



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1823

Introduced 2/20/2009, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Creates the Illinois Energy to Jobs Act. Creates the Carbon Capture and Sequestration Legislation Commission to make a report to the General Assembly by December 31, 2010 concerning specified legislation. Amends the Illinois Power Agency Act to make changes concerning the Resource Development Bureau. Amends the Illinois Power Agency Act to allow the Agency to acquire by eminent domain permanent easements for the distribution, transportation, and storage of CO₂. Allows the Agency to lease those easements to energy facilities. Amends the Illinois Power Agency Act and Public Utilities Act to make changes concerning the prudence of supply contracts. Amends the State Fire Marshal Act, the Environmental Protection Act, the Illinois Power Agency Act, and the Public Utilities Act to provide that there shall be processes for expediting the issuance of permits and licenses for projects at energy facilities. Deletes language concerning a moratorium on the construction of nuclear power plants. Amends the Illinois Income Tax Act. Creates a credit equal to 10% of the amount spent during the taxable year on equipment purchased for use at an energy facility. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Restores specified tax exemptions beginning on the effective date of the amendatory Act. Amends (1) the Department of Commerce and Economic Opportunity Law concerning financial assistance, and (2) the Illinois Enterprise Free Zone Act concerning high impact businesses. Amends the Property Tax Code to add a provision concerning real property taxes at energy facilities. Amends the Eminent Domain Act to make conforming changes. Makes other changes. Contains a nonacceleration clause. Contains a severability clause. Effective July 1, 2009.

LRB096 11157 MJR 21532 b

1 AN ACT concerning economic development.

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

4 Article 1.

5 Section 1-1. Short title. This Act may be cited as the
6 Illinois Energy to Jobs Act.

7 Article 5.

8 Section 5-1. Short title. This Article may be cited as the
9 Carbon Capture and Sequestration Legislation Commission Law.

10 Section 5-5. Definitions. For purposes of this Article:

11 "CO₂" means carbon dioxide.

12 "Commission" means the Carbon Capture and Sequestration
13 Legislation Commission.

14 "Director" means the Director of the Illinois Power Agency.

15 Section 5-10. Creation. An advisory commission, to be known
16 as the Carbon Capture and Sequestration Legislation
17 Commission, is created. The Commission shall consist of 16
18 members, including the Director, who shall serve as the
19 ex-officio chairperson of the Commission. The remaining 15

1 members of the Commission shall be appointed as follows: 3
2 members shall be appointed by the Speaker of the House of
3 Representatives, 3 members shall be appointed by the President
4 of the Senate, 2 members shall be appointed by the Minority
5 Leader of the House of Representatives, 2 members shall be
6 appointed by the Minority Leader of the Senate, and 5 members
7 shall be appointed by the Governor. The appointments made by
8 the Governor shall include one member with expertise in
9 geology, one member with expertise in civil law, one member
10 with expertise in pipeline technology, one member with
11 expertise in energy-related engineering, and one member with
12 expertise in environmental science.

13 Section 5-15. Report on carbon capture and sequestration
14 legislation.

15 (a) The Commission shall file a report no later than
16 December 31, 2010 with the General Assembly on all issues
17 related to carbon capture and sequestration legislation,
18 including, but not limited to, the following:

19 (1) Ownership of the CO₂.

20 (2) Liability for release of CO₂.

21 (3) Acquisition and ownership of pore space.

22 (4) Procedures and safeguards for the transportation
23 and sequestration of CO₂.

24 (5) Methodology to establish any necessary fees,
25 costs, or offsets.

1 (6) Potential use of CO₂.

2 (7) Construction of pipelines.

3 (8) Coordination with applicable federal law or
4 regulatory commissions.

5 (b) The Commission shall be abolished upon filing its
6 report with the General Assembly.

7 Section 5-20. Repealer. This Article is repealed on January
8 1, 2011.

9 Article 10.

10 Section 10-5. The Illinois Power Agency Act is amended by
11 changing Sections 1-10, 1-21, and 1-80 as follows:

12 (20 ILCS 3855/1-10)

13 (Text of Section before amendment by P.A. 95-1027)

14 Sec. 1-10. Definitions.

15 "Agency" means the Illinois Power Agency.

16 "Agency loan agreement" means any agreement pursuant to
17 which the Illinois Finance Authority agrees to loan the
18 proceeds of revenue bonds issued with respect to a project to
19 the Agency upon terms providing for loan repayment installments
20 at least sufficient to pay when due all principal of, interest
21 and premium, if any, on those revenue bonds, and providing for
22 maintenance, insurance, and other matters in respect of the

1 project.

2 "Authority" means the Illinois Finance Authority.

3 "Clean coal facility" means an electric generating
4 facility that uses primarily coal as a feedstock and that
5 captures and sequesters carbon emissions at the following
6 levels: at least 50% of the total carbon emissions that the
7 facility would otherwise emit if, at the time construction
8 commences, the facility is scheduled to commence operation
9 before 2016, at least 70% of the total carbon emissions that
10 the facility would otherwise emit if, at the time construction
11 commences, the facility is scheduled to commence operation
12 during 2016 or 2017, and at least 90% of the total carbon
13 emissions that the facility would otherwise emit if, at the
14 time construction commences, the facility is scheduled to
15 commence operation after 2017. The power block of the clean
16 coal facility shall not exceed allowable emission rates for
17 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
18 and mercury for a natural gas-fired combined-cycle facility the
19 same size as and in the same location as the clean coal
20 facility at the time the clean coal facility obtains an
21 approved air permit. All coal used by a clean coal facility
22 shall have high volatile bituminous rank and greater than 1.7
23 pounds of sulfur per million btu content, unless the clean coal
24 facility does not use gasification technology and was operating
25 as a conventional coal-fired electric generating facility on
26 June 1, 2009 (the effective date of Public Act 95-1027).

1 "Clean coal SNG facility" means a facility that uses a
2 gasification process to produce substitute natural gas, that
3 sequesters at least 90% of the total carbon emissions that the
4 facility would otherwise emit and that uses coal as a
5 feedstock, with all such coal having a high bituminous rank and
6 greater than 1.7 pounds of sulfur per million btu content.

7 "Coal to liquid facility" means a facility that produces
8 fuels by processes that convert coal, waste coal, or biomass
9 resources or extract oil from oil shale to produce fuels for
10 powering vehicles, aircraft, and machinery and that sequesters
11 carbon emissions consistent with federal and State standards.
12 These fuels may include, but are not limited to, petroleum, jet
13 fuel, gasoline, diesel fuel, hydrogen derived from coal, and
14 diesel fuel and ethanol derived from biomass resources.

15 "Biomass resources" means any organic matter that is available
16 on a renewable or recurring basis, including (1) agricultural
17 crops and trees, (2) wood and wood residues, (3) plants,
18 aquatic plants, and plant oils, (4) grasses, (5) animal fats
19 and animal by-products, (6) animal manure, (7) residue
20 materials, and (8) waste products.

21 "Commission" means the Illinois Commerce Commission.

22 "Costs incurred in connection with the development and
23 construction of a facility" means:

24 (1) the cost of acquisition of all real property and
25 improvements in connection therewith and equipment and
26 other property, rights, and easements acquired that are

1 deemed necessary for the operation and maintenance of the
2 facility;

3 (2) financing costs with respect to bonds, notes, and
4 other evidences of indebtedness of the Agency;

5 (3) all origination, commitment, utilization,
6 facility, placement, underwriting, syndication, credit
7 enhancement, and rating agency fees;

8 (4) engineering, design, procurement, consulting,
9 legal, accounting, title insurance, survey, appraisal,
10 escrow, trustee, collateral agency, interest rate hedging,
11 interest rate swap, capitalized interest and other
12 financing costs, and other expenses for professional
13 services; and

14 (5) the costs of plans, specifications, site study and
15 investigation, installation, surveys, other Agency costs
16 and estimates of costs, and other expenses necessary or
17 incidental to determining the feasibility of any project,
18 together with such other expenses as may be necessary or
19 incidental to the financing, insuring, acquisition, and
20 construction of a specific project and placing that project
21 in operation.

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

24 "Director" means the Director of the Illinois Power Agency.

25 "Demand-response" means measures that decrease peak
26 electricity demand or shift demand from peak to off-peak

1 periods.

2 "Energy efficiency" means measures that reduce the amount
3 of electricity required to achieve a given end use.

4 "Energy facility" includes a clean coal power facility, a
5 clean coal SNG facility, a nuclear facility, a facility that
6 produces renewable energy, including, but not limited to, wind,
7 solar, and biomass, lines for the transmission of electric
8 power, smart-grid equipment and facilities, a fossil
9 fuel-fired electric generation facility existing on the
10 effective date of this amendatory Act of the 96th General
11 Assembly that is regulated and in compliance with Subparts C,
12 D, and E of Title 35 of the Illinois Administrative Code, a
13 coal to liquid facility, a refinery to produce fuel or energy,
14 and a coal mine or a facility for the exploration or production
15 of oil or gas, and all linear facilities, including railroads,
16 road pipelines, or transmission lines necessary to the
17 operation of that facility.

18 "Electric utility" has the same definition as found in
19 Section 16-102 of the Public Utilities Act.

20 "Facility" means an electric generating unit or a
21 co-generating unit that produces electricity along with
22 related equipment necessary to connect the facility to an
23 electric transmission or distribution system.

24 "Feedstock" means any raw material supplied to an energy
25 facility from which other end products can be made.

26 "Governmental aggregator" means one or more units of local

1 government that individually or collectively procure
2 electricity to serve residential retail electrical loads
3 located within its or their jurisdiction.

4 "Local government" means a unit of local government as
5 defined in Article VII of Section 1 of the Illinois
6 Constitution.

7 "Municipality" means a city, village, or incorporated
8 town.

9 "Person" means any natural person, firm, partnership,
10 corporation, either domestic or foreign, company, association,
11 limited liability company, joint stock company, or association
12 and includes any trustee, receiver, assignee, or personal
13 representative thereof.

14 "Project" means the planning, bidding, and construction of
15 a facility.

16 "Public utility" has the same definition as found in
17 Section 3-105 of the Public Utilities Act.

18 "Real property" means any interest in land together with
19 all structures, fixtures, and improvements thereon, including
20 lands under water and riparian rights, any easements,
21 covenants, licenses, leases, rights-of-way, uses, and other
22 interests, together with any liens, judgments, mortgages, or
23 other claims or security interests related to real property.

24 "Renewable energy credit" means a tradable credit that
25 represents the environmental attributes of a certain amount of
26 energy produced from a renewable energy resource.

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

17 "Revenue bond" means any bond, note, or other evidence of
18 indebtedness issued by the Authority, the principal and
19 interest of which is payable solely from revenues or income
20 derived from any project or activity of the Agency.

21 "Sequester" means permanent storage of carbon dioxide by
22 injecting it into a saline aquifer, a depleted gas reservoir,
23 or an oil reservoir, directly or through an enhanced oil
24 recovery process that may involve intermediate storage in a
25 salt dome.

26 "Servicing agreement" means (i) in the case of an electric

1 utility, an agreement between the owner of a clean coal
2 facility and such electric utility, which agreement shall have
3 terms and conditions meeting the requirements of paragraph (3)
4 of subsection (d) of Section 1-75, and (ii) in the case of an
5 alternative retail electric supplier, an agreement between the
6 owner of a clean coal facility and such alternative retail
7 electric supplier, which agreement shall have terms and
8 conditions meeting the requirements of Section 16-115(d) (5) of
9 the Public Utilities Act.

10 "Substitute natural gas" or "SNG" means a gas manufactured
11 by gasification of hydrocarbon feedstock, which is
12 substantially interchangeable in use and distribution with
13 conventional natural gas.

14 "Total resource cost test" or "TRC test" means a standard
15 that is met if, for an investment in energy efficiency or
16 demand-response measures, the benefit-cost ratio is greater
17 than one. The benefit-cost ratio is the ratio of the net
18 present value of the total benefits of the program to the net
19 present value of the total costs as calculated over the
20 lifetime of the measures. A total resource cost test compares
21 the sum of avoided electric utility costs, representing the
22 benefits that accrue to the system and the participant in the
23 delivery of those efficiency measures, to the sum of all
24 incremental costs of end-use measures that are implemented due
25 to the program (including both utility and participant
26 contributions), plus costs to administer, deliver, and

1 evaluate each demand-side program, to quantify the net savings
2 obtained by substituting the demand-side program for supply
3 resources. In calculating avoided costs of power and energy
4 that an electric utility would otherwise have had to acquire,
5 reasonable estimates shall be included of financial costs
6 likely to be imposed by future regulations and legislation on
7 emissions of greenhouse gases.

8 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

9 (Text of Section after amendment by P.A. 95-1027)

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19 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
20 ~~amendatory Act of the 95th General Assembly.~~

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26 involve new construction or significant expansion of

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2 environmentally preferable energy. For purposes of this Act,
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13 present value of the total costs as calculated over the
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22 obtained by substituting the demand-side program for supply
23 resources. In calculating avoided costs of power and energy
24 that an electric utility would otherwise have had to acquire,
25 reasonable estimates shall be included of financial costs
26 likely to be imposed by future regulations and legislation on

1 emissions of greenhouse gases.

2 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
3 95-1027, eff. 6-1-09; revised 1-14-09.)

4 (20 ILCS 3855/1-21)

5 Sec. 1-21. Eminent domain. The Agency may take and acquire
6 possession by eminent domain of any property or interest in
7 property that the Agency is authorized to acquire under this
8 Act for the construction, maintenance, or operation of a
9 facility with the consent in writing of the Governor, after
10 following the provisions of Section 1-85(a) of this Act, to
11 acquire by private purchase, or by condemnation in the manner
12 provided for the exercise of the power of eminent domain under
13 the Eminent Domain Act. The power of condemnation shall be
14 exercised, however, solely for the purposes of one or more of
15 the following: siting, rights of way, and easements
16 appurtenant. In addition, the Agency may acquire by eminent
17 domain permanent easements for the delivery, transportation,
18 and storage of CO₂ and may lease those easements to any energy
19 facility on reasonable terms and conditions, as determined by
20 the Agency. The Agency shall not exercise its powers of
21 condemnation until it has used reasonable good faith efforts to
22 acquire the property before filing a petition for condemnation
23 and may thereafter use those powers when it determines that the
24 condemnation of the property rights is necessary to avoid
25 unreasonable delay or economic hardship to the progress of

1 activities carried out in the exercise of powers granted under
2 this Act. Before use of the power of condemnation for projects,
3 the Agency shall hold a public hearing to receive comments on
4 the exercise of the power of condemnation. The Agency shall use
5 the information received at the hearing in making its final
6 decision on the exercise of the power of condemnation. The
7 hearing shall be held in a location reasonably accessible to
8 the public interested in the decision. The Agency shall
9 promulgate guidelines for the conduct of the hearing. The
10 Agency shall conduct a feasibility study showing that the
11 taking is necessary to accomplish the purposes of this Act and
12 that is adequate to meet the environmental standards set forth
13 by the State and the federal governments. The Agency may not
14 exercise the authority provided in Article 20 of the Eminent
15 Domain Act (quick-take procedure) providing for immediate
16 possession in those proceedings. The Agency does not have the
17 power to exercise eminent domain over the property of any
18 public utility or any person owning an electric generating
19 plant.

20 (Source: P.A. 95-481, eff. 8-28-07.)

21 (20 ILCS 3855/1-80)

22 (Text of Section before amendment by P.A. 95-1027)

23 Sec. 1-80. Resource Development Bureau. The Resource
24 Development Bureau has the following duties and
25 responsibilities:

1 (a) At the Agency's discretion, conduct feasibility
2 studies on the construction of any facility. Funding for a
3 study shall come from either:

4 (i) fees assessed by the Agency on municipal
5 electric systems, governmental aggregators, unit or
6 units of local government, or rural electric
7 cooperatives requesting the feasibility study; or

8 (ii) an appropriation from the General Assembly.

9 (b) If the Agency undertakes the construction of a
10 facility, moneys generated from the sale of revenue bonds
11 by the Authority for the facility shall be used to
12 reimburse the source of the money used for the facility's
13 feasibility study.

14 (c) The Agency may develop, finance, construct, or
15 operate electric generation and co-generation facilities
16 that use indigenous coal or renewable resources, or both,
17 financed with bonds issued by the Authority on behalf of
18 the Agency. Any such facility that uses coal must be a
19 clean coal facility and must be constructed in a location
20 where the geology is suitable for carbon sequestration. The
21 Agency may also develop, finance, construct, or operate a
22 carbon sequestration facility, including necessary
23 pipelines, transmission lines, or both. Preference shall
24 be given to technologies that enable carbon capture and
25 sites in locations where the geology is suitable for carbon
26 sequestration.

1 (1) The Agency may enter into contractual
2 arrangements with private and public entities,
3 including but not limited to municipal electric
4 systems, governmental aggregators, and rural electric
5 cooperatives, to plan, site, construct, improve,
6 rehabilitate, and operate those electric generation
7 and co-generation facilities. No contract shall be
8 entered into by the Agency that would jeopardize the
9 tax-exempt status of any bond issued in connection with
10 a project for which the Agency entered into the
11 contract.

12 (2) The Agency shall hold at least one public
13 hearing before entering into any such contractual
14 arrangements. At least 30-days' notice of the hearing
15 shall be given by publication once in each week during
16 that period in 6 newspapers within the State, at least
17 one of which has a circulation area that includes the
18 location of the proposed facility.

19 (3) The first facility that the Agency develops,
20 finances, or constructs shall be a facility that uses
21 coal produced in Illinois. The Agency may, however,
22 also develop, finance, or construct renewable energy
23 facilities after work on the first facility has
24 commenced.

25 (4) The Agency may not develop, finance, or
26 construct a nuclear power plant.

1 (5) The Agency shall assess fees to applicants
2 seeking to partner with the Agency on projects.

3 (d) Use of electricity generated by the Agency's
4 facilities. The Agency may supply electricity produced by
5 the Agency's facilities to municipal electric systems,
6 governmental aggregators, or rural electric cooperatives
7 in Illinois. The electricity shall be supplied at cost.

8 (1) Contracts to supply power and energy from the
9 Agency's facilities shall provide for the effectuation
10 of the policies set forth in this Act.

11 (2) The contracts shall also provide that,
12 notwithstanding any provision in the Public Utilities
13 Act, entities supplied with power and energy from an
14 Agency facility shall supply the power and energy to
15 retail customers at the same price paid to purchase
16 power and energy from the Agency.

17 (e) Electric utilities shall not be required to purchase
18 electricity directly or indirectly from facilities developed
19 or sponsored by the Agency.

20 (f) The Agency may sell excess capacity and excess energy
21 into the wholesale electric market at prevailing market rates;
22 provided, however, the Agency may not sell excess capacity or
23 excess energy through the procurement process described in
24 Section 16-111.5 of the Public Utilities Act.

25 (g) The Agency shall not directly sell electric power and
26 energy to retail customers. Nothing in this paragraph shall be

1 construed to prohibit sales to municipal electric systems,
2 governmental aggregators, or rural electric cooperatives.

3 (Source: P.A. 95-481, eff. 8-28-07.)

4 (Text of Section after amendment by P.A. 95-1027)

5 Sec. 1-80. Resource Development Bureau. The Resource
6 Development Bureau has the following duties and
7 responsibilities:

8 (a) At the Agency's discretion, conduct feasibility
9 studies on the construction of any facility. Funding for a
10 study shall come from either:

11 (i) fees assessed by the Agency on municipal
12 electric systems, governmental aggregators, unit or
13 units of local government, or rural electric
14 cooperatives requesting the feasibility study; or

15 (ii) an appropriation from the General Assembly.

16 (b) If the Agency undertakes the construction of a
17 facility, moneys generated from the sale of revenue bonds
18 by the Authority for the facility shall be used to
19 reimburse the source of the money used for the facility's
20 feasibility study.

21 (c) The Agency may develop, finance, construct, or
22 operate electric generation and co-generation facilities
23 that use indigenous coal or renewable resources, or both,
24 financed with bonds issued by the Authority on behalf of
25 the Agency. Any such facility that uses coal must be a

1 clean coal facility and must be constructed in a location
2 where the geology is suitable for carbon sequestration. The
3 Agency may also develop, finance, construct, or operate a
4 carbon sequestration facility, including necessary
5 pipelines, transmission lines, or both.

6 (1) The Agency may enter into contractual
7 arrangements with private and public entities,
8 including but not limited to municipal electric
9 systems, governmental aggregators, and rural electric
10 cooperatives, to plan, site, construct, improve,
11 rehabilitate, and operate those electric generation
12 and co-generation facilities. No contract shall be
13 entered into by the Agency that would jeopardize the
14 tax-exempt status of any bond issued in connection with
15 a project for which the Agency entered into the
16 contract.

17 (2) The Agency shall hold at least one public
18 hearing before entering into any such contractual
19 arrangements. At least 30-days' notice of the hearing
20 shall be given by publication once in each week during
21 that period in 6 newspapers within the State, at least
22 one of which has a circulation area that includes the
23 location of the proposed facility.

24 (3) The first facility that the Agency develops,
25 finances, or constructs shall be a facility that uses
26 coal produced in Illinois. The Agency may, however,

1 also develop, finance, or construct renewable energy
2 facilities after work on the first facility has
3 commenced.

4 (4) The Agency may not develop, finance, or
5 construct a nuclear power plant.

6 (5) The Agency shall assess fees to applicants
7 seeking to partner with the Agency on projects.

8 (d) Use of electricity generated by the Agency's
9 facilities. The Agency may supply electricity produced by
10 the Agency's facilities to municipal electric systems,
11 governmental aggregators, or rural electric cooperatives
12 in Illinois. The electricity shall be supplied at cost.

13 (1) Contracts to supply power and energy from the
14 Agency's facilities shall provide for the effectuation
15 of the policies set forth in this Act.

16 (2) The contracts shall also provide that,
17 notwithstanding any provision in the Public Utilities
18 Act, entities supplied with power and energy from an
19 Agency facility shall supply the power and energy to
20 retail customers at the same price paid to purchase
21 power and energy from the Agency.

22 (e) Electric utilities shall not be required to purchase
23 electricity directly or indirectly from facilities developed
24 or sponsored by the Agency.

25 (f) The Agency may sell excess capacity and excess energy
26 into the wholesale electric market at prevailing market rates;

1 provided, however, the Agency may not sell excess capacity or
2 excess energy through the procurement process described in
3 Section 16-111.5 of the Public Utilities Act.

4 (g) The Agency shall not directly sell electric power and
5 energy to retail customers. Nothing in this paragraph shall be
6 construed to prohibit sales to municipal electric systems,
7 governmental aggregators, or rural electric cooperatives.

8 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

9 Section 10-10. The Public Utilities Act is amended by
10 changing Sections 8-406 and 9-220 and by adding Section 4-105
11 as follows:

12 (220 ILCS 5/4-105 new)

13 Sec. 4-105. Expedited permitting. The rules of the
14 Commission must include a process for expediting the issuance
15 of permits and licenses for projects at energy facilities that
16 are subject to Commission regulation as of January 1, 2009, as
17 that term is used in Section 1-10 of the Illinois Power Agency
18 Act. The Commission may engage the experts and additional
19 resources that are reasonably necessary for implementing this
20 process. An applicant must request the use of an expedited
21 process, and any additional costs for using that process shall
22 be borne by the applicant.

23 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

1 Sec. 8-406. Certificate of public convenience and
2 necessity.

3 (a) No public utility not owning any city or village
4 franchise nor engaged in performing any public service or in
5 furnishing any product or commodity within this State as of
6 July 1, 1921 and not possessing a certificate of public
7 convenience and necessity from the Illinois Commerce
8 Commission, the State Public Utilities Commission or the Public
9 Utilities Commission, at the time this amendatory Act of 1985
10 goes into effect, shall transact any business in this State
11 until it shall have obtained a certificate from the Commission
12 that public convenience and necessity require the transaction
13 of such business.

14 (b) No public utility shall begin the construction of any
15 new plant, equipment, property or facility which is not in
16 substitution of any existing plant, equipment, property or
17 facility or any extension or alteration thereof or in addition
18 thereto, unless and until it shall have obtained from the
19 Commission a certificate that public convenience and necessity
20 require such construction. Whenever after a hearing the
21 Commission determines that any new construction or the
22 transaction of any business by a public utility will promote
23 the public convenience and is necessary thereto, it shall have
24 the power to issue certificates of public convenience and
25 necessity. The Commission shall determine that proposed
26 construction will promote the public convenience and necessity

1 only if the utility demonstrates: (1) that the proposed
2 construction is necessary to provide adequate, reliable, and
3 efficient service to its customers and is the least-cost means
4 of satisfying the service needs of its customers or that the
5 proposed construction will promote the development of an
6 effectively competitive electricity market that operates
7 efficiently, is equitable to all customers, and is the least
8 cost means of satisfying those objectives; (2) that the utility
9 is capable of efficiently managing and supervising the
10 construction process and has taken sufficient action to ensure
11 adequate and efficient construction and supervision thereof;
12 and (3) that the utility is capable of financing the proposed
13 construction without significant adverse financial
14 consequences for the utility or its customers.

15 (c) (Blank). ~~After the effective date of this amendatory~~
16 ~~Act of 1987, no construction shall commence on any new nuclear~~
17 ~~power plant to be located within this State, and no certificate~~
18 ~~of public convenience and necessity or other authorization~~
19 ~~shall be issued therefor by the Commission, until the Director~~
20 ~~of the Illinois Environmental Protection Agency finds that the~~
21 ~~United States Government, through its authorized agency, has~~
22 ~~identified and approved a demonstrable technology or means for~~
23 ~~the disposal of high level nuclear waste, or until such~~
24 ~~construction has been specifically approved by a statute~~
25 ~~enacted by the General Assembly.~~

26 ~~As used in this Section, "high level nuclear waste" means~~

1 ~~those aqueous wastes resulting from the operation of the first~~
2 ~~cycle of the solvent extraction system or equivalent and the~~
3 ~~concentrated wastes of the subsequent extraction cycles or~~
4 ~~equivalent in a facility for reprocessing irradiated reactor~~
5 ~~fuel and shall include spent fuel assemblies prior to fuel~~
6 ~~reprocessing.~~

7 (d) In making its determination, the Commission shall
8 attach primary weight to the cost or cost savings to the
9 customers of the utility. The Commission may consider any or
10 all factors which will or may affect such cost or cost savings.

11 (e) The Commission may issue a temporary certificate which
12 shall remain in force not to exceed one year in cases of
13 emergency, to assure maintenance of adequate service or to
14 serve particular customers, without notice or hearing, pending
15 the determination of an application for a certificate, and may
16 by regulation exempt from the requirements of this Section
17 temporary acts or operations for which the issuance of a
18 certificate will not be required in the public interest.

19 A public utility shall not be required to obtain but may
20 apply for and obtain a certificate of public convenience and
21 necessity pursuant to this Section with respect to any matter
22 as to which it has received the authorization or order of the
23 Commission under the Electric Supplier Act, and any such
24 authorization or order granted a public utility by the
25 Commission under that Act shall as between public utilities be
26 deemed to be, and shall have except as provided in that Act the

1 same force and effect as, a certificate of public convenience
2 and necessity issued pursuant to this Section.

3 No electric cooperative shall be made or shall become a
4 party to or shall be entitled to be heard or to otherwise
5 appear or participate in any proceeding initiated under this
6 Section for authorization of power plant construction and as to
7 matters as to which a remedy is available under The Electric
8 Supplier Act.

9 (f) Such certificates may be altered or modified by the
10 Commission, upon its own motion or upon application by the
11 person or corporation affected. Unless exercised within a
12 period of 2 years from the grant thereof authority conferred by
13 a certificate of convenience and necessity issued by the
14 Commission shall be null and void.

15 No certificate of public convenience and necessity shall be
16 construed as granting a monopoly or an exclusive privilege,
17 immunity or franchise.

18 (Source: P.A. 95-700, eff. 11-9-07.)

19 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

20 (Text of Section before amendment by P.A. 95-1027)

21 Sec. 9-220. Rate changes based on changes in fuel costs.

22 (a) Notwithstanding the provisions of Section 9-201, the
23 Commission may authorize the increase or decrease of rates and
24 charges based upon changes in the cost of fuel used in the
25 generation or production of electric power, changes in the cost

1 of purchased power, or changes in the cost of purchased gas
2 through the application of fuel adjustment clauses or purchased
3 gas adjustment clauses. The Commission may also authorize the
4 increase or decrease of rates and charges based upon
5 expenditures or revenues resulting from the purchase or sale of
6 emission allowances created under the federal Clean Air Act
7 Amendments of 1990, through such fuel adjustment clauses, as a
8 cost of fuel. For the purposes of this paragraph, cost of fuel
9 used in the generation or production of electric power shall
10 include the amount of any fees paid by the utility for the
11 implementation and operation of a process for the
12 desulfurization of the flue gas when burning high sulfur coal
13 at any location within the State of Illinois irrespective of
14 the attainment status designation of such location; but shall
15 not include transportation costs of coal (i) except to the
16 extent that for contracts entered into on and after the
17 effective date of this amendatory Act of 1997, the cost of the
18 coal, including transportation costs, constitutes the lowest
19 cost for adequate and reliable fuel supply reasonably available
20 to the public utility in comparison to the cost, including
21 transportation costs, of other adequate and reliable sources of
22 fuel supply reasonably available to the public utility, or (ii)
23 except as otherwise provided in the next 3 sentences of this
24 paragraph. Such costs of fuel shall, when requested by a
25 utility or at the conclusion of the utility's next general
26 electric rate proceeding, whichever shall first occur, include

1 transportation costs of coal purchased under existing coal
2 purchase contracts. For purposes of this paragraph "existing
3 coal purchase contracts" means contracts for the purchase of
4 coal in effect on the effective date of this amendatory Act of
5 1991, as such contracts may thereafter be amended, but only to
6 the extent that any such amendment does not increase the
7 aggregate quantity of coal to be purchased under such contract.
8 Nothing herein shall authorize an electric utility to recover
9 through its fuel adjustment clause any amounts of
10 transportation costs of coal that were included in the revenue
11 requirement used to set base rates in its most recent general
12 rate proceeding. Cost shall be based upon uniformly applied
13 accounting principles. Annually, the Commission shall initiate
14 public hearings to determine whether the clauses reflect actual
15 costs of fuel, gas, power, or coal transportation purchased to
16 determine whether such purchases were prudent, and to reconcile
17 any amounts collected with the actual costs of fuel, power,
18 gas, or coal transportation prudently purchased. In each such
19 proceeding, the burden of proof shall be upon the utility to
20 establish the prudence of its cost of fuel, power, gas, or coal
21 transportation purchases and costs. The Commission shall issue
22 its final order in each such annual proceeding for an electric
23 utility by December 31 of the year immediately following the
24 year to which the proceeding pertains, provided, that the
25 Commission shall issue its final order with respect to such
26 annual proceeding for the years 1996 and earlier by December

1 31, 1998.

2 (b) A public utility providing electric service, other than
3 a public utility described in subsections (e) or (f) of this
4 Section, may at any time during the mandatory transition period
5 file with the Commission proposed tariff sheets that eliminate
6 the public utility's fuel adjustment clause and adjust the
7 public utility's base rate tariffs by the amount necessary for
8 the base fuel component of the base rates to recover the public
9 utility's average fuel and power supply costs per kilowatt-hour
10 for the 2 most recent years for which the Commission has issued
11 final orders in annual proceedings pursuant to subsection (a),
12 where the average fuel and power supply costs per kilowatt-hour
13 shall be calculated as the sum of the public utility's prudent
14 and allowable fuel and power supply costs as found by the
15 Commission in the 2 proceedings divided by the public utility's
16 actual jurisdictional kilowatt-hour sales for those 2 years.
17 Notwithstanding any contrary or inconsistent provisions in
18 Section 9-201 of this Act, in subsection (a) of this Section or
19 in any rules or regulations promulgated by the Commission
20 pursuant to subsection (g) of this Section, the Commission
21 shall review and shall by order approve, or approve as
22 modified, the proposed tariff sheets within 60 days after the
23 date of the public utility's filing. The Commission may modify
24 the public utility's proposed tariff sheets only to the extent
25 the Commission finds necessary to achieve conformance to the
26 requirements of this subsection (b). During the 5 years

1 following the date of the Commission's order, but in any event
2 no earlier than January 1, 2007, a public utility whose fuel
3 adjustment clause has been eliminated pursuant to this
4 subsection shall not file proposed tariff sheets seeking, or
5 otherwise petition the Commission for, reinstatement of a fuel
6 adjustment clause.

7 (c) Notwithstanding any contrary or inconsistent
8 provisions in Section 9-201 of this Act, in subsection (a) of
9 this Section or in any rules or regulations promulgated by the
10 Commission pursuant to subsection (g) of this Section, a public
11 utility providing electric service, other than a public utility
12 described in subsection (e) or (f) of this Section, may at any
13 time during the mandatory transition period file with the
14 Commission proposed tariff sheets that establish the rate per
15 kilowatt-hour to be applied pursuant to the public utility's
16 fuel adjustment clause at the average value for such rate
17 during the preceding 24 months, provided that such average rate
18 results in a credit to customers' bills, without making any
19 revisions to the public utility's base rate tariffs. The
20 proposed tariff sheets shall establish the fuel adjustment rate
21 for a specific time period of at least 3 years but not more
22 than 5 years, provided that the terms and conditions for any
23 reinstatement earlier than 5 years shall be set forth in the
24 proposed tariff sheets and subject to modification or approval
25 by the Commission. The Commission shall review and shall by
26 order approve the proposed tariff sheets if it finds that the

1 requirements of this subsection are met. The Commission shall
2 not conduct the annual hearings specified in the last 3
3 sentences of subsection (a) of this Section for the utility for
4 the period that the factor established pursuant to this
5 subsection is in effect.

6 (d) A public utility providing electric service, or a
7 public utility providing gas service may file with the
8 Commission proposed tariff sheets that eliminate the public
9 utility's fuel or purchased gas adjustment clause and adjust
10 the public utility's base rate tariffs to provide for recovery
11 of power supply costs or gas supply costs that would have been
12 recovered through such clause; provided, that the provisions of
13 this subsection (d) shall not be available to a public utility
14 described in subsections (e) or (f) of this Section to
15 eliminate its fuel adjustment clause. Notwithstanding any
16 contrary or inconsistent provisions in Section 9-201 of this
17 Act, in subsection (a) of this Section, or in any rules or
18 regulations promulgated by the Commission pursuant to
19 subsection (g) of this Section, the Commission shall review and
20 shall by order approve, or approve as modified in the
21 Commission's order, the proposed tariff sheets within 240 days
22 after the date of the public utility's filing. The Commission's
23 order shall approve rates and charges that the Commission,
24 based on information in the public utility's filing or on the
25 record if a hearing is held by the Commission, finds will
26 recover the reasonable, prudent and necessary jurisdictional

1 power supply costs or gas supply costs incurred or to be
2 incurred by the public utility during a 12 month period found
3 by the Commission to be appropriate for these purposes,
4 provided, that such period shall be either (i) a 12 month
5 historical period occurring during the 15 months ending on the
6 date of the public utility's filing, or (ii) a 12 month future
7 period ending no later than 15 months following the date of the
8 public utility's filing. The public utility shall include with
9 its tariff filing information showing both (1) its actual
10 jurisdictional power supply costs or gas supply costs for a 12
11 month historical period conforming to (i) above and (2) its
12 projected jurisdictional power supply costs or gas supply costs
13 for a future 12 month period conforming to (ii) above. If the
14 Commission's order requires modifications in the tariff sheets
15 filed by the public utility, the public utility shall have 7
16 days following the date of the order to notify the Commission
17 whether the public utility will implement the modified tariffs
18 or elect to continue its fuel or purchased gas adjustment
19 clause in force as though no order had been entered. The
20 Commission's order shall provide for any reconciliation of
21 power supply costs or gas supply costs, as the case may be, and
22 associated revenues through the date that the public utility's
23 fuel or purchased gas adjustment clause is eliminated. During
24 the 5 years following the date of the Commission's order, a
25 public utility whose fuel or purchased gas adjustment clause
26 has been eliminated pursuant to this subsection shall not file

1 proposed tariff sheets seeking, or otherwise petition the
2 Commission for, reinstatement or adoption of a fuel or
3 purchased gas adjustment clause. Nothing in this subsection (d)
4 shall be construed as limiting the Commission's authority to
5 eliminate a public utility's fuel adjustment clause or
6 purchased gas adjustment clause in accordance with any other
7 applicable provisions of this Act.

8 (e) Notwithstanding any contrary or inconsistent
9 provisions in Section 9-201 of this Act, in subsection (a) of
10 this Section, or in any rules promulgated by the Commission
11 pursuant to subsection (g) of this Section, a public utility
12 providing electric service to more than 1,000,000 customers in
13 this State may, within the first 6 months after the effective
14 date of this amendatory Act of 1997, file with the Commission
15 proposed tariff sheets that eliminate, effective January 1,
16 1997, the public utility's fuel adjustment clause without
17 adjusting its base rates, and such tariff sheets shall be
18 effective upon filing. To the extent the application of the
19 fuel adjustment clause had resulted in net charges to customers
20 after January 1, 1997, the utility shall also file a tariff
21 sheet that provides for a refund stated on a per kilowatt-hour
22 basis of such charges over a period not to exceed 6 months;
23 provided however, that such refund shall not include the
24 proportional amounts of taxes paid under the Use Tax Act,
25 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
26 Occupation Tax Act on fuel used in generation. The Commission

1 shall issue an order within 45 days after the date of the
2 public utility's filing approving or approving as modified such
3 tariff sheet. If the fuel adjustment clause is eliminated
4 pursuant to this subsection, the Commission shall not conduct
5 the annual hearings specified in the last 3 sentences of
6 subsection (a) of this Section for the utility for any period
7 after December 31, 1996 and prior to any reinstatement of such
8 clause. A public utility whose fuel adjustment clause has been
9 eliminated pursuant to this subsection shall not file a
10 proposed tariff sheet seeking, or otherwise petition the
11 Commission for, reinstatement of the fuel adjustment clause
12 prior to January 1, 2007.

13 (f) Notwithstanding any contrary or inconsistent
14 provisions in Section 9-201 of this Act, in subsection (a) of
15 this Section, or in any rules or regulations promulgated by the
16 Commission pursuant to subsection (g) of this Section, a public
17 utility providing electric service to more than 500,000
18 customers but fewer than 1,000,000 customers in this State may,
19 within the first 6 months after the effective date of this
20 amendatory Act of 1997, file with the Commission proposed
21 tariff sheets that eliminate, effective January 1, 1997, the
22 public utility's fuel adjustment clause and adjust its base
23 rates by the amount necessary for the base fuel component of
24 the base rates to recover 91% of the public utility's average
25 fuel and power supply costs for the 2 most recent years for
26 which the Commission, as of January 1, 1997, has issued final

1 orders in annual proceedings pursuant to subsection (a), where
2 the average fuel and power supply costs per kilowatt-hour shall
3 be calculated as the sum of the public utility's prudent and
4 allowable fuel and power supply costs as found by the
5 Commission in the 2 proceedings divided by the public utility's
6 actual jurisdictional kilowatt-hour sales for those 2 years,
7 provided, that such tariff sheets shall be effective upon
8 filing. To the extent the application of the fuel adjustment
9 clause had resulted in net charges to customers after January
10 1, 1997, the utility shall also file a tariff sheet that
11 provides for a refund stated on a per kilowatt-hour basis of
12 such charges over a period not to exceed 6 months. Provided
13 however, that such refund shall not include the proportional
14 amounts of taxes paid under the Use Tax Act, Service Use Tax
15 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
16 Act on fuel used in generation. The Commission shall issue an
17 order within 45 days after the date of the public utility's
18 filing approving or approving as modified such tariff sheet. If
19 the fuel adjustment clause is eliminated pursuant to this
20 subsection, the Commission shall not conduct the annual
21 hearings specified in the last 3 sentences of subsection (a) of
22 this Section for the utility for any period after December 31,
23 1996 and prior to any reinstatement of such clause. A public
24 utility whose fuel adjustment clause has been eliminated
25 pursuant to this subsection shall not file a proposed tariff
26 sheet seeking, or otherwise petition the Commission for,

1 reinstatement of the fuel adjustment clause prior to January 1,
2 2007.

3 (g) The Commission shall have authority to promulgate rules
4 and regulations to carry out the provisions of this Section.

5 (h) Any gas utility may enter into a contract for up to 20
6 years of supply with any company for the purchase of substitute
7 natural gas (SNG) produced from coal through the gasification
8 process if the company has commenced construction of a coal
9 gasification facility by July 1, 2010. The cost for the SNG is
10 reasonable and prudent and recoverable through the purchased
11 gas adjustment clause for years one through 10 of the contract
12 if: (i) the only coal used in the gasification process has high
13 volatile bituminous rank and greater than 1.7 pounds of sulfur
14 per million Btu content; (ii) at the time the contract term
15 commences, the price per million Btu does not exceed \$7.95 in
16 2008 dollars, adjusted annually based on the change in the
17 Annual Consumer Price Index for All Urban Consumers for the
18 Midwest Region as published in April by the United States
19 Department of Labor, Bureau of Labor Statistics (or a suitable
20 Consumer Price Index calculation if this Consumer Price Index
21 is not available) for the previous calendar year; provided that
22 the price per million Btu shall not exceed \$9.95 at any time
23 during the contract; (iii) the utility's aggregate long-term
24 supply contracts for the purchase of SNG does not exceed 25% of
25 the annual system supply requirements of the utility at the
26 time the contract is entered into and the quantity of SNG

1 supplied to a utility by any one producer may not exceed 20
2 billion cubic feet per year; and (iv) the contract is entered
3 into within 120 days after the effective date of this
4 amendatory Act of the 96th General Assembly and terminates no
5 more than 20 years after the commencement of the commercial
6 production of SNG at the facility. Contracts greater than 10
7 years shall provide that if, at any time during supply years 11
8 through 20 of the contract, the Commission determines that the
9 cost for the synthetic natural gas purchased under the contract
10 during supply years 11 through 20 is not reasonable and
11 prudent, then the company shall reimburse the utility for the
12 difference between the cost deemed reasonable and prudent by
13 the Commission and the cost imposed under the contract. All
14 such contracts, regardless of duration, shall require the owner
15 of any facility supplying SNG under the contract to provide
16 documentation to the Commission each year, starting in the
17 facility's first year of commercial operation, accurately
18 reporting the quantity of carbon dioxide emissions from the
19 facility that have been captured and sequestered and reporting
20 any quantities of carbon dioxide released from the site or
21 sites at which carbon dioxide emissions were sequestered in
22 prior years, based on continuous monitoring of those sites. If,
23 in any year, the owner of the facility fails to demonstrate
24 that the SNG facility captured and sequestered at least 90% of
25 the total carbon dioxide emissions that the facility would
26 otherwise emit or that sequestration of emissions from prior

1 years has failed, resulting in the release of carbon dioxide
2 into the atmosphere, then the owner of the facility must offset
3 excess emissions. Any such carbon dioxide offsets must be
4 permanent, additional, verifiable, real, located within the
5 State of Illinois, and legally and practicably enforceable. The
6 costs of such offsets shall not exceed \$40 million in any given
7 year. No costs of any purchases of carbon offsets may be
8 recovered from a utility or its customers. All carbon offsets
9 purchased for this purpose must be permanently retired. In
10 addition, carbon dioxide emission credits equivalent to 50% of
11 the amount of credits associated with the required
12 sequestration of carbon dioxide from the facility must be
13 permanently retired. Compliance with the sequestration
14 requirements and the offset purchase requirements specified in
15 this subsection (h) shall be assessed annually by an
16 independent expert retained by the owner of the SNG facility,
17 with the advance written approval of the Attorney General. An
18 SNG facility operating pursuant to this subsection (h) shall
19 not forfeit its designation as a clean coal SNG facility if the
20 facility fails to fully comply with the applicable carbon
21 sequestration requirements in any given year, provided the
22 requisite offsets are purchased. However, the Attorney
23 General, on behalf of the People of the State of Illinois, may
24 specifically enforce the facility's sequestration
25 requirements. Except for an initial clean coal facility, as
26 that term is used in item (3) of subsection (d) of Section 1-75

1 of the Illinois Power Agency Act, an energy facility and a gas
2 facility may enter into a 20-year supply contract, with a
3 company that has commenced construction of a coal gasification
4 facility after July 1, 2010, that shall not be subject to any
5 subsequent prudency review by the Commission if the contract
6 was found prudent at the time the contract was agreed upon by
7 the parties. ~~Any gas utility may enter into a 20 year supply~~
8 ~~contract with any company for synthetic natural gas produced~~
9 ~~from coal through the gasification process if the company has~~
10 ~~commenced construction of a coal gasification facility by July~~
11 ~~1, 2008. The cost for the synthetic natural gas is reasonable~~
12 ~~and prudent and recoverable through the purchased gas~~
13 ~~adjustment clause for years one through 10 of the contract if:~~
14 ~~(i) the only coal used in the gasification process has high~~
15 ~~volatile bituminous rank and greater than 1.7 pounds of sulfur~~
16 ~~per million Btu content; (ii) at the time the contract term~~
17 ~~commences, the price per million Btu does not exceed \$5 in 2004~~
18 ~~dollars, adjusted annually based on the change in the Annual~~
19 ~~Consumer Price Index for All Urban Consumers for the Midwest~~
20 ~~Region as published in April by the United States Department of~~
21 ~~Labor, Bureau of Labor Statistics (or a suitable Consumer Price~~
22 ~~Index calculation if this Consumer Price Index is not~~
23 ~~available) for the previous calendar year; provided that the~~
24 ~~price per million Btu shall not exceed \$5.50 at any time during~~
25 ~~the contract; (iii) the utility's aggregate long term supply~~
26 ~~contracts for the purchase of synthetic natural gas produced~~

1 ~~from coal through the gasification process does not exceed 25%~~
2 ~~of the annual system supply requirements of the utility at the~~
3 ~~time the contract is entered into; and (iv) the contract is~~
4 ~~entered into within one year after the effective date of this~~
5 ~~amendatory Act of the 94th General Assembly and terminates 20~~
6 ~~years after the commencement of the production of synthetic~~
7 ~~natural gas. The contract shall provide that if, at any time~~
8 ~~during years 11 through 20 of the contract, the Commission~~
9 ~~determines that the cost for the synthetic natural gas under~~
10 ~~the contract is not reasonable and prudent, then the company~~
11 ~~shall reimburse the utility for the difference between the cost~~
12 ~~deemed reasonable and prudent by the Commission and the cost~~
13 ~~imposed under the contract.~~

14 (i) If a gas utility or an affiliate of a gas utility has
15 an ownership interest in any entity that produces or sells
16 synthetic natural gas, Article VII of this Act shall apply.

17 (Source: P.A. 94-63, eff. 6-21-05.)

18 (Text of Section after amendment by P.A. 95-1027)

19 Sec. 9-220. Rate changes based on changes in fuel costs.

20 (a) Notwithstanding the provisions of Section 9-201, the
21 Commission may authorize the increase or decrease of rates and
22 charges based upon changes in the cost of fuel used in the
23 generation or production of electric power, changes in the cost
24 of purchased power, or changes in the cost of purchased gas
25 through the application of fuel adjustment clauses or purchased

1 gas adjustment clauses. The Commission may also authorize the
2 increase or decrease of rates and charges based upon
3 expenditures or revenues resulting from the purchase or sale of
4 emission allowances created under the federal Clean Air Act
5 Amendments of 1990, through such fuel adjustment clauses, as a
6 cost of fuel. For the purposes of this paragraph, cost of fuel
7 used in the generation or production of electric power shall
8 include the amount of any fees paid by the utility for the
9 implementation and operation of a process for the
10 desulfurization of the flue gas when burning high sulfur coal
11 at any location within the State of Illinois irrespective of
12 the attainment status designation of such location; but shall
13 not include transportation costs of coal (i) except to the
14 extent that for contracts entered into on and after the
15 effective date of this amendatory Act of 1997, the cost of the
16 coal, including transportation costs, constitutes the lowest
17 cost for adequate and reliable fuel supply reasonably available
18 to the public utility in comparison to the cost, including
19 transportation costs, of other adequate and reliable sources of
20 fuel supply reasonably available to the public utility, or (ii)
21 except as otherwise provided in the next 3 sentences of this
22 paragraph. Such costs of fuel shall, when requested by a
23 utility or at the conclusion of the utility's next general
24 electric rate proceeding, whichever shall first occur, include
25 transportation costs of coal purchased under existing coal
26 purchase contracts. For purposes of this paragraph "existing

1 coal purchase contracts" means contracts for the purchase of
2 coal in effect on the effective date of this amendatory Act of
3 1991, as such contracts may thereafter be amended, but only to
4 the extent that any such amendment does not increase the
5 aggregate quantity of coal to be purchased under such contract.
6 Nothing herein shall authorize an electric utility to recover
7 through its fuel adjustment clause any amounts of
8 transportation costs of coal that were included in the revenue
9 requirement used to set base rates in its most recent general
10 rate proceeding. Cost shall be based upon uniformly applied
11 accounting principles. Annually, the Commission shall initiate
12 public hearings to determine whether the clauses reflect actual
13 costs of fuel, gas, power, or coal transportation purchased to
14 determine whether such purchases were prudent, and to reconcile
15 any amounts collected with the actual costs of fuel, power,
16 gas, or coal transportation prudently purchased. In each such
17 proceeding, the burden of proof shall be upon the utility to
18 establish the prudence of its cost of fuel, power, gas, or coal
19 transportation purchases and costs. The Commission shall issue
20 its final order in each such annual proceeding for an electric
21 utility by December 31 of the year immediately following the
22 year to which the proceeding pertains, provided, that the
23 Commission shall issue its final order with respect to such
24 annual proceeding for the years 1996 and earlier by December
25 31, 1998.

26 (b) A public utility providing electric service, other than

1 a public utility described in subsections (e) or (f) of this
2 Section, may at any time during the mandatory transition period
3 file with the Commission proposed tariff sheets that eliminate
4 the public utility's fuel adjustment clause and adjust the
5 public utility's base rate tariffs by the amount necessary for
6 the base fuel component of the base rates to recover the public
7 utility's average fuel and power supply costs per kilowatt-hour
8 for the 2 most recent years for which the Commission has issued
9 final orders in annual proceedings pursuant to subsection (a),
10 where the average fuel and power supply costs per kilowatt-hour
11 shall be calculated as the sum of the public utility's prudent
12 and allowable fuel and power supply costs as found by the
13 Commission in the 2 proceedings divided by the public utility's
14 actual jurisdictional kilowatt-hour sales for those 2 years.
15 Notwithstanding any contrary or inconsistent provisions in
16 Section 9-201 of this Act, in subsection (a) of this Section or
17 in any rules or regulations promulgated by the Commission
18 pursuant to subsection (g) of this Section, the Commission
19 shall review and shall by order approve, or approve as
20 modified, the proposed tariff sheets within 60 days after the
21 date of the public utility's filing. The Commission may modify
22 the public utility's proposed tariff sheets only to the extent
23 the Commission finds necessary to achieve conformance to the
24 requirements of this subsection (b). During the 5 years
25 following the date of the Commission's order, but in any event
26 no earlier than January 1, 2007, a public utility whose fuel

1 adjustment clause has been eliminated pursuant to this
2 subsection shall not file proposed tariff sheets seeking, or
3 otherwise petition the Commission for, reinstatement of a fuel
4 adjustment clause.

5 (c) Notwithstanding any contrary or inconsistent
6 provisions in Section 9-201 of this Act, in subsection (a) of
7 this Section or in any rules or regulations promulgated by the
8 Commission pursuant to subsection (g) of this Section, a public
9 utility providing electric service, other than a public utility
10 described in subsection (e) or (f) of this Section, may at any
11 time during the mandatory transition period file with the
12 Commission proposed tariff sheets that establish the rate per
13 kilowatt-hour to be applied pursuant to the public utility's
14 fuel adjustment clause at the average value for such rate
15 during the preceding 24 months, provided that such average rate
16 results in a credit to customers' bills, without making any
17 revisions to the public utility's base rate tariffs. The
18 proposed tariff sheets shall establish the fuel adjustment rate
19 for a specific time period of at least 3 years but not more
20 than 5 years, provided that the terms and conditions for any
21 reinstatement earlier than 5 years shall be set forth in the
22 proposed tariff sheets and subject to modification or approval
23 by the Commission. The Commission shall review and shall by
24 order approve the proposed tariff sheets if it finds that the
25 requirements of this subsection are met. The Commission shall
26 not conduct the annual hearings specified in the last 3

1 sentences of subsection (a) of this Section for the utility for
2 the period that the factor established pursuant to this
3 subsection is in effect.

4 (d) A public utility providing electric service, or a
5 public utility providing gas service may file with the
6 Commission proposed tariff sheets that eliminate the public
7 utility's fuel or purchased gas adjustment clause and adjust
8 the public utility's base rate tariffs to provide for recovery
9 of power supply costs or gas supply costs that would have been
10 recovered through such clause; provided, that the provisions of
11 this subsection (d) shall not be available to a public utility
12 described in subsections (e) or (f) of this Section to
13 eliminate its fuel adjustment clause. Notwithstanding any
14 contrary or inconsistent provisions in Section 9-201 of this
15 Act, in subsection (a) of this Section, or in any rules or
16 regulations promulgated by the Commission pursuant to
17 subsection (g) of this Section, the Commission shall review and
18 shall by order approve, or approve as modified in the
19 Commission's order, the proposed tariff sheets within 240 days
20 after the date of the public utility's filing. The Commission's
21 order shall approve rates and charges that the Commission,
22 based on information in the public utility's filing or on the
23 record if a hearing is held by the Commission, finds will
24 recover the reasonable, prudent and necessary jurisdictional
25 power supply costs or gas supply costs incurred or to be
26 incurred by the public utility during a 12 month period found

1 by the Commission to be appropriate for these purposes,
2 provided, that such period shall be either (i) a 12 month
3 historical period occurring during the 15 months ending on the
4 date of the public utility's filing, or (ii) a 12 month future
5 period ending no later than 15 months following the date of the
6 public utility's filing. The public utility shall include with
7 its tariff filing information showing both (1) its actual
8 jurisdictional power supply costs or gas supply costs for a 12
9 month historical period conforming to (i) above and (2) its
10 projected jurisdictional power supply costs or gas supply costs
11 for a future 12 month period conforming to (ii) above. If the
12 Commission's order requires modifications in the tariff sheets
13 filed by the public utility, the public utility shall have 7
14 days following the date of the order to notify the Commission
15 whether the public utility will implement the modified tariffs
16 or elect to continue its fuel or purchased gas adjustment
17 clause in force as though no order had been entered. The
18 Commission's order shall provide for any reconciliation of
19 power supply costs or gas supply costs, as the case may be, and
20 associated revenues through the date that the public utility's
21 fuel or purchased gas adjustment clause is eliminated. During
22 the 5 years following the date of the Commission's order, a
23 public utility whose fuel or purchased gas adjustment clause
24 has been eliminated pursuant to this subsection shall not file
25 proposed tariff sheets seeking, or otherwise petition the
26 Commission for, reinstatement or adoption of a fuel or

1 purchased gas adjustment clause. Nothing in this subsection (d)
2 shall be construed as limiting the Commission's authority to
3 eliminate a public utility's fuel adjustment clause or
4 purchased gas adjustment clause in accordance with any other
5 applicable provisions of this Act.

6 (e) Notwithstanding any contrary or inconsistent
7 provisions in Section 9-201 of this Act, in subsection (a) of
8 this Section, or in any rules promulgated by the Commission
9 pursuant to subsection (g) of this Section, a public utility
10 providing electric service to more than 1,000,000 customers in
11 this State may, within the first 6 months after the effective
12 date of this amendatory Act of 1997, file with the Commission
13 proposed tariff sheets that eliminate, effective January 1,
14 1997, the public utility's fuel adjustment clause without
15 adjusting its base rates, and such tariff sheets shall be
16 effective upon filing. To the extent the application of the
17 fuel adjustment clause had resulted in net charges to customers
18 after January 1, 1997, the utility shall also file a tariff
19 sheet that provides for a refund stated on a per kilowatt-hour
20 basis of such charges over a period not to exceed 6 months;
21 provided however, that such refund shall not include the
22 proportional amounts of taxes paid under the Use Tax Act,
23 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
24 Occupation Tax Act on fuel used in generation. The Commission
25 shall issue an order within 45 days after the date of the
26 public utility's filing approving or approving as modified such

1 tariff sheet. If the fuel adjustment clause is eliminated
2 pursuant to this subsection, the Commission shall not conduct
3 the annual hearings specified in the last 3 sentences of
4 subsection (a) of this Section for the utility for any period
5 after December 31, 1996 and prior to any reinstatement of such
6 clause. A public utility whose fuel adjustment clause has been
7 eliminated pursuant to this subsection shall not file a
8 proposed tariff sheet seeking, or otherwise petition the
9 Commission for, reinstatement of the fuel adjustment clause
10 prior to January 1, 2007.

11 (f) Notwithstanding any contrary or inconsistent
12 provisions in Section 9-201 of this Act, in subsection (a) of
13 this Section, or in any rules or regulations promulgated by the
14 Commission pursuant to subsection (g) of this Section, a public
15 utility providing electric service to more than 500,000
16 customers but fewer than 1,000,000 customers in this State may,
17 within the first 6 months after the effective date of this
18 amendatory Act of 1997, file with the Commission proposed
19 tariff sheets that eliminate, effective January 1, 1997, the
20 public utility's fuel adjustment clause and adjust its base
21 rates by the amount necessary for the base fuel component of
22 the base rates to recover 91% of the public utility's average
23 fuel and power supply costs for the 2 most recent years for
24 which the Commission, as of January 1, 1997, has issued final
25 orders in annual proceedings pursuant to subsection (a), where
26 the average fuel and power supply costs per kilowatt-hour shall

1 be calculated as the sum of the public utility's prudent and
2 allowable fuel and power supply costs as found by the
3 Commission in the 2 proceedings divided by the public utility's
4 actual jurisdictional kilowatt-hour sales for those 2 years,
5 provided, that such tariff sheets shall be effective upon
6 filing. To the extent the application of the fuel adjustment
7 clause had resulted in net charges to customers after January
8 1, 1997, the utility shall also file a tariff sheet that
9 provides for a refund stated on a per kilowatt-hour basis of
10 such charges over a period not to exceed 6 months. Provided
11 however, that such refund shall not include the proportional
12 amounts of taxes paid under the Use Tax Act, Service Use Tax
13 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
14 Act on fuel used in generation. The Commission shall issue an
15 order within 45 days after the date of the public utility's
16 filing approving or approving as modified such tariff sheet. If
17 the fuel adjustment clause is eliminated pursuant to this
18 subsection, the Commission shall not conduct the annual
19 hearings specified in the last 3 sentences of subsection (a) of
20 this Section for the utility for any period after December 31,
21 1996 and prior to any reinstatement of such clause. A public
22 utility whose fuel adjustment clause has been eliminated
23 pursuant to this subsection shall not file a proposed tariff
24 sheet seeking, or otherwise petition the Commission for,
25 reinstatement of the fuel adjustment clause prior to January 1,
26 2007.

1 (g) The Commission shall have authority to promulgate rules
2 and regulations to carry out the provisions of this Section.

3 (h) Any gas utility may enter into a contract for up to 20
4 years of supply with any company for the purchase of substitute
5 natural gas (SNG) produced from coal through the gasification
6 process if the company has commenced construction of a coal
7 gasification facility by July 1, 2010. The cost for the SNG is
8 reasonable and prudent and recoverable through the purchased
9 gas adjustment clause for years one through 10 of the contract
10 if: (i) the only coal used in the gasification process has high
11 volatile bituminous rank and greater than 1.7 pounds of sulfur
12 per million Btu content; (ii) at the time the contract term
13 commences, the price per million Btu does not exceed \$7.95 in
14 2008 dollars, adjusted annually based on the change in the
15 Annual Consumer Price Index for All Urban Consumers for the
16 Midwest Region as published in April by the United States
17 Department of Labor, Bureau of Labor Statistics (or a suitable
18 Consumer Price Index calculation if this Consumer Price Index
19 is not available) for the previous calendar year; provided that
20 the price per million Btu shall not exceed \$9.95 at any time
21 during the contract; (iii) the utility's aggregate long-term
22 supply contracts for the purchase of SNG does not exceed 25% of
23 the annual system supply requirements of the utility at the
24 time the contract is entered into and the quantity of SNG
25 supplied to a utility by any one producer may not exceed 20
26 billion cubic feet per year; and (iv) the contract is entered

1 into within 120 days after the effective date of this
2 amendatory Act of the 95th General Assembly and terminates no
3 more than 20 years after the commencement of the commercial
4 production of SNG at the facility. Contracts greater than 10
5 years shall provide that if, at any time during supply years 11
6 through 20 of the contract, the Commission determines that the
7 cost for the synthetic natural gas purchased under the contract
8 during supply years 11 through 20 is not reasonable and
9 prudent, then the company shall reimburse the utility for the
10 difference between the cost deemed reasonable and prudent by
11 the Commission and the cost imposed under the contract. All
12 such contracts, regardless of duration, shall require the owner
13 of any facility supplying SNG under the contract to provide
14 documentation to the Commission each year, starting in the
15 facility's first year of commercial operation, accurately
16 reporting the quantity of carbon dioxide emissions from the
17 facility that have been captured and sequestered and reporting
18 any quantities of carbon dioxide released from the site or
19 sites at which carbon dioxide emissions were sequestered in
20 prior years, based on continuous monitoring of those sites. If,
21 in any year, the owner of the facility fails to demonstrate
22 that the SNG facility captured and sequestered at least 90% of
23 the total carbon dioxide emissions that the facility would
24 otherwise emit or that sequestration of emissions from prior
25 years has failed, resulting in the release of carbon dioxide
26 into the atmosphere, then the owner of the facility must offset

1 excess emissions. Any such carbon dioxide offsets must be
2 permanent, additional, verifiable, real, located within the
3 State of Illinois, and legally and practicably enforceable. The
4 costs of such offsets shall not exceed \$40 million in any given
5 year. No costs of any purchases of carbon offsets may be
6 recovered from a utility or its customers. All carbon offsets
7 purchased for this purpose must be permanently retired. In
8 addition, carbon dioxide emission credits equivalent to 50% of
9 the amount of credits associated with the required
10 sequestration of carbon dioxide from the facility must be
11 permanently retired. Compliance with the sequestration
12 requirements and the offset purchase requirements specified in
13 this subsection (h) shall be assessed annually by an
14 independent expert retained by the owner of the SNG facility,
15 with the advance written approval of the Attorney General. An
16 SNG facility operating pursuant to this subsection (h) shall
17 not forfeit its designation as a clean coal SNG facility if the
18 facility fails to fully comply with the applicable carbon
19 sequestration requirements in any given year, provided the
20 requisite offsets are purchased. However, the Attorney
21 General, on behalf of the People of the State of Illinois, may
22 specifically enforce the facility's sequestration
23 requirements. Except for an initial clean coal facility, as
24 that term is used in item (3) of subsection (d) of Section 1-75
25 of the Illinois Power Agency Act, an energy facility and a gas
26 facility may enter into a 20-year supply contract, with a

1 company that has commenced construction of a coal gasification
2 facility after July 1, 2010, that shall not be subject to any
3 subsequent prudency review by the Commission if the contract
4 was found prudent at the time the contract was agreed upon by
5 the parties.

6 (i) If a gas utility or an affiliate of a gas utility has
7 an ownership interest in any entity that produces or sells
8 synthetic natural gas, Article VII of this Act shall apply.

9 (Source: P.A. 94-63, eff. 6-21-05; 95-1027, eff. 6-1-09.)

10 Article 15.

11 Section 15-4. The Illinois Enterprise Zone Act is amended
12 by changing Section 5.5 as follows:

13 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

14 Sec. 5.5. High Impact Business.

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

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

23 (2) such business is not located, at the time of

1 designation, in an enterprise zone designated pursuant to
2 this Act;

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

5 (A) the business intends to make a minimum
6 investment of \$12,000,000 which will be placed in
7 service in qualified property and intends to create 500
8 full-time equivalent jobs at a designated location in
9 Illinois or intends to make a minimum investment of
10 \$30,000,000 which will be placed in service in
11 qualified property and intends to retain 1,500
12 full-time jobs at a designated location in Illinois.
13 The business must certify in writing that the
14 investments would not be placed in service in qualified
15 property and the job creation or job retention would
16 not occur without the tax credits and exemptions set
17 forth in subsection (b) of this Section. The terms
18 "placed in service" and "qualified property" have the
19 same meanings as described in subsection (h) of Section
20 201 of the Illinois Income Tax Act; or

21 (B) the business intends to establish a new
22 electric generating facility at a designated location
23 in Illinois. "New electric generating facility", for
24 purposes of this Section, means a newly-constructed
25 electric generation plant or a newly-constructed
26 generation capacity expansion at an existing electric

1 generation plant, including the transmission lines and
2 associated equipment that transfers electricity from
3 points of supply to points of delivery, and for which
4 such new foundation construction commenced not sooner
5 than July 1, 2001. Such facility shall be designed to
6 provide baseload electric generation and shall operate
7 on a continuous basis throughout the year; and (i)
8 shall have an aggregate rated generating capacity of at
9 least 1,000 megawatts for all new units at one site if
10 it uses natural gas as its primary fuel and foundation
11 construction of the facility is commenced on or before
12 December 31, 2004, or shall have an aggregate rated
13 generating capacity of at least 400 megawatts for all
14 new units at one site if it uses coal or gases derived
15 from coal as its primary fuel and shall support the
16 creation of at least 150 new Illinois coal mining jobs,
17 or (ii) shall be funded through a federal Department of
18 Energy grant before December 31, 2010 and shall support
19 the creation of Illinois coal-mining jobs, or (iii)
20 shall use coal gasification or integrated
21 gasification-combined cycle units that generate
22 electricity or chemicals, or both, and shall support
23 the creation of Illinois coal-mining jobs. The
24 business must certify in writing that the investments
25 necessary to establish a new electric generating
26 facility would not be placed in service and the job

1 creation in the case of a coal-fueled plant would not
2 occur without the tax credits and exemptions set forth
3 in subsection (b-5) of this Section. The term "placed
4 in service" has the same meaning as described in
5 subsection (h) of Section 201 of the Illinois Income
6 Tax Act; or

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

22 (C) the business intends to establish production
23 operations at a new coal mine, re-establish production
24 operations at a closed coal mine, or expand production
25 at an existing coal mine at a designated location in
26 Illinois not sooner than July 1, 2001; provided that

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

15 (D) the business intends to construct new
16 transmission facilities or upgrade existing
17 transmission facilities at designated locations in
18 Illinois, for which construction commenced not sooner
19 than July 1, 2001. For the purposes of this Section,
20 "transmission facilities" means transmission lines
21 with a voltage rating of 115 kilovolts or above,
22 including associated equipment, that transfer
23 electricity from points of supply to points of delivery
24 and that transmit a majority of the electricity
25 generated by a new electric generating facility
26 designated as a High Impact Business in accordance with

1 this Section. The business must certify in writing that
2 the investments necessary to construct new
3 transmission facilities or upgrade existing
4 transmission facilities would not be placed in service
5 without the tax credits and exemptions set forth in
6 subsection (b-5) of this Section. The term "placed in
7 service" has the same meaning as described in
8 subsection (h) of Section 201 of the Illinois Income
9 Tax Act; and

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

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

1 (a) (3) (A) of this Section have been created or retained.
2 Businesses designated as High Impact Businesses under this
3 Section shall also qualify for the exemption described in
4 Section 51 of the Retailers' Occupation Tax Act. The credit
5 provided in subsection (h) of Section 201 of the Illinois
6 Income Tax Act shall be applicable to investments in qualified
7 property as set forth in subdivision (a) (3) (A) of this Section.

8 (b-5) Businesses designated as High Impact Businesses
9 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
10 and (a) (3) (D) of this Section shall qualify for the credits and
11 exemptions described in the following Acts: Section 51 of the
12 Retailers' Occupation Tax Act, Section 9-222 and Section
13 9-222.1A of the Public Utilities Act, and subsection (h) of
14 Section 201 of the Illinois Income Tax Act; however, the
15 credits and exemptions authorized under Section 9-222 and
16 Section 9-222.1A of the Public Utilities Act, and subsection
17 (h) of Section 201 of the Illinois Income Tax Act shall not be
18 authorized until the new electric generating facility, the new
19 gasification facility, the new transmission facility, or the
20 new, expanded, or reopened coal mine is operational, except
21 that a new electric generating facility whose primary fuel
22 source is natural gas is eligible only for the exemption under
23 Section 51 of the Retailers' Occupation Tax Act.

24 (c) High Impact Businesses located in federally designated
25 foreign trade zones or sub-zones are also eligible for
26 additional credits, exemptions and deductions as described in

1 the following Acts: Section 9-221 and Section 9-222.1 of the
2 Public Utilities Act; and subsection (g) of Section 201, and
3 Section 203 of the Illinois Income Tax Act.

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

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

14 (f) In the event that a business is designated a High
15 Impact Business and it is later determined after reasonable
16 notice and an opportunity for a hearing as provided under the
17 Illinois Administrative Procedure Act, that the business would
18 have placed in service in qualified property the investments
19 and created or retained the requisite number of jobs without
20 the benefits of the High Impact Business designation, the
21 Department shall be required to immediately revoke the
22 designation and notify the Director of the Department of
23 Revenue who shall begin proceedings to recover all wrongfully
24 exempted State taxes with interest. The business shall also be
25 ineligible for all State funded Department programs for a
26 period of 10 years.

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

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

10 (Source: P.A. 94-65, eff. 6-21-05; 95-18, eff. 7-30-07.)

11 Section 15-5. The Department of Natural Resources
12 (Conservation) Law of the Civil Administrative Code of Illinois
13 is amended by changing Section 805-15 as follows:

14 (20 ILCS 805/805-15) (was 20 ILCS 805/63a37)

15 Sec. 805-15. Rules ~~and regulations~~.

16 (a) The Department has the power to adopt and enforce rules
17 ~~and regulations~~ necessary to the performance of its statutory
18 duties.

19 (b) These rules must include a process for expediting the
20 issuance of permits and licenses for projects at energy
21 facilities that are subject to regulation by the Department as
22 of January 1, 2009, as that term is defined in Section 1-10 of
23 the Illinois Power Agency Act. The Department may engage the
24 experts and additional resources that are reasonably necessary

1 for implementing this process. An applicant must request the
2 use of an expedited process, and any additional costs for using
3 that process shall be borne by the applicant.

4 (Source: P.A. 91-239, eff. 1-1-00.)

5 Section 15-10. The Department of Transportation Law of the
6 Civil Administrative Code of Illinois is amended by adding
7 Section 2705-20 as follows:

8 (20 ILCS 2705/2705-20 new)

9 Sec. 2705-20. Administrative rules.

10 (a) The Department has the power to adopt and enforce rules
11 necessary to the performance of its statutory duties.

12 (b) These rules must include a process for expediting the
13 issuance of permits and licenses for projects at energy
14 facilities that are subject to regulation by the Department as
15 of January 1, 2009, as that term is defined in the Illinois
16 Power Agency Act. The Department may engage the experts and
17 additional resources that are reasonably necessary for
18 implementing this process. An applicant must request the use of
19 an expedited process, and any additional costs for using that
20 process shall be borne by the applicant.

21 Section 15-15. The State Fire Marshal Act is amended by
22 changing Section 2 as follows:

1 (20 ILCS 2905/2) (from Ch. 127 1/2, par. 2)

2 Sec. 2. The Office shall have the following powers and
3 duties:

4 1. To exercise the rights, powers and duties which have
5 been vested by law in the Department of State Police as the
6 successor of the Department of Public Safety, State Fire
7 Marshal, inspectors, officers and employees of the State
8 Fire Marshal, including arson investigation. Arson
9 investigations conducted by the State Fire Marshal's
10 Office shall be conducted by State Fire Marshal Arson
11 Investigator Special Agents, who shall be peace officers as
12 provided in the Peace Officer Fire Investigation Act.

13 2. To keep a record, as may be required by law, of all
14 fires occurring in the State, together with all facts,
15 statistics and circumstances, including the origin of
16 fires.

17 3. To exercise the rights, powers and duties which have
18 been vested in the Department of State Police by the
19 "Boiler and Pressure Vessel Safety Act", approved August 7,
20 1951, as amended.

21 4. To administer the Illinois Fire Protection Training
22 Act.

23 5. To aid in the establishment and maintenance of the
24 training facilities and programs of the Illinois Fire
25 Service Institute.

26 6. To disburse Federal grants for fire protection

1 purposes to units of local government.

2 7. To pay to or in behalf of the City of Chicago for
3 the maintenance, expenses, facilities and structures
4 directly incident to the Chicago Fire Department training
5 program. Such payments may be made either as reimbursements
6 for expenditures previously made by the City, or as
7 payments at the time the City has incurred an obligation
8 which is then due and payable for such expenditures.
9 Payments for the Chicago Fire Department training program
10 shall be made only for those expenditures which are not
11 claimable by the City under "An Act relating to fire
12 protection training", certified November 9, 1971, as
13 amended.

14 8. To administer General Revenue Fund grants to areas
15 not located in a fire protection district or in a
16 municipality which provides fire protection services, to
17 defray the organizational expenses of forming a fire
18 protection district.

19 9. In cooperation with the Illinois Environmental
20 Protection Agency, to administer the Illinois Leaking
21 Underground Storage Tank program in accordance with
22 Section 4 of this Act and Section 22.12 of the
23 Environmental Protection Act.

24 10. To expend state and federal funds as appropriated
25 by the General Assembly.

26 11. To provide technical assistance, to areas not

1 located in a fire protection district or in a municipality
2 which provides fire protection service, to form a fire
3 protection district, to join an existing district, or to
4 establish a municipal fire department, whichever is
5 applicable.

6 12. To exercise such other powers and duties as may be
7 vested in the Office by law.

8 13. To adopt rules for the purpose of creating a
9 process for expediting the issuance of permits and licenses
10 for projects at energy facilities, as that term is defined
11 in the Illinois Power Agency Act. The Office may engage the
12 experts and additional resources that are reasonably
13 necessary for implementing this process. An applicant must
14 request the use of an expedited process, and any additional
15 costs for using that process shall be borne by the
16 applicant.

17 (Source: P.A. 94-178, eff. 1-1-06; 95-502, eff. 8-28-07.)

18 Section 15-20. The Illinois Income Tax Act is amended by
19 adding Section 218 as follows:

20 (35 ILCS 5/218 new)

21 Sec. 218. Tax credit for equipment used at an energy
22 facility. For taxable years ending on or after December 31,
23 2009, each corporation subject to this Act shall be entitled to
24 a credit against the tax imposed by subsections (a) and (b) of

1 Section 201 of this Act in an amount equal to 10% of the amount
2 spent during the taxable year by the corporation on equipment
3 purchased for use at an energy facility, as that term is
4 defined in Section 1-10 of the Illinois Power Agency Act. For
5 purposes of this credit, the amount spent on the equipment
6 shall be defined as the basis of the equipment used to compute
7 the depreciation deduction for federal income tax purposes.

8 The credit shall be allowed for the taxable year in which
9 the equipment purchased is placed in service, or, if the amount
10 of the credit exceeds the tax liability for that year, whether
11 it exceeds the original liability or the liability as later
12 amended, the excess may be carried forward and applied to the
13 tax liability of the 10 taxable years following the excess
14 credit years. The credit shall be applied to the earliest year
15 for which there is a liability. If there is credit from more
16 than one taxable year that is available to offset a liability,
17 the earlier credit shall be applied first. This Section is
18 exempt from the provisions of Section 250 of this Act.

19 Section 15-25. The Use Tax Act is amended by changing
20 Section 3-5 as follows:

21 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

24 (1) Personal property purchased from a corporation,

1 society, association, foundation, institution, or
2 organization, other than a limited liability company, that is
3 organized and operated as a not-for-profit service enterprise
4 for the benefit of persons 65 years of age or older if the
5 personal property was not purchased by the enterprise for the
6 purpose of resale by the enterprise.

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

10 (3) Personal property purchased by a not-for-profit arts or
11 cultural organization that establishes, by proof required by
12 the Department by rule, that it has received an exemption under
13 Section 501(c)(3) of the Internal Revenue Code and that is
14 organized and operated primarily for the presentation or
15 support of arts or cultural programming, activities, or
16 services. These organizations include, but are not limited to,
17 music and dramatic arts organizations such as symphony
18 orchestras and theatrical groups, arts and cultural service
19 organizations, local arts councils, visual arts organizations,
20 and media arts organizations. On and after the effective date
21 of this amendatory Act of the 92nd General Assembly, however,
22 an entity otherwise eligible for this exemption shall not make
23 tax-free purchases unless it has an active identification
24 number issued by the Department.

25 (4) Personal property purchased by a governmental body, by
26 a corporation, society, association, foundation, or

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

13 (5) Until July 1, 2003, a passenger car that is a
14 replacement vehicle to the extent that the purchase price of
15 the car is subject to the Replacement Vehicle Tax.

16 (6) Until July 1, 2003 and beginning again on September 1,
17 2004, graphic arts machinery and equipment, including repair
18 and replacement parts, both new and used, and including that
19 manufactured on special order, certified by the purchaser to be
20 used primarily for graphic arts production, and including
21 machinery and equipment purchased for lease. Equipment
22 includes chemicals or chemicals acting as catalysts but only if
23 the chemicals or chemicals acting as catalysts effect a direct
24 and immediate change upon a graphic arts product.

25 (7) Farm chemicals.

26 (8) Legal tender, currency, medallions, or gold or silver

1 coinage issued by the State of Illinois, the government of the
2 United States of America, or the government of any foreign
3 country, and bullion.

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

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

18 (11) Farm machinery and equipment, both new and used,
19 including that manufactured on special order, certified by the
20 purchaser to be used primarily for production agriculture or
21 State or federal agricultural programs, including individual
22 replacement parts for the machinery and equipment, including
23 machinery and equipment purchased for lease, and including
24 implements of husbandry defined in Section 1-130 of the
25 Illinois Vehicle Code, farm machinery and agricultural
26 chemical and fertilizer spreaders, and nurse wagons required to

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

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

19 Farm machinery and equipment also includes computers,
20 sensors, software, and related equipment used primarily in the
21 computer-assisted operation of production agriculture
22 facilities, equipment, and activities such as, but not limited
23 to, the collection, monitoring, and correlation of animal and
24 crop data for the purpose of formulating animal diets and
25 agricultural chemicals. This item (11) is exempt from the
26 provisions of Section 3-90.

1 (12) Fuel and petroleum products sold to or used by an air
2 common carrier, certified by the carrier to be used for
3 consumption, shipment, or storage in the conduct of its
4 business as an air common carrier, for a flight destined for or
5 returning from a location or locations outside the United
6 States without regard to previous or subsequent domestic
7 stopovers.

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

16 (14) Until July 1, 2003, and beginning again on the
17 effective date of this amendatory Act of the 96th General
18 Assembly and thereafter, oil field exploration, drilling, and
19 production equipment, including (i) rigs and parts of rigs,
20 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
21 tubular goods, including casing and drill strings, (iii) pumps
22 and pump-jack units, (iv) storage tanks and flow lines, (v) any
23 individual replacement part for oil field exploration,
24 drilling, and production equipment, and (vi) machinery and
25 equipment purchased for lease; but excluding motor vehicles
26 required to be registered under the Illinois Vehicle Code.

1 (15) Photoprocessing machinery and equipment, including
2 repair and replacement parts, both new and used, including that
3 manufactured on special order, certified by the purchaser to be
4 used primarily for photoprocessing, and including
5 photoprocessing machinery and equipment purchased for lease.

6 (16) Until July 1, 2003, and beginning again on the
7 effective date of this amendatory Act of the 96th General
8 Assembly and thereafter, coal exploration, mining, offhighway
9 hauling, processing, maintenance, and reclamation equipment,
10 including replacement parts and equipment, and including
11 equipment purchased for lease, but excluding motor vehicles
12 required to be registered under the Illinois Vehicle Code. For
13 purposes of this item (16), equipment includes roof bolts and
14 explosives.

15 (17) Until July 1, 2003, distillation machinery and
16 equipment, sold as a unit or kit, assembled or installed by the
17 retailer, certified by the user to be used only for the
18 production of ethyl alcohol that will be used for consumption
19 as motor fuel or as a component of motor fuel for the personal
20 use of the user, and not subject to sale or resale.

21 (18) Manufacturing and assembling machinery and equipment
22 used primarily in the process of manufacturing or assembling
23 tangible personal property for wholesale or retail sale or
24 lease, whether that sale or lease is made directly by the
25 manufacturer or by some other person, whether the materials
26 used in the process are owned by the manufacturer or some other

1 person, or whether that sale or lease is made apart from or as
2 an incident to the seller's engaging in the service occupation
3 of producing machines, tools, dies, jigs, patterns, gauges, or
4 other similar items of no commercial value on special order for
5 a particular purchaser.

6 (19) Personal property delivered to a purchaser or
7 purchaser's donee inside Illinois when the purchase order for
8 that personal property was received by a florist located
9 outside Illinois who has a florist located inside Illinois
10 deliver the personal property.

11 (20) Semen used for artificial insemination of livestock
12 for direct agricultural production.

13 (21) Horses, or interests in horses, registered with and
14 meeting the requirements of any of the Arabian Horse Club
15 Registry of America, Appaloosa Horse Club, American Quarter
16 Horse Association, United States Trotting Association, or
17 Jockey Club, as appropriate, used for purposes of breeding or
18 racing for prizes. This item (21) is exempt from the provisions
19 of Section 3-90, and the exemption provided for under this item
20 (21) applies for all periods beginning May 30, 1995, but no
21 claim for credit or refund is allowed on or after January 1,
22 2008 for such taxes paid during the period beginning May 30,
23 2000 and ending on January 1, 2008.

24 (22) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients purchased by a

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

21 (23) Personal property purchased by a lessor who leases the
22 property, under a lease of one year or longer executed or in
23 effect at the time the lessor would otherwise be subject to the
24 tax imposed by this Act, to a governmental body that has been
25 issued an active sales tax exemption identification number by
26 the Department under Section 1g of the Retailers' Occupation

1 Tax Act. If the property is leased in a manner that does not
2 qualify for this exemption or used in any other non-exempt
3 manner, the lessor shall be liable for the tax imposed under
4 this Act or the Service Use Tax Act, as the case may be, based
5 on the fair market value of the property at the time the
6 non-qualifying use occurs. No lessor shall collect or attempt
7 to collect an amount (however designated) that purports to
8 reimburse that lessor for the tax imposed by this Act or the
9 Service Use Tax Act, as the case may be, if the tax has not been
10 paid by the lessor. If a lessor improperly collects any such
11 amount from the lessee, the lessee shall have a legal right to
12 claim a refund of that amount from the lessor. If, however,
13 that amount is not refunded to the lessee for any reason, the
14 lessor is liable to pay that amount to the Department.

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

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

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

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

17 (27) A motor vehicle, as that term is defined in Section
18 1-146 of the Illinois Vehicle Code, that is donated to a
19 corporation, limited liability company, society, association,
20 foundation, or institution that is determined by the Department
21 to be organized and operated exclusively for educational
22 purposes. For purposes of this exemption, "a corporation,
23 limited liability company, society, association, foundation,
24 or institution organized and operated exclusively for
25 educational purposes" means all tax-supported public schools,
26 private schools that offer systematic instruction in useful

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

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

23 (29) Beginning January 1, 2000 and through December 31,
24 2001, new or used automatic vending machines that prepare and
25 serve hot food and beverages, including coffee, soup, and other
26 items, and replacement parts for these machines. Beginning

1 January 1, 2002 and through June 30, 2003, machines and parts
2 for machines used in commercial, coin-operated amusement and
3 vending business if a use or occupation tax is paid on the
4 gross receipts derived from the use of the commercial,
5 coin-operated amusement and vending machines. This paragraph
6 is exempt from the provisions of Section 3-90.

7 (30) Beginning January 1, 2001 and through June 30, 2011,
8 food for human consumption that is to be consumed off the
9 premises where it is sold (other than alcoholic beverages, soft
10 drinks, and food that has been prepared for immediate
11 consumption) and prescription and nonprescription medicines,
12 drugs, medical appliances, and insulin, urine testing
13 materials, syringes, and needles used by diabetics, for human
14 use, when purchased for use by a person receiving medical
15 assistance under Article 5 of the Illinois Public Aid Code who
16 resides in a licensed long-term care facility, as defined in
17 the Nursing Home Care Act.

18 (31) Beginning on the effective date of this amendatory Act
19 of the 92nd General Assembly, computers and communications
20 equipment utilized for any hospital purpose and equipment used
21 in the diagnosis, analysis, or treatment of hospital patients
22 purchased by a lessor who leases the equipment, under a lease
23 of one year or longer executed or in effect at the time the
24 lessor would otherwise be subject to the tax imposed by this
25 Act, to a hospital that has been issued an active tax exemption
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act. If the equipment is leased in a
2 manner that does not qualify for this exemption or is used in
3 any other nonexempt manner, the lessor shall be liable for the
4 tax imposed under this Act or the Service Use Tax Act, as the
5 case may be, based on the fair market value of the property at
6 the time the nonqualifying use occurs. No lessor shall collect
7 or attempt to collect an amount (however designated) that
8 purports to reimburse that lessor for the tax imposed by this
9 Act or the Service Use Tax Act, as the case may be, if the tax
10 has not been paid by the lessor. If a lessor improperly
11 collects any such amount from the lessee, the lessee shall have
12 a legal right to claim a refund of that amount from the lessor.
13 If, however, that amount is not refunded to the lessee for any
14 reason, the lessor is liable to pay that amount to the
15 Department. This paragraph is exempt from the provisions of
16 Section 3-90.

17 (32) Beginning on the effective date of this amendatory Act
18 of the 92nd General Assembly, personal property purchased by a
19 lessor who leases the property, under a lease of one year or
20 longer executed or in effect at the time the lessor would
21 otherwise be subject to the tax imposed by this Act, to a
22 governmental body that has been issued an active sales tax
23 exemption identification number by the Department under
24 Section 1g of the Retailers' Occupation Tax Act. If the
25 property is leased in a manner that does not qualify for this
26 exemption or used in any other nonexempt manner, the lessor

1 shall be liable for the tax imposed under this Act or the
2 Service Use Tax Act, as the case may be, based on the fair
3 market value of the property at the time the nonqualifying use
4 occurs. No lessor shall collect or attempt to collect an amount
5 (however designated) that purports to reimburse that lessor for
6 the tax imposed by this Act or the Service Use Tax Act, as the
7 case may be, if the tax has not been paid by the lessor. If a
8 lessor improperly collects any such amount from the lessee, the
9 lessee shall have a legal right to claim a refund of that
10 amount from the lessor. If, however, that amount is not
11 refunded to the lessee for any reason, the lessor is liable to
12 pay that amount to the Department. This paragraph is exempt
13 from the provisions of Section 3-90.

14 (33) On and after July 1, 2003 and through June 30, 2004,
15 the use in this State of motor vehicles of the second division
16 with a gross vehicle weight in excess of 8,000 pounds and that
17 are subject to the commercial distribution fee imposed under
18 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
19 1, 2004 and through June 30, 2005, the use in this State of
20 motor vehicles of the second division: (i) with a gross vehicle
21 weight rating in excess of 8,000 pounds; (ii) that are subject
22 to the commercial distribution fee imposed under Section
23 3-815.1 of the Illinois Vehicle Code; and (iii) that are
24 primarily used for commercial purposes. Through June 30, 2005,
25 this exemption applies to repair and replacement parts added
26 after the initial purchase of such a motor vehicle if that

1 motor vehicle is used in a manner that would qualify for the
2 rolling stock exemption otherwise provided for in this Act. For
3 purposes of this paragraph, the term "used for commercial
4 purposes" means the transportation of persons or property in
5 furtherance of any commercial or industrial enterprise,
6 whether for-hire or not.

7 (34) Beginning January 1, 2008, tangible personal property
8 used in the construction or maintenance of a community water
9 supply, as defined under Section 3.145 of the Environmental
10 Protection Act, that is operated by a not-for-profit
11 corporation that holds a valid water supply permit issued under
12 Title IV of the Environmental Protection Act. This paragraph is
13 exempt from the provisions of Section 3-90.

14 (35) Beginning on the effective date of this amendatory Act
15 of the 96th General Assembly, equipment used at an energy
16 facility, as that term is defined in Section 1-10 of the
17 Illinois Power Agency Act, located within the State, including
18 replacement parts and equipment and including equipment
19 purchased for lease, but excluding motor vehicles required to
20 be registered under the Illinois Vehicle Code.

21 (36) Beginning on the effective date of this amendatory Act
22 of the 96th General Assembly, feedstock used at an energy
23 facility, as that term is defined in Section 1-10 of the
24 Illinois Power Agency Act, located in this State.

25 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
26 eff. 1-1-08; 95-876, eff. 8-21-08.)

1 Section 15-30. The Service Use Tax Act is amended by
2 changing Section 3-5 as follows:

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

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

6 (1) Personal property purchased from a corporation,
7 society, association, foundation, institution, or
8 organization, other than a limited liability company, that is
9 organized and operated as a not-for-profit service enterprise
10 for the benefit of persons 65 years of age or older if the
11 personal property was not purchased by the enterprise for the
12 purpose of resale by the enterprise.

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

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

1 organizations, local arts councils, visual arts organizations,
2 and media arts organizations. On and after the effective date
3 of this amendatory Act of the 92nd General Assembly, however,
4 an entity otherwise eligible for this exemption shall not make
5 tax-free purchases unless it has an active identification
6 number issued by the Department.

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

11 (5) Until July 1, 2003 and beginning again on September 1,
12 2004, graphic arts machinery and equipment, including repair
13 and replacement parts, both new and used, and including that
14 manufactured on special order or purchased for lease, certified
15 by the purchaser to be used primarily for graphic arts
16 production. Equipment includes chemicals or chemicals acting
17 as catalysts but only if the chemicals or chemicals acting as
18 catalysts effect a direct and immediate change upon a graphic
19 arts product.

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

23 (7) Farm machinery and equipment, both new and used,
24 including that manufactured on special order, certified by the
25 purchaser to be used primarily for production agriculture or
26 State or federal agricultural programs, including individual

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

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

24 Farm machinery and equipment also includes computers,
25 sensors, software, and related equipment used primarily in the
26 computer-assisted operation of production agriculture

1 facilities, equipment, and activities such as, but not limited
2 to, the collection, monitoring, and correlation of animal and
3 crop data for the purpose of formulating animal diets and
4 agricultural chemicals. This item (7) is exempt from the
5 provisions of Section 3-75.

6 (8) Fuel and petroleum products sold to or used by an air
7 common carrier, certified by the carrier to be used for
8 consumption, shipment, or storage in the conduct of its
9 business as an air common carrier, for a flight destined for or
10 returning from a location or locations outside the United
11 States without regard to previous or subsequent domestic
12 stopovers.

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

22 (10) Until July 1, 2003, and beginning again on the
23 effective date of this amendatory Act of the 96th General
24 Assembly and thereafter, oil field exploration, drilling, and
25 production equipment, including (i) rigs and parts of rigs,
26 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and

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

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

13 (12) Until July 1, 2003, and beginning again on the
14 effective date of this amendatory Act of the 96th General
15 Assembly and thereafter, coal exploration, mining, offhighway
16 hauling, processing, maintenance, and reclamation equipment,
17 including replacement parts and equipment, and including
18 equipment purchased for lease, but excluding motor vehicles
19 required to be registered under the Illinois Vehicle Code. For
20 purposes of this item (12), equipment includes roof bolts and
21 explosives.

22 (13) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (14) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes. This item (14) is exempt from the provisions
4 of Section 3-75, and the exemption provided for under this item
5 (14) applies for all periods beginning May 30, 1995, but no
6 claim for credit or refund is allowed on or after the effective
7 date of this amendatory Act of the 95th General Assembly for
8 such taxes paid during the period beginning May 30, 2000 and
9 ending on the effective date of this amendatory Act of the 95th
10 General Assembly.

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

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

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

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

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

23 (19) Beginning July 1, 1999, game or game birds purchased
24 at a "game breeding and hunting preserve area" or an "exotic
25 game hunting area" as those terms are used in the Wildlife Code
26 or at a hunting enclosure approved through rules adopted by the

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

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

21 (21) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary school,
24 a group of those schools, or one or more school districts if
25 the events are sponsored by an entity recognized by the school
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph
2 does not apply to fundraising events (i) for the benefit of
3 private home instruction or (ii) for which the fundraising
4 entity purchases the personal property sold at the events from
5 another individual or entity that sold the property for the
6 purpose of resale by the fundraising entity and that profits
7 from the sale to the fundraising entity. This paragraph is
8 exempt from the provisions of Section 3-75.

9 (22) Beginning January 1, 2000 and through December 31,
10 2001, new or used automatic vending machines that prepare and
11 serve hot food and beverages, including coffee, soup, and other
12 items, and replacement parts for these machines. Beginning
13 January 1, 2002 and through June 30, 2003, machines and parts
14 for machines used in commercial, coin-operated amusement and
15 vending business if a use or occupation tax is paid on the
16 gross receipts derived from the use of the commercial,
17 coin-operated amusement and vending machines. This paragraph
18 is exempt from the provisions of Section 3-75.

19 (23) Beginning August 23, 2001 and through June 30, 2011,
20 food for human consumption that is to be consumed off the
21 premises where it is sold (other than alcoholic beverages, soft
22 drinks, and food that has been prepared for immediate
23 consumption) and prescription and nonprescription medicines,
24 drugs, medical appliances, and insulin, urine testing
25 materials, syringes, and needles used by diabetics, for human
26 use, when purchased for use by a person receiving medical

1 assistance under Article 5 of the Illinois Public Aid Code who
2 resides in a licensed long-term care facility, as defined in
3 the Nursing Home Care Act.

4 (24) Beginning on the effective date of this amendatory Act
5 of the 92nd General Assembly, computers and communications
6 equipment utilized for any hospital purpose and equipment used
7 in the diagnosis, analysis, or treatment of hospital patients
8 purchased by a lessor who leases the equipment, under a lease
9 of one year or longer executed or in effect at the time the
10 lessor would otherwise be subject to the tax imposed by this
11 Act, to a hospital that has been issued an active tax exemption
12 identification number by the Department under Section 1g of the
13 Retailers' Occupation Tax Act. If the equipment is leased in a
14 manner that does not qualify for this exemption or is used in
15 any other nonexempt manner, the lessor shall be liable for the
16 tax imposed under this Act or the Use Tax Act, as the case may
17 be, based on the fair market value of the property at the time
18 the nonqualifying use occurs. No lessor shall collect or
19 attempt to collect an amount (however designated) that purports
20 to reimburse that lessor for the tax imposed by this Act or the
21 Use Tax Act, as the case may be, if the tax has not been paid by
22 the lessor. If a lessor improperly collects any such amount
23 from the lessee, the lessee shall have a legal right to claim a
24 refund of that amount from the lessor. If, however, that amount
25 is not refunded to the lessee for any reason, the lessor is
26 liable to pay that amount to the Department. This paragraph is

1 exempt from the provisions of Section 3-75.

2 (25) Beginning on the effective date of this amendatory Act
3 of the 92nd General Assembly, personal property purchased by a
4 lessor who leases the property, under a lease of one year or
5 longer executed or in effect at the time the lessor would
6 otherwise be subject to the tax imposed by this Act, to a
7 governmental body that has been issued an active tax exemption
8 identification number by the Department under Section 1g of the
9 Retailers' Occupation Tax Act. If the property is leased in a
10 manner that does not qualify for this exemption or is used in
11 any other nonexempt manner, the lessor shall be liable for the
12 tax imposed under this Act or the Use Tax Act, as the case may
13 be, based on the fair market value of the property at the time
14 the nonqualifying use occurs. No lessor shall collect or
15 attempt to collect an amount (however designated) that purports
16 to reimburse that lessor for the tax imposed by this Act or the
17 Use Tax Act, as the case may be, if the tax has not been paid by
18 the lessor. If a lessor improperly collects any such amount
19 from the lessee, the lessee shall have a legal right to claim a
20 refund of that amount from the lessor. If, however, that amount
21 is not refunded to the lessee for any reason, the lessor is
22 liable to pay that amount to the Department. This paragraph is
23 exempt from the provisions of Section 3-75.

24 (26) Beginning January 1, 2008, tangible personal property
25 used in the construction or maintenance of a community water
26 supply, as defined under Section 3.145 of the Environmental

1 Protection Act, that is operated by a not-for-profit
2 corporation that holds a valid water supply permit issued under
3 Title IV of the Environmental Protection Act. This paragraph is
4 exempt from the provisions of Section 3-75.

5 (27) Beginning on the effective date of this amendatory Act
6 of the 96th General Assembly, equipment used at an energy
7 facility, as that term is defined in Section 1-10 of the
8 Illinois Power Agency Act, located within the State, including
9 replacement parts and equipment and including equipment
10 purchased for lease, but excluding motor vehicles required to
11 be registered under the Illinois Vehicle Code.

12 (28) Beginning on the effective date of this amendatory Act
13 of the 96th General Assembly, feedstock used at an energy
14 facility, as that term is defined in Section 1-10 of the
15 Illinois Power Agency Act, located in this State.

16 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
17 eff. 1-1-08; 95-876, eff. 8-21-08.)

18 Section 15-35. The Service Occupation Tax Act is amended by
19 changing Section 3-5 as follows:

20 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

23 (1) Personal property sold by a corporation, society,
24 association, foundation, institution, or organization, other

1 than a limited liability company, that is organized and
2 operated as a not-for-profit service enterprise for the benefit
3 of persons 65 years of age or older if the personal property
4 was not purchased by the enterprise for the purpose of resale
5 by the enterprise.

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

9 (3) Personal property purchased by any not-for-profit arts
10 or cultural organization that establishes, by proof required by
11 the Department by rule, that it has received an exemption under
12 Section 501(c)(3) of the Internal Revenue Code and that is
13 organized and operated primarily for the presentation or
14 support of arts or cultural programming, activities, or
15 services. These organizations include, but are not limited to,
16 music and dramatic arts organizations such as symphony
17 orchestras and theatrical groups, arts and cultural service
18 organizations, local arts councils, visual arts organizations,
19 and media arts organizations. On and after the effective date
20 of this amendatory Act of the 92nd General Assembly, however,
21 an entity otherwise eligible for this exemption shall not make
22 tax-free purchases unless it has an active identification
23 number issued by the Department.

24 (4) Legal tender, currency, medallions, or gold or silver
25 coinage issued by the State of Illinois, the government of the
26 United States of America, or the government of any foreign

1 country, and bullion.

2 (5) Until July 1, 2003 and beginning again on September 1,
3 2004, graphic arts machinery and equipment, including repair
4 and replacement parts, both new and used, and including that
5 manufactured on special order or purchased for lease, certified
6 by the purchaser to be used primarily for graphic arts
7 production. Equipment includes chemicals or chemicals acting
8 as catalysts but only if the chemicals or chemicals acting as
9 catalysts effect a direct and immediate change upon a graphic
10 arts product.

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

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

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

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

15 Farm machinery and equipment also includes computers,
16 sensors, software, and related equipment used primarily in the
17 computer-assisted operation of production agriculture
18 facilities, equipment, and activities such as, but not limited
19 to, the collection, monitoring, and correlation of animal and
20 crop data for the purpose of formulating animal diets and
21 agricultural chemicals. This item (7) is exempt from the
22 provisions of Section 3-55.

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

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

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

12 (10) Until July 1, 2003, and beginning again on the
13 effective date of this amendatory Act of the 96th General
14 Assembly and thereafter, oil field exploration, drilling, and
15 production equipment, including (i) rigs and parts of rigs,
16 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
17 tubular goods, including casing and drill strings, (iii) pumps
18 and pump-jack units, (iv) storage tanks and flow lines, (v) any
19 individual replacement part for oil field exploration,
20 drilling, and production equipment, and (vi) machinery and
21 equipment purchased for lease; but excluding motor vehicles
22 required to be registered under the Illinois Vehicle Code.

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

1 photoprocessing machinery and equipment purchased for lease.

2 (12) Until July 1, 2003, and beginning again on the
3 effective date of this amendatory Act of the 96th General
4 Assembly and thereafter, coal exploration, mining, offhighway
5 hauling, processing, maintenance, and reclamation equipment,
6 including replacement parts and equipment, and including
7 equipment purchased for lease, but excluding motor vehicles
8 required to be registered under the Illinois Vehicle Code. For
9 purposes of this item (12), equipment includes roof bolts and
10 explosives.

11 (13) Beginning January 1, 1992 and through June 30, 2011,
12 food for human consumption that is to be consumed off the
13 premises where it is sold (other than alcoholic beverages, soft
14 drinks and food that has been prepared for immediate
15 consumption) and prescription and non-prescription medicines,
16 drugs, medical appliances, and insulin, urine testing
17 materials, syringes, and needles used by diabetics, for human
18 use, when purchased for use by a person receiving medical
19 assistance under Article 5 of the Illinois Public Aid Code who
20 resides in a licensed long-term care facility, as defined in
21 the Nursing Home Care Act.

22 (14) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (15) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes. This item (15) is exempt from the provisions
4 of Section 3-55, and the exemption provided for under this item
5 (15) applies for all periods beginning May 30, 1995, but no
6 claim for credit or refund is allowed on or after January 1,
7 2008 (the effective date of Public Act 95-88) for such taxes
8 paid during the period beginning May 30, 2000 and ending on
9 January 1, 2008 (the effective date of Public Act 95-88).

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

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

24 (18) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is donated for

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

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

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

26 (21) A motor vehicle, as that term is defined in Section

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

18 (22) Beginning January 1, 2000, personal property,
19 including food, purchased through fundraising events for the
20 benefit of a public or private elementary or secondary school,
21 a group of those schools, or one or more school districts if
22 the events are sponsored by an entity recognized by the school
23 district that consists primarily of volunteers and includes
24 parents and teachers of the school children. This paragraph
25 does not apply to fundraising events (i) for the benefit of
26 private home instruction or (ii) for which the fundraising

1 entity purchases the personal property sold at the events from
2 another individual or entity that sold the property for the
3 purpose of resale by the fundraising entity and that profits
4 from the sale to the fundraising entity. This paragraph is
5 exempt from the provisions of Section 3-55.

6 (23) Beginning January 1, 2000 and through December 31,
7 2001, new or used automatic vending machines that prepare and
8 serve hot food and beverages, including coffee, soup, and other
9 items, and replacement parts for these machines. Beginning
10 January 1, 2002 and through June 30, 2003, machines and parts
11 for machines used in commercial, coin-operated amusement and
12 vending business if a use or occupation tax is paid on the
13 gross receipts derived from the use of the commercial,
14 coin-operated amusement and vending machines. This paragraph
15 is exempt from the provisions of Section 3-55.

16 (24) Beginning on the effective date of this amendatory Act
17 of the 92nd General Assembly, computers and communications
18 equipment utilized for any hospital purpose and equipment used
19 in the diagnosis, analysis, or treatment of hospital patients
20 sold to a lessor who leases the equipment, under a lease of one
21 year or longer executed or in effect at the time of the
22 purchase, to a hospital that has been issued an active tax
23 exemption identification number by the Department under
24 Section 1g of the Retailers' Occupation Tax Act. This paragraph
25 is exempt from the provisions of Section 3-55.

26 (25) Beginning on the effective date of this amendatory Act

1 of the 92nd General Assembly, personal property sold to a
2 lessor who leases the property, under a lease of one year or
3 longer executed or in effect at the time of the purchase, to a
4 governmental body that has been issued an active tax exemption
5 identification number by the Department under Section 1g of the
6 Retailers' Occupation Tax Act. This paragraph is exempt from
7 the provisions of Section 3-55.

8 (26) Beginning on January 1, 2002 and through June 30,
9 2011, tangible personal property purchased from an Illinois
10 retailer by a taxpayer engaged in centralized purchasing
11 activities in Illinois who will, upon receipt of the property
12 in Illinois, temporarily store the property in Illinois (i) for
13 the purpose of subsequently transporting it outside this State
14 for use or consumption thereafter solely outside this State or
15 (ii) for the purpose of being processed, fabricated, or
16 manufactured into, attached to, or incorporated into other
17 tangible personal property to be transported outside this State
18 and thereafter used or consumed solely outside this State. The
19 Director of Revenue shall, pursuant to rules adopted in
20 accordance with the Illinois Administrative Procedure Act,
21 issue a permit to any taxpayer in good standing with the
22 Department who is eligible for the exemption under this
23 paragraph (26). The permit issued under this paragraph (26)
24 shall authorize the holder, to the extent and in the manner
25 specified in the rules adopted under this Act, to purchase
26 tangible personal property from a retailer exempt from the

1 taxes imposed by this Act. Taxpayers shall maintain all
2 necessary books and records to substantiate the use and
3 consumption of all such tangible personal property outside of
4 the State of Illinois.

5 (27) Beginning January 1, 2008, tangible personal property
6 used in the construction or maintenance of a community water
7 supply, as defined under Section 3.145 of the Environmental
8 Protection Act, that is operated by a not-for-profit
9 corporation that holds a valid water supply permit issued under
10 Title IV of the Environmental Protection Act. This paragraph is
11 exempt from the provisions of Section 3-55.

12 (28) Beginning on the effective date of this amendatory Act
13 of the 96th General Assembly, equipment used at an energy
14 facility, as that term is defined in Section 1-10 of the
15 Illinois Power Agency Act, located within the State, including
16 replacement parts and equipment and including equipment
17 purchased for lease, but excluding motor vehicles required to
18 be registered under the Illinois Vehicle Code.

19 (29) Beginning on the effective date of this amendatory Act
20 of the 96th General Assembly, feedstock used at an energy
21 facility, as that term is defined in Section 1-10 of the
22 Illinois Power Agency Act, located in this State.

23 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
24 eff. 1-1-08; 95-876, eff. 8-21-08.)

25 Section 15-40. The Retailers' Occupation Tax Act is amended

1 by changing Sections 2-5 as follows:

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

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

6 (1) Farm chemicals.

7 (2) Farm machinery and equipment, both new and used,
8 including that manufactured on special order, certified by the
9 purchaser to be used primarily for production agriculture or
10 State or federal agricultural programs, including individual
11 replacement parts for the machinery and equipment, including
12 machinery and equipment purchased for lease, and including
13 implements of husbandry defined in Section 1-130 of the
14 Illinois Vehicle Code, farm machinery and agricultural
15 chemical and fertilizer spreaders, and nurse wagons required to
16 be registered under Section 3-809 of the Illinois Vehicle Code,
17 but excluding other motor vehicles required to be registered
18 under the Illinois Vehicle Code. Horticultural polyhouses or
19 hoop houses used for propagating, growing, or overwintering
20 plants shall be considered farm machinery and equipment under
21 this item (2). Agricultural chemical tender tanks and dry boxes
22 shall include units sold separately from a motor vehicle
23 required to be licensed and units sold mounted on a motor
24 vehicle required to be licensed, if the selling price of the
25 tender is separately stated.

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

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

17 (3) Until July 1, 2003, distillation machinery and
18 equipment, sold as a unit or kit, assembled or installed by the
19 retailer, certified by the user to be used only for the
20 production of ethyl alcohol that will be used for consumption
21 as motor fuel or as a component of motor fuel for the personal
22 use of the user, and not subject to sale or resale.

23 (4) Until July 1, 2003 and beginning again September 1,
24 2004, graphic arts machinery and equipment, including repair
25 and replacement parts, both new and used, and including that
26 manufactured on special order or purchased for lease, certified

1 by the purchaser to be used primarily for graphic arts
2 production. Equipment includes chemicals or chemicals acting
3 as catalysts but only if the chemicals or chemicals acting as
4 catalysts effect a direct and immediate change upon a graphic
5 arts product.

6 (5) A motor vehicle of the first division, a motor vehicle
7 of the second division that is a self contained motor vehicle
8 designed or permanently converted to provide living quarters
9 for recreational, camping, or travel use, with direct walk
10 through access to the living quarters from the driver's seat,
11 or a motor vehicle of the second division that is of the van
12 configuration designed for the transportation of not less than
13 7 nor more than 16 passengers, as defined in Section 1-146 of
14 the Illinois Vehicle Code, that is used for automobile renting,
15 as defined in the Automobile Renting Occupation and Use Tax
16 Act. This paragraph is exempt from the provisions of Section
17 2-70.

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

21 (7) Until July 1, 2003, proceeds of that portion of the
22 selling price of a passenger car the sale of which is subject
23 to the Replacement Vehicle Tax.

24 (8) Personal property sold to an Illinois county fair
25 association for use in conducting, operating, or promoting the
26 county fair.

1 (9) Personal property sold to a not-for-profit arts or
2 cultural organization that establishes, by proof required by
3 the Department by rule, that it has received an exemption under
4 Section 501(c)(3) of the Internal Revenue Code and that is
5 organized and operated primarily for the presentation or
6 support of arts or cultural programming, activities, or
7 services. These organizations include, but are not limited to,
8 music and dramatic arts organizations such as symphony
9 orchestras and theatrical groups, arts and cultural service
10 organizations, local arts councils, visual arts organizations,
11 and media arts organizations. On and after the effective date
12 of this amendatory Act of the 92nd General Assembly, however,
13 an entity otherwise eligible for this exemption shall not make
14 tax-free purchases unless it has an active identification
15 number issued by the Department.

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

23 (11) Personal property sold to a governmental body, to a
24 corporation, society, association, foundation, or institution
25 organized and operated exclusively for charitable, religious,
26 or educational purposes, or to a not-for-profit corporation,

1 society, association, foundation, institution, or organization
2 that has no compensated officers or employees and that is
3 organized and operated primarily for the recreation of persons
4 55 years of age or older. A limited liability company may
5 qualify for the exemption under this paragraph only if the
6 limited liability company is organized and operated
7 exclusively for educational purposes. On and after July 1,
8 1987, however, no entity otherwise eligible for this exemption
9 shall make tax-free purchases unless it has an active
10 identification number issued by the Department.

11 (12) Tangible personal property sold to interstate
12 carriers for hire for use as rolling stock moving in interstate
13 commerce or to lessors under leases of one year or longer
14 executed or in effect at the time of purchase by interstate
15 carriers for hire for use as rolling stock moving in interstate
16 commerce and equipment operated by a telecommunications
17 provider, licensed as a common carrier by the Federal
18 Communications Commission, which is permanently installed in
19 or affixed to aircraft moving in interstate commerce.

20 (12-5) On and after July 1, 2003 and through June 30, 2004,
21 motor vehicles of the second division with a gross vehicle
22 weight in excess of 8,000 pounds that are subject to the
23 commercial distribution fee imposed under Section 3-815.1 of
24 the Illinois Vehicle Code. Beginning on July 1, 2004 and
25 through June 30, 2005, the use in this State of motor vehicles
26 of the second division: (i) with a gross vehicle weight rating

1 in excess of 8,000 pounds; (ii) that are subject to the
2 commercial distribution fee imposed under Section 3-815.1 of
3 the Illinois Vehicle Code; and (iii) that are primarily used
4 for commercial purposes. Through June 30, 2005, this exemption
5 applies to repair and replacement parts added after the initial
6 purchase of such a motor vehicle if that motor vehicle is used
7 in a manner that would qualify for the rolling stock exemption
8 otherwise provided for in this Act. For purposes of this
9 paragraph, "used for commercial purposes" means the
10 transportation of persons or property in furtherance of any
11 commercial or industrial enterprise whether for-hire or not.

12 (13) Proceeds from sales to owners, lessors, or shippers of
13 tangible personal property that is utilized by interstate
14 carriers for hire for use as rolling stock moving in interstate
15 commerce and equipment operated by a telecommunications
16 provider, licensed as a common carrier by the Federal
17 Communications Commission, which is permanently installed in
18 or affixed to aircraft moving in interstate commerce.

19 (14) Machinery and equipment that will be used by the
20 purchaser, or a lessee of the purchaser, primarily in the
21 process of manufacturing or assembling tangible personal
22 property for wholesale or retail sale or lease, whether the
23 sale or lease is made directly by the manufacturer or by some
24 other person, whether the materials used in the process are
25 owned by the manufacturer or some other person, or whether the
26 sale or lease is made apart from or as an incident to the

1 seller's engaging in the service occupation of producing
2 machines, tools, dies, jigs, patterns, gauges, or other similar
3 items of no commercial value on special order for a particular
4 purchaser.

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

12 (16) Petroleum products sold to a purchaser if the seller
13 is prohibited by federal law from charging tax to the
14 purchaser.

15 (17) Tangible personal property sold to a common carrier by
16 rail or motor that receives the physical possession of the
17 property in Illinois and that transports the property, or
18 shares with another common carrier in the transportation of the
19 property, out of Illinois on a standard uniform bill of lading
20 showing the seller of the property as the shipper or consignor
21 of the property to a destination outside Illinois, for use
22 outside Illinois.

23 (18) Legal tender, currency, medallions, or gold or silver
24 coinage issued by the State of Illinois, the government of the
25 United States of America, or the government of any foreign
26 country, and bullion.

1 (19) Until July 1 2003, and beginning again on the
2 effective date of this amendatory Act of the 96th General
3 Assembly and thereafter, oil field exploration, drilling, and
4 production equipment, including (i) rigs and parts of rigs,
5 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
6 tubular goods, including casing and drill strings, (iii) pumps
7 and pump-jack units, (iv) storage tanks and flow lines, (v) any
8 individual replacement part for oil field exploration,
9 drilling, and production equipment, and (vi) machinery and
10 equipment purchased for lease; but excluding motor vehicles
11 required to be registered under the Illinois Vehicle Code.

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

17 (21) Until July 1, 2003, and beginning again on the
18 effective date of this amendatory Act of the 96th General
19 Assembly and thereafter, coal exploration, mining, offhighway
20 hauling, processing, maintenance, and reclamation equipment,
21 including replacement parts and equipment, and including
22 equipment purchased for lease, but excluding motor vehicles
23 required to be registered under the Illinois Vehicle Code. For
24 purposes of this item (21), equipment includes roof bolts and
25 explosives.

26 (22) Fuel and petroleum products sold to or used by an air

1 carrier, certified by the carrier to be used for consumption,
2 shipment, or storage in the conduct of its business as an air
3 common carrier, for a flight destined for or returning from a
4 location or locations outside the United States without regard
5 to previous or subsequent domestic stopovers.

6 (23) A transaction in which the purchase order is received
7 by a florist who is located outside Illinois, but who has a
8 florist located in Illinois deliver the property to the
9 purchaser or the purchaser's donee in Illinois.

10 (24) Fuel consumed or used in the operation of ships,
11 barges, or vessels that are used primarily in or for the
12 transportation of property or the conveyance of persons for
13 hire on rivers bordering on this State if the fuel is delivered
14 by the seller to the purchaser's barge, ship, or vessel while
15 it is afloat upon that bordering river.

16 (25) Except as provided in item (25-5) of this Section, a
17 motor vehicle sold in this State to a nonresident even though
18 the motor vehicle is delivered to the nonresident in this
19 State, if the motor vehicle is not to be titled in this State,
20 and if a drive-away permit is issued to the motor vehicle as
21 provided in Section 3-603 of the Illinois Vehicle Code or if
22 the nonresident purchaser has vehicle registration plates to
23 transfer to the motor vehicle upon returning to his or her home
24 state. The issuance of the drive-away permit or having the
25 out-of-state registration plates to be transferred is prima
26 facie evidence that the motor vehicle will not be titled in

1 this State.

2 (25-5) The exemption under item (25) does not apply if the
3 state in which the motor vehicle will be titled does not allow
4 a reciprocal exemption for a motor vehicle sold and delivered
5 in that state to an Illinois resident but titled in Illinois.
6 The tax collected under this Act on the sale of a motor vehicle
7 in this State to a resident of another state that does not
8 allow a reciprocal exemption shall be imposed at a rate equal
9 to the state's rate of tax on taxable property in the state in
10 which the purchaser is a resident, except that the tax shall
11 not exceed the tax that would otherwise be imposed under this
12 Act. At the time of the sale, the purchaser shall execute a
13 statement, signed under penalty of perjury, of his or her
14 intent to title the vehicle in the state in which the purchaser
15 is a resident within 30 days after the sale and of the fact of
16 the payment to the State of Illinois of tax in an amount
17 equivalent to the state's rate of tax on taxable property in
18 his or her state of residence and shall submit the statement to
19 the appropriate tax collection agency in his or her state of
20 residence. In addition, the retailer must retain a signed copy
21 of the statement in his or her records. Nothing in this item
22 shall be construed to require the removal of the vehicle from
23 this state following the filing of an intent to title the
24 vehicle in the purchaser's state of residence if the purchaser
25 titles the vehicle in his or her state of residence within 30
26 days after the date of sale. The tax collected under this Act

1 in accordance with this item (25-5) shall be proportionately
2 distributed as if the tax were collected at the 6.25% general
3 rate imposed under this Act.

4 (25-7) Beginning on July 1, 2007, no tax is imposed under
5 this Act on the sale of an aircraft, as defined in Section 3 of
6 the Illinois Aeronautics Act, if all of the following
7 conditions are met:

8 (1) the aircraft leaves this State within 15 days after
9 the later of either the issuance of the final billing for
10 the sale of the aircraft, or the authorized approval for
11 return to service, completion of the maintenance record
12 entry, and completion of the test flight and ground test
13 for inspection, as required by 14 C.F.R. 91.407;

14 (2) the aircraft is not based or registered in this
15 State after the sale of the aircraft; and

16 (3) the seller retains in his or her books and records
17 and provides to the Department a signed and dated
18 certification from the purchaser, on a form prescribed by
19 the Department, certifying that the requirements of this
20 item (25-7) are met. The certificate must also include the
21 name and address of the purchaser, the address of the
22 location where the aircraft is to be titled or registered,
23 the address of the primary physical location of the
24 aircraft, and other information that the Department may
25 reasonably require.

26 For purposes of this item (25-7):

1 "Based in this State" means hangared, stored, or otherwise
2 used, excluding post-sale customizations as defined in this
3 Section, for 10 or more days in each 12-month period
4 immediately following the date of the sale of the aircraft.

5 "Registered in this State" means an aircraft registered
6 with the Department of Transportation, Aeronautics Division,
7 or titled or registered with the Federal Aviation
8 Administration to an address located in this State.

9 This paragraph (25-7) is exempt from the provisions of
10 Section 2-70.

11 (26) Semen used for artificial insemination of livestock
12 for direct agricultural production.

13 (27) Horses, or interests in horses, registered with and
14 meeting the requirements of any of the Arabian Horse Club
15 Registry of America, Appaloosa Horse Club, American Quarter
16 Horse Association, United States Trotting Association, or
17 Jockey Club, as appropriate, used for purposes of breeding or
18 racing for prizes. This item (27) is exempt from the provisions
19 of Section 2-70, and the exemption provided for under this item
20 (27) applies for all periods beginning May 30, 1995, but no
21 claim for credit or refund is allowed on or after January 1,
22 2008 (the effective date of Public Act 95-88) for such taxes
23 paid during the period beginning May 30, 2000 and ending on
24 January 1, 2008 (the effective date of Public Act 95-88) .

25 (28) Computers and communications equipment utilized for
26 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients sold to a lessor
2 who leases the equipment, under a lease of one year or longer
3 executed or in effect at the time of the purchase, to a
4 hospital that has been issued an active tax exemption
5 identification number by the Department under Section 1g of
6 this Act.

7 (29) Personal property sold to a lessor who leases the
8 property, under a lease of one year or longer executed or in
9 effect at the time of the purchase, to a governmental body that
10 has been issued an active tax exemption identification number
11 by the Department under Section 1g of this Act.

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

22 (31) Beginning with taxable years ending on or after
23 December 31, 1995 and ending with taxable years ending on or
24 before December 31, 2004, personal property that is used in the
25 performance of infrastructure repairs in this State, including
26 but not limited to municipal roads and streets, access roads,

1 bridges, sidewalks, waste disposal systems, water and sewer
2 line extensions, water distribution and purification
3 facilities, storm water drainage and retention facilities, and
4 sewage treatment facilities, resulting from a State or
5 federally declared disaster in Illinois or bordering Illinois
6 when such repairs are initiated on facilities located in the
7 declared disaster area within 6 months after the disaster.

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

14 (33) A motor vehicle, as that term is defined in Section
15 1-146 of the Illinois Vehicle Code, that is donated to a
16 corporation, limited liability company, society, association,
17 foundation, or institution that is determined by the Department
18 to be organized and operated exclusively for educational
19 purposes. For purposes of this exemption, "a corporation,
20 limited liability company, society, association, foundation,
21 or institution organized and operated exclusively for
22 educational purposes" means all tax-supported public schools,
23 private schools that offer systematic instruction in useful
24 branches of learning by methods common to public schools and
25 that compare favorably in their scope and intensity with the
26 course of study presented in tax-supported schools, and

1 vocational or technical schools or institutes organized and
2 operated exclusively to provide a course of study of not less
3 than 6 weeks duration and designed to prepare individuals to
4 follow a trade or to pursue a manual, technical, mechanical,
5 industrial, business, or commercial occupation.

6 (34) Beginning January 1, 2000, personal property,
7 including food, purchased through fundraising events for the
8 benefit of a public or private elementary or secondary school,
9 a group of those schools, or one or more school districts if
10 the events are sponsored by an entity recognized by the school
11 district that consists primarily of volunteers and includes
12 parents and teachers of the school children. This paragraph
13 does not apply to fundraising events (i) for the benefit of
14 private home instruction or (ii) for which the fundraising
15 entity purchases the personal property sold at the events from
16 another individual or entity that sold the property for the
17 purpose of resale by the fundraising entity and that profits
18 from the sale to the fundraising entity. This paragraph is
19 exempt from the provisions of Section 2-70.

20 (35) Beginning January 1, 2000 and through December 31,
21 2001, new or used automatic vending machines that prepare and
22 serve hot food and beverages, including coffee, soup, and other
23 items, and replacement parts for these machines. Beginning
24 January 1, 2002 and through June 30, 2003, machines and parts
25 for machines used in commercial, coin-operated amusement and
26 vending business if a use or occupation tax is paid on the

1 gross receipts derived from the use of the commercial,
2 coin-operated amusement and vending machines. This paragraph
3 is exempt from the provisions of Section 2-70.

4 (35-5) Beginning August 23, 2001 and through June 30, 2011,
5 food for human consumption that is to be consumed off the
6 premises where it is sold (other than alcoholic beverages, soft
7 drinks, and food that has been prepared for immediate
8 consumption) and prescription and nonprescription medicines,
9 drugs, medical appliances, and insulin, urine testing
10 materials, syringes, and needles used by diabetics, for human
11 use, when purchased for use by a person receiving medical
12 assistance under Article 5 of the Illinois Public Aid Code who
13 resides in a licensed long-term care facility, as defined in
14 the Nursing Home Care Act.

15 (36) Beginning August 2, 2001, computers and
16 communications equipment utilized for any hospital purpose and
17 equipment used in the diagnosis, analysis, or treatment of
18 hospital patients sold to a lessor who leases the equipment,
19 under a lease of one year or longer executed or in effect at
20 the time of the purchase, to a hospital that has been issued an
21 active tax exemption identification number by the Department
22 under Section 1g of this Act. This paragraph is exempt from the
23 provisions of Section 2-70.

24 (37) Beginning August 2, 2001, personal property sold to a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 this Act. This paragraph is exempt from the provisions of
4 Section 2-70.

5 (38) Beginning on January 1, 2002 and through June 30,
6 2011, tangible personal property purchased from an Illinois
7 retailer by a taxpayer engaged in centralized purchasing
8 activities in Illinois who will, upon receipt of the property
9 in Illinois, temporarily store the property in Illinois (i) for
10 the purpose of subsequently transporting it outside this State
11 for use or consumption thereafter solely outside this State or
12 (ii) for the purpose of being processed, fabricated, or
13 manufactured into, attached to, or incorporated into other
14 tangible personal property to be transported outside this State
15 and thereafter used or consumed solely outside this State. The
16 Director of Revenue shall, pursuant to rules adopted in
17 accordance with the Illinois Administrative Procedure Act,
18 issue a permit to any taxpayer in good standing with the
19 Department who is eligible for the exemption under this
20 paragraph (38). The permit issued under this paragraph (38)
21 shall authorize the holder, to the extent and in the manner
22 specified in the rules adopted under this Act, to purchase
23 tangible personal property from a retailer exempt from the
24 taxes imposed by this Act. Taxpayers shall maintain all
25 necessary books and records to substantiate the use and
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (39) Beginning January 1, 2008, tangible personal property
3 used in the construction or maintenance of a community water
4 supply, as defined under Section 3.145 of the Environmental
5 Protection Act, that is operated by a not-for-profit
6 corporation that holds a valid water supply permit issued under
7 Title IV of the Environmental Protection Act. This paragraph is
8 exempt from the provisions of Section 2-70.

9 (40) Beginning on the effective date of this amendatory Act
10 of the 96th General Assembly, equipment used at an energy
11 facility, as that term is defined in Section 1-10 of the
12 Illinois Power Agency Act, located within the State, including
13 replacement parts and equipment and including equipment
14 purchased for lease, but excluding motor vehicles required to
15 be registered under the Illinois Vehicle Code.

16 (41) Beginning on the effective date of this amendatory Act
17 of the 96th General Assembly, feedstock used at an energy
18 facility, as that term is defined in Section 1-10 of the
19 Illinois Power Agency Act, located in this State.

20 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,
21 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;
22 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

23 Section 15-43. The Property Tax Code is amended by adding
24 Section 10-203 as follows:

1 (35 ILCS 200/10-203 new)

2 Sec. 10-203. Real property tax; energy facilities. Any real
3 property used by an energy facility, as that term is defined in
4 Section 1-10 of the Illinois Power Agency Act, may be the
5 subject of a real property tax assessment voluntarily entered
6 into between the taxpayer and thee taxing districts in which
7 the property is situated. Governing bodies and other
8 appropriate authorities, including county and State board or
9 officials, may be parties to an agreement. Any agreement may
10 provide that an assessment of the real property subject to the
11 agreement, determined in accordance with applicable valuation
12 procedures of this Code, be fixed for a term of years,
13 beginning with the assessment date of the year in which the
14 energy facility begins commercial operations. An agreement may
15 be for a term of years up to, but not exceeding, 20 years. The
16 agreement may also provide that the parties agree not to
17 challenge the assessment as provided in the agreement.

18 If an agreement is entered into between the parties after
19 the assessment date of the year in which the energy facility
20 begins commercial operations, then the agreement shall not
21 provide for a revision of assessment of the property subject to
22 the agreement for any years prior to the year in which the
23 agreement was entered into by the parties. An agreement may
24 also provide that the parties agree not to initiate revision of
25 assessments of property subject to the agreement for prior
26 assessment years not subject to the agreement for reasons

1 related to the entering into an agreement.

2 Section 15-45. The Environmental Protection Act is amended
3 by adding Section 28.7 as follows:

4 (415 ILCS 5/28.7 new)

5 Sec. 28.7. Expedited process. The rules of the Agency and
6 Board must include a process for expediting the issuance of
7 permits and licenses for projects at energy facilities, as that
8 term is used in Section 1-10 the Illinois Power Agency Act. The
9 Agency and Board may engage the experts and additional
10 resources that are reasonably necessary for implementing this
11 process. An applicant must request the use of an expedited
12 process, and any additional costs for using that process shall
13 be borne by the applicant.

14 Section 15-50. The Eminent Domain Act is amended by
15 changing Sections 5-5-5 and 15-5-5 as follows:

16 (735 ILCS 30/5-5-5)

17 Sec. 5-5-5. Exercise of the power of eminent domain; public
18 use; blight.

19 (a) In addition to all other limitations and requirements,
20 a condemning authority may not take or damage property by the
21 exercise of the power of eminent domain unless it is for a
22 public use, as set forth in this Section.

1 (a-5) Subsections (b), (c), (d), (e), and (f) of this
2 Section do not apply to the acquisition of property under the
3 O'Hare Modernization Act. A condemning authority may exercise
4 the power of eminent domain for the acquisition or damaging of
5 property under the O'Hare Modernization Act as provided for by
6 law in effect prior to the effective date of this Act.

7 (a-10) Subsections (b), (c), (d), (e), and (f) of this
8 Section do not apply to the acquisition or damaging of property
9 in furtherance of the goals and objectives of an existing tax
10 increment allocation redevelopment plan. A condemning
11 authority may exercise the power of eminent domain for the
12 acquisition of property in furtherance of an existing tax
13 increment allocation redevelopment plan as provided for by law
14 in effect prior to the effective date of this Act.

15 As used in this subsection, "existing tax increment
16 allocation redevelopment plan" means a redevelopment plan that
17 was adopted under the Tax Increment Allocation Redevelopment
18 Act (Article 11, Division 74.4 of the Illinois Municipal Code)
19 prior to April 15, 2006 and for which property assembly costs
20 were, before that date, included as a budget line item in the
21 plan or described in the narrative portion of the plan as part
22 of the redevelopment project, but does not include (i) any
23 additional area added to the redevelopment project area on or
24 after April 15, 2006, (ii) any subsequent extension of the
25 completion date of a redevelopment plan beyond the estimated
26 completion date established in that plan prior to April 15,

1 2006, (iii) any acquisition of property in a conservation area
2 for which the condemnation complaint is filed more than 12
3 years after the effective date of this Act, or (iv) any
4 acquisition of property in an industrial park conservation
5 area.

6 As used in this subsection, "conservation area" and
7 "industrial park conservation area" have the same meanings as
8 under Section 11-74.4-3 of the Illinois Municipal Code.

9 (b) If the exercise of eminent domain authority is to
10 acquire property for public ownership and control, then the
11 condemning authority must prove that (i) the acquisition of the
12 property is necessary for a public purpose and (ii) the
13 acquired property will be owned and controlled by the
14 condemning authority or another governmental entity.

15 (c) Except when the acquisition is governed by subsection
16 (b) or is primarily for one of the purposes specified in
17 subsection (d), (e), or (f) and the condemning authority elects
18 to proceed under one of those subsections, if the exercise of
19 eminent domain authority is to acquire property for private
20 ownership or control, or both, then the condemning authority
21 must prove by clear and convincing evidence that the
22 acquisition of the property for private ownership or control is
23 (i) primarily for the benefit, use, or enjoyment of the public
24 and (ii) necessary for a public purpose.

25 An acquisition of property primarily for the purpose of the
26 elimination of blight is rebuttably presumed to be for a public

1 purpose and primarily for the benefit, use, or enjoyment of the
2 public under this subsection.

3 Any challenge to the existence of blighting factors alleged
4 in a complaint to condemn under this subsection shall be raised
5 within 6 months of the filing date of the complaint to condemn,
6 and if not raised within that time the right to challenge the
7 existence of those blighting factors shall be deemed waived.

8 Evidence that the Illinois Commerce Commission has granted
9 a certificate or otherwise made a finding of public convenience
10 and necessity for an acquisition of property (or any right or
11 interest in property) for private ownership or control
12 (including, without limitation, an acquisition for which the
13 use of eminent domain is authorized under the Public Utilities
14 Act, the Telephone Company Act, or the Electric Supplier Act)
15 to be used for utility purposes creates a rebuttable
16 presumption that such acquisition of that property (or right or
17 interest in property) is (i) primarily for the benefit, use, or
18 enjoyment of the public and (ii) necessary for a public
19 purpose.

20 In the case of an acquisition of property (or any right or
21 interest in property) for private ownership or control to be
22 used for utility, pipeline, or railroad purposes for which no
23 certificate or finding of public convenience and necessity by
24 the Illinois Commerce Commission is required, evidence that the
25 acquisition is one for which the use of eminent domain is
26 authorized under one of the following laws creates a rebuttable

1 presumption that the acquisition of that property (or right or
2 interest in property) is (i) primarily for the benefit, use, or
3 enjoyment of the public and (ii) necessary for a public
4 purpose:

5 (1) the Public Utilities Act,

6 (2) the Telephone Company Act,

7 (3) the Electric Supplier Act,

8 (4) the Railroad Terminal Authority Act,

9 (5) the Grand Avenue Railroad Relocation Authority
10 Act,

11 (6) the West Cook Railroad Relocation and Development
12 Authority Act,

13 (7) Section 4-505 of the Illinois Highway Code,

14 (8) Section 17 or 18 of the Railroad Incorporation Act,

15 (9) Section 18c-7501 of the Illinois Vehicle Code, or ~~-~~

16 (10) Section 1-21 of the Illinois Power Agency Act.

17 (d) If the exercise of eminent domain authority is to
18 acquire property for private ownership or control and if the
19 primary basis for the acquisition is the elimination of blight
20 and the condemning authority elects to proceed under this
21 subsection, then the condemning authority must: (i) prove by a
22 preponderance of the evidence that acquisition of the property
23 for private ownership or control is necessary for a public
24 purpose; (ii) prove by a preponderance of the evidence that the
25 property to be acquired is located in an area that is currently
26 designated as a blighted area or conservation area under an

1 applicable statute; (iii) if the existence of blight or
2 blighting factors is challenged in an appropriate motion filed
3 within 6 months after the date of filing of the complaint to
4 condemn, prove by a preponderance of the evidence that the
5 required blighting factors existed in the area so designated
6 (but not necessarily in the particular property to be acquired)
7 at the time of the designation under item (ii) or at any time
8 thereafter; and (iv) prove by a preponderance of the evidence
9 at least one of the following:

10 (A) that it has entered into an express written
11 agreement in which a private person or entity agrees to
12 undertake a development project within the blighted area
13 that specifically details the reasons for which the
14 property or rights in that property are necessary for the
15 development project;

16 (B) that the exercise of eminent domain power and the
17 proposed use of the property by the condemning authority
18 are consistent with a regional plan that has been adopted
19 within the past 5 years in accordance with Section 5-14001
20 of the Counties Code or Section 11-12-6 of the Illinois
21 Municipal Code or with a local land resource management
22 plan adopted under Section 4 of the Local Land Resource
23 Management Planning Act; or

24 (C) that (1) the acquired property will be used in the
25 development of a project that is consistent with the land
26 uses set forth in a comprehensive redevelopment plan

1 prepared in accordance with the applicable statute
2 authorizing the condemning authority to exercise the power
3 of eminent domain and is consistent with the goals and
4 purposes of that comprehensive redevelopment plan, and (2)
5 an enforceable written agreement, deed restriction, or
6 similar encumbrance has been or will be executed and
7 recorded against the acquired property to assure that the
8 project and the use of the property remain consistent with
9 those land uses, goals, and purposes for a period of at
10 least 40 years, which execution and recording shall be
11 included as a requirement in any final order entered in the
12 condemnation proceeding.

13 The existence of an ordinance, resolution, or other
14 official act designating an area as blighted is not prima facie
15 evidence of the existence of blight. A finding by the court in
16 a condemnation proceeding that a property or area has not been
17 proven to be blighted does not apply to any other case or
18 undermine the designation of a blighted area or conservation
19 area or the determination of the existence of blight for any
20 other purpose or under any other statute, including without
21 limitation under the Tax Increment Allocation Redevelopment
22 Act (Article 11, Division 74.4 of the Illinois Municipal Code).

23 Any challenge to the existence of blighting factors alleged
24 in a complaint to condemn under this subsection shall be raised
25 within 6 months of the filing date of the complaint to condemn,
26 and if not raised within that time the right to challenge the

1 existence of those blighting factors shall be deemed waived.

2 (e) If the exercise of eminent domain authority is to
3 acquire property for private ownership or control and if the
4 primary purpose of the acquisition is one of the purposes
5 specified in item (iii) of this subsection and the condemning
6 authority elects to proceed under this subsection, then the
7 condemning authority must prove by a preponderance of the
8 evidence that: (i) the acquisition of the property is necessary
9 for a public purpose; (ii) an enforceable written agreement,
10 deed restriction, or similar encumbrance has been or will be
11 executed and recorded against the acquired property to assure
12 that the project and the use of the property remain consistent
13 with the applicable purpose specified in item (iii) of this
14 subsection for a period of at least 40 years, which execution
15 and recording shall be included as a requirement in any final
16 order entered in the condemnation proceeding; and (iii) the
17 acquired property will be one of the following:

18 (1) included in the project site for a residential
19 project, or a mixed-use project including residential
20 units, where not less than 20% of the residential units in
21 the project are made available, for at least 15 years, by
22 deed restriction, long-term lease, regulatory agreement,
23 extended use agreement, or a comparable recorded
24 encumbrance, to low-income households and very low-income
25 households, as defined in Section 3 of the Illinois
26 Affordable Housing Act;

1 (2) used primarily for public airport, road, parking,
2 or mass transportation purposes and sold or leased to a
3 private party in a sale-leaseback, lease-leaseback, or
4 similar structured financing;

5 (3) owned or used by a public utility or electric
6 cooperative for utility purposes;

7 (4) owned or used by a railroad for passenger or
8 freight transportation purposes;

9 (5) sold or leased to a private party that operates a
10 water supply, waste water, recycling, waste disposal,
11 waste-to-energy, or similar facility;

12 (6) sold or leased to a not-for-profit corporation
13 whose purposes include the preservation of open space, the
14 operation of park space, and similar public purposes;

15 (7) used as a library, museum, or related facility, or
16 as infrastructure related to such a facility;

17 (8) used by a private party for the operation of a
18 charter school open to the general public; or

19 (9) a historic resource, as defined in Section 3 of the
20 Illinois State Agency Historic Resources Preservation Act,
21 a landmark designated as such under a local ordinance, or a
22 contributing structure within a local landmark district
23 listed on the National Register of Historic Places, that is
24 being acquired for purposes of preservation or
25 rehabilitation.

26 (f) If the exercise of eminent domain authority is to

1 acquire property for public ownership and private control and
2 if the primary purpose of the acquisition is one of the
3 purposes specified in item (iii) of this subsection and the
4 condemning authority elects to proceed under this subsection,
5 then the condemning authority must prove by a preponderance of
6 the evidence that: (i) the acquisition of the property is
7 necessary for a public purpose; (ii) the acquired property will
8 be owned by the condemning authority or another governmental
9 entity; and (iii) the acquired property will be controlled by a
10 private party that operates a business or facility related to
11 the condemning authority's operation of a university, medical
12 district, hospital, exposition or convention center, mass
13 transportation facility, or airport, including, but not
14 limited to, a medical clinic, research and development center,
15 food or commercial concession facility, social service
16 facility, maintenance or storage facility, cargo facility,
17 rental car facility, bus facility, taxi facility, flight
18 kitchen, fixed based operation, parking facility, refueling
19 facility, water supply facility, and railroad tracks and
20 stations.

21 (g) This Article is a limitation on the exercise of the
22 power of eminent domain, but is not an independent grant of
23 authority to exercise the power of eminent domain.

24 (Source: P.A. 94-1055, eff. 1-1-07.)

1 Sec. 15-5-5. Eminent domain powers in ILCS Chapters 5
2 through 40. The following provisions of law may include express
3 grants of the power to acquire property by condemnation or
4 eminent domain:

5 (5 ILCS 220/3.1); Intergovernmental Cooperation Act;
6 cooperating entities; for Municipal Joint Action Water
7 Agency purposes.

8 (5 ILCS 220/3.2); Intergovernmental Cooperation Act;
9 cooperating entities; for Municipal Joint Action Agency
10 purposes.

11 (5 ILCS 585/1); National Forest Land Act; United States of
12 America; for national forests.

13 (15 ILCS 330/2); Secretary of State Buildings in Cook County
14 Act; Secretary of State; for office facilities in Cook
15 County.

16 (20 ILCS 5/5-675); Civil Administrative Code of Illinois; the
17 Secretary of Transportation, the Director of Natural
18 Resources, and the Director of Central Management
19 Services; for lands, buildings, and grounds for which an
20 appropriation is made by the General Assembly.

21 (20 ILCS 620/9); Economic Development Area Tax Increment
22 Allocation Act; municipalities; to achieve the objectives
23 of the economic development project.

24 (20 ILCS 685/1); Particle Accelerator Land Acquisition Act;
25 Department of Commerce and Economic Opportunity; for a

1 federal high energy BEV Particle Accelerator.

2 (20 ILCS 835/2); State Parks Act; Department of Natural
3 Resources; for State parks.

4 (20 ILCS 1110/3); Illinois Coal and Energy Development Bond
5 Act; Department of Commerce and Economic Opportunity; for
6 coal projects.

7 (20 ILCS 1920/2.06); Abandoned Mined Lands and Water
8 Reclamation Act; Department of Natural Resources; for
9 reclamation purposes.

10 (20 ILCS 1920/2.08); Abandoned Mined Lands and Water
11 Reclamation Act; Department of Natural Resources; for
12 reclamation purposes and for the construction or
13 rehabilitation of housing.

14 (20 ILCS 1920/2.11); Abandoned Mined Lands and Water
15 Reclamation Act; Department of Natural Resources; for
16 eliminating hazards.

17 (20 ILCS 3105/9.08a); Capital Development Board Act; Capital
18 Development Board; for lands, buildings and grounds for
19 which an appropriation is made by the General Assembly.

20 (20 ILCS 3110/5); Building Authority Act; Capital Development
21 Board; for purposes declared by the General Assembly to be
22 in the public interest.

23 (20 ILCS 3855/1-21) Illinois Power Agency Act; Illinois Power
24 Agency; for construction, maintenance, and operations of
25 energy facilities, and for the purpose of acquiring
26 easements for the delivery, transportation, and storage of

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