



Sen. Gary Forby

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LRB095 09141 RCE 32762 a

1 AMENDMENT TO SENATE BILL 1704

2 AMENDMENT NO. _____. Amend Senate Bill 1704 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Clean
5 Coal FutureGen for Illinois Act.

6 Section 5. Purpose. Recognizing that the FutureGen Project
7 is a first-of-a-kind research project to permanently sequester
8 underground carbon-dioxide emissions from a coal-fueled power
9 plant, and that such a project would have benefits to the
10 economy and environment of Illinois, the purpose of this Act is
11 to provide the FutureGen Alliance with adequate liability
12 protection and permitting certainty to facilitate the siting of
13 the FutureGen Project in the State of Illinois.

14 Section 10. Legislative findings. The General Assembly
15 finds and determines that:

1 (1) human-induced greenhouse gas emissions have been
2 identified as contributing to global warming, the effects of
3 which pose a threat to public health and safety and the economy
4 of the State of Illinois;

5 (2) in order to meet the energy needs of the State of
6 Illinois, keep its economy strong and protect the environment
7 while reducing its contribution to human-induced greenhouse
8 gas emissions, the State of Illinois must be a leader in
9 developing new low-carbon technologies;

10 (3) carbon capture and storage is a low-carbon technology
11 that involves capturing the carbon dioxide from fossil fuel
12 energy and hydrogen generating units and injecting it into
13 secure geologic strata for permanent storage;

14 (4) the FutureGen Project is a public-private partnership
15 between the Federal Department of Energy and the FutureGen
16 Alliance that proposes to use this new technology as part of a
17 plan to build and operate a near zero emission coal fueled
18 power plant;

19 (5) the FutureGen Project will help ensure the long-term
20 viability of Illinois Basin coal as a major energy source in
21 the State of Illinois and throughout the nation and represents
22 a significant step in the State of Illinois' efforts to become
23 a self-sufficient, clean energy producer;

24 (6) the FutureGen Project provides an opportunity for the
25 State of Illinois to partner with the Federal Department of
26 Energy and the FutureGen Alliance in the development of these

1 innovative clean-coal technologies;

2 (7) the FutureGen Project will make the State of Illinois a
3 center for developing and refining clean coal technology,
4 hydrogen production and carbon capture and storage, and will
5 result in the development of new technologies designed to
6 improve the efficiency of the energy industry that will be
7 replicated world wide;

8 (8) the FutureGen Project is an important coal development
9 and conversion project that will create jobs in the State of
10 Illinois during the construction and operational phases,
11 contribute to the overall economy of the State of Illinois and
12 help reinvigorate the Illinois Basin coal industry; and

13 (9) the FutureGen Project and the property necessary for
14 the FutureGen Project serve a substantial public purpose as its
15 coal gasification, electricity generation, hydrogen
16 production, advanced emissions control and carbon capture and
17 storage technologies will benefit the citizens of the State of
18 Illinois.

19 Section 15. Definitions. For the purposes of this Act:

20 "Agency" means the Illinois Environmental Protection
21 Agency.

22 "Carbon capture and storage" means the process of capturing
23 and injecting sequestered gas for permanent storage.

24 "Carbon dioxide" or "CO2" means a colorless, odorless gas
25 in the form of one carbon and 2 oxygen atoms that is a

1 combustion byproduct and the principal greenhouse gas.

2 "Department" means the Department of Commerce and Economic
3 Opportunity.

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

6 "Federal Department" means the federal Department of
7 Energy.

8 "FutureGen Alliance" is a 501(c)(3) non-profit consortium
9 of coal and energy producers that, as of the effective date of
10 this Act, includes American Electric Power, Anglo American plc,
11 BHP Billiton, E. ON US, China Huaneng Group, CONSOL Energy,
12 Foundation Coal, Kennecott Energy, Peabody Energy, PPL
13 Corporation, Rio Tinto Energy American, Southern Company, and
14 Xstrata Coal.

15 "FutureGen Project" means the public-private partnership
16 between the Federal Department and the FutureGen Alliance that
17 will construct and operate a coal-fueled power plant utilizing
18 state-of-the-art clean-coal technology and carbon capture and
19 storage. Two locations in Illinois, Tuscola and Mattoon, are
20 under consideration for the FutureGen Project. These are the
21 only locations eligible for benefits under this Act.

22 "Mount Simon Formation" means the deep sandstone reservoir
23 into which the sequestered gas is to be injected at depths
24 generally ranging between 5,500 and 8,500 feet below ground
25 surface and that is bounded by the granitic basement below and
26 the Eau Claire Shale above.

1 "Operator" means the FutureGen Alliance and its member
2 companies, including their parent companies, subsidiaries,
3 affiliates, directors, officers, employees, and agents.

4 "Post-injection" means after the sequestered gas has been
5 successfully injected into the Mount Simon Formation.

6 "Pre-injection" means all activities and occurrences prior
7 to successful injection into the Mt. Simon Formation, including
8 but not limited to, the operation of the FutureGen Project
9 (including CO2 capture, CO2 transport, and well-bore
10 operations).

11 "Public liability" means any civil legal liability arising
12 out of or resulting from the storage, escape, release, or
13 migration of the post-injection sequestered gas that was
14 injected during the operation of the FutureGen Project by the
15 FutureGen Alliance. The term "public liability", however, does
16 not include any legal liability arising out of or resulting
17 from the construction, operation, or other pre-injection
18 activity of the Operator.

19 "Public liability action" or "action" means a written
20 demand from any third party received by the Operator seeking a
21 remedy or alleging liability on behalf of Operator resulting
22 from any public liability.

23 "Sequestered gas" means the CO2 and other chemical
24 constituents from the FutureGen Project operations that are
25 injected into the Mount Simon Formation in concentrations
26 determined to be acceptable by the Agency.

1 Section 20. Title to sequestered gas. If the FutureGen
2 Project locates at either the Tuscola or Mattoon site in the
3 State of Illinois, then the FutureGen Alliance agrees that the
4 Operator shall transfer and convey and the State of Illinois
5 shall accept and receive, at no cost to the State of Illinois,
6 all rights, title, and interest in and to and any liabilities
7 associated with the sequestered gas, including any current or
8 future environmental benefits, marketing claims, tradable
9 credits, emissions allocations or offsets (voluntary or
10 compliance based) associated therewith, upon such gas reaching
11 the status of post-injection, which shall be verified by the
12 Agency or other designated State of Illinois agency. The
13 Operator shall retain all rights, title, and interest in and to
14 and any liabilities associated with the pre-injection
15 sequestered gas.

16 Section 23. Sequestered gas. The State of Illinois may not
17 intentionally remove sequestered gas unless the removal is for
18 the purpose of research and development.

19 Section 25. Insurance against qualified losses.

20 (a) The Department shall procure an insurance policy from a
21 private insurance carrier or carriers, if and to the extent
22 that such a policy is available, that insures the Operator
23 against any qualified loss stemming from a public liability

1 action. The policy must be procured in accordance with the
2 provisions of the Procurement Code.

3 (b) Pursuant to Section 30 of this Act, the State shall
4 indemnify the Operator against any qualified loss stemming from
5 a public liability action to the extent that the qualified loss
6 is not covered under an insurance policy under subsection (a)
7 of this Section.

8 (c) The Department shall pay any insurance premium,
9 deductible, or liability under subsections (a) or (b) from
10 appropriations by the General Assembly for that purpose. It is
11 the intent of this Act that, to the extent practical, any
12 unexpended balance of the proceeds from the sale of emission
13 reduction rights or tradable credits to which the State has
14 title under Section 20 should be used for the purposes of this
15 subsection (c).

16 (d) If the FutureGen Alliance locates the FutureGen Project
17 at either the Mattoon or Tuscola site in the State of Illinois,
18 then the Department shall be authorized to contract with the
19 FutureGen Alliance, under terms not inconsistent with this Act,
20 in order to define the rights and obligations of the FutureGen
21 Alliance and the Department, including but not limited to, the
22 insurance and indemnification obligations under Sections 25
23 and 30 of this Act.

24 (e) If federal indemnification covers all or a portion of
25 the obligations assumed by the State under Section 25 of this
26 Act, such State obligations shall be reduced in proportion to

1 the federal indemnification and be considered subordinated to
2 any federal indemnification.

3 (g) For the purpose of this Section, "qualified loss" means
4 a loss by the Operator stemming from a public liability action
5 other than those losses arising out of or relating to:

6 (1) the negligence or the intentional or willful
7 misconduct of the Operator in its operation of the
8 FutureGen Project;

9 (2) the failure of the Operator to comply with any
10 applicable law, rule, regulation, or other requirement
11 established by the Federal Department, Agency, or State of
12 Illinois for the carbon capture and storage of the
13 sequestered gas, including any limitations on the chemical
14 composition of any sequestered gas; or

15 (3) the pre-injection operation of the FutureGen
16 Project.

17 Section 30. Indemnification. Notwithstanding any law to
18 the contrary, the State of Illinois shall indemnify, hold
19 harmless, defend, and release the Operator from and against any
20 public liability action asserted against the Operator, subject
21 to the following terms and conditions:

22 (a) The obligation of the State of Illinois to indemnify
23 the Operator does not extend to any public liability arising
24 out of or relating to:

25 (1) the negligence or intentional or willful

1 misconduct of the Operator in its operation of the
2 FutureGen Project;

3 (2) the failure of the Operator to comply with any
4 applicable law, rule, regulation, or other requirement
5 established by the Federal Department, Agency, or State of
6 Illinois for the carbon capture and storage of the
7 sequestered gas, including any limitations on the chemical
8 composition of any sequestered gas;

9 (3) the pre-injection operation of the FutureGen
10 Project; or

11 (4) a qualified loss to the extent that it is paid
12 under an insurance policy under subsection (a) of Section
13 25 of this Act.

14 (b) The indemnification obligations of the State of
15 Illinois assumed under Section 30 of this Act shall be reduced
16 in proportion and be subordinated to any federal
17 indemnification that covers all or a portion of the State's
18 obligations.

19 Section 35. Role of Attorney General. In furtherance of the
20 State of Illinois's obligations set forth in subsection (b) of
21 Section 25 and in Section 30 of this Act, the Attorney General
22 has the following duties:

23 (1) In the event that any public liability action covered
24 under Section 30 of this Act is commenced against the Operator,
25 the Attorney General shall, upon timely and appropriate notice

1 to the Attorney General by the Operator, appear on behalf of
2 the Operator and defend the action. Any such notice must be in
3 writing, must be mailed within 15 days after the date of
4 receipt by the Operator of service of process, and must
5 authorize the Attorney General to represent and defend the
6 Operator in the action. The delivery of this notice to the
7 Attorney General constitutes an agreement by the Operator to
8 cooperate with the Attorney General in defense of the action
9 and a consent for the Attorney General to conduct the defense
10 as the Attorney General deems to be advisable and in the best
11 interests of the Operator and the State of Illinois, including
12 settlement in the Attorney General's discretion. In any such
13 action, the State of Illinois shall pay the court costs and
14 litigation expenses of defending such action, to the extent
15 approved by the Attorney General as reasonable, as they are
16 incurred.

17 (b) In the event that the Attorney General determines
18 either (i) that so appearing and defending an Operator involves
19 an actual or potential conflict of interest or (ii) that the
20 claim was not within the scope of the indemnity as provided in
21 Section 30 of the Act, the Attorney General shall decline in
22 writing to appear or defend or shall promptly take appropriate
23 action to withdraw as attorney for such Operator. Upon receipt
24 of such declination or withdrawal by the Attorney General on
25 the basis of an actual or potential conflict of interest, the
26 Operator may employ its own attorney to appear and defend, in

1 which event the State of Illinois shall pay the Operator's
2 court costs, litigation expenses, and attorneys' fees, to the
3 extent approved by the Attorney General as reasonable, as they
4 are incurred.

5 (c) In any action asserted by the Operator or the State of
6 Illinois to enforce the indemnification obligations of the
7 State of Illinois as provided in Section 30 of the Act, the
8 non-prevailing party is responsible for any reasonable court
9 costs, litigation expenses, and attorneys fees incurred by the
10 prevailing party.

11 (d) Court costs and litigation expenses and other costs of
12 providing a defense, including attorneys' fees, paid or
13 obligated under this Section, and the costs of indemnification,
14 including the payment of any final judgment or final settlement
15 under this Section, must be paid by warrant from appropriations
16 to the Department pursuant to vouchers certified by the
17 Attorney General.

18 (e) Nothing contained or implied in this Section shall
19 operate, or be construed or applied, to deprive the State of
20 Illinois, or any Operator, of any defense otherwise available.

21 (f) Any judgment subject to State of Illinois
22 indemnification under this Section is not enforceable against
23 the Operator, but shall be paid by the State of Illinois in the
24 following manner: Upon receipt of a certified copy of the
25 judgment, the Attorney General shall review it to determine if
26 the judgment is (i) final, unreversed, and no longer subject to

1 appeal and (ii) subject to indemnification under Section 30 of
2 this Act. If the Attorney General determines that it is, then
3 the Attorney General shall submit a voucher for the amount of
4 the judgment and any interest thereon to the State of Illinois
5 Comptroller and the amount must be paid by warrant from
6 appropriation to the Department to the judgment creditor solely
7 out of available appropriations.

8 Section 40. Permitting. The Agency shall issue to the
9 Operator all necessary and appropriate permits consistent with
10 State and federal law and corresponding regulations. The Agency
11 has the right to reasonable access to any third-party property
12 to ensure compliance with any permit issued under this Section.

13 Section 45. Incentives. The State of Illinois has offered
14 certain incentives to the FutureGen Alliance to make the State
15 of Illinois the most attractive location for the FutureGen
16 Project.

17 Section 50. Jurisdiction. The Court of Claims has no
18 jurisdiction concerning any public liability action under this
19 Act or from the operation of the FutureGen Project. A public
20 liability action must be brought in the circuit court, which is
21 hereby granted jurisdiction over these matters. The
22 jurisdiction over civil, administrative, or other legal
23 processes is not, otherwise, affected by this Act.

1 Section 900. The Department of Commerce and Economic
2 Opportunity Law of the Civil Administrative Code of Illinois is
3 amended by changing Section 605-332 as follows:

4 (20 ILCS 605/605-332)

5 Sec. 605-332. Financial assistance to energy generation
6 facilities.

7 (a) As used in this Section:

8 "New electric generating facility" means a
9 newly-constructed electric generation plant or a newly
10 constructed generation capacity expansion at an existing
11 facility, including the transmission lines and associated
12 equipment that transfers electricity from points of supply to
13 points of delivery, and for which foundation construction
14 commenced not sooner than July 1, 2001, which is designed to
15 provide baseload electric generation operating on a continuous
16 basis throughout the year and:

17 (1) has an aggregate rated generating capacity of at
18 least 400 megawatts for all new units at one site, uses
19 coal or gases derived from coal as its primary fuel source,
20 and supports the creation of at least 150 new Illinois coal
21 mining jobs; or

22 (2) is funded through a federal Department of Energy
23 grant before December 31, 2010 ~~2007~~ and supports the
24 creation of Illinois coal-mining jobs; or

1 (3) uses coal gasification or integrated
2 gasification-combined cycle units that generate
3 electricity or chemicals, or both, and supports the
4 creation of Illinois coal-mining jobs.

5 "New gasification facility" means a newly constructed coal
6 gasification facility that generates chemical feedstocks or
7 transportation fuels derived from coal (which may include, but
8 are not limited to, methane, methanol, and nitrogen
9 fertilizer), that supports the creation or retention of
10 Illinois coal-mining jobs, and that qualifies for financial
11 assistance from the Department before December 31, 2010 ~~2006~~. A
12 new gasification facility does not include a pilot project
13 located within Jefferson County or within a county adjacent to
14 Jefferson County for synthetic natural gas from coal.

15 "New facility" means a new electric generating facility or
16 a new gasification facility. A new facility does not include a
17 pilot project located within Jefferson County or within a
18 county adjacent to Jefferson County for synthetic natural gas
19 from coal.

20 "Eligible business" means an entity that proposes to
21 construct a new facility and that has applied to the Department
22 to receive financial assistance pursuant to this Section. With
23 respect to use and occupation taxes, wherever there is a
24 reference to taxes, that reference means only those taxes paid
25 on Illinois-mined coal used in a new facility.

26 "Department" means the Illinois Department of Commerce and

1 Economic Opportunity.

2 (b) The Department is authorized to provide financial
3 assistance to eligible businesses for new facilities from funds
4 appropriated by the General Assembly as further provided in
5 this Section.

6 An eligible business seeking qualification for financial
7 assistance for a new facility, for purposes of this Section
8 only, shall apply to the Department in the manner specified by
9 the Department. Any projections provided by an eligible
10 business as part of the application shall be independently
11 verified in a manner as set forth by the Department. An
12 application shall include, but not be limited to:

13 (1) the projected or actual completion date of the new
14 facility for which financial assistance is sought;

15 (2) copies of documentation deemed acceptable by the
16 Department establishing either (i) the total State
17 occupation and use taxes paid on Illinois-mined coal used
18 at the new facility for a minimum of 4 preceding calendar
19 quarters or (ii) the projected amount of State occupation
20 and use taxes paid on Illinois-mined coal used at the new
21 facility in 4 calendar year quarters after completion of
22 the new facility. Bond proceeds subject to this Section
23 shall not be allocated to an eligible business until the
24 eligible business has demonstrated the revenue stream
25 sufficient to service the debt on the bonds; and

26 (3) the actual or projected amount of capital

1 investment by the eligible business in the new facility.

2 The Department shall determine the maximum amount of
3 financial assistance for eligible businesses in accordance
4 with this paragraph. The Department shall not provide financial
5 assistance from general obligation bond funds to any eligible
6 business unless it receives a written certification from the
7 Director of the Bureau of the Budget (now Governor's Office of
8 Management and Budget) that 80% of the State occupation and use
9 tax receipts for a minimum of the preceding 4 calendar quarters
10 for all eligible businesses or as included in projections on
11 approved applications by eligible businesses equal or exceed
12 110% of the maximum annual debt service required with respect
13 to general obligation bonds issued for that purpose. The
14 Department may provide financial assistance not to exceed the
15 amount of State general obligation debt calculated as above,
16 the amount of actual or projected capital investment in the
17 facility, or \$100,000,000, whichever is less. Financial
18 assistance received pursuant to this Section may be used for
19 capital facilities consisting of buildings, structures,
20 durable equipment, and land at the new facility. Subject to the
21 provisions of the agreement covering the financial assistance,
22 a portion of the financial assistance may be required to be
23 repaid to the State if certain conditions for the governmental
24 purpose of the assistance were not met.

25 An eligible business shall file a monthly report with the
26 Illinois Department of Revenue stating the amount of

1 Illinois-mined coal purchased during the previous month for use
2 in the new facility, the purchase price of that coal, the
3 amount of State occupation and use taxes paid on that purchase
4 to the seller of the Illinois-mined coal, and such other
5 information as that Department may reasonably require. In sales
6 of Illinois-mined coal between related parties, the purchase
7 price of the coal must have been determined in an arms-length
8 transaction. The report shall be filed with the Illinois
9 Department of Revenue on or before the 20th day of each month
10 on a form provided by that Department. However, no report need
11 be filed by an eligible business in a month when it made no
12 reportable purchases of coal in the previous month. The
13 Illinois Department of Revenue shall provide a summary of such
14 reports to the Governor's Office of Management and Budget.

15 Upon granting financial assistance to an eligible
16 business, the Department shall certify the name of the eligible
17 business to the Illinois Department of Revenue. Beginning with
18 the receipt of the first report of State occupation and use
19 taxes paid by an eligible business and continuing for a 25-year
20 period, the Illinois Department of Revenue shall each month pay
21 into the Energy Infrastructure Fund 80% of the net revenue
22 realized from the 6.25% general rate on the selling price of
23 Illinois-mined coal that was sold to an eligible business.

24 (Source: P.A. 93-167, eff. 7-10-03; 93-1064, eff. 1-13-05;
25 94-65, eff. 6-21-05; 94-1030, eff. 7-14-06.)

1 Section 905. The Illinois Enterprise Zone Act is amended by
2 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 ~~July 1, 2006~~ and
7 shall support the creation of Illinois coal-mining
8 jobs, or (iii) shall use coal gasification or
9 integrated gasification-combined cycle units that
10 generate electricity or chemicals, or both, and shall
11 support 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 ~~2006~~. A new gasification
6 facility does not include a pilot project located
7 within 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. 93-1064, eff. 1-13-05; 93-1067, eff. 1-15-05;
25 94-65, eff. 6-21-05.)

1 Section 910. The Court of Claims Act is amended by adding
2 Section 8.5 as follows:

3 (705 ILCS 505/8.5 new)

4 Sec. 8.5. No jurisdiction over liability of certain
5 clean-coal operations. The Court of Claims has no jurisdiction
6 concerning any public liability action, as defined in the Clean
7 Coal FutureGen for Illinois Act, or from the operation of the
8 FutureGen Project. A public liability action, as defined under
9 Section 15 of the Clean Coal FutureGen for Illinois Act, must
10 be brought in the circuit court.

11 Section 915. The State Lawsuit Immunity Act is amended by
12 changing Section 1 as follows:

13 (745 ILCS 5/1) (from Ch. 127, par. 801)

14 Sec. 1. Except as provided in the Illinois Public Labor
15 Relations Act, the Court of Claims Act, ~~and~~ the State Officials
16 and Employees Ethics Act, ~~or~~ Section 1.5 of this Act, and,
17 except as provided in and to the extent provided in the Clean
18 Coal FutureGen for Illinois Act, the State of Illinois shall
19 not be made a defendant or party in any court.

20 (Source: P.A. 93-414, eff. 1-1-04; 93-615, eff. 11-19-03;
21 revised 12-19-03.)

22 Section 997. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

2 Section 998. Repeal. This Act is repealed on December 31,
3 2010 unless the FutureGen Project has been located at either
4 the Mattoon or Tuscola site in Illinois.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.".