



Sen. James F. Clayborne Jr.

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09600SB1823sam001

LRB096 11157 MJR 24291 a

1 AMENDMENT TO SENATE BILL 1823

2 AMENDMENT NO. _____. Amend Senate Bill 1823 by replacing
3 everything after the enacting clause with the following:

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.

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

2 Section 5-10. Creation. An advisory commission, to be known
3 as the Carbon Capture and Sequestration Legislation
4 Commission, is created. The Commission shall consist of 16
5 members, including the Director, who shall serve as the
6 ex-officio chairperson of the Commission. The remaining 15
7 members of the Commission shall be appointed as follows: 3
8 members shall be appointed by the Speaker of the House of
9 Representatives, 3 members shall be appointed by the President
10 of the Senate, 2 members shall be appointed by the Minority
11 Leader of the House of Representatives, 2 members shall be
12 appointed by the Minority Leader of the Senate, and 5 members
13 shall be appointed by the Governor. The appointments made by
14 the Governor shall include one member with expertise in
15 geology, one member with expertise in civil law, one member
16 with expertise in pipeline technology, one member with
17 expertise in energy-related engineering, and one member with
18 expertise in environmental science.

19 Section 5-15. Report on carbon capture and sequestration
20 legislation.

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

- 1 (1) Ownership of the CO₂.
- 2 (2) Liability for release of CO₂.
- 3 (3) Acquisition and ownership of pore space.
- 4 (4) Procedures and safeguards for the transportation
5 and sequestration of CO₂.
- 6 (5) Methodology to establish any necessary fees,
7 costs, or offsets.
- 8 (6) Potential use of CO₂.
- 9 (7) Construction of pipelines.
- 10 (8) Coordination with applicable federal law or
11 regulatory commissions.
- 12 (b) The Commission shall be abolished upon filing its
13 report with the General Assembly.

14 Section 5-20. Repealer. This Article is repealed on January
15 1, 2011.

16 Article 7.

17 Section 7-1. Short title. This Article may be cited as the
18 Renewable Energy Production District Law.

19 Section 7-5. Definition. "Renewable energy facility" means
20 a generator powered by solar electric energy, wind, dedicated
21 crops grown for electricity generation, anaerobic digestion of
22 livestock or food processing waste, fuel cells or microturbines

1 powered by renewable fuels, or hydroelectric energy.

2 Section 7-10. Renewable energy production district. Any
3 area within the boundaries of a single county may be
4 incorporated as a renewable energy production district.

5 Fifty or more of the legal voters resident within the
6 limits of the proposed district or a majority if there are
7 fewer than 100 legal voters, may petition the circuit court for
8 the county in which the proposed district is located to cause
9 the question to be submitted to the legal voters of the
10 proposed district whether the proposed territory shall be
11 organized as a renewable energy production district under this
12 Law. The petition shall be addressed to the court and shall
13 contain a definite description of the boundaries of the
14 territory to be embraced in the proposed district and the name
15 of the proposed district. The territory incorporated in any
16 district formed under this Law shall be contiguous and may
17 contain any territory not previously included in any renewable
18 energy production district.

19 Upon filing a petition, in the office of the circuit clerk
20 of the county in which the petition is made, the court shall
21 consider the boundaries of the renewable energy production
22 district whether the same shall be those stated in the petition
23 or otherwise.

24 Notice shall be given by the court of the time and place of
25 a hearing upon the subject of the petition. The notice shall be

1 inserted in one or more daily or weekly papers published within
2 the proposed renewable energy production district or, if no
3 daily or weekly newspaper is published within the proposed
4 renewable energy production district, then by posting at least
5 10 copies in the proposed district at least 20 days before the
6 meeting in conspicuous places as far separated from each other
7 as consistently possible.

8 At the hearing, all persons in the proposed renewable
9 energy production district shall have an opportunity to be
10 heard touching the location and boundary of the proposed
11 district and make suggestions regarding the same, and the
12 court, after hearing statements, evidence, and suggestions,
13 shall fix and determine the limits and boundaries of the
14 proposed district, and for that purpose and to that extent, may
15 alter and amend the petition. After the determination by the
16 court the limits and boundaries shall be incorporated in an
17 order, and the order shall be filed in the records of the
18 court. Upon the entering of the order, the court shall certify
19 the order and the proposition to the proper election officials,
20 who shall submit the proposition to the voters at an election
21 in accordance with the general election law. In addition to the
22 requirements of the general election law, notice of the
23 referendum shall include a description of the proposed district
24 and the name of the proposed district.

25 The proposition shall be in substantially the following
26 form:

1 Shall a renewable energy production district be
2 incorporated?

3 Votes shall be recorded as "YES" or "NO".

4 The court shall cause a statement of the results of the
5 election to be filed in the records of the court. If a majority
6 of the votes cast upon the question are in favor of the
7 incorporation of the proposed renewable energy production
8 district, the district shall thenceforth be an organized
9 renewable energy production district under this Act, and the
10 court shall enter an order accordingly and cause the same to be
11 filed in the records of the court and shall also cause to be
12 sent to the county clerk a certified copy of the order
13 organizing the district.

14 Section 7-15. Board of trustees. A renewable energy
15 production district shall be governed by a board of trustees.
16 The board of trustees shall consist of 5 members. Within 90
17 days after the order is entered organizing the district, the
18 county board in which the renewable energy production district
19 is located shall appoint the members of the board. The members
20 of the board shall serve for a period of 5 years. Vacancies
21 shall be filled in the same manner as appointments. The members
22 of the board shall annually elect one member to serve as the
23 chairperson. Members of the board shall serve without
24 compensation but may receive the reasonable cost of their
25 travel expenses.

1 "Agency" means the Illinois Power Agency.

2 "Agency loan agreement" means any agreement pursuant to
3 which the Illinois Finance Authority agrees to loan the
4 proceeds of revenue bonds issued with respect to a project to
5 the Agency upon terms providing for loan repayment installments
6 at least sufficient to pay when due all principal of, interest
7 and premium, if any, on those revenue bonds, and providing for
8 maintenance, insurance, and other matters in respect of the
9 project.

10 "Authority" means the Illinois Finance Authority.

11 "Clean coal facility" means an electric generating
12 facility that uses primarily coal as a feedstock and that
13 captures and sequesters carbon emissions at the following
14 levels: at least 50% of the total carbon emissions that the
15 facility would otherwise emit if, at the time construction
16 commences, the facility is scheduled to commence operation
17 before 2016, at least 70% of the total carbon emissions that
18 the facility would otherwise emit if, at the time construction
19 commences, the facility is scheduled to commence operation
20 during 2016 or 2017, and at least 90% of the total carbon
21 emissions that the facility would otherwise emit if, at the
22 time construction commences, the facility is scheduled to
23 commence operation after 2017. The power block of the clean
24 coal facility shall not exceed allowable emission rates for
25 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
26 and mercury for a natural gas-fired combined-cycle facility the

1 same size as and in the same location as the clean coal
2 facility at the time the clean coal facility obtains an
3 approved air permit. All coal used by a clean coal facility
4 shall have high volatile bituminous rank and greater than 1.7
5 pounds of sulfur per million btu content, unless the clean coal
6 facility does not use gasification technology and was operating
7 as a conventional coal-fired electric generating facility on
8 June 1, 2009 (the effective date of Public Act 95-1027).

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

15 "Coal to liquid facility" means a facility that produces
16 fuels by processes that convert coal, waste coal, or biomass
17 resources or extract oil from oil shale to produce fuels for
18 powering vehicles, aircraft, and machinery and that sequesters
19 carbon emissions consistent with federal and State standards.

20 These fuels may include, but are not limited to, petroleum, jet
21 fuel, gasoline, diesel fuel, hydrogen derived from coal, and
22 diesel fuel and ethanol derived from biomass resources.

23 "Biomass resources" means any organic matter that is available
24 on a renewable or recurring basis, including (1) agricultural
25 crops and trees, (2) wood and wood residues, (3) plants,
26 aquatic plants, and plant oils, (4) grasses, (5) animal fats

1 and animal by-products, (6) animal manure, (7) residue
2 materials, and (8) waste products.

3 "Commission" means the Illinois Commerce Commission.

4 "Costs incurred in connection with the development and
5 construction of a facility" means:

6 (1) the cost of acquisition of all real property and
7 improvements in connection therewith and equipment and
8 other property, rights, and easements acquired that are
9 deemed necessary for the operation and maintenance of the
10 facility;

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

13 (3) all origination, commitment, utilization,
14 facility, placement, underwriting, syndication, credit
15 enhancement, and rating agency fees;

16 (4) engineering, design, procurement, consulting,
17 legal, accounting, title insurance, survey, appraisal,
18 escrow, trustee, collateral agency, interest rate hedging,
19 interest rate swap, capitalized interest and other
20 financing costs, and other expenses for professional
21 services; and

22 (5) the costs of plans, specifications, site study and
23 investigation, installation, surveys, other Agency costs
24 and estimates of costs, and other expenses necessary or
25 incidental to determining the feasibility of any project,
26 together with such other expenses as may be necessary or

1 incidental to the financing, insuring, acquisition, and
2 construction of a specific project and placing that project
3 in operation.

4 "Department" means the Department of Commerce and Economic
5 Opportunity.

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

7 "Demand-response" means measures that decrease peak
8 electricity demand or shift demand from peak to off-peak
9 periods.

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

12 "Energy facility" includes a clean coal power facility, a
13 clean coal SNG facility, a nuclear facility, a facility that
14 produces renewable energy, including, but not limited to, wind,
15 solar, and biomass, lines for the transmission of electric
16 power, smart-grid equipment and facilities, a fossil
17 fuel-fired electric generation facility existing on the
18 effective date of this amendatory Act of the 96th General
19 Assembly that is regulated and in compliance with Subparts C,
20 D, and E of Title 35 of the Illinois Administrative Code, a
21 coal to liquid facility, a refinery to produce fuel or energy,
22 common carriers by pipeline that transport oil or gas to or
23 from refineries in Illinois, and a coal mine or a facility for
24 the exploration or production of oil or gas, and all linear
25 facilities, including railroads, road pipelines, or
26 transmission lines necessary to the operation of that facility.

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

3 "Facility", when used in reference to an electric
4 generation facility, means an electric generating unit or a
5 co-generating unit that produces electricity along with
6 related equipment necessary to connect the facility to an
7 electric transmission or distribution system.

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

10 "Governmental aggregator" means one or more units of local
11 government that individually or collectively procure
12 electricity to serve residential retail electrical loads
13 located within its or their jurisdiction.

14 "Local government" means a unit of local government as
15 defined in Article VII of Section 1 of the Illinois
16 Constitution.

17 "Municipality" means a city, village, or incorporated
18 town.

19 "Person" means any natural person, firm, partnership,
20 corporation, either domestic or foreign, company, association,
21 limited liability company, joint stock company, or association
22 and includes any trustee, receiver, assignee, or personal
23 representative thereof.

24 "Project" means the planning, bidding, and construction of
25 a facility.

26 "Public utility" has the same definition as found in

1 Section 3-105 of the Public Utilities Act.

2 "Real property" means any interest in land together with
3 all structures, fixtures, and improvements thereon, including
4 lands under water and riparian rights, any easements,
5 covenants, licenses, leases, rights-of-way, uses, and other
6 interests, together with any liens, judgments, mortgages, or
7 other claims or security interests related to real property.

8 "Renewable energy credit" means a tradable credit that
9 represents the environmental attributes of a certain amount of
10 energy produced from a renewable energy resource.

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

1 "Revenue bond" means any bond, note, or other evidence of
2 indebtedness issued by the Authority, the principal and
3 interest of which is payable solely from revenues or income
4 derived from any project or activity of the Agency.

5 "Sequester" means permanent storage of carbon dioxide by
6 injecting it into a saline aquifer, a depleted gas reservoir,
7 or an oil reservoir, directly or through an enhanced oil
8 recovery process that may involve intermediate storage in a
9 salt dome.

10 "Servicing agreement" means (i) in the case of an electric
11 utility, an agreement between the owner of a clean coal
12 facility and such electric utility, which agreement shall have
13 terms and conditions meeting the requirements of paragraph (3)
14 of subsection (d) of Section 1-75, and (ii) in the case of an
15 alternative retail electric supplier, an agreement between the
16 owner of a clean coal facility and such alternative retail
17 electric supplier, which agreement shall have terms and
18 conditions meeting the requirements of Section 16-115(d) (5) of
19 the Public Utilities Act.

20 "Substitute natural gas" or "SNG" means a gas manufactured
21 by gasification of hydrocarbon feedstock, which is
22 substantially interchangeable in use and distribution with
23 conventional natural gas.

24 "Total resource cost test" or "TRC test" means a standard
25 that is met if, for an investment in energy efficiency or
26 demand-response measures, the benefit-cost ratio is greater

1 than one. The benefit-cost ratio is the ratio of the net
2 present value of the total benefits of the program to the net
3 present value of the total costs as calculated over the
4 lifetime of the measures. A total resource cost test compares
5 the sum of avoided electric utility costs, representing the
6 benefits that accrue to the system and the participant in the
7 delivery of those efficiency measures, to the sum of all
8 incremental costs of end-use measures that are implemented due
9 to the program (including both utility and participant
10 contributions), plus costs to administer, deliver, and
11 evaluate each demand-side program, to quantify the net savings
12 obtained by substituting the demand-side program for supply
13 resources. In calculating avoided costs of power and energy
14 that an electric utility would otherwise have had to acquire,
15 reasonable estimates shall be included of financial costs
16 likely to be imposed by future regulations and legislation on
17 emissions of greenhouse gases.

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

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

20 Sec. 1-10. Definitions.

21 "Agency" means the Illinois Power Agency.

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23 which the Illinois Finance Authority agrees to loan the
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22 same size as and in the same location as the clean coal
23 facility at the time the clean coal facility obtains an
24 approved air permit. All coal used by a clean coal facility
25 shall have high volatile bituminous rank and greater than 1.7
26 pounds of sulfur per million btu content, unless the clean coal

1 facility does not use gasification technology and was operating
2 as a conventional coal-fired electric generating facility on
3 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
4 ~~amendatory Act of the 95th General Assembly.~~

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23 than one. The benefit-cost ratio is the ratio of the net
24 present value of the total benefits of the program to the net
25 present value of the total costs as calculated over the
26 lifetime of the measures. A total resource cost test compares

1 the sum of avoided electric utility costs, representing the
2 benefits that accrue to the system and the participant in the
3 delivery of those efficiency measures, to the sum of all
4 incremental costs of end-use measures that are implemented due
5 to the program (including both utility and participant
6 contributions), plus costs to administer, deliver, and
7 evaluate each demand-side program, to quantify the net savings
8 obtained by substituting the demand-side program for supply
9 resources. In calculating avoided costs of power and energy
10 that an electric utility would otherwise have had to acquire,
11 reasonable estimates shall be included of financial costs
12 likely to be imposed by future regulations and legislation on
13 emissions of greenhouse gases.

14 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
15 95-1027, eff. 6-1-09; revised 1-14-09.)

16 (20 ILCS 3855/1-21)

17 Sec. 1-21. Eminent domain. The Agency may take and acquire
18 possession by eminent domain of any property or interest in
19 property that the Agency is authorized to acquire under this
20 Act for the construction, maintenance, or operation of an
21 energy ~~a~~ facility with the consent in writing of the Governor,
22 after following the provisions of Section 1-85(a) of this Act,
23 to acquire by private purchase, or by condemnation in the
24 manner provided for the exercise of the power of eminent domain
25 under the Eminent Domain Act. The power of condemnation shall

1 be exercised, however, solely for the purposes of one or more
2 of the following: siting, rights of way, and easements
3 appurtenant. In addition, the Agency may acquire by eminent
4 domain permanent easements for the delivery, transportation,
5 and storage of CO₂ and may lease those easements to any energy
6 facility on reasonable terms and conditions, as determined by
7 the Agency. The Agency shall not exercise its powers of
8 condemnation until it has used reasonable good faith efforts to
9 acquire the property before filing a petition for condemnation
10 and may thereafter use those powers when it determines that the
11 condemnation of the property rights is necessary to avoid
12 unreasonable delay or economic hardship to the progress of
13 activities carried out in the exercise of powers granted under
14 this Act. Before use of the power of condemnation for projects,
15 the Agency shall hold a public hearing to receive comments on
16 the exercise of the power of condemnation. The Agency shall use
17 the information received at the hearing in making its final
18 decision on the exercise of the power of condemnation. The
19 hearing shall be held in a location reasonably accessible to
20 the public interested in the decision. The Agency shall
21 promulgate guidelines for the conduct of the hearing. The
22 Agency shall conduct a feasibility study showing that the
23 taking is necessary to accomplish the purposes of this Act and
24 that is adequate to meet the environmental standards set forth
25 by the State and the federal governments. The Agency may not
26 exercise the authority provided in Article 20 of the Eminent

1 Domain Act (quick-take procedure) providing for immediate
2 possession in those proceedings. The Agency does not have the
3 power to exercise eminent domain over the property of any
4 public utility or any person owning an electric generating
5 plant.

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

7 (20 ILCS 3855/1-80)

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

9 Sec. 1-80. Resource Development Bureau. The Resource
10 Development Bureau has the following duties and
11 responsibilities:

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

15 (i) fees assessed by the Agency on municipal
16 electric systems, governmental aggregators, unit or
17 units of local government, or rural electric
18 cooperatives requesting the feasibility study; or

19 (ii) an appropriation from the General Assembly.

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

25 (c) The Agency may develop, finance, construct, or

1 operate electric generation and co-generation facilities
2 that use indigenous coal or renewable resources, or both,
3 financed with bonds issued by the Authority on behalf of
4 the Agency. Any such facility that uses coal must be a
5 clean coal facility and must be constructed in a location
6 where the geology is suitable for carbon sequestration. The
7 Agency may also develop, finance, construct, or operate a
8 carbon sequestration facility, including necessary
9 pipelines, transmission lines, or both. Preference shall
10 be given to technologies that enable carbon capture and
11 sites in locations where the geology is suitable for carbon
12 sequestration.

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

24 (2) The Agency shall hold at least one public
25 hearing before entering into any such contractual
26 arrangements. At least 30-days' notice of the hearing

1 shall be given by publication once in each week during
2 that period in 6 newspapers within the State, at least
3 one of which has a circulation area that includes the
4 location of the proposed facility.

5 (3) The first facility that the Agency develops,
6 finances, or constructs shall be a facility that uses
7 coal produced in Illinois. The Agency may, however,
8 also develop, finance, or construct renewable energy
9 facilities after work on the first facility has
10 commenced.

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

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

15 (d) Use of electricity generated by the Agency's
16 facilities. The Agency may supply electricity produced by
17 the Agency's facilities to municipal electric systems,
18 governmental aggregators, or rural electric cooperatives
19 in Illinois. The electricity shall be supplied at cost.

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

23 (2) The contracts shall also provide that,
24 notwithstanding any provision in the Public Utilities
25 Act, entities supplied with power and energy from an
26 Agency facility shall supply the power and energy to

1 retail customers at the same price paid to purchase
2 power and energy from the Agency.

3 (e) Electric utilities shall not be required to purchase
4 electricity directly or indirectly from facilities developed
5 or sponsored by the Agency.

6 (f) The Agency may sell excess capacity and excess energy
7 into the wholesale electric market at prevailing market rates;
8 provided, however, the Agency may not sell excess capacity or
9 excess energy through the procurement process described in
10 Section 16-111.5 of the Public Utilities Act.

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

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

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

17 Sec. 1-80. Resource Development Bureau. The Resource
18 Development Bureau has the following duties and
19 responsibilities:

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

23 (i) fees assessed by the Agency on municipal
24 electric systems, governmental aggregators, unit or
25 units of local government, or rural electric

1 cooperatives requesting the feasibility study; or

2 (ii) an appropriation from the General Assembly.

3 (b) If the Agency undertakes the construction of a
4 facility, moneys generated from the sale of revenue bonds
5 by the Authority for the facility shall be used to
6 reimburse the source of the money used for the facility's
7 feasibility study.

8 (c) The Agency may develop, finance, construct, or
9 operate electric generation and co-generation facilities
10 that use indigenous coal or renewable resources, or both,
11 financed with bonds issued by the Authority on behalf of
12 the Agency. Any such facility that uses coal must be a
13 clean coal facility and must be constructed in a location
14 where the geology is suitable for carbon sequestration. The
15 Agency may also develop, finance, construct, or operate a
16 carbon sequestration facility, including necessary
17 pipelines, transmission lines, or both.

18 (1) The Agency may enter into contractual
19 arrangements with private and public entities,
20 including but not limited to municipal electric
21 systems, governmental aggregators, and rural electric
22 cooperatives, to plan, site, construct, improve,
23 rehabilitate, and operate those electric generation
24 and co-generation facilities. No contract shall be
25 entered into by the Agency that would jeopardize the
26 tax-exempt status of any bond issued in connection with

1 a project for which the Agency entered into the
2 contract.

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

10 (3) The first facility that the Agency develops,
11 finances, or constructs shall be a facility that uses
12 coal produced in Illinois. The Agency may, however,
13 also develop, finance, or construct renewable energy
14 facilities after work on the first facility has
15 commenced.

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

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

20 (d) Use of electricity generated by the Agency's
21 facilities. The Agency may supply electricity produced by
22 the Agency's facilities to municipal electric systems,
23 governmental aggregators, or rural electric cooperatives
24 in Illinois. The electricity shall be supplied at cost.

25 (1) Contracts to supply power and energy from the
26 Agency's facilities shall provide for the effectuation

1 of the policies set forth in this Act.

2 (2) The contracts shall also provide that,
3 notwithstanding any provision in the Public Utilities
4 Act, entities supplied with power and energy from an
5 Agency facility shall supply the power and energy to
6 retail customers at the same price paid to purchase
7 power and energy from the Agency.

8 (e) Electric utilities shall not be required to purchase
9 electricity directly or indirectly from facilities developed
10 or sponsored by the Agency.

11 (f) The Agency may sell excess capacity and excess energy
12 into the wholesale electric market at prevailing market rates;
13 provided, however, the Agency may not sell excess capacity or
14 excess energy through the procurement process described in
15 Section 16-111.5 of the Public Utilities Act.

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

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

21 Section 10-10. The Public Utilities Act is amended by
22 changing Sections 8-406, 9-220, and 15-401 and by adding
23 Section 4-105 as follows:

24 (220 ILCS 5/4-105 new)

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

11 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

12 Sec. 8-406. Certificate of public convenience and
13 necessity.

14 (a) No public utility not owning any city or village
15 franchise nor engaged in performing any public service or in
16 furnishing any product or commodity within this State as of
17 July 1, 1921 and not possessing a certificate of public
18 convenience and necessity from the Illinois Commerce
19 Commission, the State Public Utilities Commission or the Public
20 Utilities Commission, at the time this amendatory Act of 1985
21 goes into effect, shall transact any business in this State
22 until it shall have obtained a certificate from the Commission
23 that public convenience and necessity require the transaction
24 of such business.

25 (b) No public utility shall begin the construction of any

1 new plant, equipment, property or facility which is not in
2 substitution of any existing plant, equipment, property or
3 facility or any extension or alteration thereof or in addition
4 thereto, unless and until it shall have obtained from the
5 Commission a certificate that public convenience and necessity
6 require such construction. Whenever after a hearing the
7 Commission determines that any new construction or the
8 transaction of any business by a public utility will promote
9 the public convenience and is necessary thereto, it shall have
10 the power to issue certificates of public convenience and
11 necessity. The Commission shall determine that proposed
12 construction will promote the public convenience and necessity
13 only if the utility demonstrates: (1) that the proposed
14 construction is necessary to provide adequate, reliable, and
15 efficient service to its customers and is the least-cost means
16 of satisfying the service needs of its customers or that the
17 proposed construction will promote the development of an
18 effectively competitive electricity market that operates
19 efficiently, is equitable to all customers, and is the least
20 cost means of satisfying those objectives; (2) that the utility
21 is capable of efficiently managing and supervising the
22 construction process and has taken sufficient action to ensure
23 adequate and efficient construction and supervision thereof;
24 and (3) that the utility is capable of financing the proposed
25 construction without significant adverse financial
26 consequences for the utility or its customers.

1 (c) (Blank). ~~After the effective date of this amendatory~~
2 ~~Act of 1987, no construction shall commence on any new nuclear~~
3 ~~power plant to be located within this State, and no certificate~~
4 ~~of public convenience and necessity or other authorization~~
5 ~~shall be issued therefor by the Commission, until the Director~~
6 ~~of the Illinois Environmental Protection Agency finds that the~~
7 ~~United States Government, through its authorized agency, has~~
8 ~~identified and approved a demonstrable technology or means for~~
9 ~~the disposal of high level nuclear waste, or until such~~
10 ~~construction has been specifically approved by a statute~~
11 ~~enacted by the General Assembly.~~

12 ~~As used in this Section, "high level nuclear waste" means~~
13 ~~those aqueous wastes resulting from the operation of the first~~
14 ~~cycle of the solvent extraction system or equivalent and the~~
15 ~~concentrated wastes of the subsequent extraction cycles or~~
16 ~~equivalent in a facility for reprocessing irradiated reactor~~
17 ~~fuel and shall include spent fuel assemblies prior to fuel~~
18 ~~reprocessing.~~

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

23 (e) The Commission may issue a temporary certificate which
24 shall remain in force not to exceed one year in cases of
25 emergency, to assure maintenance of adequate service or to
26 serve particular customers, without notice or hearing, pending

1 the determination of an application for a certificate, and may
2 by regulation exempt from the requirements of this Section
3 temporary acts or operations for which the issuance of a
4 certificate will not be required in the public interest.

5 A public utility shall not be required to obtain but may
6 apply for and obtain a certificate of public convenience and
7 necessity pursuant to this Section with respect to any matter
8 as to which it has received the authorization or order of the
9 Commission under the Electric Supplier Act, and any such
10 authorization or order granted a public utility by the
11 Commission under that Act shall as between public utilities be
12 deemed to be, and shall have except as provided in that Act the
13 same force and effect as, a certificate of public convenience
14 and necessity issued pursuant to this Section.

15 No electric cooperative shall be made or shall become a
16 party to or shall be entitled to be heard or to otherwise
17 appear or participate in any proceeding initiated under this
18 Section for authorization of power plant construction and as to
19 matters as to which a remedy is available under The Electric
20 Supplier Act.

21 (f) Such certificates may be altered or modified by the
22 Commission, upon its own motion or upon application by the
23 person or corporation affected. Unless exercised within a
24 period of 2 years from the grant thereof authority conferred by
25 a certificate of convenience and necessity issued by the
26 Commission shall be null and void.

1 No certificate of public convenience and necessity shall be
2 construed as granting a monopoly or an exclusive privilege,
3 immunity or franchise.

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

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

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

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

8 (a) Notwithstanding the provisions of Section 9-201, the
9 Commission may authorize the increase or decrease of rates and
10 charges based upon changes in the cost of fuel used in the
11 generation or production of electric power, changes in the cost
12 of purchased power, or changes in the cost of purchased gas
13 through the application of fuel adjustment clauses or purchased
14 gas adjustment clauses. The Commission may also authorize the
15 increase or decrease of rates and charges based upon
16 expenditures or revenues resulting from the purchase or sale of
17 emission allowances created under the federal Clean Air Act
18 Amendments of 1990, through such fuel adjustment clauses, as a
19 cost of fuel. For the purposes of this paragraph, cost of fuel
20 used in the generation or production of electric power shall
21 include the amount of any fees paid by the utility for the
22 implementation and operation of a process for the
23 desulfurization of the flue gas when burning high sulfur coal
24 at any location within the State of Illinois irrespective of
25 the attainment status designation of such location; but shall

1 not include transportation costs of coal (i) except to the
2 extent that for contracts entered into on and after the
3 effective date of this amendatory Act of 1997, the cost of the
4 coal, including transportation costs, constitutes the lowest
5 cost for adequate and reliable fuel supply reasonably available
6 to the public utility in comparison to the cost, including
7 transportation costs, of other adequate and reliable sources of
8 fuel supply reasonably available to the public utility, or (ii)
9 except as otherwise provided in the next 3 sentences of this
10 paragraph. Such costs of fuel shall, when requested by a
11 utility or at the conclusion of the utility's next general
12 electric rate proceeding, whichever shall first occur, include
13 transportation costs of coal purchased under existing coal
14 purchase contracts. For purposes of this paragraph "existing
15 coal purchase contracts" means contracts for the purchase of
16 coal in effect on the effective date of this amendatory Act of
17 1991, as such contracts may thereafter be amended, but only to
18 the extent that any such amendment does not increase the
19 aggregate quantity of coal to be purchased under such contract.
20 Nothing herein shall authorize an electric utility to recover
21 through its fuel adjustment clause any amounts of
22 transportation costs of coal that were included in the revenue
23 requirement used to set base rates in its most recent general
24 rate proceeding. Cost shall be based upon uniformly applied
25 accounting principles. Annually, the Commission shall initiate
26 public hearings to determine whether the clauses reflect actual

1 costs of fuel, gas, power, or coal transportation purchased to
2 determine whether such purchases were prudent, and to reconcile
3 any amounts collected with the actual costs of fuel, power,
4 gas, or coal transportation prudently purchased. In each such
5 proceeding, the burden of proof shall be upon the utility to
6 establish the prudence of its cost of fuel, power, gas, or coal
7 transportation purchases and costs. The Commission shall issue
8 its final order in each such annual proceeding for an electric
9 utility by December 31 of the year immediately following the
10 year to which the proceeding pertains, provided, that the
11 Commission shall issue its final order with respect to such
12 annual proceeding for the years 1996 and earlier by December
13 31, 1998.

14 (b) A public utility providing electric service, other than
15 a public utility described in subsections (e) or (f) of this
16 Section, may at any time during the mandatory transition period
17 file with the Commission proposed tariff sheets that eliminate
18 the public utility's fuel adjustment clause and adjust the
19 public utility's base rate tariffs by the amount necessary for
20 the base fuel component of the base rates to recover the public
21 utility's average fuel and power supply costs per kilowatt-hour
22 for the 2 most recent years for which the Commission has issued
23 final orders in annual proceedings pursuant to subsection (a),
24 where the average fuel and power supply costs per kilowatt-hour
25 shall be calculated as the sum of the public utility's prudent
26 and allowable fuel and power supply costs as found by the

1 Commission in the 2 proceedings divided by the public utility's
2 actual jurisdictional kilowatt-hour sales for those 2 years.
3 Notwithstanding any contrary or inconsistent provisions in
4 Section 9-201 of this Act, in subsection (a) of this Section or
5 in any rules or regulations promulgated by the Commission
6 pursuant to subsection (g) of this Section, the Commission
7 shall review and shall by order approve, or approve as
8 modified, the proposed tariff sheets within 60 days after the
9 date of the public utility's filing. The Commission may modify
10 the public utility's proposed tariff sheets only to the extent
11 the Commission finds necessary to achieve conformance to the
12 requirements of this subsection (b). During the 5 years
13 following the date of the Commission's order, but in any event
14 no earlier than January 1, 2007, a public utility whose fuel
15 adjustment clause has been eliminated pursuant to this
16 subsection shall not file proposed tariff sheets seeking, or
17 otherwise petition the Commission for, reinstatement of a fuel
18 adjustment clause.

19 (c) Notwithstanding any contrary or inconsistent
20 provisions in Section 9-201 of this Act, in subsection (a) of
21 this Section or in any rules or regulations promulgated by the
22 Commission pursuant to subsection (g) of this Section, a public
23 utility providing electric service, other than a public utility
24 described in subsection (e) or (f) of this Section, may at any
25 time during the mandatory transition period file with the
26 Commission proposed tariff sheets that establish the rate per

1 kilowatt-hour to be applied pursuant to the public utility's
2 fuel adjustment clause at the average value for such rate
3 during the preceding 24 months, provided that such average rate
4 results in a credit to customers' bills, without making any
5 revisions to the public utility's base rate tariffs. The
6 proposed tariff sheets shall establish the fuel adjustment rate
7 for a specific time period of at least 3 years but not more
8 than 5 years, provided that the terms and conditions for any
9 reinstatement earlier than 5 years shall be set forth in the
10 proposed tariff sheets and subject to modification or approval
11 by the Commission. The Commission shall review and shall by
12 order approve the proposed tariff sheets if it finds that the
13 requirements of this subsection are met. The Commission shall
14 not conduct the annual hearings specified in the last 3
15 sentences of subsection (a) of this Section for the utility for
16 the period that the factor established pursuant to this
17 subsection is in effect.

18 (d) A public utility providing electric service, or a
19 public utility providing gas service may file with the
20 Commission proposed tariff sheets that eliminate the public
21 utility's fuel or purchased gas adjustment clause and adjust
22 the public utility's base rate tariffs to provide for recovery
23 of power supply costs or gas supply costs that would have been
24 recovered through such clause; provided, that the provisions of
25 this subsection (d) shall not be available to a public utility
26 described in subsections (e) or (f) of this Section to

1 eliminate its fuel adjustment clause. Notwithstanding any
2 contrary or inconsistent provisions in Section 9-201 of this
3 Act, in subsection (a) of this Section, or in any rules or
4 regulations promulgated by the Commission pursuant to
5 subsection (g) of this Section, the Commission shall review and
6 shall by order approve, or approve as modified in the
7 Commission's order, the proposed tariff sheets within 240 days
8 after the date of the public utility's filing. The Commission's
9 order shall approve rates and charges that the Commission,
10 based on information in the public utility's filing or on the
11 record if a hearing is held by the Commission, finds will
12 recover the reasonable, prudent and necessary jurisdictional
13 power supply costs or gas supply costs incurred or to be
14 incurred by the public utility during a 12 month period found
15 by the Commission to be appropriate for these purposes,
16 provided, that such period shall be either (i) a 12 month
17 historical period occurring during the 15 months ending on the
18 date of the public utility's filing, or (ii) a 12 month future
19 period ending no later than 15 months following the date of the
20 public utility's filing. The public utility shall include with
21 its tariff filing information showing both (1) its actual
22 jurisdictional power supply costs or gas supply costs for a 12
23 month historical period conforming to (i) above and (2) its
24 projected jurisdictional power supply costs or gas supply costs
25 for a future 12 month period conforming to (ii) above. If the
26 Commission's order requires modifications in the tariff sheets

1 filed by the public utility, the public utility shall have 7
2 days following the date of the order to notify the Commission
3 whether the public utility will implement the modified tariffs
4 or elect to continue its fuel or purchased gas adjustment
5 clause in force as though no order had been entered. The
6 Commission's order shall provide for any reconciliation of
7 power supply costs or gas supply costs, as the case may be, and
8 associated revenues through the date that the public utility's
9 fuel or purchased gas adjustment clause is eliminated. During
10 the 5 years following the date of the Commission's order, a
11 public utility whose fuel or purchased gas adjustment clause
12 has been eliminated pursuant to this subsection shall not file
13 proposed tariff sheets seeking, or otherwise petition the
14 Commission for, reinstatement or adoption of a fuel or
15 purchased gas adjustment clause. Nothing in this subsection (d)
16 shall be construed as limiting the Commission's authority to
17 eliminate a public utility's fuel adjustment clause or
18 purchased gas adjustment clause in accordance with any other
19 applicable provisions of this Act.

20 (e) Notwithstanding any contrary or inconsistent
21 provisions in Section 9-201 of this Act, in subsection (a) of
22 this Section, or in any rules promulgated by the Commission
23 pursuant to subsection (g) of this Section, a public utility
24 providing electric service to more than 1,000,000 customers in
25 this State may, within the first 6 months after the effective
26 date of this amendatory Act of 1997, file with the Commission

1 proposed tariff sheets that eliminate, effective January 1,
2 1997, the public utility's fuel adjustment clause without
3 adjusting its base rates, and such tariff sheets shall be
4 effective upon filing. To the extent the application of the
5 fuel adjustment clause had resulted in net charges to customers
6 after January 1, 1997, the utility shall also file a tariff
7 sheet that provides for a refund stated on a per kilowatt-hour
8 basis of such charges over a period not to exceed 6 months;
9 provided however, that such refund shall not include the
10 proportional amounts of taxes paid under the Use Tax Act,
11 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
12 Occupation Tax Act on fuel used in generation. The Commission
13 shall issue an order within 45 days after the date of the
14 public utility's filing approving or approving as modified such
15 tariff sheet. If the fuel adjustment clause is eliminated
16 pursuant to this subsection, the Commission shall not conduct
17 the annual hearings specified in the last 3 sentences of
18 subsection (a) of this Section for the utility for any period
19 after December 31, 1996 and prior to any reinstatement of such
20 clause. A public utility whose fuel adjustment clause has been
21 eliminated pursuant to this subsection shall not file a
22 proposed tariff sheet seeking, or otherwise petition the
23 Commission for, reinstatement of the fuel adjustment clause
24 prior to January 1, 2007.

25 (f) Notwithstanding any contrary or inconsistent
26 provisions in Section 9-201 of this Act, in subsection (a) of

1 this Section, or in any rules or regulations promulgated by the
2 Commission pursuant to subsection (g) of this Section, a public
3 utility providing electric service to more than 500,000
4 customers but fewer than 1,000,000 customers in this State may,
5 within the first 6 months after the effective date of this
6 amendatory Act of 1997, file with the Commission proposed
7 tariff sheets that eliminate, effective January 1, 1997, the
8 public utility's fuel adjustment clause and adjust its base
9 rates by the amount necessary for the base fuel component of
10 the base rates to recover 91% of the public utility's average
11 fuel and power supply costs for the 2 most recent years for
12 which the Commission, as of January 1, 1997, has issued final
13 orders in annual proceedings pursuant to subsection (a), where
14 the average fuel and power supply costs per kilowatt-hour shall
15 be calculated as the sum of the public utility's prudent and
16 allowable fuel and power supply costs as found by the
17 Commission in the 2 proceedings divided by the public utility's
18 actual jurisdictional kilowatt-hour sales for those 2 years,
19 provided, that such tariff sheets shall be effective upon
20 filing. To the extent the application of the fuel adjustment
21 clause had resulted in net charges to customers after January
22 1, 1997, the utility shall also file a tariff sheet that
23 provides for a refund stated on a per kilowatt-hour basis of
24 such charges over a period not to exceed 6 months. Provided
25 however, that such refund shall not include the proportional
26 amounts of taxes paid under the Use Tax Act, Service Use Tax

1 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
2 Act on fuel used in generation. The Commission shall issue an
3 order within 45 days after the date of the public utility's
4 filing approving or approving as modified such tariff sheet. If
5 the fuel adjustment clause is eliminated pursuant to this
6 subsection, the Commission shall not conduct the annual
7 hearings specified in the last 3 sentences of subsection (a) of
8 this Section for the utility for any period after December 31,
9 1996 and prior to any reinstatement of such clause. A public
10 utility whose fuel adjustment clause has been eliminated
11 pursuant to this subsection shall not file a proposed tariff
12 sheet seeking, or otherwise petition the Commission for,
13 reinstatement of the fuel adjustment clause prior to January 1,
14 2007.

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

17 (h) Any gas utility may enter into a contract for up to 20
18 years of supply with any company for the purchase of substitute
19 natural gas (SNG) produced from coal through the gasification
20 process if the company has commenced construction of a coal
21 gasification facility by July 1, 2010. The cost for the SNG is
22 reasonable and prudent and recoverable through the purchased
23 gas adjustment clause for years one through 10 of the contract
24 if: (i) the only coal used in the gasification process has high
25 volatile bituminous rank and greater than 1.7 pounds of sulfur
26 per million Btu content; (ii) at the time the contract term

1 commences, the price per million Btu does not exceed \$7.95 in
2 2008 dollars, adjusted annually based on the change in the
3 Annual Consumer Price Index for All Urban Consumers for the
4 Midwest Region as published in April by the United States
5 Department of Labor, Bureau of Labor Statistics (or a suitable
6 Consumer Price Index calculation if this Consumer Price Index
7 is not available) for the previous calendar year; provided that
8 the price per million Btu shall not exceed \$9.95 at any time
9 during the contract; (iii) the utility's aggregate long-term
10 supply contracts for the purchase of SNG does not exceed 25% of
11 the annual system supply requirements of the utility at the
12 time the contract is entered into and the quantity of SNG
13 supplied to a utility by any one producer may not exceed 20
14 billion cubic feet per year; and (iv) the contract is entered
15 into within 120 days after the effective date of this
16 amendatory Act of the 96th General Assembly and terminates no
17 more than 20 years after the commencement of the commercial
18 production of SNG at the facility. Contracts greater than 10
19 years shall provide that if, at any time during supply years 11
20 through 20 of the contract, the Commission determines that the
21 cost for the synthetic natural gas purchased under the contract
22 during supply years 11 through 20 is not reasonable and
23 prudent, then the company shall reimburse the utility for the
24 difference between the cost deemed reasonable and prudent by
25 the Commission and the cost imposed under the contract. All
26 such contracts, regardless of duration, shall require the owner

1 of any facility supplying SNG under the contract to provide
2 documentation to the Commission each year, starting in the
3 facility's first year of commercial operation, accurately
4 reporting the quantity of carbon dioxide emissions from the
5 facility that have been captured and sequestered and reporting
6 any quantities of carbon dioxide released from the site or
7 sites at which carbon dioxide emissions were sequestered in
8 prior years, based on continuous monitoring of those sites. If,
9 in any year, the owner of the facility fails to demonstrate
10 that the SNG facility captured and sequestered at least 90% of
11 the total carbon dioxide emissions that the facility would
12 otherwise emit or that sequestration of emissions from prior
13 years has failed, resulting in the release of carbon dioxide
14 into the atmosphere, then the owner of the facility must offset
15 excess emissions. Any such carbon dioxide offsets must be
16 permanent, additional, verifiable, real, located within the
17 State of Illinois, and legally and practicably enforceable. The
18 costs of such offsets shall not exceed \$40 million in any given
19 year. No costs of any purchases of carbon offsets may be
20 recovered from a utility or its customers. All carbon offsets
21 purchased for this purpose must be permanently retired. In
22 addition, carbon dioxide emission credits equivalent to 50% of
23 the amount of credits associated with the required
24 sequestration of carbon dioxide from the facility must be
25 permanently retired. Compliance with the sequestration
26 requirements and the offset purchase requirements specified in

1 this subsection (h) shall be assessed annually by an
2 independent expert retained by the owner of the SNG facility,
3 with the advance written approval of the Attorney General. An
4 SNG facility operating pursuant to this subsection (h) shall
5 not forfeit its designation as a clean coal SNG facility if the
6 facility fails to fully comply with the applicable carbon
7 sequestration requirements in any given year, provided the
8 requisite offsets are purchased. However, the Attorney
9 General, on behalf of the People of the State of Illinois, may
10 specifically enforce the facility's sequestration
11 requirements. Except for an initial clean coal facility, as
12 that term is used in item (3) of subsection (d) of Section 1-75
13 of the Illinois Power Agency Act, an energy facility and a gas
14 facility may enter into a 20-year supply contract, with a
15 company that has commenced construction of a coal gasification
16 facility after July 1, 2010, that shall not be subject to any
17 subsequent prudency review by the Commission if the contract
18 was found prudent at the time the contract was agreed upon by
19 the parties. Any gas utility may enter into a 20 year supply
20 contract with any company for synthetic natural gas produced
21 from coal through the gasification process if the company has
22 commenced construction of a coal gasification facility by July
23 1, 2008. The cost for the synthetic natural gas is reasonable
24 and prudent and recoverable through the purchased gas
25 adjustment clause for years one through 10 of the contract if:
26 (i) the only coal used in the gasification process has high

1 ~~volatile bituminous rank and greater than 1.7 pounds of sulfur~~
2 ~~per million Btu content; (ii) at the time the contract term~~
3 ~~commences, the price per million Btu does not exceed \$5 in 2004~~
4 ~~dollars, adjusted annually based on the change in the Annual~~
5 ~~Consumer Price Index for All Urban Consumers for the Midwest~~
6 ~~Region as published in April by the United States Department of~~
7 ~~Labor, Bureau of Labor Statistics (or a suitable Consumer Price~~
8 ~~Index calculation if this Consumer Price Index is not~~
9 ~~available) for the previous calendar year; provided that the~~
10 ~~price per million Btu shall not exceed \$5.50 at any time during~~
11 ~~the contract; (iii) the utility's aggregate long term supply~~
12 ~~contracts for the purchase of synthetic natural gas produced~~
13 ~~from coal through the gasification process does not exceed 25%~~
14 ~~of the annual system supply requirements of the utility at the~~
15 ~~time the contract is entered into; and (iv) the contract is~~
16 ~~entered into within one year after the effective date of this~~
17 ~~amendatory Act of the 94th General Assembly and terminates 20~~
18 ~~years after the commencement of the production of synthetic~~
19 ~~natural gas. The contract shall provide that if, at any time~~
20 ~~during years 11 through 20 of the contract, the Commission~~
21 ~~determines that the cost for the synthetic natural gas under~~
22 ~~the contract is not reasonable and prudent, then the company~~
23 ~~shall reimburse the utility for the difference between the cost~~
24 ~~deemed reasonable and prudent by the Commission and the cost~~
25 ~~imposed under the contract.~~

26 (i) If a gas utility or an affiliate of a gas utility has

1 an ownership interest in any entity that produces or sells
2 synthetic natural gas, Article VII of this Act shall apply.

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

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

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

6 (a) Notwithstanding the provisions of Section 9-201, the
7 Commission may authorize the increase or decrease of rates and
8 charges based upon changes in the cost of fuel used in the
9 generation or production of electric power, changes in the cost
10 of purchased power, or changes in the cost of purchased gas
11 through the application of fuel adjustment clauses or purchased
12 gas adjustment clauses. The Commission may also authorize the
13 increase or decrease of rates and charges based upon
14 expenditures or revenues resulting from the purchase or sale of
15 emission allowances created under the federal Clean Air Act
16 Amendments of 1990, through such fuel adjustment clauses, as a
17 cost of fuel. For the purposes of this paragraph, cost of fuel
18 used in the generation or production of electric power shall
19 include the amount of any fees paid by the utility for the
20 implementation and operation of a process for the
21 desulfurization of the flue gas when burning high sulfur coal
22 at any location within the State of Illinois irrespective of
23 the attainment status designation of such location; but shall
24 not include transportation costs of coal (i) except to the
25 extent that for contracts entered into on and after the

1 effective date of this amendatory Act of 1997, the cost of the
2 coal, including transportation costs, constitutes the lowest
3 cost for adequate and reliable fuel supply reasonably available
4 to the public utility in comparison to the cost, including
5 transportation costs, of other adequate and reliable sources of
6 fuel supply reasonably available to the public utility, or (ii)
7 except as otherwise provided in the next 3 sentences of this
8 paragraph. Such costs of fuel shall, when requested by a
9 utility or at the conclusion of the utility's next general
10 electric rate proceeding, whichever shall first occur, include
11 transportation costs of coal purchased under existing coal
12 purchase contracts. For purposes of this paragraph "existing
13 coal purchase contracts" means contracts for the purchase of
14 coal in effect on the effective date of this amendatory Act of
15 1991, as such contracts may thereafter be amended, but only to
16 the extent that any such amendment does not increase the
17 aggregate quantity of coal to be purchased under such contract.
18 Nothing herein shall authorize an electric utility to recover
19 through its fuel adjustment clause any amounts of
20 transportation costs of coal that were included in the revenue
21 requirement used to set base rates in its most recent general
22 rate proceeding. Cost shall be based upon uniformly applied
23 accounting principles. Annually, the Commission shall initiate
24 public hearings to determine whether the clauses reflect actual
25 costs of fuel, gas, power, or coal transportation purchased to
26 determine whether such purchases were prudent, and to reconcile

1 any amounts collected with the actual costs of fuel, power,
2 gas, or coal transportation prudently purchased. In each such
3 proceeding, the burden of proof shall be upon the utility to
4 establish the prudence of its cost of fuel, power, gas, or coal
5 transportation purchases and costs. The Commission shall issue
6 its final order in each such annual proceeding for an electric
7 utility by December 31 of the year immediately following the
8 year to which the proceeding pertains, provided, that the
9 Commission shall issue its final order with respect to such
10 annual proceeding for the years 1996 and earlier by December
11 31, 1998.

12 (b) A public utility providing electric service, other than
13 a public utility described in subsections (e) or (f) of this
14 Section, may at any time during the mandatory transition period
15 file with the Commission proposed tariff sheets that eliminate
16 the public utility's fuel adjustment clause and adjust the
17 public utility's base rate tariffs by the amount necessary for
18 the base fuel component of the base rates to recover the public
19 utility's average fuel and power supply costs per kilowatt-hour
20 for the 2 most recent years for which the Commission has issued
21 final orders in annual proceedings pursuant to subsection (a),
22 where the average fuel and power supply costs per kilowatt-hour
23 shall be calculated as the sum of the public utility's prudent
24 and allowable fuel and power supply costs as found by the
25 Commission in the 2 proceedings divided by the public utility's
26 actual jurisdictional kilowatt-hour sales for those 2 years.

1 Notwithstanding any contrary or inconsistent provisions in
2 Section 9-201 of this Act, in subsection (a) of this Section or
3 in any rules or regulations promulgated by the Commission
4 pursuant to subsection (g) of this Section, the Commission
5 shall review and shall by order approve, or approve as
6 modified, the proposed tariff sheets within 60 days after the
7 date of the public utility's filing. The Commission may modify
8 the public utility's proposed tariff sheets only to the extent
9 the Commission finds necessary to achieve conformance to the
10 requirements of this subsection (b). During the 5 years
11 following the date of the Commission's order, but in any event
12 no earlier than January 1, 2007, a public utility whose fuel
13 adjustment clause has been eliminated pursuant to this
14 subsection shall not file proposed tariff sheets seeking, or
15 otherwise petition the Commission for, reinstatement of a fuel
16 adjustment clause.

17 (c) Notwithstanding any contrary or inconsistent
18 provisions in Section 9-201 of this Act, in subsection (a) of
19 this Section or in any rules or regulations promulgated by the
20 Commission pursuant to subsection (g) of this Section, a public
21 utility providing electric service, other than a public utility
22 described in subsection (e) or (f) of this Section, may at any
23 time during the mandatory transition period file with the
24 Commission proposed tariff sheets that establish the rate per
25 kilowatt-hour to be applied pursuant to the public utility's
26 fuel adjustment clause at the average value for such rate

1 during the preceding 24 months, provided that such average rate
2 results in a credit to customers' bills, without making any
3 revisions to the public utility's base rate tariffs. The
4 proposed tariff sheets shall establish the fuel adjustment rate
5 for a specific time period of at least 3 years but not more
6 than 5 years, provided that the terms and conditions for any
7 reinstatement earlier than 5 years shall be set forth in the
8 proposed tariff sheets and subject to modification or approval
9 by the Commission. The Commission shall review and shall by
10 order approve the proposed tariff sheets if it finds that the
11 requirements of this subsection are met. The Commission shall
12 not conduct the annual hearings specified in the last 3
13 sentences of subsection (a) of this Section for the utility for
14 the period that the factor established pursuant to this
15 subsection is in effect.

16 (d) A public utility providing electric service, or a
17 public utility providing gas service may file with the
18 Commission proposed tariff sheets that eliminate the public
19 utility's fuel or purchased gas adjustment clause and adjust
20 the public utility's base rate tariffs to provide for recovery
21 of power supply costs or gas supply costs that would have been
22 recovered through such clause; provided, that the provisions of
23 this subsection (d) shall not be available to a public utility
24 described in subsections (e) or (f) of this Section to
25 eliminate its fuel adjustment clause. Notwithstanding any
26 contrary or inconsistent provisions in Section 9-201 of this

1 Act, in subsection (a) of this Section, or in any rules or
2 regulations promulgated by the Commission pursuant to
3 subsection (g) of this Section, the Commission shall review and
4 shall by order approve, or approve as modified in the
5 Commission's order, the proposed tariff sheets within 240 days
6 after the date of the public utility's filing. The Commission's
7 order shall approve rates and charges that the Commission,
8 based on information in the public utility's filing or on the
9 record if a hearing is held by the Commission, finds will
10 recover the reasonable, prudent and necessary jurisdictional
11 power supply costs or gas supply costs incurred or to be
12 incurred by the public utility during a 12 month period found
13 by the Commission to be appropriate for these purposes,
14 provided, that such period shall be either (i) a 12 month
15 historical period occurring during the 15 months ending on the
16 date of the public utility's filing, or (ii) a 12 month future
17 period ending no later than 15 months following the date of the
18 public utility's filing. The public utility shall include with
19 its tariff filing information showing both (1) its actual
20 jurisdictional power supply costs or gas supply costs for a 12
21 month historical period conforming to (i) above and (2) its
22 projected jurisdictional power supply costs or gas supply costs
23 for a future 12 month period conforming to (ii) above. If the
24 Commission's order requires modifications in the tariff sheets
25 filed by the public utility, the public utility shall have 7
26 days following the date of the order to notify the Commission

1 whether the public utility will implement the modified tariffs
2 or elect to continue its fuel or purchased gas adjustment
3 clause in force as though no order had been entered. The
4 Commission's order shall provide for any reconciliation of
5 power supply costs or gas supply costs, as the case may be, and
6 associated revenues through the date that the public utility's
7 fuel or purchased gas adjustment clause is eliminated. During
8 the 5 years following the date of the Commission's order, a
9 public utility whose fuel or purchased gas adjustment clause
10 has been eliminated pursuant to this subsection shall not file
11 proposed tariff sheets seeking, or otherwise petition the
12 Commission for, reinstatement or adoption of a fuel or
13 purchased gas adjustment clause. Nothing in this subsection (d)
14 shall be construed as limiting the Commission's authority to
15 eliminate a public utility's fuel adjustment clause or
16 purchased gas adjustment clause in accordance with any other
17 applicable provisions of this Act.

18 (e) Notwithstanding any contrary or inconsistent
19 provisions in Section 9-201 of this Act, in subsection (a) of
20 this Section, or in any rules promulgated by the Commission
21 pursuant to subsection (g) of this Section, a public utility
22 providing electric service to more than 1,000,000 customers in
23 this State may, within the first 6 months after the effective
24 date of this amendatory Act of 1997, file with the Commission
25 proposed tariff sheets that eliminate, effective January 1,
26 1997, the public utility's fuel adjustment clause without

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

23 (f) Notwithstanding any contrary or inconsistent
24 provisions in Section 9-201 of this Act, in subsection (a) of
25 this Section, or in any rules or regulations promulgated by the
26 Commission pursuant to subsection (g) of this Section, a public

1 utility providing electric service to more than 500,000
2 customers but fewer than 1,000,000 customers in this State may,
3 within the first 6 months after the effective date of this
4 amendatory Act of 1997, file with the Commission proposed
5 tariff sheets that eliminate, effective January 1, 1997, the
6 public utility's fuel adjustment clause and adjust its base
7 rates by the amount necessary for the base fuel component of
8 the base rates to recover 91% of the public utility's average
9 fuel and power supply costs for the 2 most recent years for
10 which the Commission, as of January 1, 1997, has issued final
11 orders in annual proceedings pursuant to subsection (a), where
12 the average fuel and power supply costs per kilowatt-hour shall
13 be calculated as the sum of the public utility's prudent and
14 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 provided, that such tariff sheets shall be effective upon
18 filing. To the extent the application of the fuel adjustment
19 clause had resulted in net charges to customers after January
20 1, 1997, the utility shall also file a tariff sheet that
21 provides for a refund stated on a per kilowatt-hour basis of
22 such charges over a period not to exceed 6 months. Provided
23 however, that such refund shall not include the proportional
24 amounts of taxes paid under the Use Tax Act, Service Use Tax
25 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
26 Act on fuel used in generation. The Commission shall issue an

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

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

15 (h) Any gas utility may enter into a contract for up to 20
16 years of supply with any company for the purchase of substitute
17 natural gas (SNG) produced from coal through the gasification
18 process if the company has commenced construction of a coal
19 gasification facility by July 1, 2010. The cost for the SNG is
20 reasonable and prudent and recoverable through the purchased
21 gas adjustment clause for years one through 10 of the contract
22 if: (i) the only coal used in the gasification process has high
23 volatile bituminous rank and greater than 1.7 pounds of sulfur
24 per million Btu content; (ii) at the time the contract term
25 commences, the price per million Btu does not exceed \$7.95 in
26 2008 dollars, adjusted annually based on the change in the

1 Annual Consumer Price Index for All Urban Consumers for the
2 Midwest Region as published in April by the United States
3 Department of Labor, Bureau of Labor Statistics (or a suitable
4 Consumer Price Index calculation if this Consumer Price Index
5 is not available) for the previous calendar year; provided that
6 the price per million Btu shall not exceed \$9.95 at any time
7 during the contract; (iii) the utility's aggregate long-term
8 supply contracts for the purchase of SNG does not exceed 25% of
9 the annual system supply requirements of the utility at the
10 time the contract is entered into and the quantity of SNG
11 supplied to a utility by any one producer may not exceed 20
12 billion cubic feet per year; and (iv) the contract is entered
13 into within 120 days after the effective date of this
14 amendatory Act of the 95th General Assembly and terminates no
15 more than 20 years after the commencement of the commercial
16 production of SNG at the facility. Contracts greater than 10
17 years shall provide that if, at any time during supply years 11
18 through 20 of the contract, the Commission determines that the
19 cost for the synthetic natural gas purchased under the contract
20 during supply years 11 through 20 is not reasonable and
21 prudent, then the company shall reimburse the utility for the
22 difference between the cost deemed reasonable and prudent by
23 the Commission and the cost imposed under the contract. All
24 such contracts, regardless of duration, shall require the owner
25 of any facility supplying SNG under the contract to provide
26 documentation to the Commission each year, starting in the

1 facility's first year of commercial operation, accurately
2 reporting the quantity of carbon dioxide emissions from the
3 facility that have been captured and sequestered and reporting
4 any quantities of carbon dioxide released from the site or
5 sites at which carbon dioxide emissions were sequestered in
6 prior years, based on continuous monitoring of those sites. If,
7 in any year, the owner of the facility fails to demonstrate
8 that the SNG facility captured and sequestered at least 90% of
9 the total carbon dioxide emissions that the facility would
10 otherwise emit or that sequestration of emissions from prior
11 years has failed, resulting in the release of carbon dioxide
12 into the atmosphere, then the owner of the facility must offset
13 excess emissions. Any such carbon dioxide offsets must be
14 permanent, additional, verifiable, real, located within the
15 State of Illinois, and legally and practicably enforceable. The
16 costs of such offsets shall not exceed \$40 million in any given
17 year. No costs of any purchases of carbon offsets may be
18 recovered from a utility or its customers. All carbon offsets
19 purchased for this purpose must be permanently retired. In
20 addition, carbon dioxide emission credits equivalent to 50% of
21 the amount of credits associated with the required
22 sequestration of carbon dioxide from the facility must be
23 permanently retired. Compliance with the sequestration
24 requirements and the offset purchase requirements specified in
25 this subsection (h) shall be assessed annually by an
26 independent expert retained by the owner of the SNG facility,

1 with the advance written approval of the Attorney General. An
2 SNG facility operating pursuant to this subsection (h) shall
3 not forfeit its designation as a clean coal SNG facility if the
4 facility fails to fully comply with the applicable carbon
5 sequestration requirements in any given year, provided the
6 requisite offsets are purchased. However, the Attorney
7 General, on behalf of the People of the State of Illinois, may
8 specifically enforce the facility's sequestration
9 requirements. Except for an initial clean coal facility, as
10 that term is used in item (3) of subsection (d) of Section 1-75
11 of the Illinois Power Agency Act, an energy facility and a gas
12 facility may enter into a 20-year supply contract, with a
13 company that has commenced construction of a coal gasification
14 facility after July 1, 2010, that shall not be subject to any
15 subsequent prudence review by the Commission if the contract
16 was found prudent at the time the contract was agreed upon by
17 the parties.

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

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

22 (220 ILCS 5/15-401)

23 Sec. 15-401. Licensing.

24 (a) No person shall operate as a common carrier by pipeline
25 unless the person possesses a certificate in good standing

1 authorizing it to operate as a common carrier by pipeline. No
2 person shall begin or continue construction of a pipeline or
3 other facility, other than the repair or replacement of an
4 existing pipeline or facility, for use in operations as a
5 common carrier by pipeline unless the person possesses a
6 certificate in good standing. A common carrier by pipeline that
7 requests and receives a certificate of good standing related to
8 the proposed construction of a pipeline or other facility under
9 this Section may enter upon, take or damage private property in
10 the manner provided for by the law of eminent domain.

11 (b) Requirements for issuance. The Commission, after a
12 hearing, shall grant an application for a certificate
13 authorizing operations as a common carrier by pipeline, in
14 whole or in part, to the extent that it finds that the
15 application was properly filed; a public need for the service
16 exists; the applicant is fit, willing, and able to provide the
17 service in compliance with this Act, Commission regulations,
18 and orders; and the public convenience and necessity requires
19 issuance of the certificate. Evidence encompassing the factors
20 set forth in paragraphs (4) and (6) through (9) of this
21 subsection (b) that is submitted by the applicant, any other
22 party, or the Commission's staff, shall be considered by the
23 Commission in determining whether a public need for the service
24 exists under either current or expected conditions.

25 In its determination of public convenience and necessity
26 for a proposed pipeline or facility designed or intended to

1 transport crude oil and any alternate locations for such
2 proposed pipeline or facility, the Commission shall consider,
3 but not be limited to, the following:

4 (1) any evidence presented by the Illinois
5 Environmental Protection Agency regarding the
6 environmental impact of the proposed pipeline or other
7 facility;

8 (2) any evidence presented by the Illinois Department
9 of Transportation regarding the impact of the proposed
10 pipeline or facility on traffic safety, road construction,
11 or other transportation issues;

12 (3) any evidence presented by the Department of Natural
13 Resources regarding the impact of the proposed pipeline or
14 facility on any conservation areas, forest preserves,
15 wildlife preserves, wetlands, or any other natural
16 resource;

17 (4) any evidence of the effect of the pipeline upon the
18 economy, infrastructure, and public safety presented by
19 local governmental units that will be affected by the
20 proposed pipeline or facility;

21 (5) any evidence of the effect of the pipeline upon
22 property values presented by property owners who will be
23 affected by the proposed pipeline or facility, provided,
24 however, that the Commission need not hear evidence as to
25 the actual valuation of property such as that as would be
26 presented to and determined by the courts under the Eminent

1 Domain Act;

2 (6) any evidence presented by the Department of
3 Commerce and Economic Opportunity regarding the current
4 and future local, State-wide, or regional economic effect,
5 direct or indirect, of the proposed pipeline or facility
6 including, but not limited to, property values, employment
7 rates, and residential and business development; ~~and~~

8 (7) evidence presented by a State agency or unit of
9 State or local government as to the current and future
10 national, State-wide, or regional economic effects of the
11 proposed pipeline, direct or indirect, as they affect
12 residents or businesses in Illinois, including, but not
13 limited to, such impacts as the ability of manufacturers in
14 Illinois to meet public demand for related services and
15 products and to compete in the national and regional
16 economies, improved access of suppliers to regional and
17 national shipping grids, the ability of the State to access
18 funds made available for energy infrastructure by the
19 federal government, mitigation of foreseeable spikes in
20 price affecting Illinois residents or businesses due to
21 sudden changes in supply or transportation capacity, and
22 the likelihood that the proposed construction will
23 substantially encourage related investment in the State's
24 energy infrastructure and the creation of energy-related
25 jobs;

26 (8) evidence presented by any state or federal

1 governmental entity as to how the proposed pipeline or
2 facility will affect the security, stability, and
3 reliability of energy in the State or in the region; and

4 (9) ~~(7)~~ any evidence addressing the above or other
5 relevant factors that is presented by any other State
6 agency or entity that participates in the proceeding,
7 including evidence presented by the Commission's Staff.

8 In its written order, the Commission shall address all of
9 the evidence presented, and if the order is contrary to any of
10 the evidence, the Commission shall state the reasons for its
11 determination with regard to that evidence. The provisions of
12 this amendatory Act of 1996 apply to any certificate granted or
13 denied after the effective date of this amendatory Act of 1996.

14 The Commission shall make its determination on any
15 application filed pursuant to this Section and issue its final
16 order within 9 months after the date that the application is
17 filed, unless all parties to the proceeding agree in writing to
18 a period of greater than 9 months, and provided that any
19 agreement to extend the 9-month period must be for a specified
20 period of time, not exceeding 60 days. The parties may enter
21 into more than one agreement to extend time. In the event the
22 Commission fails to enter its order within 9 months after the
23 filing of the application, or upon the expiration of the last
24 agreement to extend time, any party may file a complaint in the
25 circuit court for an emergency order of mandamus to direct and
26 compel the Commission to enter its order within 60 days after

1 the expiration of the 9-month period or within 60 days after
2 the expiration of the last agreement to extend time, and the
3 court shall set a schedule to enable the Commission to complete
4 the case and enter and order within the specified time frame.
5 Summons upon the complaint shall be returnable within 5 days.
6 The complaint for an order of mandamus shall be brought in the
7 circuit court in which the pipeline is situated or, if the
8 subject matter of the hearing is situated in more than one
9 circuit, then in any one of those circuits.

10 (c) An application filed pursuant to this Section may
11 request review of a "project route width" that identifies the
12 areas in which the pipeline would be located, with such width
13 ranging from the minimum width required for a pipeline
14 right-of-way up to 500 feet in width, thus allowing increased
15 flexibility to accommodate specific landowner requests, avoid
16 environmentally sensitive areas, or address special
17 environmental permitting requirements. The applicant must
18 notify all potentially affected landowners within the defined
19 "project route width" of the application using the notification
20 procedures set forth in the Commission's rules for applications
21 under this Section. Upon receiving approval of the "project
22 route width", the common carrier by pipeline must, as it
23 finalizes the actual pipeline alignment within the route, file
24 its final list of affected landowners with the Commission, at
25 least 14 days in advance of beginning construction on any tract
26 within the project route width, and also provide the Commission

1 with at least 14 days notice before filing a complaint for
2 eminent domain in the circuit court with regard to any tract
3 within the project route width.

4 (c-5) Within 6 months after the Commission's entry of an
5 order approving a specific "project route width", the common
6 carrier by pipeline that receives such order may file
7 supplemental applications for minor route deviations outside
8 the approved "project route width", allowing for additions or
9 changes to the approved route to address environmental concerns
10 encountered during construction or to accommodate landowner
11 requests. Such route deviations shall be approved by the
12 Commission within 14 days unless a written objection is filed
13 to the supplemental application. Hearings on any supplemental
14 application shall be limited to the reasonableness of the
15 specific variance proposed, and the issues of public need or
16 public convenience or necessity for the project, or fitness of
17 the applicant, shall not be reopened in such supplemental
18 proceeding.

19 (d) ~~(e)~~ Duties and obligations of common carriers by
20 pipeline. Each common carrier by pipeline shall provide
21 adequate service to the public at reasonable rates and without
22 discrimination.

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

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

3 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

4 Sec. 5.5. High Impact Business.

5 (a) In order to respond to unique opportunities to assist
6 in the encouragement, development, growth and expansion of the
7 private sector through large scale investment and development
8 projects, the Department is authorized to receive and approve
9 applications for the designation of "High Impact Businesses" in
10 Illinois subject to the following conditions:

11 (1) such applications may be submitted at any time
12 during the year;

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

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

18 (A) the business intends to make a minimum
19 investment of \$12,000,000 which will be placed in
20 service in qualified property and intends to create 500
21 full-time equivalent jobs at a designated location in
22 Illinois or intends to make a minimum investment of
23 \$30,000,000 which will be placed in service in
24 qualified property and intends to retain 1,500
25 full-time jobs at a designated location in Illinois.

1 The business must certify in writing that the
2 investments would not be placed in service in qualified
3 property and the job creation or job retention would
4 not occur without the tax credits and exemptions set
5 forth in subsection (b) of this Section. The terms
6 "placed in service" and "qualified property" have the
7 same meanings as described in subsection (h) of Section
8 201 of the Illinois Income Tax Act; or

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

1 generating capacity of at least 400 megawatts for all
2 new units at one site if it uses coal or gases derived
3 from coal as its primary fuel and shall support the
4 creation of at least 150 new Illinois coal mining jobs,
5 or (ii) shall be funded through a federal Department of
6 Energy grant before December 31, 2010 and shall support
7 the creation of Illinois coal-mining jobs, or (iii)
8 shall use coal gasification or integrated
9 gasification-combined cycle units that generate
10 electricity or chemicals, or both, and shall support
11 the creation of Illinois coal-mining jobs. The
12 business must certify in writing that the investments
13 necessary to establish a new electric generating
14 facility would not be placed in service and the job
15 creation in the case of a coal-fueled plant would not
16 occur without the tax credits and exemptions set forth
17 in subsection (b-5) of this Section. The term "placed
18 in service" has the same meaning as described in
19 subsection (h) of Section 201 of the Illinois Income
20 Tax Act; or

21 (B-5) the business intends to establish a new
22 gasification facility at a designated location in
23 Illinois. As used in this Section, "new gasification
24 facility" means a newly constructed coal gasification
25 facility that generates chemical feedstocks or
26 transportation fuels derived from coal (which may

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

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

1 subsection (h) of Section 201 of the Illinois Income
2 Tax Act; or

3 (D) the business intends to construct new
4 transmission facilities or upgrade existing
5 transmission facilities at designated locations in
6 Illinois, for which construction commenced not sooner
7 than July 1, 2001. For the purposes of this Section,
8 "transmission facilities" means transmission lines
9 with a voltage rating of 115 kilovolts or above,
10 including associated equipment, that transfer
11 electricity from points of supply to points of delivery
12 and that transmit a majority of the electricity
13 generated by a new electric generating facility
14 designated as a High Impact Business in accordance with
15 this Section. The business must certify in writing that
16 the investments necessary to construct new
17 transmission facilities or upgrade existing
18 transmission facilities would not be placed in service
19 without the tax credits and exemptions set forth in
20 subsection (b-5) of this Section. The term "placed in
21 service" has the same meaning as described in
22 subsection (h) of Section 201 of the Illinois Income
23 Tax Act; and

24 (4) no later than 90 days after an application is
25 submitted, the Department shall notify the applicant of the
26 Department's determination of the qualification of the

1 proposed High Impact Business under this Section.

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

22 (b-5) Businesses designated as High Impact Businesses
23 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
24 and (a) (3) (D) of this Section shall qualify for the credits and
25 exemptions described in the following Acts: Section 51 of the
26 Retailers' Occupation Tax Act, Section 9-222 and Section

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

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

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

23 (e) New proposed facilities which apply for designation as
24 High Impact Business must provide the Department with proof of
25 alternative non-Illinois sites which would receive the
26 proposed investment and job creation in the event that the

1 business is not designated as a High Impact Business.

2 (f) In the event that a business is designated a High
3 Impact Business and it is later determined after reasonable
4 notice and an opportunity for a hearing as provided under the
5 Illinois Administrative Procedure Act, that the business would
6 have placed in service in qualified property the investments
7 and created or retained the requisite number of jobs without
8 the benefits of the High Impact Business designation, the
9 Department shall be required to immediately revoke the
10 designation and notify the Director of the Department of
11 Revenue who shall begin proceedings to recover all wrongfully
12 exempted State taxes with interest. The business shall also be
13 ineligible for all State funded Department programs for a
14 period of 10 years.

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

18 (h) Prior to designating a business, the Department shall
19 provide the members of the General Assembly and Commission on
20 Government Forecasting and Accountability with a report
21 setting forth the terms and conditions of the designation and
22 guarantees that have been received by the Department in
23 relation to the proposed business being designated.

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

25 Section 15-5. The Department of Natural Resources

1 (Conservation) Law of the Civil Administrative Code of Illinois
2 is amended by changing Section 805-15 as follows:

3 (20 ILCS 805/805-15) (was 20 ILCS 805/63a37)

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

5 (a) The Department has the power to adopt and enforce rules
6 ~~and regulations~~ necessary to the performance of its statutory
7 duties.

8 (b) These rules must include a process for expediting the
9 issuance of permits and licenses for projects at energy
10 facilities that are subject to regulation by the Department as
11 of January 1, 2009, as that term is defined in Section 1-10 of
12 the Illinois Power Agency Act. The Department may engage the
13 experts and additional resources that are reasonably necessary
14 for implementing this process. An applicant must request the
15 use of an expedited process, and any additional costs for using
16 that process shall be borne by the applicant.

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

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

21 (20 ILCS 2705/2705-20 new)

22 Sec. 2705-20. Administrative rules.

23 (a) The Department has the power to adopt and enforce rules

1 necessary to the performance of its statutory duties.

2 (b) These rules must include a process for expediting the
3 issuance of permits and licenses for projects at energy
4 facilities that are subject to regulation by the Department as
5 of January 1, 2009, as that term is defined in the Illinois
6 Power Agency Act. The Department may engage the experts and
7 additional resources that are reasonably necessary for
8 implementing this process. An applicant must request the use of
9 an expedited process, and any additional costs for using that
10 process shall be borne by the applicant.

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

13 (20 ILCS 2905/2) (from Ch. 127 1/2, par. 2)

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

16 1. To exercise the rights, powers and duties which have
17 been vested by law in the Department of State Police as the
18 successor of the Department of Public Safety, State Fire
19 Marshal, inspectors, officers and employees of the State
20 Fire Marshal, including arson investigation. Arson
21 investigations conducted by the State Fire Marshal's
22 Office shall be conducted by State Fire Marshal Arson
23 Investigator Special Agents, who shall be peace officers as
24 provided in the Peace Officer Fire Investigation Act.

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

5 3. To exercise the rights, powers and duties which have
6 been vested in the Department of State Police by the
7 "Boiler and Pressure Vessel Safety Act", approved August 7,
8 1951, as amended.

9 4. To administer the Illinois Fire Protection Training
10 Act.

11 5. To aid in the establishment and maintenance of the
12 training facilities and programs of the Illinois Fire
13 Service Institute.

14 6. To disburse Federal grants for fire protection
15 purposes to units of local government.

16 7. To pay to or in behalf of the City of Chicago for
17 the maintenance, expenses, facilities and structures
18 directly incident to the Chicago Fire Department training
19 program. Such payments may be made either as reimbursements
20 for expenditures previously made by the City, or as
21 payments at the time the City has incurred an obligation
22 which is then due and payable for such expenditures.
23 Payments for the Chicago Fire Department training program
24 shall be made only for those expenditures which are not
25 claimable by the City under "An Act relating to fire
26 protection training", certified November 9, 1971, as

1 amended.

2 8. To administer General Revenue Fund grants to areas
3 not located in a fire protection district or in a
4 municipality which provides fire protection services, to
5 defray the organizational expenses of forming a fire
6 protection district.

7 9. In cooperation with the Illinois Environmental
8 Protection Agency, to administer the Illinois Leaking
9 Underground Storage Tank program in accordance with
10 Section 4 of this Act and Section 22.12 of the
11 Environmental Protection Act.

12 10. To expend state and federal funds as appropriated
13 by the General Assembly.

14 11. To provide technical assistance, to areas not
15 located in a fire protection district or in a municipality
16 which provides fire protection service, to form a fire
17 protection district, to join an existing district, or to
18 establish a municipal fire department, whichever is
19 applicable.

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

22 13. To adopt rules for the purpose of creating a
23 process for expediting the issuance of permits and licenses
24 for projects at energy facilities, as that term is defined
25 in the Illinois Power Agency Act. The Office may engage the
26 experts and additional resources that are reasonably

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

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

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

8 (35 ILCS 5/218 new)

9 Sec. 218. Tax credit for equipment used at an energy
10 facility. For taxable years ending on or after December 31,
11 2009, each corporation subject to this Act shall be entitled to
12 a credit against the tax imposed by subsections (a) and (b) of
13 Section 201 of this Act in an amount equal to 10% of the amount
14 spent during the taxable year by the corporation on equipment
15 purchased for use at an energy facility, as that term is
16 defined in Section 1-10 of the Illinois Power Agency Act. For
17 purposes of this credit, the amount spent on the equipment
18 shall be defined as the basis of the equipment used to compute
19 the depreciation deduction for federal income tax purposes.

20 The credit shall be allowed for the taxable year in which
21 the equipment purchased is placed in service, or, if the amount
22 of the credit exceeds the tax liability for that year, whether
23 it exceeds the original liability or the liability as later
24 amended, the excess may be carried forward and applied to the

1 tax liability of the 10 taxable years following the excess
2 credit years. The credit shall be applied to the earliest year
3 for which there is a liability. If there is credit from more
4 than one taxable year that is available to offset a liability,
5 the earlier credit shall be applied first. This Section is
6 exempt from the provisions of Section 250 of this Act.

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

9 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

22 (3) Personal property purchased by a not-for-profit arts or
23 cultural organization that establishes, by proof required by
24 the Department by rule, that it has received an exemption under

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

13 (4) Personal property purchased by a governmental body, by
14 a corporation, society, association, foundation, or
15 institution organized and operated exclusively for charitable,
16 religious, or educational purposes, or by a not-for-profit
17 corporation, society, association, foundation, institution, or
18 organization that has no compensated officers or employees and
19 that is organized and operated primarily for the recreation of
20 persons 55 years of age or older. A limited liability company
21 may qualify for the exemption under this paragraph only if the
22 limited liability company is organized and operated
23 exclusively for educational purposes. On and after July 1,
24 1987, however, no entity otherwise eligible for this exemption
25 shall make tax-free purchases unless it has an active exemption
26 identification number issued by the Department.

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

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

13 (7) Farm chemicals.

14 (8) Legal tender, currency, medallions, or gold or silver
15 coinage issued by the State of Illinois, the government of the
16 United States of America, or the government of any foreign
17 country, and bullion.

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

21 (10) A motor vehicle of the first division, a motor vehicle
22 of the second division that is a self-contained motor vehicle
23 designed or permanently converted to provide living quarters
24 for recreational, camping, or travel use, with direct walk
25 through to the living quarters from the driver's seat, or a
26 motor vehicle of the second division that is of the van

1 configuration designed for the transportation of not less than
2 7 nor more than 16 passengers, as defined in Section 1-146 of
3 the Illinois Vehicle Code, that is used for automobile renting,
4 as defined in the Automobile Renting Occupation and Use Tax
5 Act.

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

25 Farm machinery and equipment shall include precision
26 farming equipment that is installed or purchased to be

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

7 Farm machinery and equipment also includes computers,
8 sensors, software, and related equipment used primarily in the
9 computer-assisted operation of production agriculture
10 facilities, equipment, and activities such as, but not limited
11 to, the collection, monitoring, and correlation of animal and
12 crop data for the purpose of formulating animal diets and
13 agricultural chemicals. This item (11) is exempt from the
14 provisions of Section 3-90.

15 (12) Fuel and petroleum products sold to or used by an air
16 common carrier, certified by the carrier to be used for
17 consumption, shipment, or storage in the conduct of its
18 business as an air common carrier, for a flight destined for or
19 returning from a location or locations outside the United
20 States without regard to previous or subsequent domestic
21 stopovers.

22 (13) Proceeds of mandatory service charges separately
23 stated on customers' bills for the purchase and consumption of
24 food and beverages purchased at retail from a retailer, to the
25 extent that the proceeds of the service charge are in fact
26 turned over as tips or as a substitute for tips to the

1 employees who participate directly in preparing, serving,
2 hosting or cleaning up the food or beverage function with
3 respect to which the service charge is imposed.

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

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

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

1 purposes of this item (16), equipment includes roof bolts and
2 explosives.

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

9 (18) Manufacturing and assembling machinery and equipment
10 used primarily in the process of manufacturing or assembling
11 tangible personal property for wholesale or retail sale or
12 lease, whether that sale or lease is made directly by the
13 manufacturer or by some other person, whether the materials
14 used in the process are owned by the manufacturer or some other
15 person, or whether that sale or lease is made apart from or as
16 an incident to the seller's engaging in the service occupation
17 of producing machines, tools, dies, jigs, patterns, gauges, or
18 other similar items of no commercial value on special order for
19 a particular purchaser.

20 (19) Personal property delivered to a purchaser or
21 purchaser's donee inside Illinois when the purchase order for
22 that personal property was received by a florist located
23 outside Illinois who has a florist located inside Illinois
24 deliver the personal property.

25 (20) Semen used for artificial insemination of livestock
26 for direct agricultural production.

1 (21) Horses, or interests in horses, registered with and
2 meeting the requirements of any of the Arabian Horse Club
3 Registry of America, Appaloosa Horse Club, American Quarter
4 Horse Association, United States Trotting Association, or
5 Jockey Club, as appropriate, used for purposes of breeding or
6 racing for prizes. This item (21) is exempt from the provisions
7 of Section 3-90, and the exemption provided for under this item
8 (21) applies for all periods beginning May 30, 1995, but no
9 claim for credit or refund is allowed on or after January 1,
10 2008 for such taxes paid during the period beginning May 30,
11 2000 and ending on January 1, 2008.

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

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

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

1 that amount is not refunded to the lessee for any reason, the
2 lessor is liable to pay that amount to the Department.

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

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

25 (26) Beginning July 1, 1999, game or game birds purchased
26 at a "game breeding and hunting preserve area" or an "exotic

1 game hunting area" as those terms are used in the Wildlife Code
2 or at a hunting enclosure approved through rules adopted by the
3 Department of Natural Resources. This paragraph is exempt from
4 the provisions of Section 3-90.

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

23 (28) Beginning January 1, 2000, personal property,
24 including food, purchased through fundraising events for the
25 benefit of a public or private elementary or secondary school,
26 a group of those schools, or one or more school districts if

1 the events are sponsored by an entity recognized by the school
2 district that consists primarily of volunteers and includes
3 parents and teachers of the school children. This paragraph
4 does not apply to fundraising events (i) for the benefit of
5 private home instruction or (ii) for which the fundraising
6 entity purchases the personal property sold at the events from
7 another individual or entity that sold the property for the
8 purpose of resale by the fundraising entity and that profits
9 from the sale to the fundraising entity. This paragraph is
10 exempt from the provisions of Section 3-90.

11 (29) Beginning January 1, 2000 and through December 31,
12 2001, new or used automatic vending machines that prepare and
13 serve hot food and beverages, including coffee, soup, and other
14 items, and replacement parts for these machines. Beginning
15 January 1, 2002 and through June 30, 2003, machines and parts
16 for machines used in commercial, coin-operated amusement and
17 vending business if a use or occupation tax is paid on the
18 gross receipts derived from the use of the commercial,
19 coin-operated amusement and vending machines. This paragraph
20 is exempt from the provisions of Section 3-90.

21 (30) Beginning January 1, 2001 and through June 30, 2011,
22 food for human consumption that is to be consumed off the
23 premises where it is sold (other than alcoholic beverages, soft
24 drinks, and food that has been prepared for immediate
25 consumption) and prescription and nonprescription medicines,
26 drugs, medical appliances, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human
2 use, when purchased for use by a person receiving medical
3 assistance under Article 5 of the Illinois Public Aid Code who
4 resides in a licensed long-term care facility, as defined in
5 the Nursing Home Care Act.

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

1 If, however, that amount is not refunded to the lessee for any
2 reason, the lessor is liable to pay that amount to the
3 Department. This paragraph is exempt from the provisions of
4 Section 3-90.

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

1 from the provisions of Section 3-90.

2 (33) On and after July 1, 2003 and through June 30, 2004,
3 the use in this State of motor vehicles of the second division
4 with a gross vehicle weight in excess of 8,000 pounds and that
5 are subject to the commercial distribution fee imposed under
6 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
7 1, 2004 and through June 30, 2005, the use in this State of
8 motor vehicles of the second division: (i) with a gross vehicle
9 weight rating in excess of 8,000 pounds; (ii) that are subject
10 to the commercial distribution fee imposed under Section
11 3-815.1 of the Illinois Vehicle Code; and (iii) that are
12 primarily used for commercial purposes. Through June 30, 2005,
13 this exemption applies to repair and replacement parts added
14 after the initial purchase of such a motor vehicle if that
15 motor vehicle is used in a manner that would qualify for the
16 rolling stock exemption otherwise provided for in this Act. For
17 purposes of this paragraph, the term "used for commercial
18 purposes" means the transportation of persons or property in
19 furtherance of any commercial or industrial enterprise,
20 whether for-hire or not.

21 (34) Beginning January 1, 2008, tangible personal property
22 used in the construction or maintenance of a community water
23 supply, as defined under Section 3.145 of the Environmental
24 Protection Act, that is operated by a not-for-profit
25 corporation that holds a valid water supply permit issued under
26 Title IV of the Environmental Protection Act. This paragraph is

1 exempt from the provisions of Section 3-90.

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

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

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

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

17 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

20 (1) Personal property purchased from a corporation,
21 society, association, foundation, institution, or
22 organization, other than a limited liability company, that is
23 organized and operated as a not-for-profit service enterprise
24 for the benefit of persons 65 years of age or older if the

1 personal property was not purchased by the enterprise for the
2 purpose of resale by the enterprise.

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

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

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

25 (5) Until July 1, 2003 and beginning again on September 1,
26 2004, graphic arts machinery and equipment, including repair

1 and replacement parts, both new and used, and including that
2 manufactured on special order or purchased for lease, certified
3 by the purchaser to be used primarily for graphic arts
4 production. Equipment includes chemicals or chemicals acting
5 as catalysts but only if the chemicals or chemicals acting as
6 catalysts effect a direct and immediate change upon a graphic
7 arts product.

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

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

1 required to be licensed and units sold mounted on a motor
2 vehicle required to be licensed if the selling price of the
3 tender is separately stated.

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

12 Farm machinery and equipment also includes computers,
13 sensors, software, and related equipment used primarily in the
14 computer-assisted operation of production agriculture
15 facilities, equipment, and activities such as, but not limited
16 to, the collection, monitoring, and correlation of animal and
17 crop data for the purpose of formulating animal diets and
18 agricultural chemicals. This item (7) is exempt from the
19 provisions of Section 3-75.

20 (8) Fuel and petroleum products sold to or used by an air
21 common carrier, certified by the carrier to be used for
22 consumption, shipment, or storage in the conduct of its
23 business as an air common carrier, for a flight destined for or
24 returning from a location or locations outside the United
25 States without regard to previous or subsequent domestic
26 stopovers.

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

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

21 (11) Proceeds from the sale of photoprocessing machinery
22 and equipment, including repair and replacement parts, both new
23 and used, including that manufactured on special order,
24 certified by the purchaser to be used primarily for
25 photoprocessing, and including photoprocessing machinery and
26 equipment purchased for lease.

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

10 (13) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (14) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes. This item (14) is exempt from the provisions
18 of Section 3-75, and the exemption provided for under this item
19 (14) applies for all periods beginning May 30, 1995, but no
20 claim for credit or refund is allowed on or after the effective
21 date of this amendatory Act of the 95th General Assembly for
22 such taxes paid during the period beginning May 30, 2000 and
23 ending on the effective date of this amendatory Act of the 95th
24 General Assembly.

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

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

21 (16) 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 tax exemption identification number by the
26 Department under Section 1g of the Retailers' Occupation Tax

1 Act. If the property is leased in a manner that does not
2 qualify for this exemption or is used in any other non-exempt
3 manner, the lessor shall be liable for the tax imposed under
4 this Act or the Use Tax Act, as the case may be, based on the
5 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 Use Tax Act, as the case may be, if the tax has not been paid by
10 the lessor. If a lessor improperly collects any such amount
11 from the lessee, the lessee shall have a legal right to claim a
12 refund of that amount from the lessor. If, however, that amount
13 is not refunded to the lessee for any reason, the lessor is
14 liable to pay that amount to the Department.

15 (17) 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 (18) 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 (19) 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 3-75.

17 (20) 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 (21) 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 3-75.

23 (22) 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 3-75.

7 (23) Beginning August 23, 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 (24) 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 Use Tax Act, as the case may
5 be, based on the fair market value of the property at the time
6 the nonqualifying use occurs. No lessor shall collect or
7 attempt to collect an amount (however designated) that purports
8 to reimburse that lessor for the tax imposed by this Act or the
9 Use Tax Act, as the case may be, if the tax has not been paid by
10 the lessor. If a lessor improperly collects any such amount
11 from the lessee, the lessee shall have a legal right to claim a
12 refund of that amount from the lessor. If, however, that amount
13 is not refunded to the lessee for any reason, the lessor is
14 liable to pay that amount to the Department. This paragraph is
15 exempt from the provisions of Section 3-75.

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

1 be, based on the fair market value of the property at the time
2 the nonqualifying use occurs. No lessor shall collect or
3 attempt to collect an amount (however designated) that purports
4 to reimburse that lessor for the tax imposed by this Act or the
5 Use Tax Act, as the case may be, if the tax has not been paid by
6 the lessor. If a lessor improperly collects any such amount
7 from the lessee, the lessee shall have a legal right to claim a
8 refund of that amount from the lessor. If, however, that amount
9 is not refunded to the lessee for any reason, the lessor is
10 liable to pay that amount to the Department. This paragraph is
11 exempt from the provisions of Section 3-75.

12 (26) Beginning January 1, 2008, tangible personal property
13 used in the construction or maintenance of a community water
14 supply, as defined under Section 3.145 of the Environmental
15 Protection Act, that is operated by a not-for-profit
16 corporation that holds a valid water supply permit issued under
17 Title IV of the Environmental Protection Act. This paragraph is
18 exempt from the provisions of Section 3-75.

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

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

1 of the 96th General Assembly, feedstock used at an energy
2 facility, as that term is defined in Section 1-10 of the
3 Illinois Power Agency Act, located in this State.

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

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

8 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

21 (3) Personal property purchased by any not-for-profit arts
22 or cultural organization that establishes, by proof required by
23 the Department by rule, that it has received an exemption under
24 Section 501(c)(3) of the Internal Revenue Code and that is

1 organized and operated primarily for the presentation or
2 support of arts or cultural programming, activities, or
3 services. These organizations include, but are not limited to,
4 music and dramatic arts organizations such as symphony
5 orchestras and theatrical groups, arts and cultural service
6 organizations, local arts councils, visual arts organizations,
7 and media arts organizations. On and after the effective date
8 of this amendatory Act of the 92nd General Assembly, however,
9 an entity otherwise eligible for this exemption shall not make
10 tax-free purchases unless it has an active identification
11 number issued by the Department.

12 (4) Legal tender, currency, medallions, or gold or silver
13 coinage issued by the State of Illinois, the government of the
14 United States of America, or the government of any foreign
15 country, and bullion.

16 (5) 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 or purchased for lease, certified
20 by the purchaser to be used primarily for graphic arts
21 production. Equipment includes chemicals or chemicals acting
22 as catalysts but only if the chemicals or chemicals acting as
23 catalysts effect a direct and immediate change upon a graphic
24 arts product.

25 (6) Personal property sold by a teacher-sponsored student
26 organization affiliated with an elementary or secondary school

1 located in Illinois.

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

21 Farm machinery and equipment shall include precision
22 farming equipment that is installed or purchased to be
23 installed on farm machinery and equipment including, but not
24 limited to, tractors, harvesters, sprayers, planters, seeders,
25 or spreaders. Precision farming equipment includes, but is not
26 limited to, soil testing sensors, computers, monitors,

1 software, global positioning and mapping systems, and other
2 such equipment.

3 Farm machinery and equipment also includes computers,
4 sensors, software, and related equipment used primarily in the
5 computer-assisted operation of production agriculture
6 facilities, equipment, and activities such as, but not limited
7 to, the collection, monitoring, and correlation of animal and
8 crop data for the purpose of formulating animal diets and
9 agricultural chemicals. This item (7) is exempt from the
10 provisions of Section 3-55.

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

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

26 (10) Until July 1, 2003, and beginning again on the

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

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

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

25 (13) Beginning January 1, 1992 and through June 30, 2011,
26 food for human consumption that is to be consumed off the

1 premises where it is sold (other than alcoholic beverages, soft
2 drinks and food that has been prepared for immediate
3 consumption) and prescription and non-prescription medicines,
4 drugs, medical appliances, and insulin, urine testing
5 materials, syringes, and needles used by diabetics, for human
6 use, when purchased for use by a person receiving medical
7 assistance under Article 5 of the Illinois Public Aid Code who
8 resides in a licensed long-term care facility, as defined in
9 the Nursing Home Care Act.

10 (14) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (15) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes. This item (15) is exempt from the provisions
18 of Section 3-55, and the exemption provided for under this item
19 (15) applies for all periods beginning May 30, 1995, but no
20 claim for credit or refund is allowed on or after January 1,
21 2008 (the effective date of Public Act 95-88) for such taxes
22 paid during the period beginning May 30, 2000 and ending on
23 January 1, 2008 (the effective date of Public Act 95-88).

24 (16) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients sold to a lessor

1 who leases the equipment, under a lease of one year or longer
2 executed or in effect at the time of the purchase, to a
3 hospital that has been issued an active tax exemption
4 identification number by the Department under Section 1g of the
5 Retailers' Occupation Tax Act.

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

12 (18) 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 (19) 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 (20) 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 3-55.

14 (21) 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 (22) 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 3-55.

20 (23) 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 3-55.

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 sold to a lessor who leases the equipment, under a lease of one
9 year or longer executed or in effect at the time of the
10 purchase, to a hospital that has been issued an active tax
11 exemption identification number by the Department under
12 Section 1g of the Retailers' Occupation Tax Act. This paragraph
13 is exempt from the provisions of Section 3-55.

14 (25) Beginning on the effective date of this amendatory Act
15 of the 92nd General Assembly, personal property sold to a
16 lessor who leases the property, under a lease of one year or
17 longer executed or in effect at the time of the purchase, to a
18 governmental body that has been issued an active tax exemption
19 identification number by the Department under Section 1g of the
20 Retailers' Occupation Tax Act. This paragraph is exempt from
21 the provisions of Section 3-55.

22 (26) Beginning on January 1, 2002 and through June 30,
23 2011, tangible personal property purchased from an Illinois
24 retailer by a taxpayer engaged in centralized purchasing
25 activities in Illinois who will, upon receipt of the property
26 in Illinois, temporarily store the property in Illinois (i) for

1 the purpose of subsequently transporting it outside this State
2 for use or consumption thereafter solely outside this State or
3 (ii) for the purpose of being processed, fabricated, or
4 manufactured into, attached to, or incorporated into other
5 tangible personal property to be transported outside this State
6 and thereafter used or consumed solely outside this State. The
7 Director of Revenue shall, pursuant to rules adopted in
8 accordance with the Illinois Administrative Procedure Act,
9 issue a permit to any taxpayer in good standing with the
10 Department who is eligible for the exemption under this
11 paragraph (26). The permit issued under this paragraph (26)
12 shall authorize the holder, to the extent and in the manner
13 specified in the rules adopted under this Act, to purchase
14 tangible personal property from a retailer exempt from the
15 taxes imposed by this Act. Taxpayers shall maintain all
16 necessary books and records to substantiate the use and
17 consumption of all such tangible personal property outside of
18 the State of Illinois.

19 (27) Beginning January 1, 2008, tangible personal property
20 used in the construction or maintenance of a community water
21 supply, as defined under Section 3.145 of the Environmental
22 Protection Act, that is operated by a not-for-profit
23 corporation that holds a valid water supply permit issued under
24 Title IV of the Environmental Protection Act. This paragraph is
25 exempt from the provisions of Section 3-55.

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

1 of the 96th General Assembly, equipment used at an energy
2 facility, as that term is defined in Section 1-10 of the
3 Illinois Power Agency Act, located within the State, including
4 replacement parts and equipment and including equipment
5 purchased for lease, but excluding motor vehicles required to
6 be registered under the Illinois Vehicle Code.

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

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

13 Section 15-40. The Retailers' Occupation Tax Act is amended
14 by changing Sections 2-5 as follows:

15 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

19 (1) Farm chemicals.

20 (2) Farm machinery and equipment, both new and used,
21 including that manufactured on special order, certified by the
22 purchaser to be used primarily for production agriculture or
23 State or federal agricultural programs, including individual
24 replacement parts for the machinery and equipment, including

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

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

23 Farm machinery and equipment also includes computers,
24 sensors, software, and related equipment used primarily in the
25 computer-assisted operation of production agriculture
26 facilities, equipment, and activities such as, but not limited

1 to, the collection, monitoring, and correlation of animal and
2 crop data for the purpose of formulating animal diets and
3 agricultural chemicals. This item (7) is exempt from the
4 provisions of Section 2-70.

5 (3) Until July 1, 2003, distillation machinery and
6 equipment, sold as a unit or kit, assembled or installed by the
7 retailer, certified by the user to be used only for the
8 production of ethyl alcohol that will be used for consumption
9 as motor fuel or as a component of motor fuel for the personal
10 use of the user, and not subject to sale or resale.

11 (4) Until July 1, 2003 and beginning again 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 (5) A motor vehicle of the first division, a motor vehicle
21 of the second division that is a self contained motor vehicle
22 designed or permanently converted to provide living quarters
23 for recreational, camping, or travel use, with direct walk
24 through access to the living quarters from the driver's seat,
25 or a motor vehicle of the second division that is of the van
26 configuration designed for the transportation of not less than

1 7 nor more than 16 passengers, as defined in Section 1-146 of
2 the Illinois Vehicle Code, that is used for automobile renting,
3 as defined in the Automobile Renting Occupation and Use Tax
4 Act. This paragraph is exempt from the provisions of Section
5 2-70.

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

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

12 (8) Personal property sold to an Illinois county fair
13 association for use in conducting, operating, or promoting the
14 county fair.

15 (9) Personal property sold to a not-for-profit arts or
16 cultural organization that establishes, by proof required by
17 the Department by rule, that it has received an exemption under
18 Section 501(c)(3) of the Internal Revenue Code and that is
19 organized and operated primarily for the presentation or
20 support of arts or cultural programming, activities, or
21 services. These organizations include, but are not limited to,
22 music and dramatic arts organizations such as symphony
23 orchestras and theatrical groups, arts and cultural service
24 organizations, local arts councils, visual arts organizations,
25 and media arts organizations. On and after the effective date
26 of this amendatory Act of the 92nd General Assembly, however,

1 an entity otherwise eligible for this exemption shall not make
2 tax-free purchases unless it has an active identification
3 number issued by the Department.

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

11 (11) Personal property sold to a governmental body, to a
12 corporation, society, association, foundation, or institution
13 organized and operated exclusively for charitable, religious,
14 or educational purposes, or to a not-for-profit corporation,
15 society, association, foundation, institution, or organization
16 that has no compensated officers or employees and that is
17 organized and operated primarily for the recreation of persons
18 55 years of age or older. A limited liability company may
19 qualify for the exemption under this paragraph only if the
20 limited liability company is organized and operated
21 exclusively for educational purposes. On and after July 1,
22 1987, however, no entity otherwise eligible for this exemption
23 shall make tax-free purchases unless it has an active
24 identification number issued by the Department.

25 (12) Tangible personal property sold to interstate
26 carriers for hire for use as rolling stock moving in interstate

1 commerce or to lessors under leases of one year or longer
2 executed or in effect at the time of purchase by interstate
3 carriers for hire for use as rolling stock moving in interstate
4 commerce and equipment operated by a telecommunications
5 provider, licensed as a common carrier by the Federal
6 Communications Commission, which is permanently installed in
7 or affixed to aircraft moving in interstate commerce.

8 (12-5) On and after July 1, 2003 and through June 30, 2004,
9 motor vehicles of the second division with a gross vehicle
10 weight in excess of 8,000 pounds that are subject to the
11 commercial distribution fee imposed under Section 3-815.1 of
12 the Illinois Vehicle Code. Beginning on July 1, 2004 and
13 through June 30, 2005, the use in this State of motor vehicles
14 of the second division: (i) with a gross vehicle weight rating
15 in excess of 8,000 pounds; (ii) that are subject to the
16 commercial distribution fee imposed under Section 3-815.1 of
17 the Illinois Vehicle Code; and (iii) that are primarily used
18 for commercial purposes. Through June 30, 2005, this exemption
19 applies to repair and replacement parts added after the initial
20 purchase of such a motor vehicle if that motor vehicle is used
21 in a manner that would qualify for the rolling stock exemption
22 otherwise provided for in this Act. For purposes of this
23 paragraph, "used for commercial purposes" means the
24 transportation of persons or property in furtherance of any
25 commercial or industrial enterprise whether for-hire or not.

26 (13) Proceeds from sales to owners, lessors, or shippers of

1 tangible personal property that is utilized by interstate
2 carriers for hire for use as rolling stock moving in interstate
3 commerce and equipment operated by a telecommunications
4 provider, licensed as a common carrier by the Federal
5 Communications Commission, which is permanently installed in
6 or affixed to aircraft moving in interstate commerce.

7 (14) Machinery and equipment that will be used by the
8 purchaser, or a lessee of the purchaser, primarily in the
9 process of manufacturing or assembling tangible personal
10 property for wholesale or retail sale or lease, whether the
11 sale or lease is made directly by the manufacturer or by some
12 other person, whether the materials used in the process are
13 owned by the manufacturer or some other person, or whether the
14 sale or lease is made apart from or as an incident to the
15 seller's engaging in the service occupation of producing
16 machines, tools, dies, jigs, patterns, gauges, or other similar
17 items of no commercial value on special order for a particular
18 purchaser.

19 (15) Proceeds of mandatory service charges separately
20 stated on customers' bills for purchase and consumption of food
21 and beverages, to the extent that the proceeds of the service
22 charge are in fact turned over as tips or as a substitute for
23 tips to the employees who participate directly in preparing,
24 serving, hosting or cleaning up the food or beverage function
25 with respect to which the service charge is imposed.

26 (16) Petroleum products sold to a purchaser if the seller

1 is prohibited by federal law from charging tax to the
2 purchaser.

3 (17) Tangible personal property sold to a common carrier by
4 rail or motor that receives the physical possession of the
5 property in Illinois and that transports the property, or
6 shares with another common carrier in the transportation of the
7 property, out of Illinois on a standard uniform bill of lading
8 showing the seller of the property as the shipper or consignor
9 of the property to a destination outside Illinois, for use
10 outside Illinois.

11 (18) Legal tender, currency, medallions, or gold or silver
12 coinage issued by the State of Illinois, the government of the
13 United States of America, or the government of any foreign
14 country, and bullion.

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

26 (20) Photoprocessing machinery and equipment, including

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

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

14 (22) Fuel and petroleum products sold to or used by an air
15 carrier, certified by the carrier to be used for consumption,
16 shipment, or storage in the conduct of its business as an air
17 common carrier, for a flight destined for or returning from a
18 location or locations outside the United States without regard
19 to previous or subsequent domestic stopovers.

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

24 (24) Fuel consumed or used in the operation of ships,
25 barges, or vessels that are used primarily in or for the
26 transportation of property or the conveyance of persons for

1 hire on rivers bordering on this State if the fuel is delivered
2 by the seller to the purchaser's barge, ship, or vessel while
3 it is afloat upon that bordering river.

4 (25) Except as provided in item (25-5) of this Section, a
5 motor vehicle sold in this State to a nonresident even though
6 the motor vehicle is delivered to the nonresident in this
7 State, if the motor vehicle is not to be titled in this State,
8 and if a drive-away permit is issued to the motor vehicle as
9 provided in Section 3-603 of the Illinois Vehicle Code or if
10 the nonresident purchaser has vehicle registration plates to
11 transfer to the motor vehicle upon returning to his or her home
12 state. The issuance of the drive-away permit or having the
13 out-of-state registration plates to be transferred is prima
14 facie evidence that the motor vehicle will not be titled in
15 this State.

16 (25-5) The exemption under item (25) does not apply if the
17 state in which the motor vehicle will be titled does not allow
18 a reciprocal exemption for a motor vehicle sold and delivered
19 in that state to an Illinois resident but titled in Illinois.
20 The tax collected under this Act on the sale of a motor vehicle
21 in this State to a resident of another state that does not
22 allow a reciprocal exemption shall be imposed at a rate equal
23 to the state's rate of tax on taxable property in the state in
24 which the purchaser is a resident, except that the tax shall
25 not exceed the tax that would otherwise be imposed under this
26 Act. At the time of the sale, the purchaser shall execute a

1 statement, signed under penalty of perjury, of his or her
2 intent to title the vehicle in the state in which the purchaser
3 is a resident within 30 days after the sale and of the fact of
4 the payment to the State of Illinois of tax in an amount
5 equivalent to the state's rate of tax on taxable property in
6 his or her state of residence and shall submit the statement to
7 the appropriate tax collection agency in his or her state of
8 residence. In addition, the retailer must retain a signed copy
9 of the statement in his or her records. Nothing in this item
10 shall be construed to require the removal of the vehicle from
11 this state following the filing of an intent to title the
12 vehicle in the purchaser's state of residence if the purchaser
13 titles the vehicle in his or her state of residence within 30
14 days after the date of sale. The tax collected under this Act
15 in accordance with this item (25-5) shall be proportionately
16 distributed as if the tax were collected at the 6.25% general
17 rate imposed under this Act.

18 (25-7) Beginning on July 1, 2007, no tax is imposed under
19 this Act on the sale of an aircraft, as defined in Section 3 of
20 the Illinois Aeronautics Act, if all of the following
21 conditions are met:

22 (1) the aircraft leaves this State within 15 days after
23 the later of either the issuance of the final billing for
24 the sale of the aircraft, or the authorized approval for
25 return to service, completion of the maintenance record
26 entry, and completion of the test flight and ground test

1 for inspection, as required by 14 C.F.R. 91.407;

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

4 (3) the seller retains in his or her books and records
5 and provides to the Department a signed and dated
6 certification from the purchaser, on a form prescribed by
7 the Department, certifying that the requirements of this
8 item (25-7) are met. The certificate must also include the
9 name and address of the purchaser, the address of the
10 location where the aircraft is to be titled or registered,
11 the address of the primary physical location of the
12 aircraft, and other information that the Department may
13 reasonably require.

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

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

19 "Registered in this State" means an aircraft registered
20 with the Department of Transportation, Aeronautics Division,
21 or titled or registered with the Federal Aviation
22 Administration to an address located in this State.

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

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

1 (27) Horses, or interests in horses, registered with and
2 meeting the requirements of any of the Arabian Horse Club
3 Registry of America, Appaloosa Horse Club, American Quarter
4 Horse Association, United States Trotting Association, or
5 Jockey Club, as appropriate, used for purposes of breeding or
6 racing for prizes. This item (27) is exempt from the provisions
7 of Section 2-70, and the exemption provided for under this item
8 (27) applies for all periods beginning May 30, 1995, but no
9 claim for credit or refund is allowed on or after January 1,
10 2008 (the effective date of Public Act 95-88) for such taxes
11 paid during the period beginning May 30, 2000 and ending on
12 January 1, 2008 (the effective date of Public Act 95-88) .

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

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

26 (30) Beginning with taxable years ending on or after

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

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

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

1 the provisions of Section 2-70.

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

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

1 does not apply to fundraising events (i) for the benefit of
2 private home instruction or (ii) for which the fundraising
3 entity purchases the personal property sold at the events from
4 another individual or entity that sold the property for the
5 purpose of resale by the fundraising entity and that profits
6 from the sale to the fundraising entity. This paragraph is
7 exempt from the provisions of Section 2-70.

8 (35) Beginning January 1, 2000 and through December 31,
9 2001, new or used automatic vending machines that prepare and
10 serve hot food and beverages, including coffee, soup, and other
11 items, and replacement parts for these machines. Beginning
12 January 1, 2002 and through June 30, 2003, machines and parts
13 for machines used in commercial, coin-operated amusement and
14 vending business if a use or occupation tax is paid on the
15 gross receipts derived from the use of the commercial,
16 coin-operated amusement and vending machines. This paragraph
17 is exempt from the provisions of Section 2-70.

18 (35-5) Beginning August 23, 2001 and through June 30, 2011,
19 food for human consumption that is to be consumed off the
20 premises where it is sold (other than alcoholic beverages, soft
21 drinks, and food that has been prepared for immediate
22 consumption) and prescription and nonprescription medicines,
23 drugs, medical appliances, and insulin, urine testing
24 materials, syringes, and needles used by diabetics, for human
25 use, when purchased for use by a person receiving medical
26 assistance under Article 5 of the Illinois Public Aid Code who

1 resides in a licensed long-term care facility, as defined in
2 the Nursing Home Care Act.

3 (36) Beginning August 2, 2001, computers and
4 communications equipment utilized for any hospital purpose and
5 equipment used in the diagnosis, analysis, or treatment of
6 hospital patients sold to a lessor who leases the equipment,
7 under a lease of one year or longer executed or in effect at
8 the time of the purchase, to a hospital that has been issued an
9 active tax exemption identification number by the Department
10 under Section 1g of this Act. This paragraph is exempt from the
11 provisions of Section 2-70.

12 (37) Beginning August 2, 2001, personal property sold to a
13 lessor who leases the property, under a lease of one year or
14 longer executed or in effect at the time of the purchase, to a
15 governmental body that has been issued an active tax exemption
16 identification number by the Department under Section 1g of
17 this Act. This paragraph is exempt from the provisions of
18 Section 2-70.

19 (38) Beginning on January 1, 2002 and through June 30,
20 2011, tangible personal property purchased from an Illinois
21 retailer by a taxpayer engaged in centralized purchasing
22 activities in Illinois who will, upon receipt of the property
23 in Illinois, temporarily store the property in Illinois (i) for
24 the purpose of subsequently transporting it outside this State
25 for use or consumption thereafter solely outside this State or
26 (ii) for the purpose of being processed, fabricated, or

1 manufactured into, attached to, or incorporated into other
2 tangible personal property to be transported outside this State
3 and thereafter used or consumed solely outside this State. The
4 Director of Revenue shall, pursuant to rules adopted in
5 accordance with the Illinois Administrative Procedure Act,
6 issue a permit to any taxpayer in good standing with the
7 Department who is eligible for the exemption under this
8 paragraph (38). The permit issued under this paragraph (38)
9 shall authorize the holder, to the extent and in the manner
10 specified in the rules adopted under this Act, to purchase
11 tangible personal property from a retailer exempt from the
12 taxes imposed by this Act. Taxpayers shall maintain all
13 necessary books and records to substantiate the use and
14 consumption of all such tangible personal property outside of
15 the State of Illinois.

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

23 (40) Beginning on the effective date of this amendatory Act
24 of the 96th General Assembly, equipment used at an energy
25 facility, as that term is defined in Section 1-10 of the
26 Illinois Power Agency Act, located within the State, including

1 replacement parts and equipment and including equipment
2 purchased for lease, but excluding motor vehicles required to
3 be registered under the Illinois Vehicle Code.

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

8 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,
9 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;
10 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

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

13 (35 ILCS 200/10-203 new)

14 Sec. 10-203. Real property tax; energy facilities. Any real
15 property used by an energy facility, as that term is defined in
16 Section 1-10 of the Illinois Power Agency Act, may be the
17 subject of a real property tax assessment voluntarily entered
18 into between the taxpayer and thee taxing districts in which
19 the property is situated. Governing bodies and other
20 appropriate authorities, including county and State board or
21 officials, may be parties to an agreement. Any agreement may
22 provide that an assessment of the real property subject to the
23 agreement, determined in accordance with applicable valuation
24 procedures of this Code, be fixed for a term of years,

1 beginning with the assessment date of the year in which the
2 energy facility begins commercial operations. An agreement may
3 be for a term of years up to, but not exceeding, 20 years. The
4 agreement may also provide that the parties agree not to
5 challenge the assessment as provided in the agreement.

6 If an agreement is entered into between the parties after
7 the assessment date of the year in which the energy facility
8 begins commercial operations, then the agreement shall not
9 provide for a revision of assessment of the property subject to
10 the agreement for any years prior to the year in which the
11 agreement was entered into by the parties. An agreement may
12 also provide that the parties agree not to initiate revision of
13 assessments of property subject to the agreement for prior
14 assessment years not subject to the agreement for reasons
15 related to the entering into an agreement.

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

18 (415 ILCS 5/28.7 new)

19 Sec. 28.7. Expedited process. The rules of the Agency and
20 Board must include a process for expediting the issuance of
21 permits and licenses for projects at energy facilities, as that
22 term is used in Section 1-10 the Illinois Power Agency Act. The
23 Agency and Board may engage the experts and additional
24 resources that are reasonably necessary for implementing this

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

4 Section 15-50. The Eminent Domain Act is amended by
5 changing Sections 5-5-5, 15-5-5, and 15-5-25 as follows:

6 (735 ILCS 30/5-5-5)

7 Sec. 5-5-5. Exercise of the power of eminent domain; public
8 use; blight.

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

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

19 (a-10) Subsections (b), (c), (d), (e), and (f) of this
20 Section do not apply to the acquisition or damaging of property
21 in furtherance of the goals and objectives of an existing tax
22 increment allocation redevelopment plan. A condemning
23 authority may exercise the power of eminent domain for the
24 acquisition of property in furtherance of an existing tax

1 increment allocation redevelopment plan as provided for by law
2 in effect prior to the effective date of this Act.

3 As used in this subsection, "existing tax increment
4 allocation redevelopment plan" means a redevelopment plan that
5 was adopted under the Tax Increment Allocation Redevelopment
6 Act (Article 11, Division 74.4 of the Illinois Municipal Code)
7 prior to April 15, 2006 and for which property assembly costs
8 were, before that date, included as a budget line item in the
9 plan or described in the narrative portion of the plan as part
10 of the redevelopment project, but does not include (i) any
11 additional area added to the redevelopment project area on or
12 after April 15, 2006, (ii) any subsequent extension of the
13 completion date of a redevelopment plan beyond the estimated
14 completion date established in that plan prior to April 15,
15 2006, (iii) any acquisition of property in a conservation area
16 for which the condemnation complaint is filed more than 12
17 years after the effective date of this Act, or (iv) any
18 acquisition of property in an industrial park conservation
19 area.

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

23 (b) If the exercise of eminent domain authority is to
24 acquire property for public ownership and control, then the
25 condemning authority must prove that (i) the acquisition of the
26 property is necessary for a public purpose and (ii) the

1 acquired property will be owned and controlled by the
2 condemning authority or another governmental entity.

3 (c) Except when the acquisition is governed by subsection
4 (b) or is primarily for one of the purposes specified in
5 subsection (d), (e), or (f) and the condemning authority elects
6 to proceed under one of those subsections, if the exercise of
7 eminent domain authority is to acquire property for private
8 ownership or control, or both, then the condemning authority
9 must prove by clear and convincing evidence that the
10 acquisition of the property for private ownership or control is
11 (i) primarily for the benefit, use, or enjoyment of the public
12 and (ii) necessary for a public purpose.

13 An acquisition of property primarily for the purpose of the
14 elimination of blight is rebuttably presumed to be for a public
15 purpose and primarily for the benefit, use, or enjoyment of the
16 public under this subsection.

17 Any challenge to the existence of blighting factors alleged
18 in a complaint to condemn under this subsection shall be raised
19 within 6 months of the filing date of the complaint to condemn,
20 and if not raised within that time the right to challenge the
21 existence of those blighting factors shall be deemed waived.

22 Evidence that the Illinois Commerce Commission has granted
23 a certificate or otherwise made a finding of public convenience
24 and necessity for an acquisition of property (or any right or
25 interest in property) for private ownership or control
26 (including, without limitation, an acquisition for which the

1 use of eminent domain is authorized under the Public Utilities
2 Act, the Telephone Company Act, the Common Carrier by Pipeline
3 Law, or the Electric Supplier Act) to be used for utility
4 purposes, including common carrier purposes, creates a
5 presumption rebuttable only by clear and convincing evidence
6 not available at the time of the proceeding before the
7 Commission, ~~rebuttable presumption~~ that such acquisition of
8 that property (or right or interest in property) is (i)
9 primarily for the benefit, use, or enjoyment of the public and
10 (ii) necessary for a public purpose.

11 In the case of an acquisition of property (or any right or
12 interest in property) for private ownership or control to be
13 used for utility, pipeline, or railroad purposes for which no
14 certificate or finding of public convenience and necessity by
15 the Illinois Commerce Commission is required, evidence that the
16 acquisition is one for which the use of eminent domain is
17 authorized under one of the following laws creates a rebuttable
18 presumption that the acquisition of that property (or right or
19 interest in property) is (i) primarily for the benefit, use, or
20 enjoyment of the public and (ii) necessary for a public
21 purpose:

- 22 (1) the Public Utilities Act,
- 23 (2) the Telephone Company Act,
- 24 (3) the Electric Supplier Act,
- 25 (4) the Railroad Terminal Authority Act,
- 26 (5) the Grand Avenue Railroad Relocation Authority

1 Act,

2 (6) the West Cook Railroad Relocation and Development
3 Authority Act,

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

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

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

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

8 (d) If the exercise of eminent domain authority is to
9 acquire property for private ownership or control and if the
10 primary basis for the acquisition is the elimination of blight
11 and the condemning authority elects to proceed under this
12 subsection, then the condemning authority must: (i) prove by a
13 preponderance of the evidence that acquisition of the property
14 for private ownership or control is necessary for a public
15 purpose; (ii) prove by a preponderance of the evidence that the
16 property to be acquired is located in an area that is currently
17 designated as a blighted area or conservation area under an
18 applicable statute; (iii) if the existence of blight or
19 blighting factors is challenged in an appropriate motion filed
20 within 6 months after the date of filing of the complaint to
21 condemn, prove by a preponderance of the evidence that the
22 required blighting factors existed in the area so designated
23 (but not necessarily in the particular property to be acquired)
24 at the time of the designation under item (ii) or at any time
25 thereafter; and (iv) prove by a preponderance of the evidence
26 at least one of the following:

1 (A) that it has entered into an express written
2 agreement in which a private person or entity agrees to
3 undertake a development project within the blighted area
4 that specifically details the reasons for which the
5 property or rights in that property are necessary for the
6 development project;

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

15 (C) that (1) the acquired property will be used in the
16 development of a project that is consistent with the land
17 uses set forth in a comprehensive redevelopment plan
18 prepared in accordance with the applicable statute
19 authorizing the condemning authority to exercise the power
20 of eminent domain and is consistent with the goals and
21 purposes of that comprehensive redevelopment plan, and (2)
22 an enforceable written agreement, deed restriction, or
23 similar encumbrance has been or will be executed and
24 recorded against the acquired property to assure that the
25 project and the use of the property remain consistent with
26 those land uses, goals, and purposes for a period of at

1 least 40 years, which execution and recording shall be
2 included as a requirement in any final order entered in the
3 condemnation proceeding.

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

14 Any challenge to the existence of blighting factors alleged
15 in a complaint to condemn under this subsection shall be raised
16 within 6 months of the filing date of the complaint to condemn,
17 and if not raised within that time the right to challenge the
18 existence of those blighting factors shall be deemed waived.

19 (e) If the exercise of eminent domain authority is to
20 acquire property for private ownership or control and if the
21 primary purpose of the acquisition is one of the purposes
22 specified in item (iii) of this subsection and the condemning
23 authority elects to proceed under this subsection, then the
24 condemning authority must prove by a preponderance of the
25 evidence that: (i) the acquisition of the property is necessary
26 for a public purpose; (ii) an enforceable written agreement,

1 deed restriction, or similar encumbrance has been or will be
2 executed and recorded against the acquired property to assure
3 that the project and the use of the property remain consistent
4 with the applicable purpose specified in item (iii) of this
5 subsection for a period of at least 40 years, which execution
6 and recording shall be included as a requirement in any final
7 order entered in the condemnation proceeding; and (iii) the
8 acquired property will be one of the following:

9 (1) included in the project site for a residential
10 project, or a mixed-use project including residential
11 units, where not less than 20% of the residential units in
12 the project are made available, for at least 15 years, by
13 deed restriction, long-term lease, regulatory agreement,
14 extended use agreement, or a comparable recorded
15 encumbrance, to low-income households and very low-income
16 households, as defined in Section 3 of the Illinois
17 Affordable Housing Act;

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

22 (3) owned or used by a public utility or electric
23 cooperative for utility purposes;

24 (4) owned or used by a railroad for passenger or
25 freight transportation purposes;

26 (5) sold or leased to a private party that operates a

1 water supply, waste water, recycling, waste disposal,
2 waste-to-energy, or similar facility;

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

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

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

10 (9) a historic resource, as defined in Section 3 of the
11 Illinois State Agency Historic Resources Preservation Act,
12 a landmark designated as such under a local ordinance, or a
13 contributing structure within a local landmark district
14 listed on the National Register of Historic Places, that is
15 being acquired for purposes of preservation or
16 rehabilitation.

17 (f) If the exercise of eminent domain authority is to
18 acquire property for public ownership and private control and
19 if the primary purpose of the acquisition is one of the
20 purposes specified in item (iii) of this subsection and the
21 condemning authority elects to proceed under this subsection,
22 then the condemning authority must prove by a preponderance of
23 the evidence that: (i) the acquisition of the property is
24 necessary for a public purpose; (ii) the acquired property will
25 be owned by the condemning authority or another governmental
26 entity; and (iii) the acquired property will be controlled by a

1 private party that operates a business or facility related to
2 the condemning authority's operation of a university, medical
3 district, hospital, exposition or convention center, mass
4 transportation facility, or airport, including, but not
5 limited to, a medical clinic, research and development center,
6 food or commercial concession facility, social service
7 facility, maintenance or storage facility, cargo facility,
8 rental car facility, bus facility, taxi facility, flight
9 kitchen, fixed based operation, parking facility, refueling
10 facility, water supply facility, and railroad tracks and
11 stations.

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

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

16 (735 ILCS 30/15-5-5)

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

21 (5 ILCS 220/3.1); Intergovernmental Cooperation Act;
22 cooperating entities; for Municipal Joint Action Water
23 Agency purposes.

24 (5 ILCS 220/3.2); Intergovernmental Cooperation Act;

1 cooperating entities; for Municipal Joint Action Agency
2 purposes.

3 (5 ILCS 585/1); National Forest Land Act; United States of
4 America; for national forests.

5 (15 ILCS 330/2); Secretary of State Buildings in Cook County
6 Act; Secretary of State; for office facilities in Cook
7 County.

8 (20 ILCS 5/5-675); Civil Administrative Code of Illinois; the
9 Secretary of Transportation, the Director of Natural
10 Resources, and the Director of Central Management
11 Services; for lands, buildings, and grounds for which an
12 appropriation is made by the General Assembly.

13 (20 ILCS 620/9); Economic Development Area Tax Increment
14 Allocation Act; municipalities; to achieve the objectives
15 of the economic development project.

16 (20 ILCS 685/1); Particle Accelerator Land Acquisition Act;
17 Department of Commerce and Economic Opportunity; for a
18 federal high energy BEV Particle Accelerator.

19 (20 ILCS 835/2); State Parks Act; Department of Natural
20 Resources; for State parks.

21 (20 ILCS 1110/3); Illinois Coal and Energy Development Bond
22 Act; Department of Commerce and Economic Opportunity; for
23 coal projects.

24 (20 ILCS 1920/2.06); Abandoned Mined Lands and Water
25 Reclamation Act; Department of Natural Resources; for
26 reclamation purposes.

1 (20 ILCS 1920/2.08); Abandoned Mined Lands and Water
2 Reclamation Act; Department of Natural Resources; for
3 reclamation purposes and for the construction or
4 rehabilitation of housing.

5 (20 ILCS 1920/2.11); Abandoned Mined Lands and Water
6 Reclamation Act; Department of Natural Resources; for
7 eliminating hazards.

8 (20 ILCS 3105/9.08a); Capital Development Board Act; Capital
9 Development Board; for lands, buildings and grounds for
10 which an appropriation is made by the General Assembly.

11 (20 ILCS 3110/5); Building Authority Act; Capital Development
12 Board; for purposes declared by the General Assembly to be
13 in the public interest.

14 (20 ILCS 3855/1-21) Illinois Power Agency Act; Illinois Power
15 Agency; for construction, maintenance, and operations of
16 energy facilities, and for the purpose of acquiring
17 easements for the delivery, transportation, and storage of
18 CO₂.

19 (40 ILCS 5/15-167); Illinois Pension Code; State Universities
20 Retirement System; for real estate acquired for the use of
21 the System.

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

23 (735 ILCS 30/15-5-25)

24 Sec. 15-5-25. Eminent domain powers in ILCS Chapters 205
25 through 430. The following provisions of law may include

1 express grants of the power to acquire property by condemnation
2 or eminent domain:

3 (220 ILCS 5/8-509); Public Utilities Act; public utilities; for
4 construction of certain improvements.

5 (220 ICLS 5/15-401); Common Carrier by Pipeline Law; common
6 carriers by pipeline for construction of certain pipelines
7 and facilities.

8 (220 ILCS 15/1); Gas Storage Act; corporations engaged in the
9 distribution, transportation, or storage of natural gas or
10 manufactured gas; for their operations.

11 (220 ILCS 15/2 and 15/6); Gas Storage Act; corporations engaged
12 in the distribution, transportation, or storage of natural
13 gas or manufactured gas; for use of an underground
14 geological formation for gas storage.

15 (220 ILCS 30/13); Electric Supplier Act; electric
16 cooperatives; for general purposes.

17 (220 ILCS 55/3); Telegraph Act; telegraph companies; for
18 telegraph lines.

19 (220 ILCS 65/4); Telephone Company Act; telecommunications
20 carriers; for telephone company purposes.

21 (225 ILCS 435/23); Ferries Act; ferry operators; for a landing,
22 ferryhouse, or approach.

23 (225 ILCS 440/9); Highway Advertising Control Act of 1971;
24 Department of Transportation; for removal of signs
25 adjacent to highways.

1 (310 ILCS 5/6 and 5/38); State Housing Act; housing
2 corporations; for general purposes.

3 (310 ILCS 10/8.3); Housing Authorities Act; housing
4 authorities; for general purposes.

5 (310 ILCS 10/8.15); Housing Authorities Act; housing
6 authorities; for implementation of conservation plans and
7 demolition.

8 (310 ILCS 10/9); Housing Authorities Act; housing authorities;
9 for general purposes.

10 (310 ILCS 20/5); Housing Development and Construction Act;
11 housing authorities; for development or redevelopment.

12 (310 ILCS 35/2); House Relocation Act; political subdivisions
13 and municipal corporations; for relocation of dwellings
14 for highway construction.

15 (315 ILCS 5/14); Blighted Areas Redevelopment Act of 1947; land
16 clearance commissions; for redevelopment projects.

17 (315 ILCS 10/5); Blighted Vacant Areas Development Act of 1949;
18 State of Illinois; for housing development.

19 (315 ILCS 20/9 and 20/42); Neighborhood Redevelopment
20 Corporation Law; neighborhood redevelopment corporations;
21 for general purposes.

22 (315 ILCS 25/4 and 25/6); Urban Community Conservation Act;
23 municipal conservation boards; for conservation areas.

24 (315 ILCS 30/12); Urban Renewal Consolidation Act of 1961;
25 municipal departments of urban renewal; for blighted area
26 redevelopment projects.

1 (315 ILCS 30/20 and 30/22); Urban Renewal Consolidation Act of
2 1961; municipal departments of urban renewal; for
3 implementing conservation areas.

4 (315 ILCS 30/24); Urban Renewal Consolidation Act of 1961;
5 municipal departments of urban renewal; for general
6 purposes.

7 (415 ILCS 95/6); Junkyard Act; Department of Transportation;
8 for junkyards or scrap processing facilities.

9 (420 ILCS 35/1); Radioactive Waste Storage Act; Illinois
10 Emergency Management Agency; for radioactive by-product
11 and waste storage.

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

13 Article 99.

14 Section 99-995. No acceleration or delay. Where this Act
15 makes changes in a statute that is represented in this Act by
16 text that is not yet or no longer in effect (for example, a
17 Section represented by multiple versions), the use of that text
18 does not accelerate or delay the taking effect of (i) the
19 changes made by this Act or (ii) provisions derived from any
20 other Public Act.

21 Section 99-997. Severability. The provisions of this Act
22 are severable under Section 1.31 of the Statute on Statutes.

1 Section 99-999. Effective date. This Act takes effect July
2 1, 2009.".