Criminal Justice Information  
21 Systems Trust Fund, the Wireless Service Emergency Fund, or the  
22 Mandatory Arbitration Fund. No transfers may be made under this  
23 Section from the Road Fund or the State Construction Account  
24 Fund on or after the effective date of this amendatory Act of  
25 the 96th General Assembly.

26 In determining the available balance in a fund, the

1 Governor may include receipts, transfers into the fund, and  
2 other resources anticipated to be available in the fund in that  
3 fiscal year.

4 The State Treasurer and Comptroller shall transfer the  
5 amounts designated under this Section as soon as may be  
6 practicable after receiving the direction to transfer from the  
7 Governor.

8 (a-5) Transfers directed to be made under this Section on  
9 or before February 28, 2006 that are still pending on May 19,  
10 2006 (the effective date of Public Act 94-774) shall be  
11 redirected as provided in Section 8n of this Act.

12 (b) This Section does not apply to: (i) the Ticket For The  
13 Cure Fund; (ii) any fund established under the Community Senior  
14 Services and Resources Act; or (iii) on or after January 1,  
15 2006 (the effective date of Public Act 94-511), the Child Labor  
16 and Day and Temporary Labor Enforcement Fund.

17 (c) This Section does not apply to the Demutualization  
18 Trust Fund established under the Uniform Disposition of  
19 Unclaimed Property Act.

20 (d) This Section does not apply to moneys set aside in the  
21 Illinois State Podiatric Disciplinary Fund for podiatric  
22 scholarships and residency programs under the Podiatric  
23 Scholarship and Residency Act.

24 (e) Subsection (a) does not apply to, and no transfer may  
25 be made under this Section from, the Pension Stabilization  
26 Fund.

1 (f) Subsection (a) does not apply to, and no transfer may  
2 be made under this Section from, the Illinois Power Agency  
3 Operations Fund, the Illinois Power Agency Facilities Fund, the  
4 Illinois Power Agency Debt Service Fund, and the Illinois Power  
5 Agency Trust Fund.

6 (g) This Section does not apply to the Veterans Service  
7 Organization Reimbursement Fund.

8 (h) This Section does not apply to the Supreme Court  
9 Historic Preservation Fund.

10 (i) This Section does not apply to, and no transfer may be  
11 made under this Section from, the Money Follows the Person  
12 Budget Transfer Fund.

13 (Source: P.A. 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511,  
14 eff. 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05;  
15 94-645, eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff.  
16 11-2-05; 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; 94-773,  
17 eff. 5-18-06; 94-774, eff. 5-19-06; 94-804, eff. 5-26-06;  
18 94-839, eff. 6-6-06; 95-331, eff. 8-21-07; 95-410, eff.  
19 8-24-07; 95-481, eff. 8-28-07; 95-629, eff. 9-25-07; 95-639,  
20 eff. 10-5-07; 95-695, eff. 11-5-07; 95-744, eff. 7-18-08;  
21 95-876, eff. 8-21-08.)

22 Section 10. The Use Tax Act is amended by changing Sections  
23 3-10 as follows:

24 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

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

22           Beginning on July 1, 2000 and through December 31, 2000 and  
23 beginning again July 1, 2009, with respect to motor fuel, as  
24 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
25 as defined in Section 3-40 of the Use Tax Act, the tax is  
26 imposed at the rate of 1.25%.

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

10           With respect to majority blended ethanol fuel, the tax  
11 imposed by this Act does not apply to the proceeds of sales  
12 made on or after July 1, 2003 and on or before December 31,  
13 2013 but applies to 100% of the proceeds of sales made  
14 thereafter.

15           With respect to biodiesel blends with no less than 1% and  
16 no more than 10% biodiesel, the tax imposed by this Act applies  
17 to (i) 80% of the proceeds of sales made on or after July 1,  
18 2003 and on or before December 31, 2013 and (ii) 100% of the  
19 proceeds of sales made thereafter. If, at any time, however,  
20 the tax under this Act on sales of biodiesel blends with no  
21 less than 1% and no more than 10% biodiesel is imposed at the  
22 rate of 1.25%, then the tax imposed by this Act applies to 100%  
23 of the proceeds of sales of biodiesel blends with no less than  
24 1% and no more than 10% biodiesel made during that time.

25           With respect to 100% biodiesel and biodiesel blends with  
26 more than 10% but no more than 99% biodiesel, the tax imposed

1 by this Act does not apply to the proceeds of sales made on or  
2 after July 1, 2003 and on or before December 31, 2013 but  
3 applies to 100% of the proceeds of sales made thereafter.

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

24 Notwithstanding any other provisions of this Act, "food for  
25 human consumption that is to be consumed off the premises where  
26 it is sold" includes all food sold through a vending machine,

1 except soft drinks and food products that are dispensed hot  
2 from a vending machine, regardless of the location of the  
3 vending machine.

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

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

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

14 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

21 Beginning on July 1, 2000 and through December 31, 2000 and  
22 beginning again on July 1, 2009, with respect to motor fuel, as  
23 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
24 as defined in Section 3-40 of the Use Tax Act, the tax is

1 imposed at the rate of 1.25%.

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

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

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

1 than 1% and no more than 10% biodiesel is imposed at the rate  
2 of 1.25%, then the tax imposed by this Act applies to 100% of  
3 the proceeds of sales of biodiesel blends with no less than 1%  
4 and no more than 10% biodiesel made during that time.

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

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

22 The tax shall be imposed at the rate of 1% on food prepared  
23 for immediate consumption and transferred incident to a sale of  
24 service subject to this Act or the Service Occupation Tax Act  
25 by an entity licensed under the Hospital Licensing Act, the  
26 Nursing Home Care Act, or the Child Care Act of 1969. The tax

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

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

1 vending machine.

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

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

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

12 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

13 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
14 Section, the tax imposed by this Act is at the rate of 6.25% of  
15 the "selling price", as defined in Section 2 of the Service Use  
16 Tax Act, of the tangible personal property. For the purpose of  
17 computing this tax, in no event shall the "selling price" be  
18 less than the cost price to the serviceman of the tangible  
19 personal property transferred. The selling price of each item  
20 of tangible personal property transferred as an incident of a  
21 sale of service may be shown as a distinct and separate item on  
22 the serviceman's billing to the service customer. If the  
23 selling price is not so shown, the selling price of the  
24 tangible personal property is deemed to be 50% of the

1 serviceman's entire billing to the service customer. When,  
2 however, a serviceman contracts to design, develop, and produce  
3 special order machinery or equipment, the tax imposed by this  
4 Act shall be based on the serviceman's cost price of the  
5 tangible personal property transferred incident to the  
6 completion of the contract.

7 Beginning on July 1, 2000 and through December 31, 2000 and  
8 beginning again on July 1, 2009, with respect to motor fuel, as  
9 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
10 as defined in Section 3-40 of the Use Tax Act, the tax is  
11 imposed at the rate of 1.25%.

12 With respect to gasohol, as defined in the Use Tax Act, the  
13 tax imposed by this Act shall apply to (i) 70% of the cost  
14 price of property transferred as an incident to the sale of  
15 service on or after January 1, 1990, and before July 1, 2003,  
16 (ii) 80% of the selling price of property transferred as an  
17 incident to the sale of service on or after July 1, 2003 and on  
18 or before December 31, 2013, and (iii) 100% of the cost price  
19 thereafter. If, at any time, however, the tax under this Act on  
20 sales of gasohol, as defined in the Use Tax Act, is imposed at  
21 the rate of 1.25%, then the tax imposed by this Act applies to  
22 100% of the proceeds of sales of gasohol made during that time.

23 With respect to majority blended ethanol fuel, as defined  
24 in the Use Tax Act, the tax imposed by this Act does not apply  
25 to the selling price of property transferred as an incident to  
26 the sale of service on or after July 1, 2003 and on or before

1 December 31, 2013 but applies to 100% of the selling price  
2 thereafter.

3 With respect to biodiesel blends, as defined in the Use Tax  
4 Act, with no less than 1% and no more than 10% biodiesel, the  
5 tax imposed by this Act applies to (i) 80% of the selling price  
6 of property transferred as an incident to the sale of service  
7 on or after July 1, 2003 and on or before December 31, 2013 and  
8 (ii) 100% of the proceeds of the selling price thereafter. If,  
9 at any time, however, the tax under this Act on sales of  
10 biodiesel blends, as defined in the Use Tax Act, with no less  
11 than 1% and no more than 10% biodiesel is imposed at the rate  
12 of 1.25%, then the tax imposed by this Act applies to 100% of  
13 the proceeds of sales of biodiesel blends with no less than 1%  
14 and no more than 10% biodiesel made during that time.

15 With respect to 100% biodiesel, as defined in the Use Tax  
16 Act, and biodiesel blends, as defined in the Use Tax Act, with  
17 more than 10% but no more than 99% biodiesel material, the tax  
18 imposed by this Act does not apply to the proceeds of the  
19 selling price of property transferred as an incident to the  
20 sale of service on or after July 1, 2003 and on or before  
21 December 31, 2013 but applies to 100% of the selling price  
22 thereafter.

23 At the election of any registered serviceman made for each  
24 fiscal year, sales of service in which the aggregate annual  
25 cost price of tangible personal property transferred as an  
26 incident to the sales of service is less than 35%, or 75% in

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

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

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

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

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

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

15 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

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

20 Beginning on July 1, 2000 and through December 31, 2000 and  
21 beginning again on July 1, 2009, with respect to motor fuel, as  
22 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
23 as defined in Section 3-40 of the Use Tax Act, the tax is  
24 imposed at the rate of 1.25%.

1           Within 14 days after the effective date of this amendatory  
2 Act of the 91st General Assembly, each retailer of motor fuel  
3 and gasohol shall cause the following notice to be posted in a  
4 prominently visible place on each retail dispensing device that  
5 is used to dispense motor fuel or gasohol in the State of  
6 Illinois: "As of July 1, 2000, the State of Illinois has  
7 eliminated the State's share of sales tax on motor fuel and  
8 gasohol through December 31, 2000. The price on this pump  
9 should reflect the elimination of the tax." The notice shall be  
10 printed in bold print on a sign that is no smaller than 4  
11 inches by 8 inches. The sign shall be clearly visible to  
12 customers. Any retailer who fails to post or maintain a  
13 required sign through December 31, 2000 is guilty of a petty  
14 offense for which the fine shall be \$500 per day per each  
15 retail premises where a violation occurs.

16           With respect to gasohol, as defined in the Use Tax Act, the  
17 tax imposed by this Act applies to (i) 70% of the proceeds of  
18 sales made on or after January 1, 1990, and before July 1,  
19 2003, (ii) 80% of the proceeds of sales made on or after July  
20 1, 2003 and on or before December 31, 2013, and (iii) 100% of  
21 the proceeds of sales made thereafter. If, at any time,  
22 however, the tax under this Act on sales of gasohol, as defined  
23 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
24 tax imposed by this Act applies to 100% of the proceeds of  
25 sales of gasohol made during that time.

26           With respect to majority blended ethanol fuel, as defined

1 in the Use Tax Act, the tax imposed by this Act does not apply  
2 to the proceeds of sales made on or after July 1, 2003 and on or  
3 before December 31, 2013 but applies to 100% of the proceeds of  
4 sales made thereafter.

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

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

22 With respect to food for human consumption that is to be  
23 consumed off the premises where it is sold (other than  
24 alcoholic beverages, soft drinks, and food that has been  
25 prepared for immediate consumption) and prescription and  
26 nonprescription medicines, drugs, medical appliances,

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

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

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

23 Section 30. The Motor Fuel Tax Law is amended by changing  
24 Sections 2 and 8 and by adding Section 8b as follows:

1 (35 ILCS 505/2) (from Ch. 120, par. 418)

2 Sec. 2. A tax is imposed on the privilege of operating  
3 motor vehicles upon the public highways and recreational-type  
4 watercraft upon the waters of this State.

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

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

20 (c) A tax is imposed upon the privilege of engaging in the  
21 business of selling motor fuel as a retailer or reseller on all  
22 motor fuel used in motor vehicles operating on the public  
23 highways and recreational type watercraft operating upon the  
24 waters of this State: (1) at the rate of 3 cents per gallon on  
25 motor fuel owned or possessed by such retailer or reseller at  
26 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per

1 gallon on motor fuel owned or possessed by such retailer or  
2 reseller at 12:01 A.M. on January 1, 1990.

3 Retailers and resellers who are subject to this additional  
4 tax shall be required to inventory such motor fuel and pay this  
5 additional tax in a manner prescribed by the Department of  
6 Revenue.

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

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

13 (e) The collection of a tax, based on gallonage of all  
14 products commonly or commercially known or sold as 1-K  
15 kerosene, regardless of its classification or uses, is  
16 prohibited (i) on and after July 1, 1992 until December 31,  
17 1999, except when the 1-K kerosene is either: (1) delivered  
18 into bulk storage facilities of a bulk user, or (2) delivered  
19 directly into the fuel supply tanks of motor vehicles and (ii)  
20 on and after January 1, 2000. Beginning on January 1, 2000, the  
21 collection of a tax, based on gallonage of all products  
22 commonly or commercially known or sold as 1-K kerosene,  
23 regardless of its classification or uses, is prohibited except  
24 when the 1-K kerosene is delivered directly into a storage tank  
25 that is located at a facility that has withdrawal facilities  
26 that are readily accessible to and are capable of dispensing

1 1-K kerosene into the fuel supply tanks of motor vehicles.

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

6 (f) In addition to the taxes established in the foregoing  
7 subsections, a tax is imposed on the privilege of operating  
8 motor vehicles upon the public highways and operating  
9 recreational type watercraft upon the waters of this State. For  
10 State fiscal year 2010, the tax imposed by this paragraph is at  
11 the rate of \$0.150 per gallon on all motor fuel used in motor  
12 vehicles operating on the public highways, recreational type  
13 watercraft operating upon the waters, special fuel as defined  
14 in Section 1.13, and diesel fuel sold in this State. For each  
15 State fiscal year thereafter, the rate of tax is adjusted over  
16 the tax rate of the previous State fiscal year by the annual  
17 rate of increase or decrease, for the previous calendar year,  
18 of the Consumer Price Index for All Urban Consumers for all  
19 items, published by the United States Bureau of Labor  
20 Statistics. The purpose of this tax is to provide grants to  
21 public entities in the State of Illinois for transportation  
22 purposes as provided in Section 8b of this Act.

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

24 (35 ILCS 505/8) (from Ch. 120, par. 424)

25 Sec. 8. Except as provided in Section 8a, Section 8b,

1 subdivision (h) (1) of Section 12a, Section 13a.6, and items 13,  
2 14, 15, and 16 of Section 15, all money received by the  
3 Department under this Act, including payments made to the  
4 Department by member jurisdictions participating in the  
5 International Fuel Tax Agreement, shall be deposited in a  
6 special fund in the State treasury, to be known as the "Motor  
7 Fuel Tax Fund", and shall be used as follows:

8 (a) 2 1/2 cents per gallon of the tax collected on special  
9 fuel under paragraph (b) of Section 2 and Section 13a of this  
10 Act shall be transferred to the State Construction Account Fund  
11 in the State Treasury;

12 (b) \$420,000 shall be transferred each month to the State  
13 Boating Act Fund to be used by the Department of Natural  
14 Resources for the purposes specified in Article X of the Boat  
15 Registration and Safety Act;

16 (c) \$2,250,000 shall be transferred each month to the Grade  
17 Crossing Protection Fund to be used as follows: not less than  
18 \$6,000,000 each fiscal year shall be used for the construction  
19 or reconstruction of rail highway grade separation structures;  
20 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter  
21 shall be transferred to the Transportation Regulatory Fund and  
22 shall be accounted for as part of the rail carrier portion of  
23 such funds and shall be used to pay the cost of administration  
24 of the Illinois Commerce Commission's railroad safety program  
25 in connection with its duties under subsection (3) of Section  
26 18c-7401 of the Illinois Vehicle Code, with the remainder to be

1 used by the Department of Transportation upon order of the  
2 Illinois Commerce Commission, to pay that part of the cost  
3 apportioned by such Commission to the State to cover the  
4 interest of the public in the use of highways, roads, streets,  
5 or pedestrian walkways in the county highway system, township  
6 and district road system, or municipal street system as defined  
7 in the Illinois Highway Code, as the same may from time to time  
8 be amended, for separation of grades, for installation,  
9 construction or reconstruction of crossing protection or  
10 reconstruction, alteration, relocation including construction  
11 or improvement of any existing highway necessary for access to  
12 property or improvement of any grade crossing including the  
13 necessary highway approaches thereto of any railroad across the  
14 highway or public road, or for the installation, construction,  
15 reconstruction, or maintenance of a pedestrian walkway over or  
16 under a railroad right-of-way, as provided for in and in  
17 accordance with Section 18c-7401 of the Illinois Vehicle Code.  
18 The Commission shall not order more than \$2,000,000 per year in  
19 Grade Crossing Protection Fund moneys for pedestrian walkways.  
20 In entering orders for projects for which payments from the  
21 Grade Crossing Protection Fund will be made, the Commission  
22 shall account for expenditures authorized by the orders on a  
23 cash rather than an accrual basis. For purposes of this  
24 requirement an "accrual basis" assumes that the total cost of  
25 the project is expended in the fiscal year in which the order  
26 is entered, while a "cash basis" allocates the cost of the

1 project among fiscal years as expenditures are actually made.  
2 To meet the requirements of this subsection, the Illinois  
3 Commerce Commission shall develop annual and 5-year project  
4 plans of rail crossing capital improvements that will be paid  
5 for with moneys from the Grade Crossing Protection Fund. The  
6 annual project plan shall identify projects for the succeeding  
7 fiscal year and the 5-year project plan shall identify projects  
8 for the 5 directly succeeding fiscal years. The Commission  
9 shall submit the annual and 5-year project plans for this Fund  
10 to the Governor, the President of the Senate, the Senate  
11 Minority Leader, the Speaker of the House of Representatives,  
12 and the Minority Leader of the House of Representatives on the  
13 first Wednesday in April of each year;

14 (d) of the amount remaining after allocations provided for  
15 in subsections (a), (b) and (c), a sufficient amount shall be  
16 reserved to pay all of the following:

17 (1) the costs of the Department of Revenue in  
18 administering this Act;

19 (2) the costs of the Department of Transportation in  
20 performing its duties imposed by the Illinois Highway Code  
21 for supervising the use of motor fuel tax funds apportioned  
22 to municipalities, counties and road districts;

23 (3) refunds provided for in Section 13 of this Act and  
24 under the terms of the International Fuel Tax Agreement  
25 referenced in Section 14a;

26 (4) from October 1, 1985 until June 30, 1994, the

1 administration of the Vehicle Emissions Inspection Law,  
2 which amount shall be certified monthly by the  
3 Environmental Protection Agency to the State Comptroller  
4 and shall promptly be transferred by the State Comptroller  
5 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
6 Inspection Fund, and for the period July 1, 1994 through  
7 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
8 the period July 1, 2000 through June 30, 2003, one-twelfth  
9 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
10 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each  
11 July 1 and October 1, or as soon thereafter as may be  
12 practical, during the period July 1, 2004 through June 30,  
13 2009, for the administration of the Vehicle Emissions  
14 Inspection Law of 2005, to be transferred by the State  
15 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
16 the Vehicle Inspection Fund;

17 (5) amounts ordered paid by the Court of Claims; and

18 (6) payment of motor fuel use taxes due to member  
19 jurisdictions under the terms of the International Fuel Tax  
20 Agreement. The Department shall certify these amounts to  
21 the Comptroller by the 15th day of each month; the  
22 Comptroller shall cause orders to be drawn for such  
23 amounts, and the Treasurer shall administer those amounts  
24 on or before the last day of each month;

25 (e) after allocations for the purposes set forth in  
26 subsections (a), (b), (c) and (d), the remaining amount shall

1 be apportioned as follows:

2 (1) Until January 1, 2000, 58.4%, and beginning January  
3 1, 2000, 45.6% shall be deposited as follows:

4 (A) 37% into the State Construction Account Fund,  
5 and

6 (B) 63% into the Road Fund, \$1,250,000 of which  
7 shall be reserved each month for the Department of  
8 Transportation to be used in accordance with the  
9 provisions of Sections 6-901 through 6-906 of the  
10 Illinois Highway Code;

11 (2) Until January 1, 2000, 41.6%, and beginning January  
12 1, 2000, 54.4% shall be transferred to the Department of  
13 Transportation to be distributed as follows:

14 (A) 49.10% to the municipalities of the State,

15 (B) 16.74% to the counties of the State having  
16 1,000,000 or more inhabitants,

17 (C) 18.27% to the counties of the State having less  
18 than 1,000,000 inhabitants,

19 (D) 15.89% to the road districts of the State.

20 As soon as may be after the first day of each month the  
21 Department of Transportation shall allot to each municipality  
22 its share of the amount apportioned to the several  
23 municipalities which shall be in proportion to the population  
24 of such municipalities as determined by the last preceding  
25 municipal census if conducted by the Federal Government or  
26 Federal census. If territory is annexed to any municipality

1 subsequent to the time of the last preceding census the  
2 corporate authorities of such municipality may cause a census  
3 to be taken of such annexed territory and the population so  
4 ascertained for such territory shall be added to the population  
5 of the municipality as determined by the last preceding census  
6 for the purpose of determining the allotment for that  
7 municipality. If the population of any municipality was not  
8 determined by the last Federal census preceding any  
9 apportionment, the apportionment to such municipality shall be  
10 in accordance with any census taken by such municipality. Any  
11 municipal census used in accordance with this Section shall be  
12 certified to the Department of Transportation by the clerk of  
13 such municipality, and the accuracy thereof shall be subject to  
14 approval of the Department which may make such corrections as  
15 it ascertains to be necessary.

16 As soon as may be after the first day of each month the  
17 Department of Transportation shall allot to each county its  
18 share of the amount apportioned to the several counties of the  
19 State as herein provided. Each allotment to the several  
20 counties having less than 1,000,000 inhabitants shall be in  
21 proportion to the amount of motor vehicle license fees received  
22 from the residents of such counties, respectively, during the  
23 preceding calendar year. The Secretary of State shall, on or  
24 before April 15 of each year, transmit to the Department of  
25 Transportation a full and complete report showing the amount of  
26 motor vehicle license fees received from the residents of each

1 county, respectively, during the preceding calendar year. The  
2 Department of Transportation shall, each month, use for  
3 allotment purposes the last such report received from the  
4 Secretary of State.

5 As soon as may be after the first day of each month, the  
6 Department of Transportation shall allot to the several  
7 counties their share of the amount apportioned for the use of  
8 road districts. The allotment shall be apportioned among the  
9 several counties in the State in the proportion which the total  
10 mileage of township or district roads in the respective  
11 counties bears to the total mileage of all township and  
12 district roads in the State. Funds allotted to the respective  
13 counties for the use of road districts therein shall be  
14 allocated to the several road districts in the county in the  
15 proportion which the total mileage of such township or district  
16 roads in the respective road districts bears to the total  
17 mileage of all such township or district roads in the county.  
18 After July 1 of any year, no allocation shall be made for any  
19 road district unless it levied a tax for road and bridge  
20 purposes in an amount which will require the extension of such  
21 tax against the taxable property in any such road district at a  
22 rate of not less than either .08% of the value thereof, based  
23 upon the assessment for the year immediately prior to the year  
24 in which such tax was levied and as equalized by the Department  
25 of Revenue or, in DuPage County, an amount equal to or greater  
26 than \$12,000 per mile of road under the jurisdiction of the

1 road district, whichever is less. If any road district has  
2 levied a special tax for road purposes pursuant to Sections  
3 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such  
4 tax was levied in an amount which would require extension at a  
5 rate of not less than .08% of the value of the taxable property  
6 thereof, as equalized or assessed by the Department of Revenue,  
7 or, in DuPage County, an amount equal to or greater than  
8 \$12,000 per mile of road under the jurisdiction of the road  
9 district, whichever is less, such levy shall, however, be  
10 deemed a proper compliance with this Section and shall qualify  
11 such road district for an allotment under this Section. If a  
12 township has transferred to the road and bridge fund money  
13 which, when added to the amount of any tax levy of the road  
14 district would be the equivalent of a tax levy requiring  
15 extension at a rate of at least .08%, or, in DuPage County, an  
16 amount equal to or greater than \$12,000 per mile of road under  
17 the jurisdiction of the road district, whichever is less, such  
18 transfer, together with any such tax levy, shall be deemed a  
19 proper compliance with this Section and shall qualify the road  
20 district for an allotment under this Section.

21 In counties in which a property tax extension limitation is  
22 imposed under the Property Tax Extension Limitation Law, road  
23 districts may retain their entitlement to a motor fuel tax  
24 allotment if, at the time the property tax extension limitation  
25 was imposed, the road district was levying a road and bridge  
26 tax at a rate sufficient to entitle it to a motor fuel tax

1 allotment and continues to levy the maximum allowable amount  
2 after the imposition of the property tax extension limitation.  
3 Any road district may in all circumstances retain its  
4 entitlement to a motor fuel tax allotment if it levied a road  
5 and bridge tax in an amount that will require the extension of  
6 the tax against the taxable property in the road district at a  
7 rate of not less than 0.08% of the assessed value of the  
8 property, based upon the assessment for the year immediately  
9 preceding the year in which the tax was levied and as equalized  
10 by the Department of Revenue or, in DuPage County, an amount  
11 equal to or greater than \$12,000 per mile of road under the  
12 jurisdiction of the road district, whichever is less.

13 As used in this Section the term "road district" means any  
14 road district, including a county unit road district, provided  
15 for by the Illinois Highway Code; and the term "township or  
16 district road" means any road in the township and district road  
17 system as defined in the Illinois Highway Code. For the  
18 purposes of this Section, "road district" also includes park  
19 districts, forest preserve districts and conservation  
20 districts organized under Illinois law and "township or  
21 district road" also includes such roads as are maintained by  
22 park districts, forest preserve districts and conservation  
23 districts. The Department of Transportation shall determine  
24 the mileage of all township and district roads for the purposes  
25 of making allotments and allocations of motor fuel tax funds  
26 for use in road districts.

1 Payment of motor fuel tax moneys to municipalities and  
2 counties shall be made as soon as possible after the allotment  
3 is made. The treasurer of the municipality or county may invest  
4 these funds until their use is required and the interest earned  
5 by these investments shall be limited to the same uses as the  
6 principal funds.

7 (Source: P.A. 94-839, eff. 6-6-06; 95-744, eff. 7-18-08.)

8 (35 ILCS 505/8b new)

9 Sec. 8b. Distribution of proceeds into the Metropolitan  
10 Transit and Road Improvement Fund.

11 (a) All money received by the Department under paragraph  
12 (f) of Section 2 of this Act shall be deposited into a special  
13 fund in the State treasury, to be known as the Metropolitan  
14 Transit and Road Improvement Fund, and must be apportioned and  
15 disbursed as follows:

16 (1) All of the proceeds collected from within the  
17 counties of Cook, Lake, DuPage, Kane, McHenry, and Will  
18 shall be distributed to the Regional Transportation  
19 Authority and must be used to make grants to the service  
20 boards for mass transit-related purposes.

21 (2) All of the proceeds collected from outside the  
22 counties of Cook, Lake, DuPage, Kane, McHenry, and Will  
23 shall be distributed to the Illinois Department of  
24 Transportation and must be used for the following  
25 transportation-related purposes in counties other than

1       Cook, Lake, DuPage, Kane, McHenry, and Will: (i) the Road  
2       Fund; (ii) the Downstate Transit Improvement Fund; and  
3       (iii) payments made by the Department of Transportation to  
4       Amtrak for passenger-train service in Illinois.

5       (c) The disbursement of any moneys under this Section may  
6       not reduce any amount to be appropriated to a municipality,  
7       township, or county, under any statutory local highway program  
8       or discretionary local highway program.

9           Section 97. Severability. The provisions of this Act are  
10       severable under Section 1.31 of the Statute on Statutes.

11           Section 99. Effective date. This Act takes effect July 1,  
12       2009.