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1 AMENDMENT TO SENATE BILL 1814

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1814 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Commerce and Economic  
5 Opportunity Law of the Civil Administrative Code of Illinois is  
6 amended by changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation  
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a  
12 newly-constructed electric generation plant or a newly  
13 constructed generation capacity expansion at an existing  
14 facility, including the transmission lines and associated  
15 equipment that transfers electricity from points of supply to  
16 points of delivery, and for which foundation construction  
17 commenced not sooner than July 1, 2001, which is designed to  
18 provide baseload electric generation operating on a continuous  
19 basis throughout the year and:

20 (1) has an aggregate rated generating capacity of at  
21 least 400 megawatts for all new units at one site, uses  
22 coal or gases derived from coal as its primary fuel source,  
23 and supports the creation of at least 150 new Illinois coal  
24 mining jobs; or

1           (2) is ~~(i)~~ funded through a federal Department of  
2           Energy grant before July 1, 2006 and supports the creation  
3           of Illinois coal-mining jobs; or 2005, and ~~(ii)~~

4           (3) uses coal gasification or integrated  
5           gasification-combined cycle units that generate  
6           electricity or chemicals, or both, and ~~that~~ supports the  
7           creation of Illinois coal-mining jobs.

8           "New gasification facility" means a newly constructed coal  
9           gasification facility that generates chemical feedstocks or  
10           transportation fuels derived from coal (which may include, but  
11           are not limited to, methane, methanol, and nitrogen  
12           fertilizer), that supports the creation or retention of  
13           Illinois coal-mining jobs, and that qualifies for financial  
14           assistance from the Department before December 31, 2006. A new  
15           gasification facility does not include a pilot project located  
16           within Jefferson County or within a county adjacent to  
17           Jefferson County for synthetic natural gas from coal.

18           "New facility" means a new electric generating facility or  
19           a new gasification facility. A new facility does not include a  
20           pilot project located within Jefferson County or within a  
21           county adjacent to Jefferson County for synthetic natural gas  
22           from coal.

23           "Eligible business" means an entity that proposes to  
24           construct a new ~~electric generating~~ facility and that has  
25           applied to the Department to receive financial assistance  
26           pursuant to this Section. With respect to use and occupation  
27           taxes, wherever there is a reference to taxes, that reference  
28           means only those taxes paid on Illinois-mined coal used in a  
29           new ~~electric generating~~ facility.

30           "Department" means the Illinois Department of Commerce and  
31           Economic Opportunity.

32           (b) The Department is authorized to provide financial  
33           assistance to eligible businesses for new ~~electric generating~~  
34           facilities from funds appropriated by the General Assembly as

1 further provided in this Section.

2 An eligible business seeking qualification for financial  
3 assistance for a new ~~electric generating~~ facility, for purposes  
4 of this Section only, shall apply to the Department in the  
5 manner specified by the Department. Any projections provided by  
6 an eligible business as part of the application shall be  
7 independently verified in a manner as set forth by the  
8 Department. An application shall include, but not be limited  
9 to:

10 (1) the projected or actual completion date of the new  
11 ~~electric generating~~ facility for which financial  
12 assistance is sought;

13 (2) copies of documentation deemed acceptable by the  
14 Department establishing either (i) the total State  
15 occupation and use taxes paid on Illinois-mined coal used  
16 at the new ~~electric generating~~ facility for a minimum of 4  
17 preceding calendar quarters or (ii) the projected amount of  
18 State occupation and use taxes paid on Illinois-mined coal  
19 used at the new ~~electric generating~~ facility in 4 calendar  
20 year quarters after completion of the new ~~electric~~  
21 ~~generating~~ facility. Bond proceeds subject to this Section  
22 shall not be allocated to an eligible business until the  
23 eligible business has demonstrated the revenue stream  
24 sufficient to service the debt on the bonds; and

25 (3) the actual or projected amount of capital  
26 investment by the eligible business in the new ~~electric~~  
27 ~~generating~~ facility.

28 The Department shall determine the maximum amount of  
29 financial assistance for eligible businesses in accordance  
30 with this paragraph. The Department shall not provide financial  
31 assistance from general obligation bond funds to any eligible  
32 business unless it receives a written certification from the  
33 Director of the Bureau of the Budget (now Governor's Office of  
34 Management and Budget) that 80% of the State occupation and use

1 tax receipts for a minimum of the preceding 4 calendar quarters  
2 for all eligible businesses or as included in projections on  
3 approved applications by eligible businesses equal or exceed  
4 110% of the maximum annual debt service required with respect  
5 to general obligation bonds issued for that purpose. The  
6 Department may provide financial assistance not to exceed the  
7 amount of State general obligation debt calculated as above,  
8 the amount of actual or projected capital investment in the  
9 ~~energy-generation~~ facility, or \$100,000,000, whichever is  
10 less. Financial assistance received pursuant to this Section  
11 may be used for capital facilities consisting of buildings,  
12 structures, durable equipment, and land at the new ~~electric~~  
13 ~~generating~~ facility. Subject to the provisions of the agreement  
14 covering the financial assistance, a portion of the financial  
15 assistance may be required to be repaid to the State if certain  
16 conditions for the governmental purpose of the assistance were  
17 not met.

18 An eligible business shall file a monthly report with the  
19 Illinois Department of Revenue stating the amount of  
20 Illinois-mined coal purchased during the previous month for use  
21 in the new ~~electric-generating~~ facility, the purchase price of  
22 that coal, the amount of State occupation and use taxes paid on  
23 that purchase to the seller of the Illinois-mined coal, and  
24 such other information as that Department may reasonably  
25 require. In sales of Illinois-mined coal between related  
26 parties, the purchase price of the coal must have been  
27 determined in an arms-length transaction. The report shall be  
28 filed with the Illinois Department of Revenue on or before the  
29 20th day of each month on a form provided by that Department.  
30 However, no report need be filed by an eligible business in a  
31 month when it made no reportable purchases of coal in the  
32 previous month. The Illinois Department of Revenue shall  
33 provide a summary of such reports to the Governor's Office of  
34 Management and Budget.

1           Upon granting financial assistance to an eligible  
2 business, the Department shall certify the name of the eligible  
3 business to the Illinois Department of Revenue. Beginning with  
4 the receipt of the first report of State occupation and use  
5 taxes paid by an eligible business and continuing for a 25-year  
6 period, the Illinois Department of Revenue shall each month pay  
7 into the Energy Infrastructure Fund 80% of the net revenue  
8 realized from the 6.25% general rate on the selling price of  
9 Illinois-mined coal that was sold to an eligible business.

10       (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03;  
11 93-1064, eff. 1-13-05.)

12           Section 10. The Illinois Enterprise Zone Act is amended by  
13 changing Section 5.5 as follows:

14           (20 ILCS 655/5.5)     (from Ch. 67 1/2, par. 609.1)

15           Sec. 5.5. High Impact Business.

16           (a) In order to respond to unique opportunities to assist  
17 in the encouragement, development, growth and expansion of the  
18 private sector through large scale investment and development  
19 projects, the Department is authorized to receive and approve  
20 applications for the designation of "High Impact Businesses" in  
21 Illinois subject to the following conditions:

22           (1) such applications may be submitted at any time  
23 during the year;

24           (2) such business is not located, at the time of  
25 designation, in an enterprise zone designated pursuant to  
26 this Act;

27           (3) the business intends to do one or more of the  
28 following:

29           (A) the business intends to make a minimum  
30 investment of \$12,000,000 which will be placed in  
31 service in qualified property and intends to create 500  
32 full-time equivalent jobs at a designated location in

1 Illinois or intends to make a minimum investment of  
2 \$30,000,000 which will be placed in service in  
3 qualified property and intends to retain 1,500  
4 full-time jobs at a designated location in Illinois.  
5 The business must certify in writing that the  
6 investments would not be placed in service in qualified  
7 property and the job creation or job retention would  
8 not occur without the tax credits and exemptions set  
9 forth in subsection (b) of this Section. The terms  
10 "placed in service" and "qualified property" have the  
11 same meanings as described in subsection (h) of Section  
12 201 of the Illinois Income Tax Act; or

13 (B) the business intends to establish a new  
14 electric generating facility at a designated location  
15 in Illinois. "New electric generating facility", for  
16 purposes of this Section, means a newly-constructed  
17 electric generation plant or a newly-constructed  
18 generation capacity expansion at an existing electric  
19 generation plant, including the transmission lines and  
20 associated equipment that transfers electricity from  
21 points of supply to points of delivery, and for which  
22 such new foundation construction commenced not sooner  
23 than July 1, 2001. Such facility shall be designed to  
24 provide baseload electric generation and shall operate  
25 on a continuous basis throughout the year; and (i)  
26 shall have an aggregate rated generating capacity of at  
27 least 1,000 megawatts for all new units at one site if  
28 it uses natural gas as its primary fuel and foundation  
29 construction of the facility is commenced on or before  
30 December 31, 2004, or shall have an aggregate rated  
31 generating capacity of at least 400 megawatts for all  
32 new units at one site if it uses coal or gases derived  
33 from coal as its primary fuel and shall support the  
34 creation of at least 150 new Illinois coal mining jobs,

1 or ~~7~~ (ii) shall be ~~is (i)~~ funded through a federal  
2 Department of Energy grant before July 1, 2006 and  
3 shall support the creation of Illinois coal-mining  
4 jobs, or (iii) shall use 2005, ~~and (ii) uses~~ coal  
5 gasification or integrated gasification-combined cycle  
6 units that generate electricity or chemicals, or both,  
7 and shall support the creation of Illinois coal-mining  
8 jobs. The business must certify in writing that the  
9 investments necessary to establish a new electric  
10 generating facility would not be placed in service and  
11 the job creation in the case of a coal-fueled plant  
12 would not occur without the tax credits and exemptions  
13 set forth in subsection (b-5) of this Section. The term  
14 "placed in service" has the same meaning as described  
15 in subsection (h) of Section 201 of the Illinois Income  
16 Tax Act; or

17 (B-5) the business intends to establish a new  
18 gasification facility at a designated location in  
19 Illinois. As used in this Section, "new gasification  
20 facility" means a newly constructed coal gasification  
21 facility that generates chemical feedstocks or  
22 transportation fuels derived from coal (which may  
23 include, but are not limited to, methane, methanol, and  
24 nitrogen fertilizer), that supports the creation or  
25 retention of Illinois coal-mining jobs, and that  
26 qualifies for financial assistance from the Department  
27 before December 31, 2006. A new gasification facility  
28 does not include a pilot project located within  
29 Jefferson County or within a county adjacent to  
30 Jefferson County for synthetic natural gas from coal;  
31 or

32 (C) the business intends to establish production  
33 operations at a new coal mine, re-establish production  
34 operations at a closed coal mine, or expand production

1 at an existing coal mine at a designated location in  
2 Illinois not sooner than July 1, 2001; provided that  
3 the production operations result in the creation of 150  
4 new Illinois coal mining jobs as described in  
5 subdivision (a)(3)(B) of this Section, and further  
6 provided that the coal extracted from such mine is  
7 utilized as the predominant source for a new electric  
8 generating facility. The business must certify in  
9 writing that the investments necessary to establish a  
10 new, expanded, or reopened coal mine would not be  
11 placed in service and the job creation would not occur  
12 without the tax credits and exemptions set forth in  
13 subsection (b-5) of this Section. The term "placed in  
14 service" has the same meaning as described in  
15 subsection (h) of Section 201 of the Illinois Income  
16 Tax Act; or

17 (D) the business intends to construct new  
18 transmission facilities or upgrade existing  
19 transmission facilities at designated locations in  
20 Illinois, for which construction commenced not sooner  
21 than July 1, 2001. For the purposes of this Section,  
22 "transmission facilities" means transmission lines  
23 with a voltage rating of 115 kilovolts or above,  
24 including associated equipment, that transfer  
25 electricity from points of supply to points of delivery  
26 and that transmit a majority of the electricity  
27 generated by a new electric generating facility  
28 designated as a High Impact Business in accordance with  
29 this Section. The business must certify in writing that  
30 the investments necessary to construct new  
31 transmission facilities or upgrade existing  
32 transmission facilities would not be placed in service  
33 without the tax credits and exemptions set forth in  
34 subsection (b-5) of this Section. The term "placed in



1 service" has the same meaning as described in  
2 subsection (h) of Section 201 of the Illinois Income  
3 Tax Act; and

4 (4) no later than 90 days after an application is  
5 submitted, the Department shall notify the applicant of the  
6 Department's determination of the qualification of the  
7 proposed High Impact Business under this Section.

8 (b) Businesses designated as High Impact Businesses  
9 pursuant to subdivision (a) (3) (A) of this Section shall qualify  
10 for the credits and exemptions described in the following Acts:  
11 Section 9-222 and Section 9-222.1A of the Public Utilities Act,  
12 subsection (h) of Section 201 of the Illinois Income Tax Act,  
13 and Section 1d of the Retailers' Occupation Tax Act; provided  
14 that these credits and exemptions described in these Acts shall  
15 not be authorized until the minimum investments set forth in  
16 subdivision (a) (3) (A) of this Section have been placed in  
17 service in qualified properties and, in the case of the  
18 exemptions described in the Public Utilities Act and Section 1d  
19 of the Retailers' Occupation Tax Act, the minimum full-time  
20 equivalent jobs or full-time jobs set forth in subdivision  
21 (a) (3) (A) of this Section have been created or retained.  
22 Businesses designated as High Impact Businesses under this  
23 Section shall also qualify for the exemption described in  
24 Section 51 of the Retailers' Occupation Tax Act. The credit  
25 provided in subsection (h) of Section 201 of the Illinois  
26 Income Tax Act shall be applicable to investments in qualified  
27 property as set forth in subdivision (a) (3) (A) of this Section.

28 (b-5) Businesses designated as High Impact Businesses  
29 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),  
30 and (a) (3) (D) of this Section shall qualify for the credits and  
31 exemptions described in the following Acts: Section 51 of the  
32 Retailers' Occupation Tax Act, Section 9-222 and Section  
33 9-222.1A of the Public Utilities Act, and subsection (h) of  
34 Section 201 of the Illinois Income Tax Act; however, the

1 credits and exemptions authorized under Section 9-222 and  
2 Section 9-222.1A of the Public Utilities Act, and subsection  
3 (h) of Section 201 of the Illinois Income Tax Act shall not be  
4 authorized until the new electric generating facility, the new  
5 gasification facility, the new transmission facility, or the  
6 new, expanded, or reopened coal mine is operational, except  
7 that a new electric generating facility whose primary fuel  
8 source is natural gas is eligible only for the exemption under  
9 Section 51 of the Retailers' Occupation Tax Act.

10 (c) High Impact Businesses located in federally designated  
11 foreign trade zones or sub-zones are also eligible for  
12 additional credits, exemptions and deductions as described in  
13 the following Acts: Section 9-221 and Section 9-222.1 of the  
14 Public Utilities Act; and subsection (g) of Section 201, and  
15 Section 203 of the Illinois Income Tax Act.

16 (d) Existing Illinois businesses which apply for  
17 designation as a High Impact Business must provide the  
18 Department with the prospective plan for which 1,500 full-time  
19 jobs would be eliminated in the event that the business is not  
20 designated.

21 (e) New proposed facilities which apply for designation as  
22 High Impact Business must provide the Department with proof of  
23 alternative non-Illinois sites which would receive the  
24 proposed investment and job creation in the event that the  
25 business is not designated as a High Impact Business.

26 (f) In the event that a business is designated a High  
27 Impact Business and it is later determined after reasonable  
28 notice and an opportunity for a hearing as provided under the  
29 Illinois Administrative Procedure Act, that the business would  
30 have placed in service in qualified property the investments  
31 and created or retained the requisite number of jobs without  
32 the benefits of the High Impact Business designation, the  
33 Department shall be required to immediately revoke the  
34 designation and notify the Director of the Department of

1 Revenue who shall begin proceedings to recover all wrongfully  
2 exempted State taxes with interest. The business shall also be  
3 ineligible for all State funded Department programs for a  
4 period of 10 years.

5 (g) The Department shall revoke a High Impact Business  
6 designation if the participating business fails to comply with  
7 the terms and conditions of the designation.

8 (h) Prior to designating a business, the Department shall  
9 provide the members of the General Assembly and Commission on  
10 Government Forecasting and Accountability with a report  
11 setting forth the terms and conditions of the designation and  
12 guarantees that have been received by the Department in  
13 relation to the proposed business being designated.

14 (Source: P.A. 92-12, eff. 7-1-01; 93-1064, eff. 1-13-05;  
15 93-1067, eff. 1-15-05; revised 1-25-05.)

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