



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1243

Introduced 2/9/2007, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201 from Ch. 120, par. 2-201
415 ILCS 5/25d-3
415 ILCS 5/58.2
415 ILCS 5/58.14
415 ILCS 5/58.14a new

Amends the Illinois Income Tax Act and the Environmental Protection Act. Sets forth standards for the Environmental Protection Agency's review of remediation costs with respect to the River Edge Redevelopment Zone site remediation tax credit. Requires the Agency to issue a notice when the Agency seals any equipment, vehicle, vessel, aircraft, or other facility that is contributing to an emergency condition that creates an immediate danger to health. Effective immediately.

LRB095 01632 CMK 23652 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning environmental protection.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 201 as follows:

6 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

7 Sec. 201. Tax Imposed.

8 (a) In general. A tax measured by net income is hereby
9 imposed on every individual, corporation, trust and estate for
10 each taxable year ending after July 31, 1969 on the privilege
11 of earning or receiving income in or as a resident of this
12 State. Such tax shall be in addition to all other occupation or
13 privilege taxes imposed by this State or by any municipal
14 corporation or political subdivision thereof.

15 (b) Rates. The tax imposed by subsection (a) of this
16 Section shall be determined as follows, except as adjusted by
17 subsection (d-1):

18 (1) In the case of an individual, trust or estate, for
19 taxable years ending prior to July 1, 1989, an amount equal
20 to 2 1/2% of the taxpayer's net income for the taxable
21 year.

22 (2) In the case of an individual, trust or estate, for
23 taxable years beginning prior to July 1, 1989 and ending

1 after June 30, 1989, an amount equal to the sum of (i) 2
2 1/2% of the taxpayer's net income for the period prior to
3 July 1, 1989, as calculated under Section 202.3, and (ii)
4 3% of the taxpayer's net income for the period after June
5 30, 1989, as calculated under Section 202.3.

6 (3) In the case of an individual, trust or estate, for
7 taxable years beginning after June 30, 1989, an amount
8 equal to 3% of the taxpayer's net income for the taxable
9 year.

10 (4) (Blank).

11 (5) (Blank).

12 (6) In the case of a corporation, for taxable years
13 ending prior to July 1, 1989, an amount equal to 4% of the
14 taxpayer's net income for the taxable year.

15 (7) In the case of a corporation, for taxable years
16 beginning prior to July 1, 1989 and ending after June 30,
17 1989, an amount equal to the sum of (i) 4% of the
18 taxpayer's net income for the period prior to July 1, 1989,
19 as calculated under Section 202.3, and (ii) 4.8% of the
20 taxpayer's net income for the period after June 30, 1989,
21 as calculated under Section 202.3.

22 (8) In the case of a corporation, for taxable years
23 beginning after June 30, 1989, an amount equal to 4.8% of
24 the taxpayer's net income for the taxable year.

25 (c) Personal Property Tax Replacement Income Tax.
26 Beginning on July 1, 1979 and thereafter, in addition to such

1 income tax, there is also hereby imposed the Personal Property
2 Tax Replacement Income Tax measured by net income on every
3 corporation (including Subchapter S corporations), partnership
4 and trust, for each taxable year ending after June 30, 1979.
5 Such taxes are imposed on the privilege of earning or receiving
6 income in or as a resident of this State. The Personal Property
7 Tax Replacement Income Tax shall be in addition to the income
8 tax imposed by subsections (a) and (b) of this Section and in
9 addition to all other occupation or privilege taxes imposed by
10 this State or by any municipal corporation or political
11 subdivision thereof.

12 (d) Additional Personal Property Tax Replacement Income
13 Tax Rates. The personal property tax replacement income tax
14 imposed by this subsection and subsection (c) of this Section
15 in the case of a corporation, other than a Subchapter S
16 corporation and except as adjusted by subsection (d-1), shall
17 be an additional amount equal to 2.85% of such taxpayer's net
18 income for the taxable year, except that beginning on January
19 1, 1981, and thereafter, the rate of 2.85% specified in this
20 subsection shall be reduced to 2.5%, and in the case of a
21 partnership, trust or a Subchapter S corporation shall be an
22 additional amount equal to 1.5% of such taxpayer's net income
23 for the taxable year.

24 (d-1) Rate reduction for certain foreign insurers. In the
25 case of a foreign insurer, as defined by Section 35A-5 of the
26 Illinois Insurance Code, whose state or country of domicile

1 imposes on insurers domiciled in Illinois a retaliatory tax
2 (excluding any insurer whose premiums from reinsurance assumed
3 are 50% or more of its total insurance premiums as determined
4 under paragraph (2) of subsection (b) of Section 304, except
5 that for purposes of this determination premiums from
6 reinsurance do not include premiums from inter-affiliate
7 reinsurance arrangements), beginning with taxable years ending
8 on or after December 31, 1999, the sum of the rates of tax
9 imposed by subsections (b) and (d) shall be reduced (but not
10 increased) to the rate at which the total amount of tax imposed
11 under this Act, net of all credits allowed under this Act,
12 shall equal (i) the total amount of tax that would be imposed
13 on the foreign insurer's net income allocable to Illinois for
14 the taxable year by such foreign insurer's state or country of
15 domicile if that net income were subject to all income taxes
16 and taxes measured by net income imposed by such foreign
17 insurer's state or country of domicile, net of all credits
18 allowed or (ii) a rate of zero if no such tax is imposed on such
19 income by the foreign insurer's state of domicile. For the
20 purposes of this subsection (d-1), an inter-affiliate includes
21 a mutual insurer under common management.

22 (1) For the purposes of subsection (d-1), in no event
23 shall the sum of the rates of tax imposed by subsections
24 (b) and (d) be reduced below the rate at which the sum of:

25 (A) the total amount of tax imposed on such foreign
26 insurer under this Act for a taxable year, net of all

1 credits allowed under this Act, plus

2 (B) the privilege tax imposed by Section 409 of the
3 Illinois Insurance Code, the fire insurance company
4 tax imposed by Section 12 of the Fire Investigation
5 Act, and the fire department taxes imposed under
6 Section 11-10-1 of the Illinois Municipal Code,
7 equals 1.25% for taxable years ending prior to December 31,
8 2003, or 1.75% for taxable years ending on or after
9 December 31, 2003, of the net taxable premiums written for
10 the taxable year, as described by subsection (1) of Section
11 409 of the Illinois Insurance Code. This paragraph will in
12 no event increase the rates imposed under subsections (b)
13 and (d).

14 (2) Any reduction in the rates of tax imposed by this
15 subsection shall be applied first against the rates imposed
16 by subsection (b) and only after the tax imposed by
17 subsection (a) net of all credits allowed under this
18 Section other than the credit allowed under subsection (i)
19 has been reduced to zero, against the rates imposed by
20 subsection (d).

21 This subsection (d-1) is exempt from the provisions of
22 Section 250.

23 (e) Investment credit. A taxpayer shall be allowed a credit
24 against the Personal Property Tax Replacement Income Tax for
25 investment in qualified property.

26 (1) A taxpayer shall be allowed a credit equal to .5%

1 of the basis of qualified property placed in service during
2 the taxable year, provided such property is placed in
3 service on or after July 1, 1984. There shall be allowed an
4 additional credit equal to .5% of the basis of qualified
5 property placed in service during the taxable year,
6 provided such property is placed in service on or after
7 July 1, 1986, and the taxpayer's base employment within
8 Illinois has increased by 1% or more over the preceding
9 year as determined by the taxpayer's employment records
10 filed with the Illinois Department of Employment Security.
11 Taxpayers who are new to Illinois shall be deemed to have
12 met the 1% growth in base employment for the first year in
13 which they file employment records with the Illinois
14 Department of Employment Security. The provisions added to
15 this Section by Public Act 85-1200 (and restored by Public
16 Act 87-895) shall be construed as declaratory of existing
17 law and not as a new enactment. If, in any year, the
18 increase in base employment within Illinois over the
19 preceding year is less than 1%, the additional credit shall
20 be limited to that percentage times a fraction, the
21 numerator of which is .5% and the denominator of which is
22 1%, but shall not exceed .5%. The investment credit shall
23 not be allowed to the extent that it would reduce a
24 taxpayer's liability in any tax year below zero, nor may
25 any credit for qualified property be allowed for any year
26 other than the year in which the property was placed in

1 service in Illinois. For tax years ending on or after
2 December 31, 1987, and on or before December 31, 1988, the
3 credit shall be allowed for the tax year in which the
4 property is placed in service, or, if the amount of the
5 credit exceeds the tax liability for that year, whether it
6 exceeds the original liability or the liability as later
7 amended, such excess may be carried forward and applied to
8 the tax liability of the 5 taxable years following the
9 excess credit years if the taxpayer (i) makes investments
10 which cause the creation of a minimum of 2,000 full-time
11 equivalent jobs in Illinois, (ii) is located in an
12 enterprise zone established pursuant to the Illinois
13 Enterprise Zone Act and (iii) is certified by the
14 Department of Commerce and Community Affairs (now
15 Department of Commerce and Economic Opportunity) as
16 complying with the requirements specified in clause (i) and
17 (ii) by July 1, 1986. The Department of Commerce and
18 Community Affairs (now Department of Commerce and Economic
19 Opportunity) shall notify the Department of Revenue of all
20 such certifications immediately. For tax years ending
21 after December 31, 1988, the credit shall be allowed for
22 the tax year in which the property is placed in service,
23 or, if the amount of the credit exceeds the tax liability
24 for that year, whether it exceeds the original liability or
25 the liability as later amended, such excess may be carried
26 forward and applied to the tax liability of the 5 taxable

1 years following the excess credit years. The credit shall
2 be applied to the earliest year for which there is a
3 liability. If there is credit from more than one tax year
4 that is available to offset a liability, earlier credit
5 shall be applied first.

6 (2) The term "qualified property" means property
7 which:

8 (A) is tangible, whether new or used, including
9 buildings and structural components of buildings and
10 signs that are real property, but not including land or
11 improvements to real property that are not a structural
12 component of a building such as landscaping, sewer
13 lines, local access roads, fencing, parking lots, and
14 other appurtenances;

15 (B) is depreciable pursuant to Section 167 of the
16 Internal Revenue Code, except that "3-year property"
17 as defined in Section 168(c)(2)(A) of that Code is not
18 eligible for the credit provided by this subsection
19 (e);

20 (C) is acquired by purchase as defined in Section
21 179(d) of the Internal Revenue Code;

22 (D) is used in Illinois by a taxpayer who is
23 primarily engaged in manufacturing, or in mining coal
24 or fluorite, or in retailing, or was placed in service
25 on or after July 1, 2006 in a River Edge Redevelopment
26 Zone established pursuant to the River Edge

1 Redevelopment Zone Act; and

2 (E) has not previously been used in Illinois in
3 such a manner and by such a person as would qualify for
4 the credit provided by this subsection (e) or
5 subsection (f).

6 (3) For purposes of this subsection (e),
7 "manufacturing" means the material staging and production
8 of tangible personal property by procedures commonly
9 regarded as manufacturing, processing, fabrication, or
10 assembling which changes some existing material into new
11 shapes, new qualities, or new combinations. For purposes of
12 this subsection (e) the term "mining" shall have the same
13 meaning as the term "mining" in Section 613(c) of the
14 Internal Revenue Code. For purposes of this subsection (e),
15 the term "retailing" means the sale of tangible personal
16 property or services rendered in conjunction with the sale
17 of tangible consumer goods or commodities.

18 (4) The basis of qualified property shall be the basis
19 used to compute the depreciation deduction for federal
20 income tax purposes.

21 (5) If the basis of the property for federal income tax
22 depreciation purposes is increased after it has been placed
23 in service in Illinois by the taxpayer, the amount of such
24 increase shall be deemed property placed in service on the
25 date of such increase in basis.

26 (6) The term "placed in service" shall have the same

1 meaning as under Section 46 of the Internal Revenue Code.

2 (7) If during any taxable year, any property ceases to
3 be qualified property in the hands of the taxpayer within
4 48 months after being placed in service, or the situs of
5 any qualified property is moved outside Illinois within 48
6 months after being placed in service, the Personal Property
7 Tax Replacement Income Tax for such taxable year shall be
8 increased. Such increase shall be determined by (i)
9 recomputing the investment credit which would have been
10 allowed for the year in which credit for such property was
11 originally allowed by eliminating such property from such
12 computation and, (ii) subtracting such recomputed credit
13 from the amount of credit previously allowed. For the
14 purposes of this paragraph (7), a reduction of the basis of
15 qualified property resulting from a redetermination of the
16 purchase price shall be deemed a disposition of qualified
17 property to the extent of such reduction.

18 (8) Unless the investment credit is extended by law,
19 the basis of qualified property shall not include costs
20 incurred after December 31, 2008, except for costs incurred
21 pursuant to a binding contract entered into on or before
22 December 31, 2008.

23 (9) Each taxable year ending before December 31, 2000,
24 a partnership may elect to pass through to its partners the
25 credits to which the partnership is entitled under this
26 subsection (e) for the taxable year. A partner may use the

1 credit allocated to him or her under this paragraph only
2 against the tax imposed in subsections (c) and (d) of this
3 Section. If the partnership makes that election, those
4 credits shall be allocated among the partners in the
5 partnership in accordance with the rules set forth in
6 Section 704(b) of the Internal Revenue Code, and the rules
7 promulgated under that Section, and the allocated amount of
8 the credits shall be allowed to the partners for that
9 taxable year. The partnership shall make this election on
10 its Personal Property Tax Replacement Income Tax return for
11 that taxable year. The election to pass through the credits
12 shall be irrevocable.

13 For taxable years ending on or after December 31, 2000,
14 a partner that qualifies its partnership for a subtraction
15 under subparagraph (I) of paragraph (2) of subsection (d)
16 of Section 203 or a shareholder that qualifies a Subchapter
17 S corporation for a subtraction under subparagraph (S) of
18 paragraph (2) of subsection (b) of Section 203 shall be
19 allowed a credit under this subsection (e) equal to its
20 share of the credit earned under this subsection (e) during
21 the taxable year by the partnership or Subchapter S
22 corporation, determined in accordance with the
23 determination of income and distributive share of income
24 under Sections 702 and 704 and Subchapter S of the Internal
25 Revenue Code. This paragraph is exempt from the provisions
26 of Section 250.

1 (f) Investment credit; Enterprise Zone; River Edge
2 Redevelopment Zone.

3 (1) A taxpayer shall be allowed a credit against the
4 tax imposed by subsections (a) and (b) of this Section for
5 investment in qualified property which is placed in service
6 in an Enterprise Zone created pursuant to the Illinois
7 Enterprise Zone Act or, for property placed in service on
8 or after July 1, 2006, a River Edge Redevelopment Zone
9 established pursuant to the River Edge Redevelopment Zone
10 Act. For partners, shareholders of Subchapter S
11 corporations, and owners of limited liability companies,
12 if the liability company is treated as a partnership for
13 purposes of federal and State income taxation, there shall
14 be allowed a credit under this subsection (f) to be
15 determined in accordance with the determination of income
16 and distributive share of income under Sections 702 and 704
17 and Subchapter S of the Internal Revenue Code. The credit
18 shall be .5% of the basis for such property. The credit
19 shall be available only in the taxable year in which the
20 property is placed in service in the Enterprise Zone or
21 River Edge Redevelopment Zone and shall not be allowed to
22 the extent that it would reduce a taxpayer's liability for
23 the tax imposed by subsections (a) and (b) of this Section
24 to below zero. For tax years ending on or after December
25 31, 1985, the credit shall be allowed for the tax year in
26 which the property is placed in service, or, if the amount

1 of the credit exceeds the tax liability for that year,
2 whether it exceeds the original liability or the liability
3 as later amended, such excess may be carried forward and
4 applied to the tax liability of the 5 taxable years
5 following the excess credit year. The credit shall be
6 applied to the earliest year for which there is a
7 liability. If there is credit from more than one tax year
8 that is available to offset a liability, the credit
9 accruing first in time shall be applied first.

10 (2) The term qualified property means property which:

11 (A) is tangible, whether new or used, including
12 buildings and structural components of buildings;

13 (B) is depreciable pursuant to Section 167 of the
14 Internal Revenue Code, except that "3-year property"
15 as defined in Section 168(c)(2)(A) of that Code is not
16 eligible for the credit provided by this subsection
17 (f);

18 (C) is acquired by purchase as defined in Section
19 179(d) of the Internal Revenue Code;

20 (D) is used in the Enterprise Zone or River Edge
21 Redevelopment Zone by the taxpayer; and

22 (E) has not been previously used in Illinois in
23 such a manner and by such a person as would qualify for
24 the credit provided by this subsection (f) or
25 subsection (e).

26 (3) The basis of qualified property shall be the basis

1 used to compute the depreciation deduction for federal
2 income tax purposes.

3 (4) If the basis of the property for federal income tax
4 depreciation purposes is increased after it has been placed
5 in service in the Enterprise Zone or River Edge
6 Redevelopment Zone by the taxpayer, the amount of such
7 increase shall be deemed property placed in service on the
8 date of such increase in basis.

9 (5) The term "placed in service" shall have the same
10 meaning as under Section 46 of the Internal Revenue Code.

11 (6) If during any taxable year, any property ceases to
12 be qualified property in the hands of the taxpayer within
13 48 months after being placed in service, or the situs of
14 any qualified property is moved outside the Enterprise Zone
15 or River Edge Redevelopment Zone within 48 months after
16 being placed in service, the tax imposed under subsections
17 (a) and (b) of this Section for such taxable year shall be
18 increased. Such increase shall be determined by (i)
19 recomputing the investment credit which would have been
20 allowed for the year in which credit for such property was
21 originally allowed by eliminating such property from such
22 computation, and (ii) subtracting such recomputed credit
23 from the amount of credit previously allowed. For the
24 purposes of this paragraph (6), a reduction of the basis of
25 qualified property resulting from a redetermination of the
26 purchase price shall be deemed a disposition of qualified

1 property to the extent of such reduction.

2 (7) There shall be allowed an additional credit equal
3 to 0.5% of the basis of qualified property placed in
4 service during the taxable year in a River Edge
5 Redevelopment Zone, provided such property is placed in
6 service on or after July 1, 2006, and the taxpayer's base
7 employment within Illinois has increased by 1% or more over
8 the preceding year as determined by the taxpayer's
9 employment records filed with the Illinois Department of
10 Employment Security. Taxpayers who are new to Illinois
11 shall be deemed to have met the 1% growth in base
12 employment for the first year in which they file employment
13 records with the Illinois Department of Employment
14 Security. If, in any year, the increase in base employment
15 within Illinois over the preceding year is less than 1%,
16 the additional credit shall be limited to that percentage
17 times a fraction, the numerator of which is 0.5% and the
18 denominator of which is 1%, but shall not exceed 0.5%.

19 (g) Jobs Tax Credit; Enterprise Zone, River Edge
20 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

21 (1) A taxpayer conducting a trade or business in an
22 enterprise zone or a High Impact Business designated by the
23 Department of Commerce and Economic Opportunity or for
24 taxable years ending on or after December 31, 2006, in a
25 River Edge Redevelopment Zone conducting a trade or
26 business in a federally designated Foreign Trade Zone or

1 Sub-Zone shall be allowed a credit against the tax imposed
2 by subsections (a) and (b) of this Section in the amount of
3 \$500 per eligible employee hired to work in the zone during
4 the taxable year.

5 (2) To qualify for the credit:

6 (A) the taxpayer must hire 5 or more eligible
7 employees to work in an enterprise zone, River Edge
8 Redevelopment Zone, or federally designated Foreign
9 Trade Zone or Sub-Zone during the taxable year;

10 (B) the taxpayer's total employment within the
11 enterprise zone, River Edge Redevelopment Zone, or
12 federally designated Foreign Trade Zone or Sub-Zone
13 must increase by 5 or more full-time employees beyond
14 the total employed in that zone at the end of the
15 previous tax year for which a jobs tax credit under
16 this Section was taken, or beyond the total employed by
17 the taxpayer as of December 31, 1985, whichever is
18 later; and

19 (C) the eligible employees must be employed 180
20 consecutive days in order to be deemed hired for
21 purposes of this subsection.

22 (3) An "eligible employee" means an employee who is:

23 (A) Certified by the Department of Commerce and
24 Economic Opportunity as "eligible for services"
25 pursuant to regulations promulgated in accordance with
26 Title II of the Job Training Partnership Act, Training

1 Services for the Disadvantaged or Title III of the Job
2 Training Partnership Act, Employment and Training
3 Assistance for Dislocated Workers Program.

4 (B) Hired after the enterprise zone, River Edge
5 Redevelopment Zone, or federally designated Foreign
6 Trade Zone or Sub-Zone was designated or the trade or
7 business was located in that zone, whichever is later.

8 (C) Employed in the enterprise zone, River Edge
9 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
10 An employee is employed in an enterprise zone or
11 federally designated Foreign Trade Zone or Sub-Zone if
12 his services are rendered there or it is the base of
13 operations for the services performed.

14 (D) A full-time employee working 30 or more hours
15 per week.

16 (4) For tax years ending on or after December 31, 1985
17 and prior to December 31, 1988, the credit shall be allowed
18 for the tax year in which the eligible employees are hired.
19 For tax years ending on or after December 31, 1988, the
20 credit shall be allowed for the tax year immediately
21 following the tax year in which the eligible employees are
22 hired. If the amount of the credit exceeds the tax
23 liability for that year, whether it exceeds the original
24 liability or the liability as later amended, such excess
25 may be carried forward and applied to the tax liability of
26 the 5 taxable years following the excess credit year. The

1 credit shall be applied to the earliest year for which
2 there is a liability. If there is credit from more than one
3 tax year that is available to offset a liability, earlier
4 credit shall be applied first.

5 (5) The Department of Revenue shall promulgate such
6 rules and regulations as may be deemed necessary to carry
7 out the purposes of this subsection (g).

8 (6) The credit shall be available for eligible
9 employees hired on or after January 1, 1986.

10 (h) Investment credit; High Impact Business.

11 (1) Subject to subsections (b) and (b-5) of Section 5.5
12 of the Illinois Enterprise Zone Act, a taxpayer shall be
13 allowed a credit against the tax imposed by subsections (a)
14 and (b) of this Section for investment in qualified
15 property which is placed in service by a Department of
16 Commerce and Economic Opportunity designated High Impact
17 Business. The credit shall be .5% of the basis for such
18 property. The credit shall not be available (i) until the
19 minimum investments in qualified property set forth in
20 subdivision (a)(3)(A) of Section 5.5 of the Illinois
21 Enterprise Zone Act have been satisfied or (ii) until the
22 time authorized in subsection (b-5) of the Illinois
23 Enterprise Zone Act for entities designated as High Impact
24 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
25 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
26 Act, and shall not be allowed to the extent that it would

1 reduce a taxpayer's liability for the tax imposed by
2 subsections (a) and (b) of this Section to below zero. The
3 credit applicable to such investments shall be taken in the
4 taxable year in which such investments have been completed.
5 The credit for additional investments beyond the minimum
6 investment by a designated high impact business authorized
7 under subdivision (a) (3) (A) of Section 5.5 of the Illinois
8 Enterprise Zone Act shall be available only in the taxable
9 year in which the property is placed in service and shall
10 not be allowed to the extent that it would reduce a
11 taxpayer's liability for the tax imposed by subsections (a)
12 and (b) of this Section to below zero. For tax years ending
13 on or after December 31, 1987, the credit shall be allowed
14 for the tax year in which the property is placed in
15 service, or, if the amount of the credit exceeds the tax
16 liability for that year, whether it exceeds the original
17 liability or the liability as later amended, such excess
18 may be carried forward and applied to the tax liability of
19 the 5 taxable years following the excess credit year. The
20 credit shall be applied to the earliest year for which
21 there is a liability. If there is credit from more than one
22 tax year that is available to offset a liability, the
23 credit accruing first in time shall be applied first.

24 Changes made in this subdivision (h) (1) by Public Act
25 88-670 restore changes made by Public Act 85-1182 and
26 reflect existing law.

1 (2) The term qualified property means property which:

2 (A) is tangible, whether new or used, including
3 buildings and structural components of buildings;

4 (B) is depreciable pursuant to Section 167 of the
5 Internal Revenue Code, except that "3-year property"
6 as defined in Section 168(c)(2)(A) of that Code is not
7 eligible for the credit provided by this subsection
8 (h);

9 (C) is acquired by purchase as defined in Section
10 179(d) of the Internal Revenue Code; and

11 (D) is not eligible for the Enterprise Zone
12 Investment Credit provided by subsection (f) of this
13 Section.

14 (3) The basis of qualified property shall be the basis
15 used to compute the depreciation deduction for federal
16 income tax purposes.

17 (4) If the basis of the property for federal income tax
18 depreciation purposes is increased after it has been placed
19 in service in a federally designated Foreign Trade Zone or
20 Sub-Zone located in Illinois by the taxpayer, the amount of
21 such increase shall be deemed property placed in service on
22 the date of such increase in basis.

23 (5) The term "placed in service" shall have the same
24 meaning as under Section 46 of the Internal Revenue Code.

25 (6) If during any taxable year ending on or before
26 December 31, 1996, any property ceases to be qualified

1 property in the hands of the taxpayer within 48 months
2 after being placed in service, or the situs of any
3 qualified property is moved outside Illinois within 48
4 months after being placed in service, the tax imposed under
5 subsections (a) and (b) of this Section for such taxable
6 year shall be increased. Such increase shall be determined
7 by (i) recomputing the investment credit which would have
8 been allowed for the year in which credit for such property
9 was originally allowed by eliminating such property from
10 such computation, and (ii) subtracting such recomputed
11 credit from the amount of credit previously allowed. For
12 the purposes of this paragraph (6), a reduction of the
13 basis of qualified property resulting from a
14 redetermination of the purchase price shall be deemed a
15 disposition of qualified property to the extent of such
16 reduction.

17 (7) Beginning with tax years ending after December 31,
18 1996, if a taxpayer qualifies for the credit under this
19 subsection (h) and thereby is granted a tax abatement and
20 the taxpayer relocates its entire facility in violation of
21 the explicit terms and length of the contract under Section
22 18-183 of the Property Tax Code, the tax imposed under
23 subsections (a) and (b) of this Section shall be increased
24 for the taxable year in which the taxpayer relocated its
25 facility by an amount equal to the amount of credit
26 received by the taxpayer under this subsection (h).

1 (i) Credit for Personal Property Tax Replacement Income
2 Tax. For tax years ending prior to December 31, 2003, a credit
3 shall be allowed against the tax imposed by subsections (a) and
4 (b) of this Section for the tax imposed by subsections (c) and
5 (d) of this Section. This credit shall be computed by
6 multiplying the tax imposed by subsections (c) and (d) of this
7 Section by a fraction, the numerator of which is base income
8 allocable to Illinois and the denominator of which is Illinois
9 base income, and further multiplying the product by the tax
10 rate imposed by subsections (a) and (b) of this Section.

11 Any credit earned on or after December 31, 1986 under this
12 subsection which is unused in the year the credit is computed
13 because it exceeds the tax liability imposed by subsections (a)
14 and (b) for that year (whether it exceeds the original
15 liability or the liability as later amended) may be carried
16 forward and applied to the tax liability imposed by subsections
17 (a) and (b) of the 5 taxable years following the excess credit
18 year, provided that no credit may be carried forward to any
19 year ending on or after December 31, 2003. This credit shall be
20 applied first to the earliest year for which there is a
21 liability. If there is a credit under this subsection from more
22 than one tax year that is available to offset a liability the
23 earliest credit arising under this subsection shall be applied
24 first.

25 If, during any taxable year ending on or after December 31,
26 1986, the tax imposed by subsections (c) and (d) of this

1 Section for which a taxpayer has claimed a credit under this
2 subsection (i) is reduced, the amount of credit for such tax
3 shall also be reduced. Such reduction shall be determined by
4 recomputing the credit to take into account the reduced tax
5 imposed by subsections (c) and (d). If any portion of the
6 reduced amount of credit has been carried to a different
7 taxable year, an amended return shall be filed for such taxable
8 year to reduce the amount of credit claimed.

9 (j) Training expense credit. Beginning with tax years
10 ending on or after December 31, 1986 and prior to December 31,
11 2003, a taxpayer shall be allowed a credit against the tax
12 imposed by subsections (a) and (b) under this Section for all
13 amounts paid or accrued, on behalf of all persons employed by
14 the taxpayer in Illinois or Illinois residents employed outside
15 of Illinois by a taxpayer, for educational or vocational
16 training in semi-technical or technical fields or semi-skilled
17 or skilled fields, which were deducted from gross income in the
18 computation of taxable income. The credit against the tax
19 imposed by subsections (a) and (b) shall be 1.6% of such
20 training expenses. For partners, shareholders of subchapter S
21 corporations, and owners of limited liability companies, if the
22 liability company is treated as a partnership for purposes of
23 federal and State income taxation, there shall be allowed a
24 credit under this subsection (j) to be determined in accordance
25 with the determination of income and distributive share of
26 income under Sections 702 and 704 and subchapter S of the

1 Internal Revenue Code.

2 Any credit allowed under this subsection which is unused in
3 the year the credit is earned may be carried forward to each of
4 the 5 taxable years following the year for which the credit is
5 first computed until it is used. This credit shall be applied
6 first to the earliest year for which there is a liability. If
7 there is a credit under this subsection from more than one tax
8 year that is available to offset a liability the earliest
9 credit arising under this subsection shall be applied first. No
10 carryforward credit may be claimed in any tax year ending on or
11 after December 31, 2003.

12 (k) Research and development credit.

13 For tax years ending after July 1, 1990 and prior to
14 December 31, 2003, and beginning again for tax years ending on
15 or after December 31, 2004, a taxpayer shall be allowed a
16 credit against the tax imposed by subsections (a) and (b) of
17 this Section for increasing research activities in this State.
18 The credit allowed against the tax imposed by subsections (a)
19 and (b) shall be equal to 6 1/2% of the qualifying expenditures
20 for increasing research activities in this State. For partners,
21 shareholders of subchapter S corporations, and owners of
22 limited liability companies, if the liability company is
23 treated as a partnership for purposes of federal and State
24 income taxation, there shall be allowed a credit under this
25 subsection to be determined in accordance with the
26 determination of income and distributive share of income under

1 Sections 702 and 704 and subchapter S of the Internal Revenue
2 Code.

3 For purposes of this subsection, "qualifying expenditures"
4 means the qualifying expenditures as defined for the federal
5 credit for increasing research activities which would be
6 allowable under Section 41 of the Internal Revenue Code and
7 which are conducted in this State, "qualifying expenditures for
8 increasing research activities in this State" means the excess
9 of qualifying expenditures for the taxable year in which
10 incurred over qualifying expenditures for the base period,
11 "qualifying expenditures for the base period" means the average
12 of the qualifying expenditures for each year in the base
13 period, and "base period" means the 3 taxable years immediately
14 preceding the taxable year for which the determination is being
15 made.

16 Any credit in excess of the tax liability for the taxable
17 year may be carried forward. A taxpayer may elect to have the
18 unused credit shown on its final completed return carried over
19 as a credit against the tax liability for the following 5
20 taxable years or until it has been fully used, whichever occurs
21 first; provided that no credit earned in a tax year ending
22 prior to December 31, 2003 may be carried forward to any year
23 ending on or after December 31, 2003.

24 If an unused credit is carried forward to a given year from
25 2 or more earlier years, that credit arising in the earliest
26 year will be applied first against the tax liability for the

1 given year. If a tax liability for the given year still
2 remains, the credit from the next earliest year will then be
3 applied, and so on, until all credits have been used or no tax
4 liability for the given year remains. Any remaining unused
5 credit or credits then will be carried forward to the next
6 following year in which a tax liability is incurred, except
7 that no credit can be carried forward to a year which is more
8 than 5 years after the year in which the expense for which the
9 credit is given was incurred.

10 No inference shall be drawn from this amendatory Act of the
11 91st General Assembly in construing this Section for taxable
12 years beginning before January 1, 1999.

13 (1) Environmental Remediation Tax Credit.

14 (i) For tax years ending after December 31, 1997 and on
15 or before December 31, 2001, a taxpayer shall be allowed a
16 credit against the tax imposed by subsections (a) and (b)
17 of this Section for certain amounts paid for unreimbursed
18 eligible remediation costs, as specified in this
19 subsection. For purposes of this Section, "unreimbursed
20 eligible remediation costs" means costs approved by the
21 Illinois Environmental Protection Agency ("Agency") under
22 Section 58.14 of the Environmental Protection Act that were
23 paid in performing environmental remediation at a site for
24 which a No Further Remediation Letter was issued by the
25 Agency and recorded under Section 58.10 of the
26 Environmental Protection Act. The credit must be claimed

1 for the taxable year in which Agency approval of the
2 eligible remediation costs is granted. The credit is not
3 available to any taxpayer if the taxpayer or any related
4 party caused or contributed to, in any material respect, a
5 release of regulated substances on, in, or under the site
6 that was identified and addressed by the remedial action
7 pursuant to the Site Remediation Program of the
8 Environmental Protection Act. After the Pollution Control
9 Board rules are adopted pursuant to the Illinois
10 Administrative Procedure Act for the administration and
11 enforcement of Section 58.9 of the Environmental
12 Protection Act, determinations as to credit availability
13 for purposes of this Section shall be made consistent with
14 those rules. For purposes of this Section, "taxpayer"
15 includes a person whose tax attributes the taxpayer has
16 succeeded to under Section 381 of the Internal Revenue Code
17 and "related party" includes the persons disallowed a
18 deduction for losses by paragraphs (b), (c), and (f)(1) of
19 Section 267 of the Internal Revenue Code by virtue of being
20 a related taxpayer, as well as any of its partners. The
21 credit allowed against the tax imposed by subsections (a)
22 and (b) shall be equal to 25% of the unreimbursed eligible
23 remediation costs in excess of \$100,000 per site, except
24 that the \$100,000 threshold shall not apply to any site
25 contained in an enterprise zone as determined by the
26 Department of Commerce and Community Affairs (now

1 Department of Commerce and Economic Opportunity). The
2 total credit allowed shall not exceed \$40,000 per year with
3 a maximum total of \$150,000 per site. For partners and
4 shareholders of subchapter S corporations, there shall be
5 allowed a credit under this subsection to be determined in
6 accordance with the determination of income and
7 distributive share of income under Sections 702 and 704 and
8 subchapter S of the Internal Revenue Code.

9 (ii) A credit allowed under this subsection that is
10 unused in the year the credit is earned may be carried
11 forward to each of the 5 taxable years following the year
12 for which the credit is first earned until it is used. The
13 term "unused credit" does not include any amounts of
14 unreimbursed eligible remediation costs in excess of the
15 maximum credit per site authorized under paragraph (i).
16 This credit shall be applied first to the earliest year for
17 which there is a liability. If there is a credit under this
18 subsection from more than one tax year that is available to
19 offset a liability, the earliest credit arising under this
20 subsection shall be applied first. A credit allowed under
21 this subsection may be sold to a buyer as part of a sale of
22 all or part of the remediation site for which the credit
23 was granted. The purchaser of a remediation site and the
24 tax credit shall succeed to the unused credit and remaining
25 carry-forward period of the seller. To perfect the
26 transfer, the assignor shall record the transfer in the

1 chain of title for the site and provide written notice to
2 the Director of the Illinois Department of Revenue of the
3 assignor's intent to sell the remediation site and the
4 amount of the tax credit to be transferred as a portion of
5 the sale. In no event may a credit be transferred to any
6 taxpayer if the taxpayer or a related party would not be
7 eligible under the provisions of subsection (i).

8 (iii) For purposes of this Section, the term "site"
9 shall have the same meaning as under Section 58.2 of the
10 Environmental Protection Act.

11 (m) Education expense credit. Beginning with tax years
12 ending after December 31, 1999, a taxpayer who is the custodian
13 of one or more qualifying pupils shall be allowed a credit
14 against the tax imposed by subsections (a) and (b) of this
15 Section for qualified education expenses incurred on behalf of
16 the qualifying pupils. The credit shall be equal to 25% of
17 qualified education expenses, but in no event may the total
18 credit under this subsection claimed by a family that is the
19 custodian of qualifying pupils exceed \$500. In no event shall a
20 credit under this subsection reduce the taxpayer's liability
21 under this Act to less than zero. This subsection is exempt
22 from the provisions of Section 250 of this Act.

23 For purposes of this subsection:

24 "Qualifying pupils" means individuals who (i) are
25 residents of the State of Illinois, (ii) are under the age of
26 21 at the close of the school year for which a credit is

1 sought, and (iii) during the school year for which a credit is
2 sought were full-time pupils enrolled in a kindergarten through
3 twelfth grade education program at any school, as defined in
4 this subsection.

5 "Qualified education expense" means the amount incurred on
6 behalf of a qualifying pupil in excess of \$250 for tuition,
7 book fees, and lab fees at the school in which the pupil is
8 enrolled during the regular school year.

9 "School" means any public or nonpublic elementary or
10 secondary school in Illinois that is in compliance with Title
11 VI of the Civil Rights Act of 1964 and attendance at which
12 satisfies the requirements of Section 26-1 of the School Code,
13 except that nothing shall be construed to require a child to
14 attend any particular public or nonpublic school to qualify for
15 the credit under this Section.

16 "Custodian" means, with respect to qualifying pupils, an
17 Illinois resident who is a parent, the parents, a legal
18 guardian, or the legal guardians of the qualifying pupils.

19 (n) River Edge Redevelopment Zone site remediation tax
20 credit.

21 (i) For tax years ending on or after December 31, 2006,
22 a taxpayer shall be allowed a credit against the tax
23 imposed by subsections (a) and (b) of this Section for
24 certain amounts paid for unreimbursed eligible remediation
25 costs, as specified in this subsection. For purposes of
26 this Section, "unreimbursed eligible remediation costs"

1 means costs approved by the Illinois Environmental
2 Protection Agency ("Agency") under Section 58.14a ~~58.14~~ of
3 the Environmental Protection Act that were paid in
4 performing environmental remediation at a site within a
5 River Edge Redevelopment Zone for which a No Further
6 Remediation Letter was issued by the Agency and recorded
7 under Section 58.10 of the Environmental Protection Act.
8 The credit must be claimed for the taxable year in which
9 Agency approval of the eligible remediation costs is
10 granted. The credit is not available to any taxpayer if the
11 taxpayer or any related party caused or contributed to, in
12 any material respect, a release of regulated substances on,
13 in, or under the site that was identified and addressed by
14 the remedial action pursuant to the Site Remediation
15 Program of the Environmental Protection Act.
16 Determinations as to credit availability for purposes of
17 this Section shall be made consistent with rules adopted by
18 the Pollution Control Board pursuant to the Illinois
19 Administrative Procedure Act for the administration and
20 enforcement of Section 58.9 of the Environmental
21 Protection Act. For purposes of this Section, "taxpayer"
22 includes a person whose tax attributes the taxpayer has
23 succeeded to under Section 381 of the Internal Revenue Code
24 and "related party" includes the persons disallowed a
25 deduction for losses by paragraphs (b), (c), and (f)(1) of
26 Section 267 of the Internal Revenue Code by virtue of being

1 a related taxpayer, as well as any of its partners. The
2 credit allowed against the tax imposed by subsections (a)
3 and (b) shall be equal to 25% of the unreimbursed eligible
4 remediation costs in excess of \$100,000 per site.

5 (ii) A credit allowed under this subsection that is
6 unused in the year the credit is earned may be carried
7 forward to each of the 5 taxable years following the year
8 for which the credit is first earned until it is used. This
9 credit shall be applied first to the earliest year for
10 which there is a liability. If there is a credit under this
11 subsection from more than one tax year that is available to
12 offset a liability, the earliest credit arising under this
13 subsection shall be applied first. A credit allowed under
14 this subsection may be sold to a buyer as part of a sale of
15 all or part of the remediation site for which the credit
16 was granted. The purchaser of a remediation site and the
17 tax credit shall succeed to the unused credit and remaining
18 carry-forward period of the seller. To perfect the
19 transfer, the assignor shall record the transfer in the
20 chain of title for the site and provide written notice to
21 the Director of the Illinois Department of Revenue of the
22 assignor's intent to sell the remediation site and the
23 amount of the tax credit to be transferred as a portion of
24 the sale. In no event may a credit be transferred to any
25 taxpayer if the taxpayer or a related party would not be
26 eligible under the provisions of subsection (i).

1 (iii) For purposes of this Section, the term "site"
2 shall have the same meaning as under Section 58.2 of the
3 Environmental Protection Act.

4 (iv) This subsection is exempt from the provisions of
5 Section 250.

6 (Source: P.A. 93-29, eff. 6-20-03; 93-840, eff. 7-30-04;
7 93-871, eff. 8-6-04; 94-1021, eff. 7-12-06.)

8 Section 10. The Environmental Protection Act is amended by
9 changing Section 25d-3 and 58.2 and 58.14 and by adding Section
10 58.14a as follows:

11 (415 ILCS 5/25d-3)

12 Sec. 25d-3. Notices.

13 (a) Beginning January 1, 2006, if the Agency determines
14 that:

15 (1) Soil contamination beyond the boundary of the site
16 where the release occurred poses a threat of exposure to
17 the public above the appropriate Tier 1 remediation
18 objectives, based on the current use of the off-site
19 property, adopted by the Board under Title XVII of this
20 Act, the Agency shall give notice of the threat to the
21 owner of the contaminated property; or

22 (2) Groundwater contamination poses a threat of
23 exposure to the public above the Class I groundwater
24 quality standards adopted by the Board under this Act and

1 the Groundwater Protection Act, the Agency shall give
2 notice of the threat to the following:

3 (A) for any private, semi-private, or
4 non-community water system, the owners of the
5 properties served by the system; and

6 (B) for any community water system, the owners and
7 operators of the system.

8 The Agency's determination must be based on the credible,
9 scientific information available to it, and the Agency is not
10 required to perform additional investigations or studies
11 beyond those required by applicable federal or State laws.

12 (b) Beginning January 1, 2006, if any of the following
13 actions occur: (i) the Agency refers a matter for enforcement
14 under Section 43(a) of this Act; (ii) the Agency issues a seal
15 order under Section 34~~(a)~~ of this Act; or (iii) the Agency, the
16 United States Environmental Protection Agency (USEPA), or a
17 third party under Agency or USEPA oversight performs an
18 immediate removal under the federal Comprehensive
19 Environmental Response, Compensation, and Liability Act, as
20 amended, then, within 60 days after the action, the Agency must
21 give notice of the action to the owners of all property within
22 2,500 feet of the subject contamination or any closer or
23 farther distance that the Agency deems appropriate under the
24 circumstances. Within 30 days after a request by the Agency,
25 the appropriate officials of the county in which the property
26 is located must provide to the Agency the names and addresses

1 of all property owners to whom the Agency is required to give
2 notice under this subsection (b), these owners being the
3 persons or entities that appear from the authentic tax records
4 of the county.

5 (c) The methods by which the Agency gives the notices
6 required under this Section shall be determined in consultation
7 with members of the public and appropriate members of the
8 regulated community and may include, but shall not be limited
9 to, personal notification, public meetings, signs, electronic
10 notification, and print media. For sites at which a responsible
11 party has implemented a community relations plan, the Agency
12 may allow the responsible party to provide Agency-approved
13 notices in lieu of the notices required to be given by the
14 Agency. Notices issued under this Section may contain the
15 following information:

16 (1) the name and address of the site or facility where
17 the release occurred or is suspected to have occurred;

18 (2) the identification of the contaminant released or
19 suspected to have been released;

20 (3) information as to whether the contaminant was
21 released or suspected to have been released into the air,
22 land, or water;

23 (4) a brief description of the potential adverse health
24 effects posed by the contaminant;

25 (5) a recommendation that water systems with wells
26 impacted or potentially impacted by the contaminant be

1 appropriately tested; and

2 (6) the name, business address, and phone number of
3 persons at the Agency from whom additional information
4 about the release or suspected release can be obtained.

5 (d) Any person who is a responsible party with respect to
6 the release or substantial threat of release for which notice
7 is given under this Section is liable for all reasonable costs
8 incurred by the State in giving the notice. All moneys received
9 by the State under this subsection (d) for costs related to
10 releases and substantial threats of releases of hazardous
11 substances, pesticides, and petroleum other than releases and
12 substantial threats of releases of petroleum from underground
13 storage tanks subject to Title XVI of this Act must be
14 deposited in and used for purposes consistent with the
15 Hazardous Waste Fund. All moneys received by the State under
16 this subsection (d) for costs related to releases and
17 substantial threats of releases of petroleum from underground
18 storage tanks subject to Title XVI of this Act must be
19 deposited in and used for purposes consistent with the
20 Underground Storage Tank Fund.

21 (Source: P.A. 94-314, eff. 7-25-05.)

22 (415 ILCS 5/58.2)

23 Sec. 58.2. Definitions. The following words and phrases
24 when used in this Title shall have the meanings given to them
25 in this Section unless the context clearly indicates otherwise:

1 "Agrichemical facility" means a site on which agricultural
2 pesticides are stored or handled, or both, in preparation for
3 end use, or distributed. The term does not include basic
4 manufacturing facility sites.

5 "ASTM" means the American Society for Testing and
6 Materials.

7 "Area background" means concentrations of regulated
8 substances that are consistently present in the environment in
9 the vicinity of a site that are the result of natural
10 conditions or human activities, and not the result solely of
11 releases at the site.

12 "Brownfields site" or "brownfields" means a parcel of real
13 property, or a portion of the parcel, that has actual or
14 perceived contamination and an active potential for
15 redevelopment.

16 "Class I groundwater" means groundwater that meets the
17 Class I Potable Resource groundwater criteria set forth in the
18 Board rules adopted under the Illinois Groundwater Protection
19 Act.

20 "Class III groundwater" means groundwater that meets the
21 Class III Special Resource Groundwater criteria set forth in
22 the Board rules adopted under the Illinois Groundwater
23 Protection Act.

24 "Carcinogen" means a contaminant that is classified as a
25 Category A1 or A2 Carcinogen by the American Conference of
26 Governmental Industrial Hygienists; or a Category 1 or 2A/2B

1 Carcinogen by the World Health Organizations International
2 Agency for Research on Cancer; or a "Human Carcinogen" or
3 "Anticipated Human Carcinogen" by the United States Department
4 of Health and Human Service National Toxicological Program; or
5 a Category A or B1/B2 Carcinogen by the United States
6 Environmental Protection Agency in Integrated Risk Information
7 System or a Final Rule issued in a Federal Register notice by
8 the USEPA as of the effective date of this amendatory Act of
9 1995.

10 "Licensed Professional Engineer" (LPE) means a person,
11 corporation, or partnership licensed under the laws of this
12 State to practice professional engineering.

13 "Licensed Professional Geologist" means a person licensed
14 under the laws of the State of Illinois to practice as a
15 professional geologist.

16 "RELPEG" means a Licensed Professional Engineer or a
17 Licensed Professional Geologist engaged in review and
18 evaluation under this Title.

19 "Man-made pathway" means constructed routes that may allow
20 for the transport of regulated substances including, but not
21 limited to, sewers, utility lines, utility vaults, building
22 foundations, basements, crawl spaces, drainage ditches, or
23 previously excavated and filled areas.

24 "Municipality" means an incorporated city, village, or
25 town in this State. "Municipality" does not mean a township,
26 town when that term is used as the equivalent of a township,

1 incorporated town that has superseded a civil township, county,
2 or school district, park district, sanitary district, or
3 similar governmental district.

4 "Natural pathway" means natural routes for the transport of
5 regulated substances including, but not limited to, soil,
6 groundwater, sand seams and lenses, and gravel seams and
7 lenses.

8 "Person" means individual, trust, firm, joint stock
9 company, joint venture, consortium, commercial entity,
10 corporation (including a government corporation), partnership,
11 association, State, municipality, commission, political
12 subdivision of a State, or any interstate body including the
13 United States Government and each department, agency, and
14 instrumentality of the United States.

15 "Regulated substance" means any hazardous substance as
16 defined under Section 101(14) of the Comprehensive
17 Environmental Response, Compensation, and Liability Act of
18 1980 (P.L. 96-510) and petroleum products including crude oil
19 or any fraction thereof, natural gas, natural gas liquids,
20 liquefied natural gas, or synthetic gas usable for fuel (or
21 mixtures of natural gas and such synthetic gas).

22 "Remedial action" means activities associated with
23 compliance with the provisions of Sections 58.6 and 58.7.

24 "Remediation Applicant" (RA) means any person seeking to
25 perform or performing investigative or remedial activities
26 under this Title, including the owner or operator of the site

1 or persons authorized by law or consent to act on behalf of or
2 in lieu of the owner or operator of the site.

3 "Remediation costs" means reasonable costs paid for
4 investigating and remediating regulated substances of concern
5 consistent with the remedy selected for a site.

6 For purposes of Section 58.14, "remediation costs" shall
7 not include costs incurred prior to January 1, 1998, costs
8 incurred after the issuance of a No Further Remediation Letter
9 under Section 58.10 of this Act, or costs incurred more than 12
10 months prior to acceptance into the Site Remediation Program.

11 For the purpose of Section 58.14a, "remediation costs" do
12 not include any costs incurred before January 1, 2007, any
13 costs incurred after the issuance of a No Further Remediation
14 Letter under Section 58.10, or any costs incurred more than 12
15 months before acceptance into the Site Remediation Program.

16 "Residential property" means any real property that is used
17 for habitation by individuals and other property uses defined
18 by Board rules such as education, health care, child care and
19 related uses.

20 "River Edge Redevelopment Zone" has the meaning set forth
21 under the River Edge Redevelopment Zone Act.

22 "Site" means any single location, place, tract of land or
23 parcel of property, or portion thereof, including contiguous
24 property separated by a public right-of-way.

25 "Regulated substance of concern" means any contaminant
26 that is expected to be present at the site based upon past and

1 current land uses and associated releases that are known to the
2 Remediation Applicant based upon reasonable inquiry.

3 (Source: P.A. 92-735, eff. 7-25-02.)

4 (415 ILCS 5/58.14)

5 Sec. 58.14. Environmental Remediation Tax Credit review.

6 (a) Prior to applying for the Environmental Remediation Tax
7 Credit under Section 201 of the Illinois Income Tax Act,
8 Remediation Applicants shall first submit to the Agency an
9 application for review of remediation costs. ~~The Agency shall~~
10 ~~review the application jointly with the Department of Commerce~~
11 ~~and Economic Opportunity.~~ The application and review process
12 shall be conducted in accordance with the requirements of this
13 Section and the rules adopted under subsection (g). A
14 preliminary review of the estimated remediation costs for
15 development and implementation of the Remedial Action Plan may
16 be obtained in accordance with subsection (d).

17 (b) No application for review shall be submitted until a No
18 Further Remediation Letter has been issued by the Agency and
19 recorded in the chain of title for the site in accordance with
20 Section 58.10. The Agency shall review the application to
21 determine whether the costs submitted are remediation costs,
22 and whether the costs incurred are reasonable. The application
23 shall be on forms prescribed and provided by the Agency. At a
24 minimum, the application shall include the following:

25 (1) information identifying the Remediation Applicant

1 and the site for which the tax credit is being sought and
2 the date of acceptance of the site into the Site
3 Remediation Program;

4 (2) a copy of the No Further Remediation Letter with
5 official verification that the letter has been recorded in
6 the chain of title for the site and a demonstration that
7 the site for which the application is submitted is the same
8 site as the one for which the No Further Remediation Letter
9 is issued;

10 (3) a demonstration that the release of the regulated
11 substances of concern for which the No Further Remediation
12 Letter was issued were not caused or contributed to in any
13 material respect by the Remediation Applicant. After the
14 Pollution Control Board rules are adopted pursuant to the
15 Illinois Administrative Procedure Act for the
16 administration and enforcement of Section 58.9 of the
17 Environmental Protection Act, determinations as to credit
18 availability shall be made consistent with those rules;

19 (4) an itemization and documentation, including
20 receipts, of the remediation costs incurred;

21 (5) a demonstration that the costs incurred are
22 remediation costs as defined in this Act and its rules;

23 (6) a demonstration that the costs submitted for review
24 were incurred by the Remediation Applicant who received the
25 No Further Remediation Letter;

26 (7) an application fee in the amount set forth in

1 subsection (e) for each site for which review of
2 remediation costs is requested and, if applicable,
3 certification from the Department of Commerce and Economic
4 Opportunity that the site is located in an enterprise zone;

5 (8) any other information deemed appropriate by the
6 Agency.

7 (c) Within 60 days after receipt by the Agency of an
8 application meeting the requirements of subsection (b), the
9 Agency shall issue a letter to the applicant approving,
10 disapproving, or modifying the remediation costs submitted in
11 the application. If the remediation costs are approved as
12 submitted, the Agency's letter shall state the amount of the
13 remediation costs to be applied toward the Environmental
14 Remediation Tax Credit. If an application is disapproved or
15 approved with modification of remediation costs, the Agency's
16 letter shall set forth the reasons for the disapproval or
17 modification and state the amount of the remediation costs, if
18 any, to be applied toward the Environmental Remediation Tax
19 Credit.

20 If a preliminary review of a budget plan has been obtained
21 under subsection (d), the Remediation Applicant may submit,
22 with the application and supporting documentation under
23 subsection (b), a copy of the Agency's final determination
24 accompanied by a certification that the actual remediation
25 costs incurred for the development and implementation of the
26 Remedial Action Plan are equal to or less than the costs

1 approved in the Agency's final determination on the budget
2 plan. The certification shall be signed by the Remediation
3 Applicant and notarized. Based on that submission, the Agency
4 shall not be required to conduct further review of the costs
5 incurred for development and implementation of the Remedial
6 Action Plan and may approve costs as submitted.

7 Within 35 days after receipt of an Agency letter
8 disapproving or modifying an application for approval of
9 remediation costs, the Remediation Applicant may appeal the
10 Agency's decision to the Board in the manner provided for the
11 review of permits in Section 40 of this Act.

12 (d) (1) A Remediation Applicant may obtain a preliminary
13 review of estimated remediation costs for the development
14 and implementation of the Remedial Action Plan by
15 submitting a budget plan along with the Remedial Action
16 Plan. The budget plan shall be set forth on forms
17 prescribed and provided by the Agency and shall include but
18 shall not be limited to line item estimates of the costs
19 associated with each line item (such as personnel,
20 equipment, and materials) that the Remediation Applicant
21 anticipates will be incurred for the development and
22 implementation of the Remedial Action Plan. The Agency
23 shall review the budget plan along with the Remedial Action
24 Plan to determine whether the estimated costs submitted are
25 remediation costs and whether the costs estimated for the
26 activities are reasonable.

1 (2) If the Remedial Action Plan is amended by the
2 Remediation Applicant or as a result of Agency action, the
3 corresponding budget plan shall be revised accordingly and
4 resubmitted for Agency review.

5 (3) The budget plan shall be accompanied by the
6 applicable fee as set forth in subsection (e).

7 (4) Submittal of a budget plan shall be deemed an
8 automatic 60-day waiver of the Remedial Action Plan review
9 deadlines set forth in this Section and its rules.

10 (5) Within the applicable period of review, the Agency
11 shall issue a letter to the Remediation Applicant
12 approving, disapproving, or modifying the estimated
13 remediation costs submitted in the budget plan. If a budget
14 plan is disapproved or approved with modification of
15 estimated remediation costs, the Agency's letter shall set
16 forth the reasons for the disapproval or modification.

17 (6) Within 35 days after receipt of an Agency letter
18 disapproving or modifying a budget plan, the Remediation
19 Applicant may appeal the Agency's decision to the Board in
20 the manner provided for the review of permits in Section 40
21 of this Act.

22 (e) The fees for reviews conducted under this Section are
23 in addition to any other fees or payments for Agency services
24 rendered pursuant to the Site Remediation Program and shall be
25 as follows:

26 (1) The fee for an application for review of

1 remediation costs shall be \$1,000 for each site reviewed.

2 (2) The fee for the review of the budget plan submitted
3 under subsection (d) shall be \$500 for each site reviewed.

4 (3) In the case of a Remediation Applicant submitting
5 for review total remediation costs of \$100,000 or less for
6 a site located within an enterprise zone ~~a River Edge~~
7 ~~Redevelopment Zone~~ (as set forth in paragraph (i) of
8 subsection (1) ~~(n)~~ of Section 201 of the Illinois Income
9 Tax Act), the fee for an application for review of
10 remediation costs shall be \$250 for each site reviewed. For
11 those sites, there shall be no fee for review of a budget
12 plan under subsection (d).

13 The application fee shall be made payable to the State of
14 Illinois, for deposit into the Hazardous Waste Fund.

15 Pursuant to appropriation, the Agency shall use the fees
16 collected under this subsection for development and
17 administration of the review program.

18 (f) The Agency shall have the authority to enter into any
19 contracts or agreements that may be necessary to carry out its
20 duties and responsibilities under this Section.

21 (g) Within 6 months after July 21, 1997, the Agency shall
22 propose rules prescribing procedures and standards for its
23 administration of this Section. Within 6 months after receipt
24 of the Agency's proposed rules, the Board shall adopt on second
25 notice, pursuant to Sections 27 and 28 of this Act and the
26 Illinois Administrative Procedure Act, rules that are

1 consistent with this Section. Prior to the effective date of
2 rules adopted under this Section, the Agency may conduct
3 reviews of applications under this Section and the Agency is
4 further authorized to distribute guidance documents on costs
5 that are eligible or ineligible as remediation costs.

6 (Source: P.A. 94-793, eff. 5-19-06; 94-1021, eff. 7-12-06.)

7 (415 ILCS 5/58.14a new)

8 Sec. 58.14a. River Edge Redevelopment Zone Site
9 Remediation Tax Credit Review.

10 (a) Prior to applying for the River Edge Redevelopment Zone
11 site remediation tax credit under subsection (n) of Section 201
12 of the Illinois Income Tax Act, a Remediation Applicant must
13 first submit to the Agency an application for review of
14 remediation costs. The Agency shall review the application in
15 consultation with the Department of Commerce and Economic
16 Opportunity. The application and review process must be
17 conducted in accordance with the requirements of this Section
18 and the rules adopted under subsection (g). A preliminary
19 review of the estimated remediation costs for development and
20 implementation of the Remedial Action Plan may be obtained in
21 accordance with subsection (d).

22 (b) No application for review may be submitted until a No
23 Further Remediation Letter has been issued by the Agency and
24 recorded in the chain of title for the site in accordance with
25 Section 58.10. The Agency shall review the application to

1 determine whether the costs submitted are remediation costs and
2 whether the costs incurred are reasonable. The application must
3 be on forms prescribed and provided by the Agency. At a
4 minimum, the application must include the following:

5 (1) information identifying the Remediation Applicant,
6 the site for which the tax credit is being sought, and the
7 date of acceptance of the site into the Site Remediation
8 Program;

9 (2) a copy of the No Further Remediation Letter with
10 official verification that the letter has been recorded in
11 the chain of title for the site and a demonstration that
12 the site for which the application is submitted is the same
13 site as the one for which the No Further Remediation Letter
14 is issued;

15 (3) a demonstration that the release of the regulated
16 substances of concern for which the No Further Remediation
17 Letter was issued were not caused or contributed to in any
18 material respect by the Remediation Applicant.
19 Determinations as to credit availability shall be made
20 consistent with the Pollution Control Board rules for the
21 administration and enforcement of Section 58.9 of this Act;

22 (4) an itemization and documentation, including
23 receipts, of the remediation costs incurred;

24 (5) a demonstration that the costs incurred are
25 remediation costs as defined in this Act and its rules;

26 (6) a demonstration that the costs submitted for review

1 were incurred by the Remediation Applicant who received the
2 No Further Remediation Letter;

3 (7) an application fee in the amount set forth in
4 subsection (e) for each site for which review of
5 remediation costs is requested and, if applicable,
6 certification from the Department of Commerce and Economic
7 Opportunity that the site is located in a River Edge
8 Redevelopment Zone; and

9 (8) any other information deemed appropriate by the
10 Agency.

11 (c) Within 60 days after receipt by the Agency of an
12 application meeting the requirements of subsection (b), the
13 Agency shall issue a letter to the applicant approving,
14 disapproving, or modifying the remediation costs submitted in
15 the application. If the remediation costs are approved as
16 submitted, then the Agency's letter must state the amount of
17 the remediation costs to be applied toward the River Edge
18 Redevelopment Zone site remediation tax credit. If an
19 application is disapproved or approved with modification of
20 remediation costs, then the Agency's letter must set forth the
21 reasons for the disapproval or modification and must state the
22 amount of the remediation costs, if any, to be applied toward
23 the River Edge Redevelopment Zone site remediation tax credit.

24 If a preliminary review of a budget plan has been obtained
25 under subsection (d), then the Remediation Applicant may
26 submit, with the application and supporting documentation

1 under subsection (b), a copy of the Agency's final
2 determination accompanied by a certification that the actual
3 remediation costs incurred for the development and
4 implementation of the Remedial Action Plan are equal to or less
5 than the costs approved in the Agency's final determination on
6 the budget plan. The certification must be signed by the
7 Remediation Applicant and notarized. Based on that submission,
8 the Agency is not required to conduct further review of the
9 costs incurred for development and implementation of the
10 Remedial Action Plan, and it may approve the costs as
11 submitted. Within 35 days after the receipt of an Agency letter
12 disapproving or modifying an application for approval of
13 remediation costs, the Remediation Applicant may appeal the
14 Agency's decision to the Board in the manner provided for the
15 review of permits under Section 40 of this Act.

16 (d) A Remediation Applicant may obtain a preliminary review
17 of estimated remediation costs for the development and
18 implementation of the Remedial Action Plan by submitting a
19 budget plan along with the Remedial Action Plan. The budget
20 plan must be set forth on forms prescribed and provided by the
21 Agency and must include, without limitation, line-item
22 estimates of the costs associated with each line item (such as
23 personnel, equipment, and materials) that the Remediation
24 Applicant anticipates will be incurred for the development and
25 implementation of the Remedial Action Plan. The Agency shall
26 review the budget plan along with the Remedial Action Plan to

1 determine whether the estimated costs submitted are
2 remediation costs and whether the costs estimated for the
3 activities are reasonable.

4 If the Remedial Action Plan is amended by the Remediation
5 Applicant or as a result of Agency action, then the
6 corresponding budget plan must be revised accordingly and
7 resubmitted for Agency review.

8 The budget plan must be accompanied by the applicable fee
9 as set forth in subsection (e).

10 The submittal of a budget plan is deemed to be an automatic
11 60-day waiver of the Remedial Action Plan review deadlines set
12 forth in this Section and its rules.

13 Within the applicable period of review, the Agency shall
14 issue a letter to the Remediation Applicant approving,
15 disapproving, or modifying the estimated remediation costs
16 submitted in the budget plan. If a budget plan is disapproved
17 or approved with modification of estimated remediation costs,
18 then the Agency's letter must set forth the reasons for the
19 disapproval or modification.

20 Within 35 days after receipt of an Agency letter
21 disapproving or modifying a budget plan, the Remediation
22 Applicant may appeal the Agency's decision to the Board in the
23 manner provided for the review of permits under Section 40 of
24 this Act.

25 (e) Any fee for a review conducted under this Section is in
26 addition to any other fees or payments for Agency services

1 rendered under the Site Remediation Program. The fees under
2 this Section are as follows:

3 (1) the fee for an application for review of
4 remediation costs is \$250 for each site reviewed; and

5 (2) there is no fee for the review of the budget plan
6 submitted under subsection (d).

7 The application fee must be made payable to the State of
8 Illinois, for deposit into the Hazardous Waste Fund. Pursuant
9 to appropriation, the Agency shall use the fees collected under
10 this subsection for development and administration of the
11 review program.

12 (f) The Agency has the authority to enter into any
13 contracts or agreements that may be necessary to carry out its
14 duties and responsibilities under this Section.

15 (g) The Agency shall adopt rules prescribing procedures and
16 standards for its administration of this Section. Prior to the
17 effective date of rules adopted under this Section, the Agency
18 may conduct reviews of applications under this Section. The
19 Agency may publish informal guidelines concerning this Section
20 to provide guidance.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.