

1 AN ACT concerning taxes.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 adding Section 213 as follows:

6 (35 ILCS 5/213 new)

7 Sec. 213. New generation cooperative incentive tax
8 credit.

9 (a) As used in this Section:

10 "Department" means the Department of Revenue.

11 "Development facility" means a facility producing goods
12 derived from an agricultural commodity or using a process to
13 produce goods derived from an agricultural product.

14 "Eligible new generation cooperative" means a nonprofit
15 corporation formed under the General Not For Profit
16 Corporation Act of 1986 for the purpose of operating a
17 development facility or a renewable fuel production facility
18 and approved by the Department.

19 "Member" means a person, partnership, corporation, trust,
20 or limited liability company that invests cash funds in an
21 eligible new generation cooperative.

22 "Renewable fuel production facility" means a facility
23 producing an energy source that is derived from a renewable,
24 domestically grown, organic compound capable of powering
25 machinery, including an engine or power plant, and any
26 by-product derived from that energy source.

27 (b) Beginning with taxable years ending on or after
28 December 31, 2002 and ending with taxable years ending on or
29 before December 30, 2007, any member who invests cash funds
30 in an eligible new generation cooperative is entitled to a
31 credit against the tax imposed by subsections (a), (b), (c),

1 and (d) of Section 201 in an amount equal to the lesser of
2 50% of the member's investment or \$20,000. The maximum
3 credit that may be allowed to the members of any one new
4 generation cooperative is \$5,000,000.

5 (c) A member shall submit to the Department an
6 application for the tax credit authorized by this Section on
7 a form provided by the Department. To be approved by the
8 Department as an eligible new generation cooperative, the
9 cooperative must present (i) its certificate of incorporation
10 and a certificate of good standing (if it is more than 60
11 days old), (ii) a prospectus showing the estimated number of
12 members, amount of member equity desired, and expected dates
13 of equity contributions, (iii) a feasibility study or
14 business plan, if one is not included in the prospectus, and
15 (iv) a copy of the deed for the cooperative's land, or an
16 option on land, and a copy of the construction contract.

17 If the member meets all criteria prescribed by this
18 Section and is approved by the Department, the Department
19 shall issue a tax credit certificate in the appropriate
20 amount. Tax credits issued pursuant to this Section shall
21 initially be claimed for the taxable year in which the member
22 contributes capital to an eligible new generation
23 cooperative. Any amount of credit that exceeds the tax due
24 for a member's taxable year may not be carried back but may
25 be carried forward to any of the member's 3 subsequent
26 taxable years. The credit shall be applied to the earliest
27 year for which there is a tax liability. If there are
28 credits from more than one tax year that are available to
29 offset a liability, the earlier credit shall be applied
30 first. Tax credits issued pursuant to this Section may be
31 assigned, transferred, or sold. Whenever a certificate of
32 tax credit is assigned, transferred, sold, or otherwise
33 conveyed, a notarized endorsement shall be filed with the
34 Department specifying the name and address of the new owner

1 of the tax credit or the value of the credit.

2 (d) At least 10% of the tax credits authorized under
3 this Section shall be offered in any fiscal year to projects
4 with capital costs of no more than \$1,000,000. If the amount
5 of tax credits allowed under this Section exceeds the amount
6 needed for such smaller projects, the remaining tax credits
7 may be offered for projects with capital costs in excess of
8 \$1,000,000.

9 (e) If members of a project would be eligible for tax
10 credits in excess of \$5,000,000, tax credits authorized
11 pursuant to this Section shall be prorated between the
12 members on a percent of investment basis, not to exceed the
13 maximum allowed per member.

14 (f) An eligible new generation cooperative must maintain
15 cooperative status and operational control of the approved
16 facility for 5 years. If an eligible new generation
17 cooperative does not maintain cooperative status and
18 operational control of the facility for 5 years, any credits
19 allowed to members of the cooperative are forfeited. A
20 cooperative that repays its members' investments may change
21 its status or relinquish control of the facility with the
22 approval of the Department, but in no event may the
23 cooperative change its status or relinquish control in less
24 than 3 years after it is approved as eligible by the
25 Department.

26 (g) The Department of Natural Resources, the Department
27 of Commerce and Community Affairs, and the Department of
28 Agriculture may provide to an eligible new generation
29 cooperative any technical support necessary to assist in the
30 operation of the facility or the marketing of its products.

31 (h) The Department shall annually report to the Governor
32 and the General Assembly regarding the tax credits authorized
33 under this Section that were issued in the previous fiscal
34 year. The report shall contain, but not be limited to, the

1 aggregate number and dollar amount of tax credits issued by
2 the Department, the number and dollar amount of tax credits
3 claimed by taxpayers, and the number and dollar amount of tax
4 credits unclaimed by taxpayers as well as the number of years
5 allowed for claims to be made. This report shall be
6 delivered no later than November of each year.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.