

1 AN ACT concerning energy resources policy.

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

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

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

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

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

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

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

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

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

23 (g) The cost of building a baseload electric generation
24 plant with a nameplate capacity of 1,000 megawatts is over
25 \$500,000,000.

26 Section 10. Definitions.

27 "Council" means the Energy Generation Resources
28 Development Coordinating Council.

29 "Department" means the Department of Commerce and
30 Community Affairs.

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

11 Section 20. Energy Generation Resources Development
12 Coordinating Council.

13 (a) There is created the Energy Generation Resources
14 Development Coordinating Council. The Council shall consist
15 of 18 members as follows: the Director of Commerce and
16 Community Affairs and the Chairman of the Illinois Commerce
17 Commission, who shall serve as co-chairs; one member
18 appointed by the Director of Natural Resources, one member
19 appointed by the Director of Natural Resources from the State
20 Water Survey Division of the Department; one member appointed
21 by the Director of the Environmental Protection Agency; one
22 member appointed by the Governor and representing the
23 Governor's Energy Cabinet; one member appointed by the
24 Governor and representing the Illinois Environmental Council;
25 one member appointed by the Governor and representing the
26 Environmental Law and Policy Center; one member appointed by
27 the Governor and representing the Illinois Energy Association
28 on behalf of Illinois electric utilities; one member
29 appointed by the Governor and representing the Illinois Coal
30 Association; one member appointed by the Governor and
31 representing the Alliance Regional Transmission Organization;
32 one member appointed by the Governor and representing the
33 Midwest Independent Power Producers; one member appointed by

1 the Governor and representing natural gas public utilities;
2 one member appointed by the Governor and representing gas
3 pipeline companies; one member of the Senate appointed by the
4 President of the Senate; one member of the Senate appointed
5 by the Minority Leader of the Senate; one member of the House
6 of Representatives appointed by the Speaker of the House of
7 Representatives; and one member of the House of
8 Representatives appointed by the Minority Leader of the House
9 of Representatives.

10 (b) The Council shall study the availability in Illinois
11 of natural resources such as coal and groundwater and the
12 availability of infrastructure such as natural gas pipelines
13 and transmission and distribution systems.

14 (c) The Council shall identify the following:

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

17 (2) Communities that are willing to host new
18 generating capacity.

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

21 Section 25. Energy summit. On or before July 1, 2002,
22 the Council shall hold an energy summit, bringing together
23 those persons that wish to build generating capacity in
24 Illinois and communities that wish to host generation plants.
25 The Council shall encourage the groups to make presentations
26 and network with each other.

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

30 (1) Summarize the activities of the council.

31 (2) List the sites the Council has identified for
32 development of generation.

1 (3) List the communities willing to host generation
2 facilities.

3 (4) Identify any projects that have started due to
4 the efforts of the Council.

5 (5) Make recommendations for any legislative
6 changes that may be necessary to further facilitate the
7 development of generating plants in Illinois.

8 Section 35. Incentives for coal-fired electric
9 generating plants and clean-coal gasification process
10 electric generating plants.

11 (a) The entities chosen to construct the new Illinois
12 coal-fired electric generation plants or the clean-coal
13 gasification process electric generating plants in Illinois
14 must be allowed expedited access to funds and assistance from
15 the Coal Research Program, the Coal Development Program, and
16 the Coal Demonstration Program administered by the
17 Department.

18 (b) The entities chosen to construct the new Illinois
19 coal-fired electric generation plants or the clean-coal
20 gasification process electric generating plants in Illinois
21 must be encouraged by the Council to seek a grant from the
22 Illinois Clean Energy Community Trust Fund.

23 Section 40. Incentives for wind-powered electric
24 generating plants.

25 (a) The entity chosen for the pilot program to construct
26 a wind-powered electric generating plant must be encouraged
27 by the Council to apply for a one-time grant from the
28 Renewable Resources Energy Grant Program administered by the
29 Department.

30 (b) The entity chosen for the pilot program to construct
31 a wind-powered electric generating plant must be encouraged
32 by the Council to seek a grant from the Illinois Clean Energy

1 Community Trust Fund.

2 Section 45. Preparation by units of local government
3 interested in hosting new electric generation plants. The
4 Council must encourage any unit of local government
5 interested in hosting an electric generating plant to do the
6 following:

7 (1) Offer an abatement of property taxes for the
8 new generating plants.

9 (2) Make or accommodate the making of
10 infrastructure improvements.

11 (3) Expedite zoning and planning.

12 Section 50. Requirements to qualify for State
13 incentives. To qualify to receive the State incentives
14 offered under this Act, an entity proposing to build a new
15 electric generation plant must meet the following
16 requirements:

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

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

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

26 Section 55. Eligibility for incentives determined by
27 rule. The Department must adopt rules governing the award of
28 the State incentives provided for in this Act for (i) the
29 construction of 8 new baseload electric generation plants in
30 Illinois that will be under construction before December 31,
31 2004 and (ii) a pilot program for a wind-powered electric

1 generating plant in Illinois that will be under construction
2 before December 31, 2004. The rules must provide that the
3 incentives will be awarded on a "first-come, first-served"
4 basis. The Department must adopt the rules on or before
5 January 1, 2002. The Department may implement this Act
6 through the use of emergency rules in accordance with the
7 provisions of Section 5-45 of the Illinois Administrative
8 Procedure Act. For purposes of the Illinois Administrative
9 Procedure Act, the adoption of rules to implement this Act
10 shall be deemed an emergency and necessary for the public
11 interest, safety, and welfare.

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

14 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

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

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

21 (5) A passenger car that is a replacement vehicle to the
22 extent that the purchase price of the car is subject to the
23 Replacement Vehicle Tax.

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

30 (7) Farm chemicals.

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

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

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

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

34 Farm machinery and equipment shall include precision

1 farming equipment that is installed or purchased to be
2 installed on farm machinery and equipment including, but not
3 limited to, tractors, harvesters, sprayers, planters,
4 seeders, or spreaders. Precision farming equipment includes,
5 but is not limited to, soil testing sensors, computers,
6 monitors, software, global positioning and mapping systems,
7 and other such equipment.

8 Farm machinery and equipment also includes computers,
9 sensors, software, and related equipment used primarily in
10 the computer-assisted operation of production agriculture
11 facilities, equipment, and activities such as, but not
12 limited to, the collection, monitoring, and correlation of
13 animal and crop data for the purpose of formulating animal
14 diets and agricultural chemicals. This item (11) is exempt
15 from the provisions of Section 3-90.

16 (12) Fuel and petroleum products sold to or used by an
17 air common carrier, certified by the carrier to be used for
18 consumption, shipment, or storage in the conduct of its
19 business as an air common carrier, for a flight destined for
20 or returning from a location or locations outside the United
21 States without regard to previous or subsequent domestic
22 stopovers.

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

31 (14) Oil field exploration, drilling, and production
32 equipment, including (i) rigs and parts of rigs, rotary rigs,
33 cable tool rigs, and workover rigs, (ii) pipe and tubular
34 goods, including casing and drill strings, (iii) pumps and

1 pump-jack units, (iv) storage tanks and flow lines, (v) any
2 individual replacement part for oil field exploration,
3 drilling, and production equipment, and (vi) machinery and
4 equipment purchased for lease; but excluding motor vehicles
5 required to be registered under the Illinois Vehicle Code.

6 (15) Photoprocessing machinery and equipment, including
7 repair and replacement parts, both new and used, including
8 that manufactured on special order, certified by the
9 purchaser to be used primarily for photoprocessing, and
10 including photoprocessing machinery and equipment purchased
11 for lease.

12 (16) Coal exploration, mining, offhighway hauling,
13 processing, maintenance, and reclamation equipment, including
14 replacement parts and equipment, and including equipment
15 purchased for lease, but excluding motor vehicles required to
16 be registered under the Illinois Vehicle Code.

17 (17) Distillation machinery and equipment, sold as a
18 unit or kit, assembled or installed by the retailer,
19 certified by the user to be used only for the production of
20 ethyl alcohol that will be used for consumption as motor fuel
21 or as a component of motor fuel for the personal use of the
22 user, and not subject to sale or resale.

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

34 (19) Personal property delivered to a purchaser or

1 purchaser's donee inside Illinois when the purchase order for
2 that personal property was received by a florist located
3 outside Illinois who has a florist located inside Illinois
4 deliver the personal property.

5 (20) Semen used for artificial insemination of livestock
6 for direct agricultural production.

7 (21) Horses, or interests in horses, registered with and
8 meeting the requirements of any of the Arabian Horse Club
9 Registry of America, Appaloosa Horse Club, American Quarter
10 Horse Association, United States Trotting Association, or
11 Jockey Club, as appropriate, used for purposes of breeding or
12 racing for prizes.

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

1 lessor is liable to pay that amount to the Department.

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

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

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

1 before December 31, 2004, personal property that is used in
2 the performance of infrastructure repairs in this State,
3 including but not limited to municipal roads and streets,
4 access roads, bridges, sidewalks, waste disposal systems,
5 water and sewer line extensions, water distribution and
6 purification facilities, storm water drainage and retention
7 facilities, and sewage treatment facilities, resulting from a
8 State or federally declared disaster in Illinois or bordering
9 Illinois when such repairs are initiated on facilities
10 located in the declared disaster area within 6 months after
11 the disaster.

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

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

1 technical, mechanical, industrial, business, or commercial
2 occupation.

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

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

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

32 (31) Beginning on the effective date of this amendatory
33 Act of the 92nd General Assembly and ending on the date on
34 which electricity is first generated at a new plant built

1 under the incentives provided under the Energy Resources
 2 Policy Act, the construction of which begins on or after July
 3 1, 2001, machinery and equipment used at that plant primarily
 4 in the generation or production of electricity for wholesale
 5 or retail sale, including repair and replacement parts and
 6 equipment, both new and used, including repair and
 7 replacement parts manufactured on special order, and
 8 including machinery and equipment purchased for lease, but
 9 excluding motor vehicles required to be registered under the
 10 Illinois Vehicle Code.

11 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
 12 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
 13 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,
 14 eff. 8-20-99; 91-901, eff. 1-1-01.)

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

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

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

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

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

30 (3) Personal property purchased by a not-for-profit arts
 31 or cultural organization that establishes, by proof required
 32 by the Department by rule, that it has received an exemption

1 under Section 501(c)(3) of the Internal Revenue Code and that
2 is organized and operated for the presentation or support of
3 arts or cultural programming, activities, or services. These
4 organizations include, but are not limited to, music and
5 dramatic arts organizations such as symphony orchestras and
6 theatrical groups, arts and cultural service organizations,
7 local arts councils, visual arts organizations, and media
8 arts organizations.

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

13 (5) Graphic arts machinery and equipment, including
14 repair and replacement parts, both new and used, and
15 including that manufactured on special order or purchased for
16 lease, certified by the purchaser to be used primarily for
17 graphic arts production.

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

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

1 equipment under this item (7). Agricultural chemical tender
2 tanks and dry boxes shall include units sold separately from
3 a motor vehicle required to be licensed and units sold
4 mounted on a motor vehicle required to be licensed if the
5 selling price of the tender is separately stated.

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

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

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

29 (9) Proceeds of mandatory service charges separately
30 stated on customers' bills for the purchase and consumption
31 of food and beverages acquired as an incident to the purchase
32 of a service from a serviceman, to the extent that the
33 proceeds of the service charge are in fact turned over as
34 tips or as a substitute for tips to the employees who

1 participate directly in preparing, serving, hosting or
2 cleaning up the food or beverage function with respect to
3 which the service charge is imposed.

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

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

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

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

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

32 (15) Computers and communications equipment utilized for
33 any hospital purpose and equipment used in the diagnosis,
34 analysis, or treatment of hospital patients purchased by a

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

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

1 Act or the Use Tax Act, as the case may be, if the tax has
2 not been paid by the lessor. If a lessor improperly collects
3 any such amount from the lessee, the lessee shall have a
4 legal right to claim a refund of that amount from the lessor.
5 If, however, that amount is not refunded to the lessee for
6 any reason, the lessor is liable to pay that amount to the
7 Department.

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

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

31 (19) Beginning July 1, 1999, game or game birds
32 purchased at a "game breeding and hunting preserve area" or
33 an "exotic game hunting area" as those terms are used in the
34 Wildlife Code or at a hunting enclosure approved through

1 rules adopted by the Department of Natural Resources. This
2 paragraph is exempt from the provisions of Section 3-75.

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

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

1 This paragraph is exempt from the provisions of Section 3-75.

2 (22) ~~(19)~~ Beginning January 1, 2000, new or used
3 automatic vending machines that prepare and serve hot food
4 and beverages, including coffee, soup, and other items, and
5 replacement parts for these machines. This paragraph is
6 exempt from the provisions of Section 3-75.

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

20 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
21 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
22 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,
23 eff. 8-20-99; revised 9-29-99.)

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

26 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

29 (1) Personal property sold by a corporation, society,
30 association, foundation, institution, or organization, other
31 than a limited liability company, that is organized and
32 operated as a not-for-profit service enterprise for the

1 benefit of persons 65 years of age or older if the personal
2 property was not purchased by the enterprise for the purpose
3 of resale by the enterprise.

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

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

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

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

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

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

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

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

23 Farm machinery and equipment also includes computers,
24 sensors, software, and related equipment used primarily in
25 the computer-assisted operation of production agriculture
26 facilities, equipment, and activities such as, but not
27 limited to, the collection, monitoring, and correlation of
28 animal and crop data for the purpose of formulating animal
29 diets and agricultural chemicals. This item (7) is exempt
30 from the provisions of Section 3-55.

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

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

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

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

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

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

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

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

8 (14) Semen used for artificial insemination of livestock
9 for direct agricultural production.

10 (15) Horses, or interests in horses, registered with and
11 meeting the requirements of any of the Arabian Horse Club
12 Registry of America, Appaloosa Horse Club, American Quarter
13 Horse Association, United States Trotting Association, or
14 Jockey Club, as appropriate, used for purposes of breeding or
15 racing for prizes.

16 (16) Computers and communications equipment utilized for
17 any hospital purpose and equipment used in the diagnosis,
18 analysis, or treatment of hospital patients sold to a lessor
19 who leases the equipment, under a lease of one year or longer
20 executed or in effect at the time of the purchase, to a
21 hospital that has been issued an active tax exemption
22 identification number by the Department under Section 1g of
23 the Retailers' Occupation Tax Act.

24 (17) Personal property sold to a lessor who leases the
25 property, under a lease of one year or longer executed or in
26 effect at the time of the purchase, to a governmental body
27 that has been issued an active tax exemption identification
28 number by the Department under Section 1g of the Retailers'
29 Occupation Tax Act.

30 (18) Beginning with taxable years ending on or after
31 December 31, 1995 and ending with taxable years ending on or
32 before December 31, 2004, personal property that is donated
33 for disaster relief to be used in a State or federally
34 declared disaster area in Illinois or bordering Illinois by a

1 manufacturer or retailer that is registered in this State to
2 a corporation, society, association, foundation, or
3 institution that has been issued a sales tax exemption
4 identification number by the Department that assists victims
5 of the disaster who reside within the declared disaster area.

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

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

25 (21) ~~(20)~~ A motor vehicle, as that term is defined in
26 Section 1-146 of the Illinois Vehicle Code, that is donated
27 to a corporation, limited liability company, society,
28 association, foundation, or institution that is determined by
29 the Department to be organized and operated exclusively for
30 educational purposes. For purposes of this exemption, "a
31 corporation, limited liability company, society, association,
32 foundation, or institution organized and operated exclusively
33 for educational purposes" means all tax-supported public
34 schools, private schools that offer systematic instruction in

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

10 (22) ~~(21)~~ Beginning January 1, 2000, personal property,
11 including food, purchased through fundraising events for the
12 benefit of a public or private elementary or secondary
13 school, a group of those schools, or one or more school
14 districts if the events are sponsored by an entity recognized
15 by the school district that consists primarily of volunteers
16 and includes parents and teachers of the school children.
17 This paragraph does not apply to fundraising events (i) for
18 the benefit of private home instruction or (ii) for which the
19 fundraising entity purchases the personal property sold at
20 the events from another individual or entity that sold the
21 property for the purpose of resale by the fundraising entity
22 and that profits from the sale to the fundraising entity.
23 This paragraph is exempt from the provisions of Section 3-55.

24 (23) ~~(20)~~ Beginning January 1, 2000, new or used
25 automatic vending machines that prepare and serve hot food
26 and beverages, including coffee, soup, and other items, and
27 replacement parts for these machines. This paragraph is
28 exempt from the provisions of Section 3-55.

29 (24) Beginning on the effective date of this amendatory
30 Act of the 92nd General Assembly and ending on the date on
31 which electricity is first generated at a new plant built
32 under the incentives provided under the Energy Resources
33 Policy Act, the construction of which begins on or after July
34 1, 2001, machinery and equipment used at that plant primarily

1 in the generation or production of electricity for wholesale
 2 or retail sale, including repair and replacement parts and
 3 equipment, both new and used, including repair and
 4 replacement parts manufactured on special order, and
 5 including machinery and equipment purchased for lease, but
 6 excluding motor vehicles required to be registered under the
 7 Illinois Vehicle Code.

8 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
 9 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
 10 7-20-99; 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637,
 11 eff. 8-20-99; 91-644, eff. 8-20-99; revised 9-29-99.)

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

14 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

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

1 equipment under this item (2). Agricultural chemical tender
2 tanks and dry boxes shall include units sold separately from
3 a motor vehicle required to be licensed and units sold
4 mounted on a motor vehicle required to be licensed, if the
5 selling price of the tender is separately stated.

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

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

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

28 (4) Graphic arts machinery and equipment, including
29 repair and replacement parts, both new and used, and
30 including that manufactured on special order or purchased for
31 lease, certified by the purchaser to be used primarily for
32 graphic arts production.

33 (5) A motor vehicle of the first division, a motor
34 vehicle of the second division that is a self-contained motor

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

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

13 (7) Proceeds of that portion of the selling price of a
14 passenger car the sale of which is subject to the Replacement
15 Vehicle Tax.

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

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

30 (10) Personal property sold by a corporation, society,
31 association, foundation, institution, or organization, other
32 than a limited liability company, that is organized and
33 operated as a not-for-profit service enterprise for the
34 benefit of persons 65 years of age or older if the personal

1 property was not purchased by the enterprise for the purpose
2 of resale by the enterprise.

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

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

26 (13) Proceeds from sales to owners, lessors, or shippers
27 of tangible personal property that is utilized by interstate
28 carriers for hire for use as rolling stock moving in
29 interstate commerce and equipment operated by a
30 telecommunications provider, licensed as a common carrier by
31 the Federal Communications Commission, which is permanently
32 installed in or affixed to aircraft moving in interstate
33 commerce.

34 (14) Machinery and equipment that will be used by the

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

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

20 (16) Petroleum products sold to a purchaser if the
21 seller is prohibited by federal law from charging tax to the
22 purchaser.

23 (17) Tangible personal property sold to a common carrier
24 by rail or motor that receives the physical possession of the
25 property in Illinois and that transports the property, or
26 shares with another common carrier in the transportation of
27 the property, out of Illinois on a standard uniform bill of
28 lading showing the seller of the property as the shipper or
29 consignor of the property to a destination outside Illinois,
30 for use outside Illinois.

31 (18) Legal tender, currency, medallions, or gold or
32 silver coinage issued by the State of Illinois, the
33 government of the United States of America, or the government
34 of any foreign country, and bullion.

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

10 (20) Photoprocessing machinery and equipment, including
11 repair and replacement parts, both new and used, including
12 that manufactured on special order, certified by the
13 purchaser to be used primarily for photoprocessing, and
14 including photoprocessing machinery and equipment purchased
15 for lease.

16 (21) Coal exploration, mining, offhighway hauling,
17 processing, maintenance, and reclamation equipment, including
18 replacement parts and equipment, and including equipment
19 purchased for lease, but excluding motor vehicles required to
20 be registered under the Illinois Vehicle Code.

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

28 (23) A transaction in which the purchase order is
29 received by a florist who is located outside Illinois, but
30 who has a florist located in Illinois deliver the property to
31 the purchaser or the purchaser's donee in Illinois.

32 (24) Fuel consumed or used in the operation of ships,
33 barges, or vessels that are used primarily in or for the
34 transportation of property or the conveyance of persons for

1 hire on rivers bordering on this State if the fuel is
2 delivered by the seller to the purchaser's barge, ship, or
3 vessel while it is afloat upon that bordering river.

4 (25) A motor vehicle sold in this State to a nonresident
5 even though the motor vehicle is delivered to the nonresident
6 in this State, if the motor vehicle is not to be titled in
7 this State, and if a driveaway decal permit is issued to the
8 motor vehicle as provided in Section 3-603 of the Illinois
9 Vehicle Code or if the nonresident purchaser has vehicle
10 registration plates to transfer to the motor vehicle upon
11 returning to his or her home state. The issuance of the
12 driveaway decal permit or having the out-of-state
13 registration plates to be transferred is prima facie evidence
14 that the motor vehicle will not be titled in this State.

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

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

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

31 (29) Personal property sold to a lessor who leases the
32 property, under a lease of one year or longer executed or in
33 effect at the time of the purchase, to a governmental body
34 that has been issued an active tax exemption identification

1 number by the Department under Section 1g of this Act.

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

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

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

31 (33) ~~(32)~~ A motor vehicle, as that term is defined in
32 Section 1-146 of the Illinois Vehicle Code, that is donated
33 to a corporation, limited liability company, society,
34 association, foundation, or institution that is determined by

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

16 (34) ~~(33)~~ Beginning January 1, 2000, personal property,
17 including food, purchased through fundraising events for the
18 benefit of a public or private elementary or secondary
19 school, a group of those schools, or one or more school
20 districts if the events are sponsored by an entity recognized
21 by the school district that consists primarily of volunteers
22 and includes parents and teachers of the school children.
23 This paragraph does not apply to fundraising events (i) for
24 the benefit of private home instruction or (ii) for which the
25 fundraising entity purchases the personal property sold at
26 the events from another individual or entity that sold the
27 property for the purpose of resale by the fundraising entity
28 and that profits from the sale to the fundraising entity.
29 This paragraph is exempt from the provisions of Section 2-70.

30 (35) ~~(32)~~ Beginning January 1, 2000, new or used
31 automatic vending machines that prepare and serve hot food
32 and beverages, including coffee, soup, and other items, and
33 replacement parts for these machines. This paragraph is
34 exempt from the provisions of Section 2-70.

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

14 (Source: P.A. 90-14, eff. 7-1-97; 90-519, eff. 6-1-98;
15 90-552, eff. 12-12-97; 90-605, eff. 6-30-98; 91-51, eff.
16 6-30-99; 91-200, eff. 7-20-99; 91-439, eff. 8-6-99; 91-533,
17 eff. 8-13-99; 91-637, eff. 8-20-99; 91-644, eff. 8-20-99;
18 revised 9-28-99.)

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

21 (35 ILCS 200/18-165)

22 Sec. 18-165. Abatement of taxes.

23 (a) Any taxing district, upon a majority vote of its
24 governing authority, may, after the determination of the
25 assessed valuation of its property, order the clerk of that
26 county to abate any portion of its taxes on the following
27 types of property:

28 (1) Commercial and industrial.

29 (A) The property of any commercial or
30 industrial firm, including but not limited to the
31 property of (i) any firm that is used for
32 collecting, separating, storing, or processing

1 recyclable materials or (ii) any firm that is used
2 for producing or generating electricity, locating
3 within the taxing district during the immediately
4 preceding year from another state, territory, or
5 country, or having been newly created within this
6 State during the immediately preceding year, or
7 expanding an existing facility. The abatement shall
8 not exceed a period of 10 years and the aggregate
9 amount of abated taxes for all taxing districts
10 combined shall not exceed \$4,000,000; or

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

17 (C) The property of any commercial or
18 industrial firm currently located in the taxing
19 district that expands a facility or its number of
20 employees. The abatement shall not exceed a period
21 of 10 years and the aggregate amount of abated taxes
22 for all taxing districts combined shall not exceed
23 \$4,000,000. The abatement period may be renewed at
24 the option of the taxing districts.

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

33 (3) Auto racing. Any property designed exclusively
34 for the racing of motor vehicles. Such abatement shall

1 not exceed a period of 10 years.

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

14 (5) Housing for older persons. Any property in the
15 taxing district that is devoted exclusively to affordable
16 housing for older households. For purposes of this
17 paragraph, "older households" means those households (i)
18 living in housing provided under any State or federal
19 program that the Department of Human Rights determines is
20 specifically designed and operated to assist elderly
21 persons and is solely occupied by persons 55 years of age
22 or older and (ii) whose annual income does not exceed 80%
23 of the area gross median income, adjusted for family
24 size, as such gross income and median income are
25 determined from time to time by the United States
26 Department of Housing and Urban Development. The
27 abatement shall not exceed a period of 15 years, and the
28 aggregate amount of abated taxes for all taxing districts
29 shall not exceed \$3,000,000.

30 (6) Historical society. For assessment years 1998
31 through 2000, the property of an historical society
32 qualifying as an exempt organization under Section
33 501(c)(3) of the federal Internal Revenue Code.

34 (7) Recreational facilities. Any property in the

1 taxing district (i) that is used for a municipal airport,
2 (ii) that is subject to a leasehold assessment under
3 Section 9-195 of this Code and (iii) which is sublet from
4 a park district that is leasing the property from a
5 municipality, but only if the property is used
6 exclusively for recreational facilities or for parking
7 lots used exclusively for those facilities. The
8 abatement shall not exceed a period of 10 years.

9 (b) Upon a majority vote of its governing authority, any
10 municipality may, after the determination of the assessed
11 valuation of its property, order the county clerk to abate
12 any portion of its taxes on any property that is located
13 within the corporate limits of the municipality in accordance
14 with Section 8-3-18 of the Illinois Municipal Code.

15 (Source: P.A. 90-46, eff. 7-3-97; 90-415, eff. 8-15-97;
16 90-568, eff. 1-1-99; 90-655, eff. 7-30-98; 91-644, eff.
17 8-20-99; 91-885, eff. 7-6-00.)

18 Section 935. The Environmental Protection Act is amended
19 by changing Section 39 as follows:

20 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

21 Sec. 39. Issuance of permits; procedures.

22 (a) When the Board has by regulation required a permit
23 for the construction, installation, or operation of any type
24 of facility, equipment, vehicle, vessel, or aircraft, the
25 applicant shall apply to the Agency for such permit and it
26 shall be the duty of the Agency to issue such a permit upon
27 proof by the applicant that the facility, equipment, vehicle,
28 vessel, or aircraft will not cause a violation of this Act or
29 of regulations hereunder. The Agency shall adopt such
30 procedures as are necessary to carry out its duties under
31 this Section. In granting permits the Agency may impose such
32 conditions as may be necessary to accomplish the purposes of

1 this Act, and as are not inconsistent with the regulations
2 promulgated by the Board hereunder. Except as otherwise
3 provided in this Act, a bond or other security shall not be
4 required as a condition for the issuance of a permit. If the
5 Agency denies any permit under this Section, the Agency shall
6 transmit to the applicant within the time limitations of this
7 Section specific, detailed statements as to the reasons the
8 permit application was denied. Such statements shall
9 include, but not be limited to the following:

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

12 (ii) the provision of the regulations, promulgated
13 under this Act, which may be violated if the permit were
14 granted;

15 (iii) the specific type of information, if any,
16 which the Agency deems the applicant did not provide the
17 Agency; and

18 (iv) a statement of specific reasons why the Act
19 and the regulations might not be met if the permit were
20 granted.

21 If there is no final action by the Agency within 90 days
22 after the filing of the application for permit, the applicant
23 may deem the permit issued; except that this time period
24 shall be extended to 180 days when (1) notice and
25 opportunity for public hearing are required by State or
26 federal law or regulation, (2) the application which was
27 filed is for any permit to develop a landfill subject to
28 issuance pursuant to this subsection, or (3) the application
29 that was filed is for a MSWLF unit required to issue public
30 notice under subsection (p) of Section 39.

31 The Agency shall publish notice of all final permit
32 determinations for development permits for MSWLF units and
33 for significant permit modifications for lateral expansions
34 for existing MSWLF units one time in a newspaper of general

1 circulation in the county in which the unit is or is proposed
2 to be located.

3 After January 1, 1994 and until July 1, 1998, operating
4 permits issued under this Section by the Agency for sources
5 of air pollution permitted to emit less than 25 tons per year
6 of any combination of regulated air pollutants, as defined in
7 Section 39.5 of this Act, shall be required to be renewed
8 only upon written request by the Agency consistent with
9 applicable provisions of this Act and regulations promulgated
10 hereunder. Such operating permits shall expire 180 days
11 after the date of such a request. The Board shall revise its
12 regulations for the existing State air pollution operating
13 permit program consistent with this provision by January 1,
14 1994.

15 After June 30, 1998, operating permits issued under this
16 Section by the Agency for sources of air pollution that are
17 not subject to Section 39.5 of this Act and are not required
18 to have a federally enforceable State operating permit shall
19 be required to be renewed only upon written request by the
20 Agency consistent with applicable provisions of this Act and
21 its rules. Such operating permits shall expire 180 days
22 after the date of such a request. Before July 1, 1998, the
23 Board shall revise its rules for the existing State air
24 pollution operating permit program consistent with this
25 paragraph and shall adopt rules that require a source to
26 demonstrate that it qualifies for a permit under this
27 paragraph.

28 Notwithstanding any other provision of this Section, for
29 permits issued to an entity that is determined by the
30 Department of Commerce and Community Affairs to be eligible
31 for State incentives under the Energy Resources Policy Act,
32 if there is no final action by the Agency within 90 days
33 after filing the application for permit, the applicant may
34 deem the permit issued. The Agency shall also waive the fee

1 for obtaining an initial operating permit for an entity that
2 is determined by the Department of Commerce and Community
3 Affairs to be eligible for State incentives under the Energy
4 Resources Policy Act.

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

10 All NPDES permits shall contain those terms and
11 conditions, including but not limited to schedules of
12 compliance, which may be required to accomplish the purposes
13 and provisions of this Act.

14 The Agency may issue general NPDES permits for discharges
15 from categories of point sources which are subject to the
16 same permit limitations and conditions. Such general permits
17 may be issued without individual applications and shall
18 conform to regulations promulgated under Section 402 of the
19 Federal Water Pollution Control Act, as now or hereafter
20 amended.

21 The Agency may include, among such conditions, effluent
22 limitations and other requirements established under this
23 Act, Board regulations, the Federal Water Pollution Control
24 Act, as now or hereafter amended, and regulations pursuant
25 thereto, and schedules for achieving compliance therewith at
26 the earliest reasonable date.

27 The Agency shall adopt filing requirements and procedures
28 which are necessary and appropriate for the issuance of NPDES
29 permits, and which are consistent with the Act or regulations
30 adopted by the Board, and with the Federal Water Pollution
31 Control Act, as now or hereafter amended, and regulations
32 pursuant thereto.

33 The Agency, subject to any conditions which may be
34 prescribed by Board regulations, may issue NPDES permits to

1 allow discharges beyond deadlines established by this Act or
2 by regulations of the Board without the requirement of a
3 variance, subject to the Federal Water Pollution Control Act,
4 as now or hereafter amended, and regulations pursuant
5 thereto.

6 (c) Except for those facilities owned or operated by
7 sanitary districts organized under the Metropolitan Water
8 Reclamation District Act, no permit for the development or
9 construction of a new pollution control facility may be
10 granted by the Agency unless the applicant submits proof to
11 the Agency that the location of the facility has been
12 approved by the County Board of the county if in an
13 unincorporated area, or the governing body of the
14 municipality when in an incorporated area, in which the
15 facility is to be located in accordance with Section 39.2 of
16 this Act.

17 In the event that siting approval granted pursuant to
18 Section 39.2 has been transferred to a subsequent owner or
19 operator, that subsequent owner or operator may apply to the
20 Agency for, and the Agency may grant, a development or
21 construction permit for the facility for which local siting
22 approval was granted. Upon application to the Agency for a
23 development or construction permit by that subsequent owner
24 or operator, the permit applicant shall cause written notice
25 of the permit application to be served upon the appropriate
26 county board or governing body of the municipality that
27 granted siting approval for that facility and upon any party
28 to the siting proceeding pursuant to which siting approval
29 was granted. In that event, the Agency shall conduct an
30 evaluation of the subsequent owner or operator's prior
31 experience in waste management operations in the manner
32 conducted under subsection (i) of Section 39 of this Act.

33 Beginning August 20, 1993, if the pollution control
34 facility consists of a hazardous or solid waste disposal

1 facility for which the proposed site is located in an
2 unincorporated area of a county with a population of less
3 than 100,000 and includes all or a portion of a parcel of
4 land that was, on April 1, 1993, adjacent to a municipality
5 having a population of less than 5,000, then the local siting
6 review required under this subsection (c) in conjunction with
7 any permit applied for after that date shall be performed by
8 the governing body of that adjacent municipality rather than
9 the county board of the county in which the proposed site is
10 located; and for the purposes of that local siting review,
11 any references in this Act to the county board shall be
12 deemed to mean the governing body of that adjacent
13 municipality; provided, however, that the provisions of this
14 paragraph shall not apply to any proposed site which was, on
15 April 1, 1993, owned in whole or in part by another
16 municipality.

17 In the case of a pollution control facility for which a
18 development permit was issued before November 12, 1981, if an
19 operating permit has not been issued by the Agency prior to
20 August 31, 1989 for any portion of the facility, then the
21 Agency may not issue or renew any development permit nor
22 issue an original operating permit for any portion of such
23 facility unless the applicant has submitted proof to the
24 Agency that the location of the facility has been approved by
25 the appropriate county board or municipal governing body
26 pursuant to Section 39.2 of this Act.

27 After January 1, 1994, if a solid waste disposal
28 facility, any portion for which an operating permit has been
29 issued by the Agency, has not accepted waste disposal for 5
30 or more consecutive calendar years, before that facility may
31 accept any new or additional waste for disposal, the owner
32 and operator must obtain a new operating permit under this
33 Act for that facility unless the owner and operator have
34 applied to the Agency for a permit authorizing the temporary

1 suspension of waste acceptance. The Agency may not issue a
2 new operation permit under this Act for the facility unless
3 the applicant has submitted proof to the Agency that the
4 location of the facility has been approved or re-approved by
5 the appropriate county board or municipal governing body
6 under Section 39.2 of this Act after the facility ceased
7 accepting waste.

8 Except for those facilities owned or operated by sanitary
9 districts organized under the Metropolitan Water Reclamation
10 District Act, and except for new pollution control facilities
11 governed by Section 39.2, and except for fossil fuel mining
12 facilities, the granting of a permit under this Act shall not
13 relieve the applicant from meeting and securing all necessary
14 zoning approvals from the unit of government having zoning
15 jurisdiction over the proposed facility.

16 Before beginning construction on any new sewage treatment
17 plant or sludge drying site to be owned or operated by a
18 sanitary district organized under the Metropolitan Water
19 Reclamation District Act for which a new permit (rather than
20 the renewal or amendment of an existing permit) is required,
21 such sanitary district shall hold a public hearing within the
22 municipality within which the proposed facility is to be
23 located, or within the nearest community if the proposed
24 facility is to be located within an unincorporated area, at
25 which information concerning the proposed facility shall be
26 made available to the public, and members of the public shall
27 be given the opportunity to express their views concerning
28 the proposed facility.

29 The Agency may issue a permit for a municipal waste
30 transfer station without requiring approval pursuant to
31 Section 39.2 provided that the following demonstration is
32 made:

33 (1) the municipal waste transfer station was in
34 existence on or before January 1, 1979 and was in

1 continuous operation from January 1, 1979 to January 1,
2 1993;

3 (2) the operator submitted a permit application to
4 the Agency to develop and operate the municipal waste
5 transfer station during April of 1994;

6 (3) the operator can demonstrate that the county
7 board of the county, if the municipal waste transfer
8 station is in an unincorporated area, or the governing
9 body of the municipality, if the station is in an
10 incorporated area, does not object to resumption of the
11 operation of the station; and

12 (4) the site has local zoning approval.

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

17 All RCRA permits shall contain those terms and
18 conditions, including but not limited to schedules of
19 compliance, which may be required to accomplish the purposes
20 and provisions of this Act. The Agency may include among
21 such conditions standards and other requirements established
22 under this Act, Board regulations, the Resource Conservation
23 and Recovery Act of 1976 (P.L. 94-580), as amended, and
24 regulations pursuant thereto, and may include schedules for
25 achieving compliance therewith as soon as possible. The
26 Agency shall require that a performance bond or other
27 security be provided as a condition for the issuance of a
28 RCRA permit.

29 In the case of a permit to operate a hazardous waste or
30 PCB incinerator as defined in subsection (k) of Section 44,
31 the Agency shall require, as a condition of the permit, that
32 the operator of the facility perform such analyses of the
33 waste to be incinerated as may be necessary and appropriate
34 to ensure the safe operation of the incinerator.

1 The Agency shall adopt filing requirements and procedures
2 which are necessary and appropriate for the issuance of RCRA
3 permits, and which are consistent with the Act or regulations
4 adopted by the Board, and with the Resource Conservation and
5 Recovery Act of 1976 (P.L. 94-580), as amended, and
6 regulations pursuant thereto.

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

16 (e) The Agency may issue UIC permits exclusively under
17 this subsection to persons owning or operating a facility for
18 the underground injection of contaminants as defined under
19 this Act.

20 All UIC permits shall contain those terms and conditions,
21 including but not limited to schedules of compliance, which
22 may be required to accomplish the purposes and provisions of
23 this Act. The Agency may include among such conditions
24 standards and other requirements established under this Act,
25 Board regulations, the Safe Drinking Water Act (P.L. 93-523),
26 as amended, and regulations pursuant thereto, and may include
27 schedules for achieving compliance therewith. The Agency
28 shall require that a performance bond or other security be
29 provided as a condition for the issuance of a UIC permit.

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

1 The applicant shall make available to the public for
2 inspection, all documents submitted by the applicant to the
3 Agency in furtherance of an application, with the exception
4 of trade secrets, at the office of the county board or
5 governing body of the municipality. Such documents may be
6 copied upon payment of the actual cost of reproduction during
7 regular business hours of the local office. The Agency shall
8 issue a written statement concurrent with its grant or denial
9 of the permit explaining the basis for its decision.

10 (f) In making any determination pursuant to Section 9.1
11 of this Act:

12 (1) The Agency shall have authority to make the
13 determination of any question required to be determined
14 by the Clean Air Act, as now or hereafter amended, this
15 Act, or the regulations of the Board, including the
16 determination of the Lowest Achievable Emission Rate,
17 Maximum Achievable Control Technology, or Best Available
18 Control Technology, consistent with the Board's
19 regulations, if any.

20 (2) The Agency shall, after conferring with the
21 applicant, give written notice to the applicant of its
22 proposed decision on the application including the terms
23 and conditions of the permit to be issued and the facts,
24 conduct or other basis upon which the Agency will rely to
25 support its proposed action.

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

30 (g) The Agency shall include as conditions upon all
31 permits issued for hazardous waste disposal sites such
32 restrictions upon the future use of such sites as are
33 reasonably necessary to protect public health and the
34 environment, including permanent prohibition of the use of

1 such sites for purposes which may create an unreasonable risk
2 of injury to human health or to the environment. After
3 administrative and judicial challenges to such restrictions
4 have been exhausted, the Agency shall file such restrictions
5 of record in the Office of the Recorder of the county in
6 which the hazardous waste disposal site is located.

7 (h) A hazardous waste stream may not be deposited in a
8 permitted hazardous waste site unless specific authorization
9 is obtained from the Agency by the generator and disposal
10 site owner and operator for the deposit of that specific
11 hazardous waste stream. The Agency may grant specific
12 authorization for disposal of hazardous waste streams only
13 after the generator has reasonably demonstrated that,
14 considering technological feasibility and economic
15 reasonableness, the hazardous waste cannot be reasonably
16 recycled for reuse, nor incinerated or chemically, physically
17 or biologically treated so as to neutralize the hazardous
18 waste and render it nonhazardous. In granting authorization
19 under this Section, the Agency may impose such conditions as
20 may be necessary to accomplish the purposes of the Act and
21 are consistent with this Act and regulations promulgated by
22 the Board hereunder. If the Agency refuses to grant
23 authorization under this Section, the applicant may appeal as
24 if the Agency refused to grant a permit, pursuant to the
25 provisions of subsection (a) of Section 40 of this Act. For
26 purposes of this subsection (h), the term "generator" has the
27 meaning given in Section 3.12 of this Act, unless: (1) the
28 hazardous waste is treated, incinerated, or partially
29 recycled for reuse prior to disposal, in which case the last
30 person who treats, incinerates, or partially recycles the
31 hazardous waste prior to disposal is the generator; or (2)
32 the hazardous waste is from a response action, in which case
33 the person performing the response action is the generator.
34 This subsection (h) does not apply to any hazardous waste

1 that is restricted from land disposal under 35 Ill. Adm. Code
2 728.

3 (i) Before issuing any RCRA permit or any permit for a
4 waste storage site, sanitary landfill, waste disposal site,
5 waste transfer station, waste treatment facility, waste
6 incinerator, or any waste-transportation operation, the
7 Agency shall conduct an evaluation of the prospective owner's
8 or operator's prior experience in waste management
9 operations. The Agency may deny such a permit if the
10 prospective owner or operator or any employee or officer of
11 the prospective owner or operator has a history of:

12 (1) repeated violations of federal, State, or local
13 laws, regulations, standards, or ordinances in the
14 operation of waste management facilities or sites; or

15 (2) conviction in this or another State of any
16 crime which is a felony under the laws of this State, or
17 conviction of a felony in a federal court; or

18 (3) proof of gross carelessness or incompetence in
19 handling, storing, processing, transporting or disposing
20 of waste.

21 (j) The issuance under this Act of a permit to engage in
22 the surface mining of any resources other than fossil fuels
23 shall not relieve the permittee from its duty to comply with
24 any applicable local law regulating the commencement,
25 location or operation of surface mining facilities.

26 (k) A development permit issued under subsection (a) of
27 Section 39 for any facility or site which is required to have
28 a permit under subsection (d) of Section 21 shall expire at
29 the end of 2 calendar years from the date upon which it was
30 issued, unless within that period the applicant has taken
31 action to develop the facility or the site. In the event that
32 review of the conditions of the development permit is sought
33 pursuant to Section 40 or 41, or permittee is prevented from
34 commencing development of the facility or site by any other

1 litigation beyond the permittee's control, such two-year
2 period shall be deemed to begin on the date upon which such
3 review process or litigation is concluded.

4 (l) No permit shall be issued by the Agency under this
5 Act for construction or operation of any facility or site
6 located within the boundaries of any setback zone established
7 pursuant to this Act, where such construction or operation is
8 prohibited.

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

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

24 (2) the specific regulations promulgated pursuant
25 to this Act that may be violated if the permit were
26 granted;

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

30 (4) a statement of specific reasons why the Act and
31 the regulations might be violated if the permit were
32 granted.

33 If no final action is taken by the Agency within 90 days
34 after the filing of the application for permit, the applicant

1 may deem the permit issued. Any applicant for a permit may
2 waive the 90 day limitation by filing a written statement
3 with the Agency.

4 The Agency shall issue permits for such facilities upon
5 receipt of an application that includes a legal description
6 of the site, a topographic map of the site drawn to the scale
7 of 200 feet to the inch or larger, a description of the
8 operation, including the area served, an estimate of the
9 volume of materials to be processed, and documentation that:

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

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

14 (3) the facility is located so as to minimize
15 incompatibility with the character of the surrounding
16 area, including at least a 200 foot setback from any
17 residence, and in the case of a facility that is
18 developed or the permitted composting area of which is
19 expanded after November 17, 1991, the composting area is
20 located at least 1/8 mile from the nearest residence
21 (other than a residence located on the same property as
22 the facility);

23 (4) the design of the facility will prevent any
24 compost material from being placed within 5 feet of the
25 water table, will adequately control runoff from the
26 site, and will collect and manage any leachate that is
27 generated on the site;

28 (5) the operation of the facility will include
29 appropriate dust and odor control measures, limitations
30 on operating hours, appropriate noise control measures
31 for shredding, chipping and similar equipment, management
32 procedures for composting, containment and disposal of
33 non-compostable wastes, procedures to be used for
34 terminating operations at the site, and recordkeeping

1 sufficient to document the amount of materials received,
2 composted and otherwise disposed of; and

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

5 The Agency shall issue renewable permits of not longer
6 than 10 years in duration for the composting of landscape
7 wastes, as defined in Section 3.70 of this Act, based on the
8 above requirements.

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

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

18 (o) From September 4, 1990 until December 31, 1993, no
19 permit shall be issued by the Agency for the development or
20 construction of any new facility intended to be used for the
21 incineration of any hazardous waste. This subsection shall
22 not apply to facilities intended for use for combustion of
23 potentially infectious medical waste, for use as part of a
24 State or federally designated clean-up action, or for use
25 solely for the conduct of research and the development and
26 demonstration of technologies for the incineration of
27 hazardous waste.

28 (p) (1) Any person submitting an application for a
29 permit for a new MSWLF unit or for a lateral expansion under
30 subsection (t) of Section 21 of this Act for an existing
31 MSWLF unit that has not received and is not subject to local
32 siting approval under Section 39.2 of this Act shall publish
33 notice of the application in a newspaper of general
34 circulation in the county in which the MSWLF unit is or is

1 proposed to be located. The notice must be published at
2 least 15 days before submission of the permit application to
3 the Agency. The notice shall state the name and address of
4 the applicant, the location of the MSWLF unit or proposed
5 MSWLF unit, the nature and size of the MSWLF unit or proposed
6 MSWLF unit, the nature of the activity proposed, the probable
7 life of the proposed activity, the date the permit
8 application will be submitted, and a statement that persons
9 may file written comments with the Agency concerning the
10 permit application within 30 days after the filing of the
11 permit application unless the time period to submit comments
12 is extended by the Agency.

13 When a permit applicant submits information to the Agency
14 to supplement a permit application being reviewed by the
15 Agency, the applicant shall not be required to reissue the
16 notice under this subsection.

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

21 (3) Each applicant for a permit described in part (1) of
22 this subsection shall file a copy of the permit application
23 with the county board or governing body of the municipality
24 in which the MSWLF unit is or is proposed to be located at
25 the same time the application is submitted to the Agency.
26 The permit application filed with the county board or
27 governing body of the municipality shall include all
28 documents submitted to or to be submitted to the Agency,
29 except trade secrets as determined under Section 7.1 of this
30 Act. The permit application and other documents on file with
31 the county board or governing body of the municipality shall
32 be made available for public inspection during regular
33 business hours at the office of the county board or the
34 governing body of the municipality and may be copied upon

1 payment of the actual cost of reproduction.

2 (Source: P.A. 89-487, eff. 6-21-96; 89-556, eff. 7-26-96;
3 90-14, eff. 7-1-97; 90-367, eff. 8-10-97; 90-537, eff.
4 11-26-97; 90-655, eff 7-30-98.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.