

1 AN ACT concerning alternative energy.

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

4 Section 1. Short title. This Act may be cited as the Clean
5 Coal FutureGen for Illinois Act.

6 Section 5. Purpose. Recognizing that the FutureGen Project
7 is a first-of-a-kind research project to permanently sequester
8 underground carbon-dioxide emissions from a coal-fueled power
9 plant, and that such a project would have benefits to the
10 economy and environment of Illinois, the purpose of this Act is
11 to provide the FutureGen Alliance with adequate liability
12 protection and permitting certainty to facilitate the siting of
13 the FutureGen Project in the State of Illinois.

14 Section 10. Legislative findings. The General Assembly
15 finds and determines that:

16 (1) human-induced greenhouse gas emissions have been
17 identified as contributing to global warming, the effects of
18 which pose a threat to public health and safety and the economy
19 of the State of Illinois;

20 (2) in order to meet the energy needs of the State of
21 Illinois, keep its economy strong and protect the environment
22 while reducing its contribution to human-induced greenhouse

1 gas emissions, the State of Illinois must be a leader in
2 developing new low-carbon technologies;

3 (3) carbon capture and storage is a low-carbon technology
4 that involves capturing the carbon dioxide from fossil fuel
5 energy and hydrogen generating units and injecting it into
6 secure geologic strata for permanent storage;

7 (4) the FutureGen Project is a public-private partnership
8 between the Federal Department of Energy and the FutureGen
9 Alliance that proposes to use this new technology as part of a
10 plan to build and operate a near zero emission coal fueled
11 power plant;

12 (5) the FutureGen Project will help ensure the long-term
13 viability of Illinois Basin coal as a major energy source in
14 the State of Illinois and throughout the nation and represents
15 a significant step in the State of Illinois' efforts to become
16 a self-sufficient, clean energy producer;

17 (6) the FutureGen Project provides an opportunity for the
18 State of Illinois to partner with the Federal Department of
19 Energy and the FutureGen Alliance in the development of these
20 innovative clean-coal technologies;

21 (7) the FutureGen Project will make the State of Illinois a
22 center for developing and refining clean coal technology,
23 hydrogen production and carbon capture and storage, and will
24 result in the development of new technologies designed to
25 improve the efficiency of the energy industry that will be
26 replicated world wide;

1 (8) the FutureGen Project is an important coal development
2 and conversion project that will create jobs in the State of
3 Illinois during the construction and operational phases,
4 contribute to the overall economy of the State of Illinois and
5 help reinvigorate the Illinois Basin coal industry; and

6 (9) the FutureGen Project and the property necessary for
7 the FutureGen Project serve a substantial public purpose as its
8 coal gasification, electricity generation, hydrogen
9 production, advanced emissions control and carbon capture and
10 storage technologies will benefit the citizens of the State of
11 Illinois.

12 Section 15. Definitions. For the purposes of this Act:

13 "Agency" means the Illinois Environmental Protection
14 Agency.

15 "Carbon capture and storage" means the process of capturing
16 and injecting sequestered gas for permanent storage.

17 "Carbon dioxide" or "CO₂" means a colorless, odorless gas
18 in the form of one carbon and 2 oxygen atoms that is a
19 combustion byproduct and the principal greenhouse gas.

20 "Department" means the Department of Commerce and Economic
21 Opportunity.

22 "Director" means the Director of Commerce and Economic
23 Opportunity.

24 "Federal Department" means the federal Department of
25 Energy.

1 "FutureGen Alliance" is a 501(c)(3) non-profit consortium
2 of coal and energy producers that, as of the effective date of
3 this Act, includes American Electric Power, Anglo American plc,
4 BHP Billiton, E. ON US, China Huaneng Group, CONSOL Energy,
5 Foundation Coal, Kennecott Energy, Peabody Energy, PPL
6 Corporation, Rio Tinto Energy American, Southern Company, and
7 Xstrata Coal.

8 "FutureGen Project" means the public-private partnership
9 between the Federal Department and the FutureGen Alliance that
10 will construct and operate a coal-fueled power plant utilizing
11 state-of-the-art clean-coal technology and carbon capture and
12 storage. Two locations in Illinois, Tuscola and Mattoon, are
13 under consideration for the FutureGen Project. These are the
14 only locations eligible for benefits under this Act.

15 "Mount Simon Formation" means the deep sandstone reservoir
16 into which the sequestered gas is to be injected at depths
17 generally ranging between 5,500 and 8,500 feet below ground
18 surface and that is bounded by the granitic basement below and
19 the Eau Claire Shale above.

20 "Operator" means the FutureGen Alliance and its member
21 companies, including their parent companies, subsidiaries,
22 affiliates, directors, officers, employees, and agents.

23 "Post-injection" means after the sequestered gas has been
24 successfully injected into the Mount Simon Formation.

25 "Pre-injection" means all activities and occurrences prior
26 to successful injection into the Mt. Simon Formation, including

1 but not limited to, the operation of the FutureGen Project
2 (including CO2 capture, CO2 transport, and well-bore
3 operations).

4 "Public liability" means any civil legal liability arising
5 out of or resulting from the storage, escape, release, or
6 migration of the post-injection sequestered gas that was
7 injected during the operation of the FutureGen Project by the
8 FutureGen Alliance. The term "public liability", however, does
9 not include any legal liability arising out of or resulting
10 from the construction, operation, or other pre-injection
11 activity of the Operator.

12 "Public liability action" or "action" means a written
13 demand from any third party received by the Operator seeking a
14 remedy or alleging liability on behalf of Operator resulting
15 from any public liability.

16 "Sequestered gas" means the CO2 and other chemical
17 constituents from the FutureGen Project operations that are
18 injected into the Mount Simon Formation in concentrations
19 determined to be acceptable by the Agency.

20 Section 20. Title to sequestered gas. If the FutureGen
21 Project locates at either the Tuscola or Mattoon site in the
22 State of Illinois, then the FutureGen Alliance agrees that the
23 Operator shall transfer and convey and the State of Illinois
24 shall accept and receive, at no cost to the State of Illinois,
25 all rights, title, and interest in and to and any liabilities

1 associated with the sequestered gas, including any current or
2 future environmental benefits, marketing claims, tradable
3 credits, emissions allocations or offsets (voluntary or
4 compliance based) associated therewith, upon such gas reaching
5 the status of post-injection, which shall be verified by the
6 Agency or other designated State of Illinois agency. The
7 Operator shall retain all rights, title, and interest in and to
8 and any liabilities associated with the pre-injection
9 sequestered gas.

10 Section 23. Sequestered gas. The State of Illinois may not
11 intentionally remove sequestered gas unless the removal is for
12 the purpose of research and development.

13 Section 25. Insurance against qualified losses.

14 (a) The Department shall procure an insurance policy from a
15 private insurance carrier or carriers, if and to the extent
16 that such a policy is available, that insures the Operator
17 against any qualified loss stemming from a public liability
18 action. The policy must be procured in accordance with the
19 provisions of the Procurement Code.

20 (b) Pursuant to Section 30 of this Act, the State shall
21 indemnify the Operator against any qualified loss stemming from
22 a public liability action to the extent that the qualified loss
23 is not covered under an insurance policy under subsection (a)
24 of this Section.

1 (c) The Department shall pay any insurance premium,
2 deductible, or liability under subsections (a) or (b) from
3 appropriations by the General Assembly for that purpose. It is
4 the intent of this Act that, to the extent practical, any
5 unexpended balance of the proceeds from the sale of emission
6 reduction rights or tradable credits to which the State has
7 title under Section 20 should be used for the purposes of this
8 subsection (c).

9 (d) If the FutureGen Alliance locates the FutureGen Project
10 at either the Mattoon or Tuscola site in the State of Illinois,
11 then the Department shall be authorized to contract with the
12 FutureGen Alliance, under terms not inconsistent with this Act,
13 in order to define the rights and obligations of the FutureGen
14 Alliance and the Department, including but not limited to, the
15 insurance and indemnification obligations under Sections 25
16 and 30 of this Act.

17 (e) If federal indemnification covers all or a portion of
18 the obligations assumed by the State under Section 25 of this
19 Act, such State obligations shall be reduced in proportion to
20 the federal indemnification and be considered subordinated to
21 any federal indemnification.

22 (g) For the purpose of this Section, "qualified loss" means
23 a loss by the Operator stemming from a public liability action
24 other than those losses arising out of or relating to:

- 25 (1) the negligence or the intentional or willful
26 misconduct of the Operator in its operation of the

1 FutureGen Project;

2 (2) the failure of the Operator to comply with any
3 applicable law, rule, regulation, or other requirement
4 established by the Federal Department, Agency, or State of
5 Illinois for the carbon capture and storage of the
6 sequestered gas, including any limitations on the chemical
7 composition of any sequestered gas; or

8 (3) the pre-injection operation of the FutureGen
9 Project.

10 Section 30. Indemnification. Notwithstanding any law to
11 the contrary, the State of Illinois shall indemnify, hold
12 harmless, defend, and release the Operator from and against any
13 public liability action asserted against the Operator, subject
14 to the following terms and conditions:

15 (a) The obligation of the State of Illinois to indemnify
16 the Operator does not extend to any public liability arising
17 out of or relating to:

18 (1) the negligence or intentional or willful
19 misconduct of the Operator in its operation of the
20 FutureGen Project;

21 (2) the failure of the Operator to comply with any
22 applicable law, rule, regulation, or other requirement
23 established by the Federal Department, Agency, or State of
24 Illinois for the carbon capture and storage of the
25 sequestered gas, including any limitations on the chemical

1 composition of any sequestered gas;

2 (3) the pre-injection operation of the FutureGen
3 Project; or

4 (4) a qualified loss to the extent that it is paid
5 under an insurance policy under subsection (a) of Section
6 25 of this Act.

7 (b) The indemnification obligations of the State of
8 Illinois assumed under Section 30 of this Act shall be reduced
9 in proportion and be subordinated to any federal
10 indemnification that covers all or a portion of the State's
11 obligations.

12 Section 35. Role of Attorney General. In furtherance of the
13 State of Illinois' obligations set forth in subsection (b) of
14 Section 25 and in Section 30 of this Act, the Attorney General
15 has the following duties:

16 (1) In the event that any public liability action covered
17 under Section 30 of this Act is commenced against the Operator,
18 the Attorney General shall, upon timely and appropriate notice
19 to the Attorney General by the Operator, appear on behalf of
20 the Operator and defend the action. Any such notice must be in
21 writing, must be mailed within 15 days after the date of
22 receipt by the Operator of service of process, and must
23 authorize the Attorney General to represent and defend the
24 Operator in the action. The delivery of this notice to the
25 Attorney General constitutes an agreement by the Operator to

1 cooperate with the Attorney General in defense of the action
2 and a consent for the Attorney General to conduct the defense
3 as the Attorney General deems to be advisable and in the best
4 interests of the Operator and the State of Illinois, including
5 settlement in the Attorney General's discretion. In any such
6 action, the State of Illinois shall pay the court costs and
7 litigation expenses of defending such action, to the extent
8 approved by the Attorney General as reasonable, as they are
9 incurred.

10 (b) In the event that the Attorney General determines
11 either (i) that so appearing and defending an Operator involves
12 an actual or potential conflict of interest or (ii) that the
13 claim was not within the scope of the indemnity as provided in
14 Section 30 of the Act, the Attorney General shall decline in
15 writing to appear or defend or shall promptly take appropriate
16 action to withdraw as attorney for such Operator. Upon receipt
17 of such declination or withdrawal by the Attorney General on
18 the basis of an actual or potential conflict of interest, the
19 Operator may employ its own attorney to appear and defend, in
20 which event the State of Illinois shall pay the Operator's
21 court costs, litigation expenses, and attorneys' fees, to the
22 extent approved by the Attorney General as reasonable, as they
23 are incurred.

24 (c) In any action asserted by the Operator or the State of
25 Illinois to enforce the indemnification obligations of the
26 State of Illinois as provided in Section 30 of the Act, the

1 non-prevailing party is responsible for any reasonable court
2 costs, litigation expenses, and attorneys fees incurred by the
3 prevailing party.

4 (d) Court costs and litigation expenses and other costs of
5 providing a defense, including attorneys' fees, paid or
6 obligated under this Section, and the costs of indemnification,
7 including the payment of any final judgment or final settlement
8 under this Section, must be paid by warrant from appropriations
9 to the Department pursuant to vouchers certified by the
10 Attorney General.

11 (e) Nothing contained or implied in this Section shall
12 operate, or be construed or applied, to deprive the State of
13 Illinois, or any Operator, of any defense otherwise available.

14 (f) Any judgment subject to State of Illinois
15 indemnification under this Section is not enforceable against
16 the Operator, but shall be paid by the State of Illinois in the
17 following manner: Upon receipt of a certified copy of the
18 judgment, the Attorney General shall review it to determine if
19 the judgment is (i) final, unreversed, and no longer subject to
20 appeal and (ii) subject to indemnification under Section 30 of
21 this Act. If the Attorney General determines that it is, then
22 the Attorney General shall submit a voucher for the amount of
23 the judgment and any interest thereon to the State of Illinois
24 Comptroller and the amount must be paid by warrant from
25 appropriation to the Department to the judgment creditor solely
26 out of available appropriations.

1 Section 40. Permitting. The Agency shall issue to the
2 Operator all necessary and appropriate permits consistent with
3 State and federal law and corresponding regulations. The Agency
4 has the right to reasonable access to any third-party property
5 to ensure compliance with any permit issued under this Section.

6 Section 45. Incentives. The State of Illinois has offered
7 certain incentives to the FutureGen Alliance to make the State
8 of Illinois the most attractive location for the FutureGen
9 Project.

10 Section 50. Jurisdiction. The Court of Claims has no
11 jurisdiction concerning any public liability action under this
12 Act or from the operation of the FutureGen Project. A public
13 liability action must be brought in the circuit court, which is
14 hereby granted jurisdiction over these matters. The
15 jurisdiction over civil, administrative, or other legal
16 processes is not, otherwise, affected by this Act.

17 Section 900. The Department of Commerce and Economic
18 Opportunity Law of the Civil Administrative Code of Illinois is
19 amended by changing Section 605-332 as follows:

20 (20 ILCS 605/605-332)

21 Sec. 605-332. Financial assistance to energy generation

1 facilities.

2 (a) As used in this Section:

3 "New electric generating facility" means a
4 newly-constructed electric generation plant or a newly
5 constructed generation capacity expansion at an existing
6 facility, including the transmission lines and associated
7 equipment that transfers electricity from points of supply to
8 points of delivery, and for which foundation construction
9 commenced not sooner than July 1, 2001, which is designed to
10 provide baseload electric generation operating on a continuous
11 basis throughout the year and:

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

17 (2) is funded through a federal Department of Energy
18 grant before December 31, 2010 ~~2007~~ and supports the
19 creation of Illinois coal-mining jobs; or

20 (3) uses coal gasification or integrated
21 gasification-combined cycle units that generate
22 electricity or chemicals, or both, and supports the
23 creation of Illinois coal-mining jobs.

24 "New gasification facility" means a newly constructed coal
25 gasification facility that generates chemical feedstocks or
26 transportation fuels derived from coal (which may include, but

1 are not limited to, methane, methanol, and nitrogen
2 fertilizer), that supports the creation or retention of
3 Illinois coal-mining jobs, and that qualifies for financial
4 assistance from the Department before December 31, 2010 ~~2006~~. A
5 new gasification facility does not include a pilot project
6 located within Jefferson County or within a county adjacent to
7 Jefferson County for synthetic natural gas from coal.

8 "New facility" means a new electric generating facility or
9 a new gasification facility. A new facility does not include a
10 pilot project located within Jefferson County or within a
11 county adjacent to Jefferson County for synthetic natural gas
12 from coal.

13 "Eligible business" means an entity that proposes to
14 construct a new facility and that has applied to the Department
15 to receive financial assistance pursuant to this Section. With
16 respect to use and occupation taxes, wherever there is a
17 reference to taxes, that reference means only those taxes paid
18 on Illinois-mined coal used in a new facility.

19 "Department" means the Illinois Department of Commerce and
20 Economic Opportunity.

21 (b) The Department is authorized to provide financial
22 assistance to eligible businesses for new facilities from funds
23 appropriated by the General Assembly as further provided in
24 this Section.

25 An eligible business seeking qualification for financial
26 assistance for a new facility, for purposes of this Section

1 only, shall apply to the Department in the manner specified by
2 the Department. Any projections provided by an eligible
3 business as part of the application shall be independently
4 verified in a manner as set forth by the Department. An
5 application shall include, but not be limited to:

6 (1) the projected or actual completion date of the new
7 facility for which financial assistance is sought;

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

19 (3) the actual or projected amount of capital
20 investment by the eligible business in the new facility.

21 The Department shall determine the maximum amount of
22 financial assistance for eligible businesses in accordance
23 with this paragraph. The Department shall not provide financial
24 assistance from general obligation bond funds to any eligible
25 business unless it receives a written certification from the
26 Director of the Bureau of the Budget (now Governor's Office of

1 Management and Budget) that 80% of the State occupation and use
2 tax receipts for a minimum of the preceding 4 calendar quarters
3 for all eligible businesses or as included in projections on
4 approved applications by eligible businesses equal or exceed
5 110% of the maximum annual debt service required with respect
6 to general obligation bonds issued for that purpose. The
7 Department may provide financial assistance not to exceed the
8 amount of State general obligation debt calculated as above,
9 the amount of actual or projected capital investment in the
10 facility, or \$100,000,000, whichever is less. Financial
11 assistance received pursuant to this Section may be used for
12 capital facilities consisting of buildings, structures,
13 durable equipment, and land at the new facility. Subject to the
14 provisions of the agreement covering the financial assistance,
15 a portion of the financial assistance may be required to be
16 repaid to the State if certain conditions for the governmental
17 purpose of the assistance were 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 facility, the purchase price of that coal, the
22 amount of State occupation and use taxes paid on that purchase
23 to the seller of the Illinois-mined coal, and such other
24 information as that Department may reasonably require. In sales
25 of Illinois-mined coal between related parties, the purchase
26 price of the coal must have been determined in an arms-length

1 transaction. The report shall be filed with the Illinois
2 Department of Revenue on or before the 20th day of each month
3 on a form provided by that Department. However, no report need
4 be filed by an eligible business in a month when it made no
5 reportable purchases of coal in the previous month. The
6 Illinois Department of Revenue shall provide a summary of such
7 reports to the Governor's Office of Management and Budget.

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

17 (Source: P.A. 93-167, eff. 7-10-03; 93-1064, eff. 1-13-05;
18 94-65, eff. 6-21-05; 94-1030, eff. 7-14-06.)

19 Section 905. The Illinois Enterprise Zone Act is amended by
20 changing Section 5.5 as follows:

21 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

22 Sec. 5.5. High Impact Business.

23 (a) In order to respond to unique opportunities to assist
24 in the encouragement, development, growth and expansion of the

1 private sector through large scale investment and development
2 projects, the Department is authorized to receive and approve
3 applications for the designation of "High Impact Businesses" in
4 Illinois subject to the following conditions:

5 (1) such applications may be submitted at any time
6 during the year;

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

10 (3) the business intends to do one or more of the
11 following:

12 (A) the business intends to make a minimum
13 investment of \$12,000,000 which will be placed in
14 service in qualified property and intends to create 500
15 full-time equivalent jobs at a designated location in
16 Illinois or intends to make a minimum investment of
17 \$30,000,000 which will be placed in service in
18 qualified property and intends to retain 1,500
19 full-time jobs at a designated location in Illinois.
20 The business must certify in writing that the
21 investments would not be placed in service in qualified
22 property and the job creation or job retention would
23 not occur without the tax credits and exemptions set
24 forth in subsection (b) of this Section. The terms
25 "placed in service" and "qualified property" have the
26 same meanings as described in subsection (h) of Section

1 201 of the Illinois Income Tax Act; or

2 (B) the business intends to establish a new
3 electric generating facility at a designated location
4 in Illinois. "New electric generating facility", for
5 purposes of this Section, means a newly-constructed
6 electric generation plant or a newly-constructed
7 generation capacity expansion at an existing electric
8 generation plant, including the transmission lines and
9 associated equipment that transfers electricity from
10 points of supply to points of delivery, and for which
11 such new foundation construction commenced not sooner
12 than July 1, 2001. Such facility shall be designed to
13 provide baseload electric generation and shall operate
14 on a continuous basis throughout the year; and (i)
15 shall have an aggregate rated generating capacity of at
16 least 1,000 megawatts for all new units at one site if
17 it uses natural gas as its primary fuel and foundation
18 construction of the facility is commenced on or before
19 December 31, 2004, or shall have an aggregate rated
20 generating capacity of at least 400 megawatts for all
21 new units at one site if it uses coal or gases derived
22 from coal as its primary fuel and shall support the
23 creation of at least 150 new Illinois coal mining jobs,
24 or (ii) shall be funded through a federal Department of
25 Energy grant before December 31, 2010 ~~July 1, 2006~~ and
26 shall support the creation of Illinois coal-mining

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

14 (B-5) the business intends to establish a new
15 gasification facility at a designated location in
16 Illinois. As used in this Section, "new gasification
17 facility" means a newly constructed coal gasification
18 facility that generates chemical feedstocks or
19 transportation fuels derived from coal (which may
20 include, but are not limited to, methane, methanol, and
21 nitrogen fertilizer), that supports the creation or
22 retention of Illinois coal-mining jobs, and that
23 qualifies for financial assistance from the Department
24 before December 31, 2010 ~~2006~~. A new gasification
25 facility does not include a pilot project located
26 within Jefferson County or within a county adjacent to

1 Jefferson County for synthetic natural gas from coal;
2 or

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

22 (D) the business intends to construct new
23 transmission facilities or upgrade existing
24 transmission facilities at designated locations in
25 Illinois, for which construction commenced not sooner
26 than July 1, 2001. For the purposes of this Section,

1 "transmission facilities" means transmission lines
2 with a voltage rating of 115 kilovolts or above,
3 including associated equipment, that transfer
4 electricity from points of supply to points of delivery
5 and that transmit a majority of the electricity
6 generated by a new electric generating facility
7 designated as a High Impact Business in accordance with
8 this Section. The business must certify in writing that
9 the investments necessary to construct new
10 transmission facilities or upgrade existing
11 transmission facilities would not be placed in service
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; and

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

21 (b) Businesses designated as High Impact Businesses
22 pursuant to subdivision (a) (3) (A) of this Section shall qualify
23 for the credits and exemptions described in the following Acts:
24 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
25 subsection (h) of Section 201 of the Illinois Income Tax Act,
26 and Section 1d of the Retailers' Occupation Tax Act; provided

1 that these credits and exemptions described in these Acts shall
2 not be authorized until the minimum investments set forth in
3 subdivision (a)(3)(A) of this Section have been placed in
4 service in qualified properties and, in the case of the
5 exemptions described in the Public Utilities Act and Section 1d
6 of the Retailers' Occupation Tax Act, the minimum full-time
7 equivalent jobs or full-time jobs set forth in subdivision
8 (a)(3)(A) of this Section have been created or retained.
9 Businesses designated as High Impact Businesses under this
10 Section shall also qualify for the exemption described in
11 Section 51 of the Retailers' Occupation Tax Act. The credit
12 provided in subsection (h) of Section 201 of the Illinois
13 Income Tax Act shall be applicable to investments in qualified
14 property as set forth in subdivision (a)(3)(A) of this Section.

15 (b-5) Businesses designated as High Impact Businesses
16 pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C),
17 and (a)(3)(D) of this Section shall qualify for the credits and
18 exemptions described in the following Acts: Section 51 of the
19 Retailers' Occupation Tax Act, Section 9-222 and Section
20 9-222.1A of the Public Utilities Act, and subsection (h) of
21 Section 201 of the Illinois Income Tax Act; however, the
22 credits and exemptions authorized under Section 9-222 and
23 Section 9-222.1A of the Public Utilities Act, and subsection
24 (h) of Section 201 of the Illinois Income Tax Act shall not be
25 authorized until the new electric generating facility, the new
26 gasification facility, the new transmission facility, or the

1 new, expanded, or reopened coal mine is operational, except
2 that a new electric generating facility whose primary fuel
3 source is natural gas is eligible only for the exemption under
4 Section 51 of the Retailers' Occupation Tax Act.

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

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

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

21 (f) In the event that a business is designated a High
22 Impact Business and it is later determined after reasonable
23 notice and an opportunity for a hearing as provided under the
24 Illinois Administrative Procedure Act, that the business would
25 have placed in service in qualified property the investments
26 and created or retained the requisite number of jobs without

1 the benefits of the High Impact Business designation, the
2 Department shall be required to immediately revoke the
3 designation and notify the Director of the Department of
4 Revenue who shall begin proceedings to recover all wrongfully
5 exempted State taxes with interest. The business shall also be
6 ineligible for all State funded Department programs for a
7 period of 10 years.

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

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

17 (Source: P.A. 93-1064, eff. 1-13-05; 93-1067, eff. 1-15-05;
18 94-65, eff. 6-21-05.)

19 Section 910. The Court of Claims Act is amended by adding
20 Section 8.5 as follows:

21 (705 ILCS 505/8.5 new)

22 Sec. 8.5. No jurisdiction over liability of certain
23 clean-coal operations. The Court of Claims has no jurisdiction
24 concerning any public liability action, as defined in the Clean

1 Coal FutureGen for Illinois Act, or from the operation of the
2 FutureGen Project. A public liability action, as defined under
3 Section 15 of the Clean Coal FutureGen for Illinois Act, must
4 be brought in the circuit court.

5 Section 915. The State Lawsuit Immunity Act is amended by
6 changing Section 1 as follows:

7 (745 ILCS 5/1) (from Ch. 127, par. 801)

8 Sec. 1. Except as provided in the Illinois Public Labor
9 Relations Act, the Court of Claims Act, ~~and~~ the State Officials
10 and Employees Ethics Act, ~~or~~ Section 1.5 of this Act, and,
11 except as provided in and to the extent provided in the Clean
12 Coal FutureGen for Illinois Act, the State of Illinois shall
13 not be made a defendant or party in any court.

14 (Source: P.A. 93-414, eff. 1-1-04; 93-615, eff. 11-19-03;
15 revised 12-19-03.)

16 Section 997. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute on Statutes.

18 Section 998. Repeal. This Act is repealed on December 31,
19 2010 unless the FutureGen Project has been located at either
20 the Mattoon or Tuscola site in Illinois.

21 Section 999. Effective date. This Act takes effect upon
22 becoming law.