

1 AN ACT concerning the environment.

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

4 Section 5. The State Finance is amended by adding
5 Section 5.545 as follows:

6 (30 ILCS 105/5.545 new)

7 Sec. 5.545. The Distressed Communities and Industries
8 Fund. Subsections (b) and (c) of Section 5 of this Act do not
9 apply to this Fund.

10 Section 10. The Illinois Income Tax Act is amended by
11 changing Section 201 as follows:

12 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

13 Sec. 201. Tax Imposed.

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

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

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

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

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

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

10 (4) (Blank).

11 (5) (Blank).

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

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

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

25 (c) Beginning on July 1, 1979 and thereafter, in
 26 addition to such income tax, there is also hereby imposed the
 27 Personal Property Tax Replacement Income Tax measured by net
 28 income on every corporation (including Subchapter S
 29 corporations), partnership and trust, for each taxable year
 30 ending after June 30, 1979. Such taxes are imposed on the
 31 privilege of earning or receiving income in or as a resident
 32 of this State. The Personal Property Tax Replacement Income
 33 Tax shall be in addition to the income tax imposed by
 34 subsections (a) and (b) of this Section and in addition to

1 all other occupation or privilege taxes imposed by this State
2 or by any municipal corporation or political subdivision
3 thereof.

4 (d) Additional Personal Property Tax Replacement Income
5 Tax Rates. The personal property tax replacement income tax
6 imposed by this subsection and subsection (c) of this Section
7 in the case of a corporation, other than a Subchapter S
8 corporation and except as adjusted by subsection (d-1), shall
9 be an additional amount equal to 2.85% of such taxpayer's net
10 income for the taxable year, except that beginning on January
11 1, 1981, and thereafter, the rate of 2.85% specified in this
12 subsection shall be reduced to 2.5%, and in the case of a
13 partnership, trust or a Subchapter S corporation shall be an
14 additional amount equal to 1.5% of such taxpayer's net income
15 for the taxable year.

16 (d-1) Rate reduction for certain foreign insurers. In
17 the case of a foreign insurer, as defined by Section 35A-5 of
18 the Illinois Insurance Code, whose state or country of
19 domicile imposes on insurers domiciled in Illinois a
20 retaliatory tax (excluding any insurer whose premiums from
21 reinsurance assumed are 50% or more of its total insurance
22 premiums as determined under paragraph (2) of subsection (b)
23 of Section 304, except that for purposes of this
24 determination premiums from reinsurance do not include
25 premiums from inter-affiliate reinsurance arrangements),
26 beginning with taxable years ending on or after December 31,
27 1999, the sum of the rates of tax imposed by subsections (b)
28 and (d) shall be reduced (but not increased) to the rate at
29 which the total amount of tax imposed under this Act, net of
30 all credits allowed under this Act, shall equal (i) the total
31 amount of tax that would be imposed on the foreign insurer's
32 net income allocable to Illinois for the taxable year by such
33 foreign insurer's state or country of domicile if that net
34 income were subject to all income taxes and taxes measured by

1 net income imposed by such foreign insurer's state or country
2 of domicile, net of all credits allowed or (ii) a rate of
3 zero if no such tax is imposed on such income by the foreign
4 insurer's state of domicile. For the purposes of this
5 subsection (d-1), an inter-affiliate includes a mutual
6 insurer under common management.

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

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

14 (B) the privilege tax imposed by Section 409
15 of the Illinois Insurance Code, the fire insurance
16 company tax imposed by Section 12 of the Fire
17 Investigation Act, and the fire department taxes
18 imposed under Section 11-10-1 of the Illinois
19 Municipal Code,

20 equals 1.25% of the net taxable premiums written for the
21 taxable year, as described by subsection (1) of Section
22 409 of the Illinois Insurance Code. This paragraph will
23 in no event increase the rates imposed under subsections
24 (b) and (d).

25 (2) Any reduction in the rates of tax imposed by
26 this subsection shall be applied first against the rates
27 imposed by subsection (b) and only after the tax imposed
28 by subsection (a) net of all credits allowed under this
29 Section other than the credit allowed under subsection
30 (i) has been reduced to zero, against the rates imposed
31 by subsection (d).

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

34 (e) Investment credit. A taxpayer shall be allowed a

1 credit against the Personal Property Tax Replacement Income
2 Tax for investment in qualified property.

3 (1) A taxpayer shall be allowed a credit equal to
4 .5% of the basis of qualified property placed in service
5 during the taxable year, provided such property is placed
6 in service on or after July 1, 1984. There shall be
7 allowed an additional credit equal to .5% of the basis of
8 qualified property placed in service during the taxable
9 year, provided such property is placed in service on or
10 after July 1, 1986, and the taxpayer's base employment
11 within Illinois has increased by 1% or more over the
12 preceding year as determined by the taxpayer's employment
13 records filed with the Illinois Department of Employment
14 Security. Taxpayers who are new to Illinois shall be
15 deemed to have met the 1% growth in base employment for
16 the first year in which they file employment records with
17 the Illinois Department of Employment Security. The
18 provisions added to this Section by Public Act 85-1200
19 (and restored by Public Act 87-895) shall be construed as
20 declaratory of existing law and not as a new enactment.
21 If, in any year, the increase in base employment within
22 Illinois over the preceding year is less than 1%, the
23 additional credit shall be limited to that percentage
24 times a fraction, the numerator of which is .5% and the
25 denominator of which is 1%, but shall not exceed .5%.
26 The investment credit shall not be allowed to the extent
27 that it would reduce a taxpayer's liability in any tax
28 year below zero, nor may any credit for qualified
29 property be allowed for any year other than the year in
30 which the property was placed in service in Illinois. For
31 tax years ending on or after December 31, 1987, and on or
32 before December 31, 1988, the credit shall be allowed for
33 the tax year in which the property is placed in service,
34 or, if the amount of the credit exceeds the tax liability

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

26 (2) The term "qualified property" means property
27 which:

28 (A) is tangible, whether new or used,
29 including buildings and structural components of
30 buildings and signs that are real property, but not
31 including land or improvements to real property that
32 are not a structural component of a building such as
33 landscaping, sewer lines, local access roads,
34 fencing, parking lots, and other appurtenances;

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

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

8 (D) is used in Illinois by a taxpayer who is
9 primarily engaged in manufacturing, or in mining
10 coal or fluorite, or in retailing; and

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

15 (3) For purposes of this subsection (e),
16 "manufacturing" means the material staging and production
17 of tangible personal property by procedures commonly
18 regarded as manufacturing, processing, fabrication, or
19 assembling which changes some existing material into new
20 shapes, new qualities, or new combinations. For purposes
21 of this subsection (e) the term "mining" shall have the
22 same meaning as the term "mining" in Section 613(c) of
23 the Internal Revenue Code. For purposes of this
24 subsection (e), the term "retailing" means the sale of
25 tangible personal property or services rendered in
26 conjunction with the sale of tangible consumer goods or
27 commodities.

28 (4) The basis of qualified property shall be the
29 basis used to compute the depreciation deduction for
30 federal income tax purposes.

31 (5) If the basis of the property for federal income
32 tax depreciation purposes is increased after it has been
33 placed in service in Illinois by the taxpayer, the amount
34 of such increase shall be deemed property placed in

1 service on the date of such increase in basis.

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

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

22 (8) Unless the investment credit is extended by
23 law, the basis of qualified property shall not include
24 costs incurred after December 31, 2003, except for costs
25 incurred pursuant to a binding contract entered into on
26 or before December 31, 2003.

27 (9) Each taxable year ending before December 31,
28 2000, a partnership may elect to pass through to its
29 partners the credits to which the partnership is entitled
30 under this subsection (e) for the taxable year. A
31 partner may use the credit allocated to him or her under
32 this paragraph only against the tax imposed in
33 subsections (c) and (d) of this Section. If the
34 partnership makes that election, those credits shall be

1 allocated among the partners in the partnership in
2 accordance with the rules set forth in Section 704(b) of
3 the Internal Revenue Code, and the rules promulgated
4 under that Section, and the allocated amount of the
5 credits shall be allowed to the partners for that taxable
6 year. The partnership shall make this election on its
7 Personal Property Tax Replacement Income Tax return for
8 that taxable year. The election to pass through the
9 credits shall be irrevocable.

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

24 (f) Investment credit; Enterprise Zone.

25 (1) A taxpayer shall be allowed a credit against
26 the tax imposed by subsections (a) and (b) of this
27 Section for investment in qualified property which is
28 placed in service in an Enterprise Zone created pursuant
29 to the Illinois Enterprise Zone Act. For partners,
30 shareholders of Subchapter S corporations, and owners of
31 limited liability companies, if the liability company is
32 treated as a partnership for purposes of federal and
33 State income taxation, there shall be allowed a credit
34 under this subsection (f) to be determined in accordance

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

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

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

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

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

33 (D) is used in the Enterprise Zone by the
 34 taxpayer; and

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

5 (3) The basis of qualified property shall be the
6 basis used to compute the depreciation deduction for
7 federal income tax purposes.

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

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

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

33 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
34 Zone or Sub-Zone.

1 (1) A taxpayer conducting a trade or business in an
 2 enterprise zone or a High Impact Business designated by
 3 the Department of Commerce and Community Affairs
 4 conducting a trade or business in a federally designated
 5 Foreign Trade Zone or Sub-Zone shall be allowed a credit
 6 against the tax imposed by subsections (a) and (b) of
 7 this Section in the amount of \$500 per eligible employee
 8 hired to work in the zone during the taxable year.

9 (2) To qualify for the credit:

10 (A) the taxpayer must hire 5 or more eligible
 11 employees to work in an enterprise zone or federally
 12 designated Foreign Trade Zone or Sub-Zone during the
 13 taxable year;

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

22 (C) the eligible employees must be employed
 23 180 consecutive days in order to be deemed hired for
 24 purposes of this subsection.

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

27 (A) Certified by the Department of Commerce
 28 and Community Affairs as "eligible for services"
 29 pursuant to regulations promulgated in accordance
 30 with Title II of the Job Training Partnership Act,
 31 Training Services for the Disadvantaged or Title III
 32 of the Job Training Partnership Act, Employment and
 33 Training Assistance for Dislocated Workers Program.

34 (B) Hired after the enterprise zone or

1 federally designated Foreign Trade Zone or Sub-Zone
2 was designated or the trade or business was located
3 in that zone, whichever is later.

4 (C) Employed in the enterprise zone or Foreign
5 Trade Zone or Sub-Zone. An employee is employed in
6 an enterprise zone or federally designated Foreign
7 Trade Zone or Sub-Zone if his services are rendered
8 there or it is the base of operations for the
9 services performed.

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

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

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

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

32 (h) Investment credit; High Impact Business.

33 (1) Subject to subsection (b) of Section 5.5 of the
34 Illinois Enterprise Zone Act, a taxpayer shall be allowed

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

33 Changes made in this subdivision (h)(1) by Public
34 Act 88-670 restore changes made by Public Act 85-1182 and

1 reflect existing law.

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

4 (A) is tangible, whether new or used,
5 including buildings and structural components of
6 buildings;

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

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

14 (D) is not eligible for the Enterprise Zone
15 Investment Credit provided by subsection (f) of this
16 Section.

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

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

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

29 (6) If during any taxable year ending on or before
30 December 31, 1996, any property ceases to be qualified
31 property in the hands of the taxpayer within 48 months
32 after being placed in service, or the situs of any
33 qualified property is moved outside Illinois within 48
34 months after being placed in service, the tax imposed

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

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

24 (i) A credit shall be allowed against the tax imposed by
25 subsections (a) and (b) of this Section for the tax imposed
26 by subsections (c) and (d) of this Section. This credit
27 shall be computed by multiplying the tax imposed by
28 subsections (c) and (d) of this Section by a fraction, the
29 numerator of which is base income allocable to Illinois and
30 the denominator of which is Illinois base income, and further
31 multiplying the product by the tax rate imposed by
32 subsections (a) and (b) of this Section.

33 Any credit earned on or after December 31, 1986 under
34 this subsection which is unused in the year the credit is

1 computed because it exceeds the tax liability imposed by
2 subsections (a) and (b) for that year (whether it exceeds the
3 original liability or the liability as later amended) may be
4 carried forward and applied to the tax liability imposed by
5 subsections (a) and (b) of the 5 taxable years following the
6 excess credit year. This credit shall be applied first to
7 the earliest year for which there is a liability. If there
8 is a credit under this subsection from more than one tax year
9 that is available to offset a liability the earliest credit
10 arising under this subsection shall be applied first.

11 If, during any taxable year ending on or after December
12 31, 1986, the tax imposed by subsections (c) and (d) of this
13 Section for which a taxpayer has claimed a credit under this
14 subsection (i) is reduced, the amount of credit for such tax
15 shall also be reduced. Such reduction shall be determined by
16 recomputing the credit to take into account the reduced tax
17 imposed by subsection (c) and (d). If any portion of the
18 reduced amount of credit has been carried to a different
19 taxable year, an amended return shall be filed for such
20 taxable year to reduce the amount of credit claimed.

21 (j) Training expense credit. Beginning with tax years
22 ending on or after December 31, 1986, a taxpayer shall be
23 allowed a credit against the tax imposed by subsection (a)
24 and (b) under this Section for all amounts paid or accrued,
25 on behalf of all persons employed by the taxpayer in Illinois
26 or Illinois residents employed outside of Illinois by a
27 taxpayer, for educational or vocational training in
28 semi-technical or technical fields or semi-skilled or skilled
29 fields, which were deducted from gross income in the
30 computation of taxable income. The credit against the tax
31 imposed by subsections (a) and (b) shall be 1.6% of such
32 training expenses. For partners, shareholders of subchapter
33 S corporations, and owners of limited liability companies, if
34 the liability company is treated as a partnership for

1 purposes of federal and State income taxation, there shall be
2 allowed a credit under this subsection (j) to be determined
3 in accordance with the determination of income and
4 distributive share of income under Sections 702 and 704 and
5 subchapter S of the Internal Revenue Code.

6 Any credit allowed under this subsection which is unused
7 in the year the credit is earned may be carried forward to
8 each of the 5 taxable years following the year for which the
9 credit is first computed until it is used. This credit shall
10 be applied first to the earliest year for which there is a
11 liability. If there is a credit under this subsection from
12 more than one tax year that is available to offset a
13 liability the earliest credit arising under this subsection
14 shall be applied first.

15 (k) Research and development credit.

16 Beginning with tax years ending after July 1, 1990, a
17 taxpayer shall be allowed a credit against the tax imposed by
18 subsections (a) and (b) of this Section for increasing
19 research activities in this State. The credit allowed
20 against the tax imposed by subsections (a) and (b) shall be
21 equal to 6 1/2% of the qualifying expenditures for increasing
22 research activities in this State. For partners, shareholders
23 of subchapter S corporations, and owners of limited liability
24 companies, if the liability company is treated as a
25 partnership for purposes of federal and State income
26 taxation, there shall be allowed a credit under this
27 subsection to be determined in accordance with the
28 determination of income and distributive share of income
29 under Sections 702 and 704 and subchapter S of the Internal
30 Revenue Code.

31 For purposes of this subsection, "qualifying
32 expenditures" means the qualifying expenditures as defined
33 for the federal credit for increasing research activities
34 which would be allowable under Section 41 of the Internal

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

10 Any credit in excess of the tax liability for the taxable
11 year may be carried forward. A taxpayer may elect to have the
12 unused credit shown on its final completed return carried
13 over as a credit against the tax liability for the following
14 5 taxable years or until it has been fully used, whichever
15 occurs first.

16 If an unused credit is carried forward to a given year
17 from 2 or more earlier years, that credit arising in the
18 earliest year will be applied first against the tax liability
19 for the given year. If a tax liability for the given year
20 still remains, the credit from the next earliest year will
21 then be applied, and so on, until all credits have been used
22 or no tax liability for the given year remains. Any
23 remaining unused credit or credits then will be carried
24 forward to the next following year in which a tax liability
25 is incurred, except that no credit can be carried forward to
26 a year which is more than 5 years after the year in which the
27 expense for which the credit is given was incurred.

28 Unless extended by law, the credit shall not include
29 costs incurred after December 31, 2004, except for costs
30 incurred pursuant to a binding contract entered into on or
31 before December 31, 2004.

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

1 (1) Environmental Remediation Tax Credit.

2 (i) For tax years ending after December 31, 1997

3 and on or before December 31, 2006 ~~2004~~, a taxpayer shall

4 be allowed a credit against the tax imposed by

5 subsections (a) and (b) of this Section for certain

6 amounts paid for unreimbursed eligible remediation costs,

7 as specified in this subsection. For purposes of this

8 Section, "unreimbursed eligible remediation costs" means

9 costs approved by the Illinois Environmental Protection

10 Agency ("Agency") under Section 58.14 of the

11 Environmental Protection Act that were paid in performing

12 environmental remediation at a site accepted into the

13 Site Remediation Program that meets the criteria set

14 forth in Section 58.14 of the Illinois Environmental

15 Protection Act. The credit applies only to costs

16 incurred during the 10-year period following the

17 acceptance of the site into the Site Remediation Program

18 unless an extension of this period is granted by the

19 Department of Commerce and Community Affairs ~~for which--a~~

20 ~~No--Further--Remediation--Letter--was--issued--by--the--Agency~~

21 ~~and--recorded--under--Section--58.10--of--the--Environmental~~

22 ~~Protection--Act.----The--credit--must--be--claimed--for--the~~

23 ~~taxable--year--in--which--Agency--approval--of--the--eligible~~

24 ~~remediation--costs--is--granted. The credit is available for~~

25 only those sites that are determined by the Department of

26 Commerce and Community Affairs to be abandoned or

27 underutilized properties pursuant to Section 58.14 of the

28 Environmental Protection Act. The credit is not available

29 to any taxpayer if the taxpayer or any related party

30 caused or contributed to, in any material respect, a

31 release of regulated substances on, in, or under the site

32 that is being was identified and addressed by the

33 remedial action pursuant to the Site Remediation Program

34 of the Environmental Protection Act. ~~After-the-Pollution~~

1 Control--Board-rules-are-adopted-pursuant-to-the-Illinois
 2 Administrative-Procedure-Act-for-the--administration--and
 3 enforcement---of---Section---58.9--of--the--Environmental
 4 Protection-Act, Determinations as to credit availability
 5 for purposes of this Section shall be made consistent
 6 with these rules adopted by the Pollution Control Board
 7 for the administration and enforcement of Section 58.9 of
 8 the Environmental Protection Act. For purposes of this
 9 Section, "taxpayer" includes a person whose tax
 10 attributes the taxpayer has succeeded to under Section
 11 381 of the Internal Revenue Code and "related party"
 12 includes the persons disallowed a deduction for losses by
 13 paragraphs (b), (c), and (f)(1) of Section 267 of the
 14 Internal Revenue Code by virtue of being a related
 15 taxpayer, as well as any of its partners. The credit
 16 allowed against the tax imposed by subsections (a) and
 17 (b) shall be equal to 100% 25% of the unreimbursed
 18 eligible remediation costs, as set forth in Section 58.14
 19 of the Environmental Protection Act and shall not exceed
 20 the net economic benefit of the remediation, as
 21 determined by the Department of Commerce and Community
 22 Affairs in--excess-of-\$100,000-per-site,--except-that-the
 23 \$100,000-threshold-shall-not-apply-to-any-site--contained
 24 in--an-enterprise-zone-as-determined-by-the-Department-of
 25 Commerce-and-Community-Affairs.--The-total-credit-allowed
 26 shall-not-exceed-\$40,000-per-year-with-a-maximum-total-of
 27 \$150,000-per-site. For partners and shareholders of
 28 subchapter S corporations, there shall be allowed a
 29 credit under this subsection to be determined in
 30 accordance with the determination of income and
 31 distributive share of income under Sections 702 and 704
 32 and of subchapter S of the Internal Revenue Code.

33 (ii) For a Remediation Applicant seeking a credit
 34 under subsection (b-5) of Section 58.14 of the

1 Environmental Protection Act, until the Agency issues a
 2 No Further Remediation Letter for the site, no more than
 3 75% of the allowed credit may be claimed by the eligible
 4 taxpayer. The remaining 25% in allowed tax credits may
 5 be claimed following the issuance by the Agency of a No
 6 Further Remediation Letter for the site. For a
 7 Remediation Applicant seeking a credit under subsection
 8 (b) of Section 58.14 of the Environmental Protection Act,
 9 until the Agency issues a No Further Remediation Letter
 10 for the site, no credit may be claimed by the eligible
 11 taxpayer.

12 (iii) (ii) A credit allowed under this subsection
 13 that is unused in the year the credit is earned may be
 14 carried forward to each of the 5 taxable years following
 15 the year for which the credit is first earned until it is
 16 used. ~~The--term--"unused--credit"--does--not--include--any~~
 17 ~~amounts--of--unreimbursed--eligible--remediation--costs--in~~
 18 ~~excess--of--the--maximum--credit--per--site--authorized--under~~
 19 ~~paragraph--(i):~~ This credit shall be applied first to the
 20 earliest year for which there is a liability. If there
 21 is a credit under this subsection from more than one tax
 22 year that is available to offset a liability, the
 23 earliest credit arising under this subsection shall be
 24 applied first. The recipient of credits may assign, sell,
 25 or transfer, in whole or in part, the tax credit allowed
 26 under this subsection to any other person. ~~A--credit~~
 27 ~~allowed--under--this--subsection--may--be--sold--to--a--buyer--as~~
 28 ~~part--of--a--sale--of--all--or--part--of--the--remediation--site--for~~
 29 ~~which--the--credit--was--granted,---The--purchaser--of--a~~
 30 ~~remediation--site--and--the--tax--credit--shall--succeed--to--the~~
 31 ~~unused--credit--and--remaining--carry--forward--period--of--the~~
 32 seller. To perfect the transfer, the assignor shall
 33 ~~record--the--transfer--in--the--chain--of--title--for--the--site~~
 34 and provide written notice to the Director of the

1 Illinois Department of Revenue of (i) the assignor's
 2 intent to transfer the tax credits to the assignee, (ii)
 3 the date the transfer is effective, (iii) the assignee's
 4 name and address, (iv) the assignee's tax period, and (v)
 5 the amount of tax credits to be transferred. The number
 6 of taxable years during which the assignee may
 7 subsequently claim the tax credits shall not exceed 5
 8 taxable years, less the number of taxable years the
 9 assignor previously claimed the credits before the
 10 transfer occurred ~~sell--the--remediation--site--and--the~~
 11 ~~amount--of--the--tax--credit--to--be--transferred--as--a--portion~~
 12 ~~of--the--sale.~~ In no event may a credit be transferred to
 13 any taxpayer if the taxpayer or a related party would not
 14 be eligible under the provisions of subsection (i).

15 (iv) ~~(iii)~~ For purposes of this Section, the term
 16 "site" shall have the same meaning as under Section 58.2
 17 of the Environmental Protection Act.

18 The changes made to this subsection (l) by this
 19 amendatory Act of the 92nd General Assembly apply to taxable
 20 years ending on or after December 31, 2001.

21 (m) Education expense credit.

22 Beginning with tax years ending after December 31, 1999,
 23 a taxpayer who is the custodian of one or more qualifying
 24 pupils shall be allowed a credit against the tax imposed by
 25 subsections (a) and (b) of this Section for qualified
 26 education expenses incurred on behalf of the qualifying
 27 pupils. The credit shall be equal to 25% of qualified
 28 education expenses, but in no event may the total credit
 29 under this Section claimed by a family that is the custodian
 30 of qualifying pupils exceed \$500. In no event shall a credit
 31 under this subsection reduce the taxpayer's liability under
 32 this Act to less than zero. This subsection is exempt from
 33 the provisions of Section 250 of this Act.

34 For purposes of this subsection;

1 "Qualifying pupils" means individuals who (i) are
2 residents of the State of Illinois, (ii) are under the age of
3 21 at the close of the school year for which a credit is
4 sought, and (iii) during the school year for which a credit
5 is sought were full-time pupils enrolled in a kindergarten
6 through twelfth grade education program at any school, as
7 defined in this subsection.

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

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

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

22 (Source: P.A. 90-123, eff. 7-21-97; 90-458, eff. 8-17-97;
23 90-605, eff. 6-30-98; 90-655, eff. 7-30-98; 90-717, eff.
24 8-7-98; 90-792, eff. 1-1-99; 91-9, eff. 1-1-00; 91-357, eff.
25 7-29-99; 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860,
26 eff. 6-22-00; 91-913, eff. 1-1-01; revised 10-24-00.)

27 Section 15. The Environmental Protection Act is amended
28 by changing Sections 58.13 and 58.14 as follows:

29 (415 ILCS 5/58.13)

30 Sec. 58.13. Brownfields Redevelopment Grant Program.

31 (a)(1) The Agency shall establish and administer a
32 program of grants to be known as the Brownfields

1 Redevelopment Grant Program to provide municipalities in
2 Illinois with financial assistance to be used for
3 coordination of activities related to brownfields
4 redevelopment, including but not limited to
5 identification of brownfields sites, site investigation
6 and determination of remediation objectives and related
7 plans and reports, and development of remedial action
8 plans, but not including the implementation of remedial
9 action plans and remedial action completion reports. The
10 plans and reports shall be developed in accordance with
11 Title XVII of this Act.

12 (2) Grants shall be awarded on a competitive basis
13 subject to availability of funding. Criteria for
14 awarding grants shall include, but shall not be limited
15 to the following:

- 16 (A) problem statement and needs assessment;
- 17 (B) community-based planning and involvement;
- 18 (C) implementation planning; and
- 19 (D) long-term benefits and sustainability.

20 (3) The Agency may give weight to geographic
21 location to enhance geographic distribution of grants
22 across this State.

23 (4) Grants shall be limited to a maximum of
24 \$120,000 and no municipality shall receive more than 2
25 grants ~~one-grant~~ under this Section.

26 (5) Grant amounts shall not exceed 70% of the
27 project amount, with the remainder to be provided by the
28 municipality as local matching funds.

29 (b) The Agency shall have the authority to enter into
30 any contracts or agreements that may be necessary to carry
31 out its duties or responsibilities under this Section. The
32 Agency shall have the authority to adopt rules setting forth
33 procedures and criteria for administering the Brownfields
34 Redevelopment Grant Program. The rules adopted by the Agency

1 may include but shall not be limited to the following:

- 2 (1) purposes for which grants are available;
- 3 (2) application periods and content of
- 4 applications;
- 5 (3) procedures and criteria for Agency review of
- 6 grant applications, grant approvals and denials, and
- 7 grantee acceptance;
- 8 (4) grant payment schedules;
- 9 (5) grantee responsibilities for work schedules,
- 10 work plans, reports, and record keeping;
- 11 (6) evaluation of grantee performance, including
- 12 but not limited to auditing and access to sites and
- 13 records;
- 14 (7) requirements applicable to contracting and
- 15 subcontracting by the grantee;
- 16 (8) penalties for noncompliance with grant
- 17 requirements and conditions, including stop-work orders,
- 18 termination of grants, and recovery of grant funds;
- 19 (9) indemnification of this State and the Agency by
- 20 the grantee; and
- 21 (10) manner of compliance with the Local Government
- 22 Professional Services Selection Act.

23 (Source: P.A. 90-123, eff. 7-21-97.)

24 (415 ILCS 5/58.14)

25 Sec. 58.14. Environmental Remediation Tax Credit review.

26 (a) Prior to applying for the Environmental Remediation
 27 Tax Credit under Section 201 of the Illinois Income Tax Act,
 28 Remediation Applicants shall satisfy the requirements of this
 29 Section. The Remediation Applicant shall first submit to the
 30 Department of Commerce and Community Affairs an application
 31 for review of eligibility for the tax credit. If the
 32 Department determines the Remediation Applicant is eligible,
 33 the Remediation Applicant shall submit to the Agency an

1 application for review of remediation costs. The application
2 and review process shall be conducted in accordance with the
3 requirements of this Section and the rules adopted under
4 subsections subsection (g) and (h). A preliminary review of
5 the estimated remediation costs for development and
6 implementation of the Remedial Action Plan may be obtained in
7 accordance with subsection (d).

8 (a-3) The Department of Commerce and Community Affairs
9 shall review the eligibility application to determine whether
10 the remediation applicant is eligible for the tax credit.
11 The application shall be on forms prescribed and provided by
12 the Department. At a minimum, the application shall include
13 the following:

14 (1) Information identifying the Remediation
15 Applicant and the site for which the tax credit is being
16 sought.

17 (2) Information demonstrating that the site for
18 which the credit is being sought is abandoned or
19 underutilized property. "Abandoned property" is real
20 property previously used for, or which has the potential
21 to be used for, commercial or industrial purposes that
22 reverted to the ownership of the State, a county or
23 municipal government, or an agency thereof through
24 donation, purchase, tax delinquency, foreclosure,
25 default, or settlement, including conveyance by deed in
26 lieu of foreclosure; or a privately owned property that
27 has been vacant for a period of not less than 3 years
28 from the time an application is made to the Department.
29 "Underutilized property" is real property of which less
30 than 35% of the commercially usable space of the property
31 and improvements thereon are used for their most
32 commercially profitable and economically productive uses.

33 (3) Information demonstrating that remediation of
34 the site for which the credit is being sought will result

1 in net economic benefit to the State of Illinois. The
2 "net economic benefit" shall be determined based on
3 factors including, but not limited to, the capital
4 investment, the number of jobs created, the number of
5 jobs retained if it is demonstrated the jobs would
6 otherwise be lost, capital improvements, the number of
7 construction-related jobs, increased sales, material
8 purchases, other increases in service and operational
9 expenditures, and other factors established by the
10 Department. Priority shall be given to sites located in
11 areas with high levels of poverty, where the unemployment
12 rate exceeds the State average, where an enterprise zone
13 exists, or where the area is otherwise economically
14 depressed as determined by the Department.

15 (4) An application fee in the amount set forth in
16 subsection (e-5) for each site for which review of an
17 application is being sought.

18 (a-5) Within 60 days after receipt by the Department of
19 Commerce and Community Affairs of an application meeting the
20 requirements of subsection (a-3), the Department shall issue
21 a letter to the applicant approving or disapproving the
22 application for tax credits. If the application is approved,
23 the Department's letter shall also include its determination
24 of the net economic benefit of the remediation project and
25 the amount of tax credits to be made available to the
26 applicant for remediation costs. The amount of tax credits
27 awarded under this Section shall not exceed the net economic
28 benefit of the remediation project, as determined by the
29 Department.

30 (a-7) No application for review of remediation costs
31 shall be submitted to the Agency unless the Department has
32 determined the Remediation Applicant is eligible under
33 subsection (a-5).

34 (b) Except as provided in subsection (b-5), no

1 application for review of remediation costs shall be
 2 submitted until a No Further Remediation Letter has been
 3 issued by the Agency and recorded in the chain of title for
 4 the site in accordance with Section 58.10. The Agency shall
 5 review the application to determine whether the costs
 6 submitted are remediation costs, and whether the costs
 7 incurred are reasonable. The application shall be on forms
 8 prescribed and provided by the Agency. At a minimum, the
 9 application shall include the following:

10 (1) information identifying the Remediation
 11 Applicant and the site for which the tax credit is being
 12 sought and the date of acceptance of the site into the
 13 Site Remediation Program;

14 (2) A copy of the No Further Remediation Letter
 15 with official verification that the letter has been
 16 recorded in the chain of title for the site and a
 17 demonstration that the site for which the application is
 18 submitted is the same site as the one for which the No
 19 Further Remediation Letter is issued;

20 (3) a demonstration that the release of the
 21 regulated substances of concern for which the No Further
 22 Remediation Letter was issued were not caused or
 23 contributed to in any material respect by the Remediation
 24 Applicant. ~~After--the--Pollution-Control-Board-rules-are~~
 25 ~~adopted-pursuant-to-the-Illinois-Administrative-Procedure~~
 26 ~~Act-for-the-administration--and--enforcement--of--Section~~
 27 ~~58.9--of-the-Environmental-Protection-Act,~~ Determinations
 28 as to credit availability shall be made consistent with
 29 these rules adopted by the Pollution Control Board for
 30 the administration and enforcement of Section 58.9 of
 31 this Act;

32 (3.5) a copy of the Department of Commerce and
 33 Community Affairs' letter approving eligibility,
 34 including the net economic benefit of the remediation

1 project;

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

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

6 (6) a demonstration that the costs submitted for
7 review were incurred by the Remediation Applicant who
8 ~~received-the-No-Further-Remediation-Letter;~~

9 (7) an application fee in the amount set forth in
10 subsection (e) for each site for which review of
11 remediation costs is requested and, ~~if applicable,~~
12 ~~certification from the Department of Commerce and~~
13 ~~Community Affairs that the site is located in an~~
14 ~~enterprise zone; and~~

15 (8) any other information deemed appropriate by the
16 Agency.

17 (b-5) An application for review of remediation costs may
18 be submitted to the Agency prior to the issuance of a No
19 Further Remediation Letter if the Remediation Applicant has a
20 Remedial Action Plan approved by the Agency under the terms
21 of which the Remediation Applicant will remediate groundwater
22 for more than one year. The Agency shall review the
23 application to determine whether the costs submitted are
24 remediation costs, and whether the costs incurred are
25 reasonable. The application shall be on forms prescribed and
26 provided by the Agency. At a minimum, the application shall
27 include the following:

28 (1) Information identifying the Remediation
29 Applicant and the site for which the tax credit is being
30 sought and the date of acceptance of the site into the
31 Site Remediation Program.

32 (2) A copy of the Agency letter approving the
33 Remedial Action Plan.

34 (3) A demonstration that the release of the

1 regulated substances of concern for which the Remedial
2 Action Plan was approved were not caused or contributed
3 to in any material respect by the Remediation Applicant.
4 Determinations as to credit availability shall be made
5 consistent with rules adopted by the Pollution Control
6 Board for the administration and enforcement of Section
7 58.9 of this Act.

8 (4) A copy of the Department of Commerce and
9 Community Affairs' letter approving eligibility,
10 including the net economic benefit of the remediation
11 project.

12 (5) An itemization and documentation, including
13 receipts, of the remediation costs incurred.

14 (6) A demonstration that the costs incurred are
15 remediation costs as defined in this Act and rules
16 adopted under this Act.

17 (7) A demonstration that the costs submitted for
18 review were incurred by the Remediation Applicant who
19 received approval of the Remediation Action Plan.

20 (8) An application fee in the amount set forth in
21 subsection (e) for each site for which review of
22 remediation costs is requested.

23 (9) Any other information deemed appropriate by the
24 Agency.

25 (c) Within 60 days after receipt by the Agency of an
26 application meeting the requirements of subsections
27 subsection (b) or (b-5), the Agency shall issue a letter to
28 the applicant approving, disapproving, or modifying the
29 remediation costs submitted in the application. ~~If the~~
30 ~~remediation costs are approved as submitted, the Agency's~~
31 ~~letter shall state the amount of the remediation costs to be~~
32 ~~applied toward the Environmental Remediation Tax Credit.~~ If
33 an application is disapproved or approved with modification
34 of remediation costs, the Agency's letter shall set forth the

1 reasons for the disapproval or modification and--state--the
 2 amount-of-the-remediation-costs,if-any,te-be-applied-toward
 3 the-Environmental-Remediation-Tax-Credit.

4 If a preliminary review of a budget plan has been
 5 obtained under subsection (d), the Remediation Applicant may
 6 submit, with the application and supporting documentation
 7 under subsections subsection (b) or (b-5), a copy of the
 8 Agency's final determination accompanied by a certification
 9 that the actual remediation costs incurred for the
 10 development and implementation of the Remedial Action Plan
 11 are equal to or less than the costs approved in the Agency's
 12 final determination on the budget plan. The certification
 13 shall be signed by the Remediation Applicant and notarized.
 14 Based on that submission, the Agency shall not be required to
 15 conduct further review of the costs incurred for development
 16 and implementation of the Remedial Action Plan and may
 17 approve costs as submitted.

18 Within 35 days after receipt of an Agency letter
 19 disapproving or modifying an application for approval of
 20 remediation costs, the Remediation Applicant may appeal the
 21 Agency's decision to the Board in the manner provided for the
 22 review of permits in Section 40 of this Act.

23 (d) (1) A Remediation Applicant may obtain a preliminary
 24 review of estimated remediation costs for the development
 25 and implementation of the Remedial Action Plan by
 26 submitting a budget plan along with the Remedial Action
 27 Plan. The budget plan shall be set forth on forms
 28 prescribed and provided by the Agency and shall include
 29 but shall not be limited to line item estimates of the
 30 costs associated with each line item (such as personnel,
 31 equipment, and materials) that the Remediation Applicant
 32 anticipates will be incurred for the development and
 33 implementation of the Remedial Action Plan. The Agency
 34 shall review the budget plan along with the Remedial

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

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

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

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

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

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

26 (e) The fees for reviews conducted by the Agency under
27 this Section are in addition to any other fees or payments
28 for Agency services rendered pursuant to the Site Remediation
29 Program and shall be as follows:

30 (1) The fee for an application for review of
31 remediation costs shall be \$1,000 for each site reviewed.

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

1 (3) In the case of a Remediation Applicant
 2 submitting for review total remediation costs of \$100,000
 3 or less for a site located within an enterprise zone (as
 4 set forth in paragraph (i) of subsection (1) of Section
 5 201 of the Illinois Income Tax Act), the fee for an
 6 application for review of remediation costs shall be \$250
 7 for each site reviewed. For those sites, there shall be
 8 no fee for review of a budget plan under subsection (d).
 9 The application fee shall be made payable to the State of
 10 Illinois, for deposit into the Hazardous Waste Fund.

11 Pursuant to appropriation, the Agency shall use the fees
 12 collected under this subsection for development and
 13 administration of the review program.

14 (e-5) The fee for eligibility reviews conducted by the
 15 Department of Commerce and Community Affairs under this
 16 Section shall be \$1,000 for each site reviewed. The
 17 application fee shall be made payable to the Department of
 18 Commerce and Community Affairs for deposit into the
 19 Distressed Communities and Industries Fund. Subject to
 20 appropriation, the Department of Commerce and Community
 21 Affairs shall use the fees collected under this subsection
 22 for development and administration of the review program.

23 (f) The Department of Commerce and Community Affairs and
 24 the Agency shall have the authority to enter into any
 25 contracts or agreements that may be necessary to carry out
 26 their its duties and responsibilities under this Section.

27 (f-5) The Distressed Communities and Industries Fund.

28 (1) The Distressed Communities and Industries Fund
 29 is created as a special fund in the State treasury to be
 30 used exclusively for the purposes of this Section,
 31 including payment for the costs of administering this
 32 Act. The Fund shall be administered by the Department.

33 (2) The Fund consists of collected fees,
 34 appropriations from the General Assembly, and gifts and

1 grants to the Fund.

2 (3) The State Treasurer shall invest the money in
3 the Fund not currently needed to meet the obligations of
4 the Fund in the same manner as other public funds may be
5 invested. All interest earned on moneys in the Fund
6 shall be deposited into the Fund.

7 (4) The money in the Fund at the end of a State
8 fiscal year must remain in the Fund to be used
9 exclusively for the purposes of this Section.
10 Expenditures from the Fund are subject to appropriation
11 by the General Assembly.

12 (g) Within 6 months after the effective date of this
13 amendatory Act of 1997, the Agency shall propose rules
14 prescribing procedures and standards for its administration
15 of this Section. Within 6 months after receipt of the
16 Agency's proposed rules, the Board shall adopt on second
17 notice, pursuant to Sections 27 and 28 of this Act and the
18 Illinois Administrative Procedure Act, rules that are
19 consistent with this Section. Prior to the effective date of
20 rules adopted under this Section, the Agency may conduct
21 reviews of applications under this Section and the Agency is
22 further authorized to distribute guidance documents on costs
23 that are eligible or ineligible as remediation costs.

24 (h) Within 6 months after the effective date of this
25 amendatory Act of the 92nd General Assembly, the Agency and
26 the Department of Commerce and Community Affairs shall
27 propose rules prescribing procedures and standards for the
28 administration of this Section as changed by this amendatory
29 Act of the 92nd General Assembly. Within 6 months after
30 receipt of the proposed rules, the Board shall adopt on
31 second notice, pursuant to Sections 27 and 28 of this Act and
32 the Illinois Administrative Procedure Act, rules that are
33 consistent with this Section as changed by this amendatory
34 Act of the 92nd General Assembly. Prior to the effective

1 date of rules adopted under this subsection (h), the Agency
 2 and the Department of Commerce and Community Affairs may
 3 conduct reviews of applications under this Section and the
 4 Agency is further authorized to distribute guidance documents
 5 on costs that are eligible or ineligible as remediation
 6 costs.

7 (i) The changes relating to taxes made to this Section
 8 by this amendatory Act of the 92nd General Assembly apply to
 9 taxable years ending on or after December 31, 2001.

10 (Source: P.A. 90-123, eff. 7-21-97; 90-792, eff. 1-1-99.)

11 Section 30. The Response Action Contractor
 12 Indemnification Act is amended by changing Section 5 as
 13 follows:

14 (415 ILCS 100/5) (from Ch. 111 1/2, par. 7205)

15 Sec. 5. Response Contractors Indemnification Fund.

16 (a) There is hereby created the Response Contractors
 17 Indemnification Fund. The State Treasurer, ex officio, shall
 18 be custodian of the Fund, and the Comptroller shall direct
 19 payments from the Fund upon vouchers properly certified by
 20 the Attorney General in accordance with Section 4. The
 21 Treasurer shall credit interest on the Fund to the Fund.

22 (b) Every State response action contract shall provide
 23 that 5% of each payment to be made by the State under the
 24 contract shall be paid by the State directly into the
 25 Response Contractors Indemnification Fund rather than to the
 26 contractor, except that when there is more than \$2,000,000
 27 \$4,000,000 in the Fund at the beginning of a State fiscal
 28 year, State response action contracts during that fiscal year
 29 need not provide that 5% of each payment made under the
 30 contract be paid into the Fund. When only a portion of a
 31 contract relates to a remedial or response action, or to the
 32 identification, handling, storage, treatment or disposal of a

1 pollutant, the contract shall provide that only that portion
2 is subject to this subsection.

3 (c) Within 30 days after the effective date of this
4 amendatory Act of 1997, the Comptroller shall order
5 transferred and the Treasurer shall transfer \$1,200,000 from
6 the Response Contractors Indemnification Fund to the
7 Brownfields Redevelopment Fund. The Comptroller shall order
8 transferred and the Treasurer shall transfer \$1,200,000 from
9 the Response Contractors Indemnification Fund to the
10 Brownfields Redevelopment Fund on the first day of fiscal
11 years 1999, 2000, 2001, and 2002, 2003, 2004, and 2005.

12 (d) Within 30 days after the effective date of this
13 amendatory Act of the 91st General Assembly, the Comptroller
14 shall order transferred and the Treasurer shall transfer
15 \$2,000,000 from the Response Contractors Indemnification Fund
16 to the Asbestos Abatement Fund.

17 (Source: P.A. 90-123, eff. 7-21-97; 91-704, eff. 7-1-00.)