



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5810

Introduced 2/10/2010, by Rep. Sidney H. Mathias - Mike Bost - Darlene J. Senger - Elizabeth Coulson - Renée Kosel, et al.

#### SYNOPSIS AS INTRODUCED:

New Act	
35 ILCS 5/201	from Ch. 120, par. 2-201
35 ILCS 120/1d	from Ch. 120, par. 440d
35 ILCS 120/1e	from Ch. 120, par. 440e
35 ILCS 120/1f	from Ch. 120, par. 440f
35 ILCS 120/51	from Ch. 120, par. 444l
220 ILCS 5/9-222	from Ch. 111 2/3, par. 9-222
220 ILCS 5/9-222.1A	

Creates the Green Energy Business Act. Authorizes the Department of Commerce and Economic Opportunity to receive and approve the applications of qualified businesses seeking designation as Green Energy Businesses. Amends the Illinois Income Tax Act, the Retailers' Occupation Tax Act, and the Public Utilities Act to provide that Green Energy Businesses are eligible for certain credits and exemptions under those Acts. Effective immediately.

LRB096 19618 HLH 35013 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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 Green  
5 Energy Business Act.

6 Section 5. Definitions. As used in this Act, the following  
7 words shall have the meanings ascribed to them below, unless  
8 the context otherwise requires:

9 "Biodiesel" means a renewable diesel fuel derived from  
10 biomass that is intended for use in diesel engines.

11 "Department" means the Department of Commerce and Economic  
12 Opportunity.

13 "Ethanol" means a product produced from agricultural  
14 commodities or by-products used as a fuel or to be blended with  
15 other fuels for use in motor vehicles.

16 "Green Energy Business" means a business that:

17 (i) produces or manufactures components used in the  
18 production of electricity from renewable energy resources;

19 (ii) has the capacity to produce and produces at least  
20 5 megawatts of electricity from renewable energy resources  
21 each year;

22 (iii) has the capacity to produce and produces no less  
23 than 30,000,000 gallons of biodiesel or ethanol each year.

1 "Renewable energy resources" means wind energy; solar  
2 thermal energy; photovoltaic cells and panels; biodiesel;  
3 crops; untreated and unadulterated organic waste biomass;  
4 trees and tree trimmings; hydropower that does not involve new  
5 construction or significant expansion of hydropower dams; and  
6 other alternative sources of environmentally preferable  
7 energy. For purposes of this Act, landfill gas produced in the  
8 State is a renewable energy resource, but tires; garbage;  
9 general household, institutional, and commercial waste;  
10 industrial lunchroom or office waste; landscape waste (other  
11 than trees and tree trimmings); railroad crossties; utility  
12 poles; and construction or demolition debris (other than  
13 untreated and unadulterated waste wood) are not. Renewable  
14 energy resources also include any renewable energy credit or  
15 credits associated with or generated by a source of energy that  
16 otherwise qualifies as a renewable energy resource under this  
17 Act.

18 Section 10. Green Energy Business.

19 (a) To assist in the encouragement, development, growth,  
20 and expansion of the private sector through green energy  
21 projects, the Department may receive and approve applications  
22 for the designation of "Green Energy Business" in Illinois.  
23 Applications may be submitted at any time. No later than 90  
24 days after an application is submitted, the Department shall  
25 notify the applicant of the Department's determination as to

1 the applicant's qualification to be designated as a Green  
2 Energy Business under this Section. To qualify as a Green  
3 Energy Business, a business must meet all of the following  
4 conditions:

5 (1) It must not be located, at the time of designation,  
6 in an enterprise zone designated under the Illinois  
7 Enterprise Zone Act.

8 (2) It must commit to (i) produce or manufacture  
9 components used in the production of electricity from  
10 renewable energy resources; (ii) produce at least 5  
11 megawatts of electricity from renewable energy resources  
12 each year; or (iii) produce not less than 30,000,000  
13 gallons of biodiesel or ethanol each year.

14 (3) It must commit to have the business placed in  
15 service at a qualified property in Illinois.

16 (4) It must certify in writing that (i) the investments  
17 would not be placed in service at a qualified property  
18 without the tax credits and exemptions referenced in  
19 subsection (b) of this Section and (ii) the job creation or  
20 job retention would not occur without the tax credits and  
21 exemptions referenced in subsection (b) of this Section.  
22 The terms "placed in service" and "qualified property" have  
23 the same meanings as described in subsection (h) of Section  
24 201 of the Illinois Income Tax Act.

25 (5) It must meet any additional criteria established by  
26 the Department.

1           (b) Each business designated as a Green Energy Business by  
2 the Department shall qualify for the credits and exemptions in  
3 Sections 9-222 and 9-222.1A of the Public Utilities Act;  
4 subsection (h) of Section 201 of the Illinois Income Tax Act;  
5 and Section 1d of the Retailers' Occupation Tax Act. Each  
6 business designated as a Green Energy Business under this  
7 Section shall also qualify for the exemption described in  
8 Section 5l of the Retailers' Occupation Tax Act. The credit  
9 provided in subsection (h) of Section 201 of the Illinois  
10 Income Tax Act shall be applicable to investments in qualified  
11 property used to meet the requirements in subdivision (a)(2) of  
12 this Section.

13           (c) The Department must revoke a Green Energy Business  
14 designation if, within the Department's discretion, the  
15 participating business fails to comply with the terms and  
16 conditions of the designation.

17           Section 15. Project labor agreements

18           (a) Each business designated as a Green Energy Business by  
19 the Department must enter into a project labor agreement. The  
20 project labor agreement must include provisions establishing  
21 (i) the minimum hourly wage for each class of labor  
22 organization employee; (ii) the benefits and other  
23 compensation for each class of labor organization employee; and  
24 (iii) that no strike or disputes will be engaged in by the  
25 labor organization employees; and (iv) that no lockout or

1 disputes will be engaged in by the owner of a Green Energy  
2 Business. The owner of a Green Energy Business and the labor  
3 organizations shall have the authority to include other terms  
4 and conditions as they deem necessary.

5 (b) Each project labor agreement shall be filed with the  
6 Director in accordance with the procedures established by the  
7 Department. At a minimum, the project labor agreement must  
8 provide the names, addresses, and occupations of the owner of  
9 the Green Energy Business and the individuals representing the  
10 labor organization employees participating in the project  
11 labor agreement. The agreement must also specify the terms and  
12 conditions required in subsection (a) of this Section.

13 Section 20. The Illinois Income Tax Act is amended by  
14 changing Section 201 as follows:

15 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

16 Sec. 201. Tax Imposed.

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

24 (b) Rates. The tax imposed by subsection (a) of this

1 Section shall be determined as follows, except as adjusted by  
2 subsection (d-1):

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

7 (2) In the case of an individual, trust or estate, for  
8 taxable years beginning prior to July 1, 1989 and ending  
9 after June 30, 1989, an amount equal to the sum of (i) 2  
10 1/2% of the taxpayer's net income for the period prior to  
11 July 1, 1989, as calculated under Section 202.3, and (ii)  
12 3% of the taxpayer's net income for the period after June  
13 30, 1989, as calculated under Section 202.3.

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

18 (4) (Blank).

19 (5) (Blank).

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

23 (7) In the case of a corporation, for taxable years  
24 beginning prior to July 1, 1989 and ending after June 30,  
25 1989, an amount equal to the sum of (i) 4% of the  
26 taxpayer's net income for the period prior to July 1, 1989,

1 as calculated under Section 202.3, and (ii) 4.8% of the  
2 taxpayer's net income for the period after June 30, 1989,  
3 as calculated under Section 202.3.

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

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

20 (d) Additional Personal Property Tax Replacement Income  
21 Tax Rates. The personal property tax replacement income tax  
22 imposed by this subsection and subsection (c) of this Section  
23 in the case of a corporation, other than a Subchapter S  
24 corporation and except as adjusted by subsection (d-1), shall  
25 be an additional amount equal to 2.85% of such taxpayer's net  
26 income for the taxable year, except that beginning on January



1 1, 1981, and thereafter, the rate of 2.85% specified in this  
2 subsection shall be reduced to 2.5%, and in the case of a  
3 partnership, trust or a Subchapter S corporation shall be an  
4 additional amount equal to 1.5% of such taxpayer's net income  
5 for the taxable year.

6 (d-1) Rate reduction for certain foreign insurers. In the  
7 case of a foreign insurer, as defined by Section 35A-5 of the  
8 Illinois Insurance Code, whose state or country of domicile  
9 imposes on insurers domiciled in Illinois a retaliatory tax  
10 (excluding any insurer whose premiums from reinsurance assumed  
11 are 50% or more of its total insurance premiums as determined  
12 under paragraph (2) of subsection (b) of Section 304, except  
13 that for purposes of this determination premiums from  
14 reinsurance do not include premiums from inter-affiliate  
15 reinsurance arrangements), beginning with taxable years ending  
16 on or after December 31, 1999, the sum of the rates of tax  
17 imposed by subsections (b) and (d) shall be reduced (but not  
18 increased) to the rate at which the total amount of tax imposed  
19 under this Act, net of all credits allowed under this Act,  
20 shall equal (i) the total amount of tax that would be imposed  
21 on the foreign insurer's net income allocable to Illinois for  
22 the taxable year by such foreign insurer's state or country of  
23 domicile if that net income were subject to all income taxes  
24 and taxes measured by net income imposed by such foreign  
25 insurer's state or country of domicile, net of all credits  
26 allowed or (ii) a rate of zero if no such tax is imposed on such

1 income by the foreign insurer's state of domicile. For the  
2 purposes of this subsection (d-1), an inter-affiliate includes  
3 a mutual insurer under common management.

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

7 (A) the total amount of tax imposed on such foreign  
8 insurer under this Act for a taxable year, net of all  
9 credits allowed under this Act, plus

10 (B) the privilege tax imposed by Section 409 of the  
11 Illinois Insurance Code, the fire insurance company  
12 tax imposed by Section 12 of the Fire Investigation  
13 Act, and the fire department taxes imposed under  
14 Section 11-10-1 of the Illinois Municipal Code,  
15 equals 1.25% for taxable years ending prior to December 31,  
16 2003, or 1.75% for taxable years ending on or after  
17 December 31, 2003, of the net taxable premiums written for  
18 the taxable year, as described by subsection (1) of Section  
19 409 of the Illinois Insurance Code. This paragraph will in  
20 no event increase the rates imposed under subsections (b)  
21 and (d).

22 (2) Any reduction in the rates of tax imposed by this  
23 subsection shall be applied first against the rates imposed  
24 by subsection (b) and only after the tax imposed by  
25 subsection (a) net of all credits allowed under this  
26 Section other than the credit allowed under subsection (i)

1 has been reduced to zero, against the rates imposed by  
2 subsection (d).

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

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

8 (1) A taxpayer shall be allowed a credit equal to .5%  
9 of the basis of qualified property placed in service during  
10 the taxable year, provided such property is placed in  
11 service on or after July 1, 1984. There shall be allowed an  
12 additional credit equal to .5% of the basis of qualified  
13 property placed in service during the taxable year,  
14 provided such property is placed in service on or after  
15 July 1, 1986, and the taxpayer's base employment within  
16 Illinois has increased by 1% or more over the preceding  
17 year as determined by the taxpayer's employment records  
18 filed with the Illinois Department of Employment Security.  
19 Taxpayers who are new to Illinois shall be deemed to have  
20 met the 1% growth in base employment for the first year in  
21 which they file employment records with the Illinois  
22 Department of Employment Security. The provisions added to  
23 this Section by Public Act 85-1200 (and restored by Public  
24 Act 87-895) shall be construed as declaratory of existing  
25 law and not as a new enactment. If, in any year, the  
26 increase in base employment within Illinois over the

1 preceding year is less than 1%, the additional credit shall  
2 be limited to that percentage times a fraction, the  
3 numerator of which is .5% and the denominator of which is  
4 1%, but shall not exceed .5%. The investment credit shall  
5 not be allowed to the extent that it would reduce a  
6 taxpayer's liability in any tax year below zero, nor may  
7 any credit for qualified property be allowed for any year  
8 other than the year in which the property was placed in  
9 service in Illinois. For tax years ending on or after  
10 December 31, 1987, and on or before December 31, 1988, the  
11 credit shall be allowed for the tax year in which the  
12 property is placed in service, or, if the amount of the  
13 credit exceeds the tax liability for that year, whether it  
14 exceeds the original liability or the liability as later  
15 amended, such excess may be carried forward and applied to  
16 the tax liability of the 5 taxable years following the  
17 excess credit years if the taxpayer (i) makes investments  
18 which cause the creation of a minimum of 2,000 full-time  
19 equivalent jobs in Illinois, (ii) is located in an  
20 enterprise zone established pursuant to the Illinois  
21 Enterprise Zone Act and (iii) is certified by the  
22 Department of Commerce and Community Affairs (now  
23 Department of Commerce and Economic Opportunity) as  
24 complying with the requirements specified in clause (i) and  
25 (ii) by July 1, 1986. The Department of Commerce and  
26 Community Affairs (now Department of Commerce and Economic

1 Opportunity) shall notify the Department of Revenue of all  
2 such certifications immediately. For tax years ending  
3 after December 31, 1988, the credit shall be allowed for  
4 the tax year in which the property is placed in service,  
5 or, if the amount of the credit exceeds the tax liability  
6 for that year, whether it exceeds the original liability or  
7 the liability as later amended, such excess may be carried  
8 forward and applied to the tax liability of the 5 taxable  
9 years following the excess credit years. The credit shall  
10 be applied to the earliest year for which there is a  
11 liability. If there is credit from more than one tax year  
12 that is available to offset a liability, earlier credit  
13 shall be applied first.

14 (2) The term "qualified property" means property  
15 which:

16 (A) is tangible, whether new or used, including  
17 buildings and structural components of buildings and  
18 signs that are real property, but not including land or  
19 improvements to real property that are not a structural  
20 component of a building such as landscaping, sewer  
21 lines, local access roads, fencing, parking lots, and  
22 other appurtenances;

23 (B) is depreciable pursuant to Section 167 of the  
24 Internal Revenue Code, except that "3-year property"  
25 as defined in Section 168(c)(2)(A) of that Code is not  
26 eligible for the credit provided by this subsection

1 (e);

2 (C) is acquired by purchase as defined in Section  
3 179(d) of the Internal Revenue Code;

4 (D) is used in Illinois by a taxpayer who is  
5 primarily engaged in manufacturing, or in mining coal  
6 or fluorite, or in retailing, or was placed in service  
7 on or after July 1, 2006 in a River Edge Redevelopment  
8 Zone established pursuant to the River Edge  
9 Redevelopment Zone Act; and

10 (E) has not previously been used in Illinois in  
11 such a manner and by such a person as would qualify for  
12 the credit provided by this subsection (e) or  
13 subsection (f).

14 (3) For purposes of this subsection (e),  
15 "manufacturing" means the material staging and production  
16 of tangible personal property by procedures commonly  
17 regarded as manufacturing, processing, fabrication, or  
18 assembling which changes some existing material into new  
19 shapes, new qualities, or new combinations. For purposes of  
20 this subsection (e) the term "mining" shall have the same  
21 meaning as the term "mining" in Section 613(c) of the  
22 Internal Revenue Code. For purposes of this subsection (e),  
23 the term "retailing" means the sale of tangible personal  
24 property for use or consumption and not for resale, or  
25 services rendered in conjunction with the sale of tangible  
26 personal property for use or consumption and not for

1 resale. For purposes of this subsection (e), "tangible  
2 personal property" has the same meaning as when that term  
3 is used in the Retailers' Occupation Tax Act, and, for  
4 taxable years ending after December 31, 2008, does not  
5 include the generation, transmission, or distribution of  
6 electricity.

7 (4) The basis of qualified property shall be the basis  
8 used to compute the depreciation deduction for federal  
9 income tax purposes.

10 (5) If the basis of the property for federal income tax  
11 depreciation purposes is increased after it has been placed  
12 in service in Illinois by the taxpayer, the amount of such  
13 increase shall be deemed property placed in service on the  
14 date of such increase in basis.

15 (6) The term "placed in service" shall have the same  
16 meaning as under Section 46 of the Internal Revenue Code.

17 (7) If during any taxable year, any property ceases to  
18 be qualified property in the hands of the taxpayer within  
19 48 months after being placed in service, or the situs of  
20 any qualified property is moved outside Illinois within 48  
21 months after being placed in service, the Personal Property  
22 Tax Replacement Income Tax for such taxable year shall be  
23 increased. Such increase shall be determined by (i)  
24 recomputing the investment credit which would have been  
25 allowed for the year in which credit for such property was  
26 originally allowed by eliminating such property from such

1 computation and, (ii) subtracting such recomputed credit  
2 from the amount of credit previously allowed. For the  
3 purposes of this paragraph (7), a reduction of the basis of  
4 qualified property resulting from a redetermination of the  
5 purchase price shall be deemed a disposition of qualified  
6 property to the extent of such reduction.

7 (8) Unless the investment credit is extended by law,  
8 the basis of qualified property shall not include costs  
9 incurred after December 31, 2013, except for costs incurred  
10 pursuant to a binding contract entered into on or before  
11 December 31, 2013.

12 (9) Each taxable year ending before December 31, 2000,  
13 a partnership may elect to pass through to its partners the  
14 credits to which the partnership is entitled under this  
15 subsection (e) for the taxable year. A partner may use the  
16 credit allocated to him or her under this paragraph only  
17 against the tax imposed in subsections (c) and (d) of this  
18 Section. If the partnership makes that election, those  
19 credits shall be allocated among the partners in the  
20 partnership in accordance with the rules set forth in  
21 Section 704(b) of the Internal Revenue Code, and the rules  
22 promulgated under that Section, and the allocated amount of  
23 the credits shall be allowed to the partners for that  
24 taxable year. The partnership shall make this election on  
25 its Personal Property Tax Replacement Income Tax return for  
26 that taxable year. The election to pass through the credits



1 shall be irrevocable.

2 For taxable years ending on or after December 31, 2000,  
3 a partner that qualifies its partnership for a subtraction  
4 under subparagraph (I) of paragraph (2) of subsection (d)  
5 of Section 203 or a shareholder that qualifies a Subchapter  
6 S corporation for a subtraction under subparagraph (S) of  
7 paragraph (2) of subsection (b) of Section 203 shall be  
8 allowed a credit under this subsection (e) equal to its  
9 share of the credit earned under this subsection (e) during  
10 the taxable year by the partnership or Subchapter S  
11 corporation, determined in accordance with the  
12 determination of income and distributive share of income  
13 under Sections 702 and 704 and Subchapter S of the Internal  
14 Revenue Code. This paragraph is exempt from the provisions  
15 of Section 250.

16 (f) Investment credit; Enterprise Zone; River Edge  
17 Redevelopment Zone.

18 (1) A taxpayer shall be allowed a credit against the  
19 tax imposed by subsections (a) and (b) of this Section for  
20 investment in qualified property which is placed in service  
21 in an Enterprise Zone created pursuant to the Illinois  
22 Enterprise Zone Act or, for property placed in service on  
23 or after July 1, 2006, a River Edge Redevelopment Zone  
24 established pursuant to the River Edge Redevelopment Zone  
25 Act. For partners, shareholders of Subchapter S  
26 corporations, and owners of limited liability companies,

1 if the liability company is treated as a partnership for  
2 purposes of federal and State income taxation, there shall  
3 be allowed a credit under this subsection (f) to be  
4 determined in accordance with the determination of income  
5 and distributive share of income under Sections 702 and 704  
6 and Subchapter S of the Internal Revenue Code. The credit  
7 shall be .5% of the basis for such property. The credit  
8 shall be available only in the taxable year in which the  
9 property is placed in service in the Enterprise Zone or  
10 River Edge Redevelopment Zone and shall not be allowed to  
11 the extent that it would reduce a taxpayer's liability for  
12 the tax imposed by subsections (a) and (b) of this Section  
13 to below zero. For tax years ending on or after December  
14 31, 1985, the credit shall be allowed for the tax year in  
15 which the property is placed in service, or, if the amount  
16 of the credit exceeds the tax liability for that year,  
17 whether it exceeds the original liability or the liability  
18 as later amended, such excess may be carried forward and  
19 applied to the tax liability of the 5 taxable years  
20 following the excess credit year. The credit shall be  
21 applied to the earliest year for which there is a  
22 liability. If there is credit from more than one tax year  
23 that is available to offset a liability, the credit  
24 accruing first in time shall be applied first.

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

26 (A) is tangible, whether new or used, including

1 buildings and structural components of buildings;

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

7 (C) is acquired by purchase as defined in Section  
8 179(d) of the Internal Revenue Code;

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

11 (E) has not been previously used in Illinois in  
12 such a manner and by such a person as would qualify for  
13 the credit provided by this subsection (f) or  
14 subsection (e).

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

18 (4) If the basis of the property for federal income tax  
19 depreciation purposes is increased after it has been placed  
20 in service in the Enterprise Zone or River Edge  
21 Redevelopment Zone by the taxpayer, the amount of such  
22 increase shall be deemed property placed in service on the  
23 date of such increase in basis.

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

26 (6) If during any taxable year, any property ceases to

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

17 (7) There shall be allowed an additional credit equal  
18 to 0.5% of the basis of qualified property placed in  
19 service during the taxable year in a River Edge  
20 Redevelopment Zone, provided such property is placed in  
21 service on or after July 1, 2006, and the taxpayer's base  
22 employment within Illinois has increased by 1% or more over  
23 the preceding year as determined by the taxpayer's  
24 employment records filed with the Illinois Department of  
25 Employment Security. Taxpayers who are new to Illinois  
26 shall be deemed to have met the 1% growth in base

1 employment for the first year in which they file employment  
2 records with the Illinois Department of Employment  
3 Security. If, in any year, the increase in base employment  
4 within Illinois over the preceding year is less than 1%,  
5 the additional credit shall be limited to that percentage  
6 times a fraction, the numerator of which is 0.5% and the  
7 denominator of which is 1%, but shall not exceed 0.5%.

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

10 (1) A taxpayer conducting a trade or business in an  
11 enterprise zone or a High Impact Business designated by the  
12 Department of Commerce and Economic Opportunity or for  
13 taxable years ending on or after December 31, 2006, in a  
14 River Edge Redevelopment Zone conducting a trade or  
15 business in a federally designated Foreign Trade Zone or  
16 Sub-Zone shall be allowed a credit against the tax imposed  
17 by subsections (a) and (b) of this Section in the amount of  
18 \$500 per eligible employee hired to work in the zone during  
19 the taxable year.

20 (2) To qualify for the credit:

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

25 (B) the taxpayer's total employment within the  
26 enterprise zone, River Edge Redevelopment Zone, or

1           federally designated Foreign Trade Zone or Sub-Zone  
2           must increase by 5 or more full-time employees beyond  
3           the total employed in that zone at the end of the  
4           previous tax year for which a jobs tax credit under  
5           this Section was taken, or beyond the total employed by  
6           the taxpayer as of December 31, 1985, whichever is  
7           later; and

8           (C) the eligible employees must be employed 180  
9           consecutive days in order to be deemed hired for  
10          purposes of this subsection.

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

12           (A) Certified by the Department of Commerce and  
13           Economic Opportunity as "eligible for services"  
14           pursuant to regulations promulgated in accordance with  
15           Title II of the Job Training Partnership Act, Training  
16           Services for the Disadvantaged or Title III of the Job  
17           Training Partnership Act, Employment and Training  
18           Assistance for Dislocated Workers Program.

19           (B) Hired after the enterprise zone, River Edge  
20           Redevelopment Zone, or federally designated Foreign  
21           Trade Zone or Sub-Zone was designated or the trade or  
22           business was located in that zone, whichever is later.

23           (C) Employed in the enterprise zone, River Edge  
24           Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.  
25           An employee is employed in an enterprise zone or  
26           federally designated Foreign Trade Zone or Sub-Zone if

1 his services are rendered there or it is the base of  
2 operations for the services performed.

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

5 (4) For tax years ending on or after December 31, 1985  
6 and prior to December 31, 1988, the credit shall be allowed  
7 for the tax year in which the eligible employees are hired.  
8 For tax years ending on or after December 31, 1988, the  
9 credit shall be allowed for the tax year immediately  
10 following the tax year in which the eligible employees are  
11 hired. If the amount of the credit exceeds the tax  
12 liability for that year, whether it exceeds the original  
13 liability or the liability as later amended, such excess  
14 may be carried forward and applied to the tax liability of  
15 the 5 taxable years following the excess credit year. The  
16 credit shall be applied to the earliest year for which  
17 there is a liability. If there is credit from more than one  
18 tax year that is available to offset a liability, earlier  
19 credit shall be applied first.

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

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

25 (h) Investment credit; High Impact Business; Green Energy  
26 Business.

1           (1) Subject to subsection (a) of Section 10 of the  
2           Green Energy Business Act, or subsections (b) and (b-5) of  
3           Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer  
4           shall be allowed a credit against the tax imposed by  
5           subsections (a) and (b) of this Section for investment in  
6           qualified property which is placed in service by a  
7           Department of Commerce and Economic Opportunity designated  
8           Green Energy Business or High Impact Business. The credit  
9           shall be .5% of the basis for such property. The credit  
10          shall not be available (i) until the minimum investments in  
11          qualified property set forth in subdivision (a)(3)(A) of  
12          Section 5.5 of the Illinois Enterprise Zone Act have been  
13          satisfied or (ii) until the Department of Commerce and  
14          Economic Opportunity designates the business as a Green  
15          Energy Business under the Green Energy Business Act, or  
16          until the time authorized in subsection (b-5) of the  
17          Illinois Enterprise Zone Act for entities designated as  
18          High Impact Businesses under subdivisions (a)(3)(B),  
19          (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois  
20          Enterprise Zone Act, and shall not be allowed to the extent  
21          that it would reduce a taxpayer's liability for the tax  
22          imposed by subsections (a) and (b) of this Section to below  
23          zero. The credit applicable to such investments shall be  
24          taken in the taxable year in which such investments have  
25          been completed. The credit for additional investments  
26          beyond the minimum investment by a designated high impact



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

19 Changes made in this subdivision (h) (1) by Public Act  
20 88-670 restore changes made by Public Act 85-1182 and  
21 reflect existing law.

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

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

25 (B) is depreciable pursuant to Section 167 of the  
26 Internal Revenue Code, except that "3-year property"

1 as defined in Section 168(c)(2)(A) of that Code is not  
2 eligible for the credit provided by this subsection  
3 (h);

4 (C) is acquired by purchase as defined in Section  
5 179(d) of the Internal Revenue Code; and

6 (D) is not eligible for the Enterprise Zone  
7 Investment Credit provided by subsection (f) of this  
8 Section.

9 (3) The basis of qualified property shall be the basis  
10 used to compute the depreciation deduction for federal  
11 income tax purposes.

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

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

20 (6) If during any taxable year ending on or before  
21 December 31, 1996, any property ceases to be qualified  
22 property in the hands of the taxpayer within 48 months  
23 after being placed in service, or the situs of any  
24 qualified property is moved outside Illinois within 48  
25 months after being placed in service, the tax imposed under  
26 subsections (a) and (b) of this Section for such taxable

1 year shall be increased. Such increase shall be determined  
2 by (i) recomputing the investment credit which would have  
3 been allowed for the year in which credit for such property  
4 was originally allowed by eliminating such property from  
5 such computation, and (ii) subtracting such recomputed  
6 credit from the amount of credit previously allowed. For  
7 the purposes of this paragraph (6), a reduction of the  
8 basis of qualified property resulting from a  
9 redetermination of the purchase price shall be deemed a  
10 disposition of qualified property to the extent of such  
11 reduction.

12 (7) Beginning with tax years ending after December 31,  
13 1996, if a taxpayer qualifies for the credit under this  
14 subsection (h) and thereby is granted a tax abatement and  
15 the taxpayer relocates its entire facility in violation of  
16 the explicit terms and length of the contract under Section  
17 18-183 of the Property Tax Code, the tax imposed under  
18 subsections (a) and (b) of this Section shall be increased  
19 for the taxable year in which the taxpayer relocated its  
20 facility by an amount equal to the amount of credit  
21 received by the taxpayer under this subsection (h).

22 (i) Credit for Personal Property Tax Replacement Income  
23 Tax. For tax years ending prior to December 31, 2003, a credit  
24 shall be allowed against the tax imposed by subsections (a) and  
25 (b) of this Section for the tax imposed by subsections (c) and  
26 (d) of this Section. This credit shall be computed by

1 multiplying the tax imposed by subsections (c) and (d) of this  
2 Section by a fraction, the numerator of which is base income  
3 allocable to Illinois and the denominator of which is Illinois  
4 base income, and further multiplying the product by the tax  
5 rate imposed by subsections (a) and (b) of this Section.

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

20 If, during any taxable year ending on or after December 31,  
21 1986, the tax imposed by subsections (c) and (d) of this  
22 Section for which a taxpayer has claimed a credit under this  
23 subsection (i) is reduced, the amount of credit for such tax  
24 shall also be reduced. Such reduction shall be determined by  
25 recomputing the credit to take into account the reduced tax  
26 imposed by subsections (c) and (d). If any portion of the

1 reduced amount of credit has been carried to a different  
2 taxable year, an amended return shall be filed for such taxable  
3 year to reduce the amount of credit claimed.

4 (j) Training expense credit. Beginning with tax years  
5 ending on or after December 31, 1986 and prior to December 31,  
6 2003, a taxpayer shall be allowed a credit against the tax  
7 imposed by subsections (a) and (b) under this Section for all  
8 amounts paid or accrued, on behalf of all persons employed by  
9 the taxpayer in Illinois or Illinois residents employed outside  
10 of Illinois by a taxpayer, for educational or vocational  
11 training in semi-technical or technical fields or semi-skilled  
12 or skilled fields, which were deducted from gross income in the  
13 computation of taxable income. The credit against the tax  
14 imposed by subsections (a) and (b) shall be 1.6% of such  
15 training expenses. For partners, shareholders of subchapter S  
16 corporations, and owners of limited liability companies, if the  
17 liability company is treated as a partnership for purposes of  
18 federal and State income taxation, there shall be allowed a  
19 credit under this subsection (j) to be determined in accordance  
20 with the determination of income and distributive share of  
21 income under Sections 702 and 704 and subchapter S of the  
22 Internal Revenue Code.

23 Any credit allowed under this subsection which is unused in  
24 the year the credit is earned may be carried forward to each of  
25 the 5 taxable years following the year for which the credit is  
26 first computed until it is used. This credit shall be applied

1 first to the earliest year for which there is a liability. If  
2 there is a credit under this subsection from more than one tax  
3 year that is available to offset a liability the earliest  
4 credit arising under this subsection shall be applied first. No  
5 carryforward credit may be claimed in any tax year ending on or  
6 after December 31, 2003.

7 (k) Research and development credit.

8 For tax years ending after July 1, 1990 and prior to  
9 December 31, 2003, and beginning again for tax years ending on  
10 or after December 31, 2004, a taxpayer shall be allowed a  
11 credit against the tax imposed by subsections (a) and (b) of  
12 this Section for increasing research activities in this State.  
13 The credit allowed against the tax imposed by subsections (a)  
14 and (b) shall be equal to 6 1/2% of the qualifying expenditures  
15 for increasing research activities in this State. For partners,  
16 shareholders of subchapter S corporations, and owners of  
17 limited liability companies, if the liability company is  
18 treated as a partnership for purposes of federal and State  
19 income taxation, there shall be allowed a credit under this  
20 subsection to be determined in accordance with the  
21 determination of income and distributive share of income under  
22 Sections 702 and 704 and subchapter S of the Internal Revenue  
23 Code.

24 For purposes of this subsection, "qualifying expenditures"  
25 means the qualifying expenditures as defined for the federal  
26 credit for increasing research activities which would be

1 allowable under Section 41 of the Internal Revenue Code and  
2 which are conducted in this State, "qualifying expenditures for  
3 increasing research activities in this State" means the excess  
4 of qualifying expenditures for the taxable year in which  
5 incurred over qualifying expenditures for the base period,  
6 "qualifying expenditures for the base period" means the average  
7 of the qualifying expenditures for each year in the base  
8 period, and "base period" means the 3 taxable years immediately  
9 preceding the taxable year for which the determination is being  
10 made.

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

19 If an unused credit is carried forward to a given year from  
20 2 or more earlier years, that credit arising in the earliest  
21 year will be applied first against the tax liability for the  
22 given year. If a tax liability for the given year still  
23 remains, the credit from the next earliest year will then be  
24 applied, and so on, until all credits have been used or no tax  
25 liability for the given year remains. Any remaining unused  
26 credit or credits then will be carried forward to the next

1 following year in which a tax liability is incurred, except  
2 that no credit can be carried forward to a year which is more  
3 than 5 years after the year in which the expense for which the  
4 credit is given was incurred.

5 No inference shall be drawn from this amendatory Act of the  
6 91st General Assembly in construing this Section for taxable  
7 years beginning before January 1, 1999.

8 (1) Environmental Remediation Tax Credit.

9 (i) For tax years ending after December 31, 1997 and on  
10 or before December 31, 2001, a taxpayer shall be allowed a  
11 credit against the tax imposed by subsections (a) and (b)  
12 of this Section for certain amounts paid for unreimbursed  
13 eligible remediation costs, as specified in this  
14 subsection. For purposes of this Section, "unreimbursed  
15 eligible remediation costs" means costs approved by the  
16 Illinois Environmental Protection Agency ("Agency") under  
17 Section 58.14 of the Environmental Protection Act that were  
18 paid in performing environmental remediation at a site for  
19 which a No Further Remediation Letter was issued by the  
20 Agency and recorded under Section 58.10 of the  
21 Environmental Protection Act. The credit must be claimed  
22 for the taxable year in which Agency approval of the  
23 eligible remediation costs is granted. The credit is not  
24 available to any taxpayer if the taxpayer or any related  
25 party caused or contributed to, in any material respect, a  
26 release of regulated substances on, in, or under the site



1 that was identified and addressed by the remedial action  
2 pursuant to the Site Remediation Program of the  
3 Environmental Protection Act. After the Pollution Control  
4 Board rules are adopted pursuant to the Illinois  
5 Administrative Procedure Act for the administration and  
6 enforcement of Section 58.9 of the Environmental  
7 Protection Act, determinations as to credit availability  
8 for purposes of this Section shall be made consistent with  
9 those rules. For purposes of this Section, "taxpayer"  
10 includes a person whose tax attributes the taxpayer has  
11 succeeded to under Section 381 of the Internal Revenue Code  
12 and "related party" includes the persons disallowed a  
13 deduction for losses by paragraphs (b), (c), and (f)(1) of  
14 Section 267 of the Internal Revenue Code by virtue of being  
15 a related taxpayer, as well as any of its partners. The  
16 credit allowed against the tax imposed by subsections (a)  
17 and (b) shall be equal to 25% of the unreimbursed eligible  
18 remediation costs in excess of \$100,000 per site, except  
19 that the \$100,000 threshold shall not apply to any site  
20 contained in an enterprise zone as determined by the  
21 Department of Commerce and Community Affairs (now  
22 Department of Commerce and Economic Opportunity). The  
23 total credit allowed shall not exceed \$40,000 per year with  
24 a maximum total of \$150,000 per site. For partners and  
25 shareholders of subchapter S corporations, there shall be  
26 allowed a credit under this subsection to be determined in

1           accordance with the determination of income and  
2           distributive share of income under Sections 702 and 704 and  
3           subchapter S of the Internal Revenue Code.

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

1 taxpayer if the taxpayer or a related party would not be  
2 eligible under the provisions of subsection (i).

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

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

18 For purposes of this subsection:

19 "Qualifying pupils" means individuals who (i) are  
20 residents of the State of Illinois, (ii) are under the age of  
21 21 at the close of the school year for which a credit is  
22 sought, and (iii) during the school year for which a credit is  
23 sought were full-time pupils enrolled in a kindergarten through  
24 twelfth grade education program at any school, as defined in  
25 this subsection.

26 "Qualified education expense" means the amount incurred on

1 behalf of a qualifying pupil in excess of \$250 for tuition,  
2 book fees, and lab fees at the school in which the pupil is  
3 enrolled during the regular school year.

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

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

14 (n) River Edge Redevelopment Zone site remediation tax  
15 credit.

16 (i) For tax years ending on or after December 31, 2006,  
17 a taxpayer shall be allowed a credit against the tax  
18 imposed by subsections (a) and (b) of this Section for  
19 certain amounts paid for unreimbursed eligible remediation  
20 costs, as specified in this subsection. For purposes of  
21 this Section, "unreimbursed eligible remediation costs"  
22 means costs approved by the Illinois Environmental  
23 Protection Agency ("Agency") under Section 58.14a of the  
24 Environmental Protection Act that were paid in performing  
25 environmental remediation at a site within a River Edge  
26 Redevelopment Zone for which a No Further Remediation

1 Letter was issued by the Agency and recorded under Section  
2 58.10 of the Environmental Protection Act. The credit must  
3 be claimed for the taxable year in which Agency approval of  
4 the eligible remediation costs is granted. The credit is  
5 not available to any taxpayer if the taxpayer or any  
6 related party caused or contributed to, in any material  
7 respect, a release of regulated substances on, in, or under  
8 the site that was identified and addressed by the remedial  
9 action pursuant to the Site Remediation Program of the  
10 Environmental Protection Act. Determinations as to credit  
11 availability for purposes of this Section shall be made  
12 consistent with rules adopted by the Pollution Control  
13 Board pursuant to the Illinois Administrative Procedure  
14 Act for the administration and enforcement of Section 58.9  
15 of the Environmental Protection Act. For purposes of this  
16 Section, "taxpayer" includes a person whose tax attributes  
17 the taxpayer has succeeded to under Section 381 of the  
18 Internal Revenue Code and "related party" includes the  
19 persons disallowed a deduction for losses by paragraphs  
20 (b), (c), and (f)(1) of Section 267 of the Internal Revenue  
21 Code by virtue of being a related taxpayer, as well as any  
22 of its partners. The credit allowed against the tax imposed  
23 by subsections (a) and (b) shall be equal to 25% of the  
24 unreimbursed eligible remediation costs in excess of  
25 \$100,000 per site.

26 (ii) A credit allowed under this subsection that is

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

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

25 (iv) This subsection is exempt from the provisions of  
26 Section 250.

1 (Source: P.A. 95-454, eff. 8-27-07; 96-115, eff. 7-31-09;  
2 96-116, eff. 7-31-09; revised 8-20-09.)

3 Section 25. The Retailers' Occupation Tax Act is amended by  
4 changing Sections 1d, 1e, 1f, and 5l as follows:

5 (35 ILCS 120/1d) (from Ch. 120, par. 440d)

6 Sec. 1d. Subject to the provisions of Section 1f, all  
7 tangible personal property to be used or consumed within an  
8 enterprise zone established pursuant to the "Illinois  
9 Enterprise Zone Act", as amended, or subject to the provisions  
10 of Section 5.5 of the Illinois Enterprise Zone Act, or subject  
11 to the provisions of Section 10 of the Green Energy Business  
12 Act, all tangible personal property to be used or consumed by  
13 any High Impact Business or Green Energy Business, in the  
14 process of the manufacturing or assembly of tangible personal  
15 property for wholesale or retail sale or lease or in the  
16 process of graphic arts production if used or consumed at a  
17 facility which is a Department of Commerce and Economic  
18 Opportunity certified business and located in a county of more  
19 than 4,000 persons and less than 45,000 persons is exempt from  
20 the tax imposed by this Act. This exemption includes repair and  
21 replacement parts for machinery and equipment used primarily in  
22 the process of manufacturing or assembling tangible personal  
23 property or in the process of graphic arts production if used  
24 or consumed at a facility which is a Department of Commerce and

1 Economic Opportunity certified business and located in a county  
2 of more than 4,000 persons and less than 45,000 persons for  
3 wholesale or retail sale, or lease, and equipment,  
4 manufacturing or graphic arts fuels, material and supplies for  
5 the maintenance, repair or operation of such manufacturing or  
6 assembling or graphic arts machinery or equipment.

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

8 (35 ILCS 120/1e) (from Ch. 120, par. 440e)

9 Sec. 1e. Subject to the provisions of Section 1f, or  
10 subject to the provisions of Section 5.5 of the Illinois  
11 Enterprise Zone Act, or subject to the provisions of Section 10  
12 of the Green Energy Business Act, all tangible personal  
13 property to be used or consumed in the operation of pollution  
14 control facilities, as defined in Section 1a of this Act,  
15 within an enterprise zone established pursuant to the "Illinois  
16 Enterprise Zone Act", as amended, shall be exempt from the tax  
17 imposed by this Act.

18 (Source: P.A. 85-1182.)

19 (35 ILCS 120/1f) (from Ch. 120, par. 440f)

20 Sec. 1f. Except for High Impact Businesses or Green Energy  
21 Businesses, the exemption stated in Sections 1d and 1e of this  
22 Act shall only apply to business enterprises which:

23 (1) either (i) make investments which cause the  
24 creation of a minimum of 200 full-time equivalent jobs in



1 Illinois or (ii) make investments which cause the retention  
2 of a minimum of 2000 full-time jobs in Illinois or (iii)  
3 make investments of a minimum of \$40,000,000 and retain at  
4 least 90% of the jobs in place on the date on which the  
5 exemption is granted and for the duration of the exemption;  
6 and

7 (2) are located in an Enterprise Zone established  
8 pursuant to the Illinois Enterprise Zone Act; and

9 (3) are certified by the Department of Commerce and  
10 Economic Opportunity as complying with the requirements  
11 specified in clauses (1), (2) and (3).

12 Any business enterprise seeking to avail itself of the  
13 exemptions stated in Sections 1d or 1e, or both, shall make  
14 application to the Department of Commerce and Economic  
15 Opportunity in such form and providing such information as may  
16 be prescribed by the Department of Commerce and Economic  
17 Opportunity. However, no business enterprise shall be  
18 required, as a condition for certification under clause (4) of  
19 this Section, to attest that its decision to invest under  
20 clause (1) of this Section and to locate under clause (2) of  
21 this Section is predicated upon the availability of the  
22 exemptions authorized by Sections 1d or 1e.

23 The Department of Commerce and Economic Opportunity shall  
24 determine whether the business enterprise meets the criteria  
25 prescribed in this Section. If the Department of Commerce and  
26 Economic Opportunity determines that such business enterprise

1 meets the criteria, it shall issue a certificate of eligibility  
2 for exemption to the business enterprise in such form as is  
3 prescribed by the Department of Revenue. The Department of  
4 Commerce and Economic Opportunity shall act upon such  
5 certification requests within 60 days after receipt of the  
6 application, and shall file with the Department of Revenue a  
7 copy of each certificate of eligibility for exemption.

8 The Department of Commerce and Economic Opportunity shall  
9 have the power to promulgate rules and regulations to carry out  
10 the provisions of this Section including the power to define  
11 the amounts and types of eligible investments not specified in  
12 this Section which business enterprises must make in order to  
13 receive the exemptions stated in Sections 1d and 1e of this  
14 Act; and to require that any business enterprise that is  
15 granted a tax exemption repay the exempted tax if the business  
16 enterprise fails to comply with the terms and conditions of the  
17 certification.

18 Such certificate of eligibility for exemption shall be  
19 presented by the business enterprise to its supplier when  
20 making the initial purchase of tangible personal property for  
21 which an exemption is granted by Section 1d or Section 1e, or  
22 both, together with a certification by the business enterprise  
23 that such tangible personal property is exempt from taxation  
24 under Section 1d or Section 1e and by indicating the exempt  
25 status of each subsequent purchase on the face of the purchase  
26 order.

1           The Department of Commerce and Economic Opportunity shall  
2 determine the period during which such exemption from the taxes  
3 imposed under this Act is in effect which shall not exceed 20  
4 years.

5           (Source: P.A. 94-793, eff. 5-19-06.)

6           (35 ILCS 120/51) (from Ch. 120, par. 4441)

7           Sec. 5l. Beginning January 1, 1995, each retailer who makes  
8 a sale of building materials that will be incorporated into a  
9 High Impact Business location as designated by the Department  
10 of Commerce and Economic Opportunity under Section 5.5 of the  
11 Illinois Enterprise Zone Act or Section 10 of the Green Energy  
12 Business Act may deduct receipts from such sales when  
13 calculating only the 6.25% State rate of tax imposed by this  
14 Act. Beginning on the effective date of this amendatory Act of  
15 1995, a retailer may also deduct receipts from such sales when  
16 calculating any applicable local taxes. However, until the  
17 effective date of this amendatory Act of 1995, a retailer may  
18 file claims for credit or refund to recover the amount of any  
19 applicable local tax paid on such sales. No retailer who is  
20 eligible for the deduction or credit under Section 5k of this  
21 Act for making a sale of building materials to be incorporated  
22 into real estate in an enterprise zone by rehabilitation,  
23 remodeling or new construction shall be eligible for the  
24 deduction or credit authorized under this Section.

25           (Source: P.A. 94-793, eff. 5-19-06.)

1 Section 30. The Public Utilities Act is amended by changing  
2 Sections 9-222 and 9-222.1A as follows:

3 (220 ILCS 5/9-222) (from Ch. 111 2/3, par. 9-222)

4 Sec. 9-222. Whenever a tax is imposed upon a public utility  
5 engaged in the business of distributing, supplying,  
6 furnishing, or selling gas for use or consumption pursuant to  
7 Section 2 of the Gas Revenue Tax Act, or whenever a tax is  
8 required to be collected by a delivering supplier pursuant to  
9 Section 2-7 of the Electricity Excise Tax Act, or whenever a  
10 tax is imposed upon a public utility pursuant to Section 2-202  
11 of this Act, such utility may charge its customers, other than  
12 customers who are Green Energy Businesses under Section 10 of  
13 the Green Energy Business Act, High Impact Businesses ~~high~~  
14 ~~impact businesses~~ under Section 5.5 of the Illinois Enterprise  
15 Zone Act, or certified business enterprises under Section  
16 9-222.1 of this Act, to the extent of such exemption and during  
17 the period in which such exemption is in effect, in addition to  
18 any rate authorized by this Act, an additional charge equal to  
19 the total amount of such taxes. The exemption of this Section  
20 relating to High Impact Businesses ~~high impact businesses~~ shall  
21 be subject to the provisions of subsections (a), (b), and (b-5)  
22 of Section 5.5 of the Illinois Enterprise Zone Act. The  
23 exemption of this Section relating to Green Energy Businesses  
24 shall be subject to the provisions of subsection (a) of Section

1 10 of the Green Energy Business Act. This requirement shall not  
2 apply to taxes on invested capital imposed pursuant to the  
3 Messages Tax Act, the Gas Revenue Tax Act and the Public  
4 Utilities Revenue Act. Such utility shall file with the  
5 Commission a supplemental schedule which shall specify such  
6 additional charge and which shall become effective upon filing  
7 without further notice. Such additional charge shall be shown  
8 separately on the utility bill to each customer. The Commission  
9 shall have the power to investigate whether or not such  
10 supplemental schedule correctly specifies such additional  
11 charge, but shall have no power to suspend such supplemental  
12 schedule. If the Commission finds, after a hearing, that such  
13 supplemental schedule does not correctly specify such  
14 additional charge, it shall by order require a refund to the  
15 appropriate customers of the excess, if any, with interest, in  
16 such manner as it shall deem just and reasonable, and in and by  
17 such order shall require the utility to file an amended  
18 supplemental schedule corresponding to the finding and order of  
19 the Commission. Except with respect to taxes imposed on  
20 invested capital, such tax liabilities shall be recovered from  
21 customers solely by means of the additional charges authorized  
22 by this Section.

23 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01.)

24 (220 ILCS 5/9-222.1A)

25 Sec. 9-222.1A. High impact business or green energy

1 business. Beginning on August 1, 1998 and thereafter, a  
2 business enterprise that is certified as a High Impact Business  
3 or a Green Energy Business by the Department of Commerce and  
4 Economic Opportunity (formerly Department of Commerce and  
5 Community Affairs) is exempt from the tax imposed by Section  
6 2-4 of the Electricity Excise Tax Law, if the High Impact  
7 Business or Green Energy Business is registered to self-assess  
8 that tax, and is exempt from any additional charges added to  
9 the business enterprise's utility bills as a pass-on of State  
10 utility taxes under Section 9-222 of this Act, to the extent  
11 the tax or charges are exempted by the percentage specified by  
12 the Department of Commerce and Economic Opportunity for State  
13 utility taxes, provided the business enterprise meets the  
14 following criteria:

15 (1) (A) it intends either (i) to make a minimum  
16 eligible investment of \$12,000,000 that will be placed  
17 in service in qualified property in Illinois and is  
18 intended to create at least 500 full-time equivalent  
19 jobs at a designated location in Illinois; or (ii) to  
20 make a minimum eligible investment of \$30,000,000 that  
21 will be placed in service in qualified property in  
22 Illinois and is intended to retain at least 1,500  
23 full-time equivalent jobs at a designated location in  
24 Illinois; or

25 (B) it meets the criteria of subdivision

26 (a) (3) (B), (a) (3) (C), ~~or~~ (a) (3) (D) of Section 5.5 of

1           the Illinois Enterprise Zone Act, or of subsection (a)  
2           of Section 10 of the Green Energy Business Act;

3           (2) it is designated as a High Impact Business or Green  
4           Energy Business by the Department of Commerce and Economic  
5           Opportunity; and

6           (3) it is certified by the Department of Commerce and  
7           Economic Opportunity as complying with the requirements  
8           specified in clauses (1) and (2) of this Section.

9           The Department of Commerce and Economic Opportunity shall  
10          determine the period during which the exemption from the  
11          Electricity Excise Tax Law and the charges imposed under  
12          Section 9-222 are in effect, which shall not exceed 20 years  
13          from the date of initial certification, and shall specify the  
14          percentage of the exemption from those taxes or additional  
15          charges.

16          The Department of Commerce and Economic Opportunity is  
17          authorized to promulgate rules and regulations to carry out the  
18          provisions of this Section, including procedures for complying  
19          with the requirements specified in clauses (1) and (2) of this  
20          Section and procedures for applying for the exemptions  
21          authorized under this Section; to define the amounts and types  
22          of eligible investments that business enterprises must make in  
23          order to receive State utility tax exemptions or exemptions  
24          from the additional charges imposed under Section 9-222 and  
25          this Section; to approve such utility tax exemptions for  
26          business enterprises whose investments are not yet placed in

1 service; and to require that business enterprises granted tax  
2 exemptions or exemptions from additional charges under Section  
3 9-222 repay the exempted amount if the business enterprise  
4 fails to comply with the terms and conditions of the  
5 certification.

6 Upon certification of the business enterprises by the  
7 Department of Commerce and Economic Opportunity, the  
8 Department of Commerce and Economic Opportunity shall notify  
9 the Department of Revenue of the certification. The Department  
10 of Revenue shall notify the public utilities of the exemption  
11 status of business enterprises from the tax or pass-on charges  
12 of State utility taxes. The exemption status shall take effect  
13 within 3 months after certification of the business enterprise.  
14 (Source: P.A. 94-793, eff. 5-19-06.)

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