



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2252

Introduced 2/20/2009, by Sen. John M. Sullivan

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/201	from Ch. 120, par. 2-201
35 ILCS 120/1d	from Ch. 120, par. 440d
35 ILCS 120/1e	from Ch. 120, par. 440e
35 ILCS 120/1f	from Ch. 120, par. 440f
35 ILCS 120/51	from Ch. 120, par. 444l
220 ILCS 5/9-222	from Ch. 111 2/3, par. 9-222
220 ILCS 5/9-222.1A	

Creates the Green Energy Business Act. Authorizes the Department of Commerce and Economic Opportunity to receive and approve the applications of qualified businesses seeking designation as Green Energy Businesses. Amends the Illinois Income Tax Act, the Retailers' Occupation Tax Act, and the Public Utilities Act to provide that Green Energy Businesses are eligible for certain credits and exemptions under those Acts. Effective immediately.

LRB096 10038 JDS 20202 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 1. Short title. This Act may be cited as the Green
5 Energy Business Act.

6 Section 5. Definitions. As used in this Act, the following
7 words shall have the meanings ascribed to them below, unless
8 the context otherwise requires:

9 "Biodiesel" means a renewable diesel fuel derived from
10 biomass that is intended for use in diesel engines.

11 "Department" means the Department of Commerce and Economic
12 Opportunity.

13 "Ethanol" means a product produced from agricultural
14 commodities or by-products used as a fuel or to be blended with
15 other fuels for use in motor vehicles.

16 "Green Energy Business" means a business that:

17 (i) produces or manufactures components used in the
18 production of electricity from renewable energy resources;

19 (ii) has the capacity to produce and produces at least
20 5 megawatts of electricity from renewable energy resources
21 each year;

22 (iii) has the capacity to produce and produces no less
23 than 30,000,000 gallons of biodiesel or ethanol each year.

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

18 Section 10. Green Energy Business.

19 (a) To assist in the encouragement, development, growth,
20 and expansion of the private sector through green energy
21 projects, the Department may receive and approve applications
22 for the designation of "Green Energy Business" in Illinois.
23 Applications may be submitted at any time. No later than 90
24 days after an application is submitted, the Department shall
25 notify the applicant of the Department's determination as to

1 the applicant's qualification to be designated as a Green
2 Energy Business under this Section. To qualify as a Green
3 Energy Business, a business must meet all of the following
4 conditions:

5 (1) It must not be located, at the time of designation,
6 in an enterprise zone designated under the Illinois
7 Enterprise Zone Act.

8 (2) It must commit to (i) produce or manufacture
9 components used in the production of electricity from
10 renewable energy resources; (ii) produce at least 5
11 megawatts of electricity from renewable energy resources
12 each year; or (iii) produce not less than 30,000,000
13 gallons of biodiesel or ethanol each year.

14 (3) It must commit to have the business placed in
15 service at a qualified property in Illinois.

16 (4) It must certify in writing that (i) the investments
17 would not be placed in service at a qualified property
18 without the tax credits and exemptions referenced in
19 subsection (b) of this Section and (ii) the job creation or
20 job retention would not occur without the tax credits and
21 exemptions referenced in subsection (b) of this Section.
22 The terms "placed in service" and "qualified property" have
23 the same meanings as described in subsection (h) of Section
24 201 of the Illinois Income Tax Act.

25 (5) It must meet any additional criteria established by
26 the Department.

1 (b) Each business designated as a Green Energy Business by
2 the Department shall qualify for the credits and exemptions in
3 Sections 9-222 and 9-222.1A of the Public Utilities Act;
4 subsection (h) of Section 201 of the Illinois Income Tax Act;
5 and Section 1d of the Retailers' Occupation Tax Act. Each
6 business designated as a Green Energy Business under this
7 Section shall also qualify for the exemption described in
8 Section 51 of the Retailers' Occupation Tax Act. The credit
9 provided in subsection (h) of Section 201 of the Illinois
10 Income Tax Act shall be applicable to investments in qualified
11 property used to meet the requirements in subdivision (a)(2) of
12 this Section.

13 (c) The Department must revoke a Green Energy Business
14 designation if, within the Department's discretion, the
15 participating business fails to comply with the terms and
16 conditions of the designation.

17 Section 15. Project labor agreements

18 (a) Each business designated as a Green Energy Business by
19 the Department must enter into a project labor agreement. The
20 project labor agreement must include provisions establishing
21 (i) the minimum hourly wage for each class of labor
22 organization employee; (ii) the benefits and other
23 compensation for each class of labor organization employee; and
24 (iii) that no strike or disputes will be engaged in by the
25 labor organization employees; and (iv) that no lockout or

1 disputes will be engaged in by the owner of a Green Energy
2 Business. The owner of a Green Energy Business and the labor
3 organizations shall have the authority to include other terms
4 and conditions as they deem necessary.

5 (b) Each project labor agreement shall be filed with the
6 Director in accordance with the procedures established by the
7 Department. At a minimum, the project labor agreement must
8 provide the names, addresses, and occupations of the owner of
9 the Green Energy Business and the individuals representing the
10 labor organization employees participating in the project
11 labor agreement. The agreement must also specify the terms and
12 conditions required in subsection (a) of this Section.

13 Section 20. The Illinois Income Tax Act is amended by
14 changing Section 201 as follows:

15 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

16 Sec. 201. Tax Imposed.

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

24 (b) Rates. The tax imposed by subsection (a) of this

1 Section shall be determined as follows, except as adjusted by
2 subsection (d-1):

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

7 (2) In the case of an individual, trust or estate, for
8 taxable years beginning prior to July 1, 1989 and ending
9 after June 30, 1989, an amount equal to the sum of (i) 2
10 1/2% of the taxpayer's net income for the period prior to
11 July 1, 1989, as calculated under Section 202.3, and (ii)
12 3% of the taxpayer's net income for the period after June
13 30, 1989, as calculated under Section 202.3.

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

18 (4) (Blank).

19 (5) (Blank).

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

23 (7) In the case of a corporation, for taxable years
24 beginning prior to July 1, 1989 and ending after June 30,
25 1989, an amount equal to the sum of (i) 4% of the
26 taxpayer's net income for the period prior to July 1, 1989,

1 as calculated under Section 202.3, and (ii) 4.8% of the
2 taxpayer's net income for the period after June 30, 1989,
3 as calculated under Section 202.3.

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

7 (c) Personal Property Tax Replacement Income Tax.
8 Beginning on July 1, 1979 and thereafter, in addition to such
9 income tax, there is also hereby imposed the Personal Property
10 Tax Replacement Income Tax measured by net income on every
11 corporation (including Subchapter S corporations), partnership
12 and trust, for each taxable year ending after June 30, 1979.
13 Such taxes are imposed on the privilege of earning or receiving
14 income in or as a resident of this State. The Personal Property
15 Tax Replacement Income Tax shall be in addition to the income
16 tax imposed by subsections (a) and (b) of this Section and in
17 addition to all other occupation or privilege taxes imposed by
18 this State or by any municipal corporation or political
19 subdivision thereof.

20 (d) Additional Personal Property Tax Replacement Income
21 Tax Rates. The personal property tax replacement income tax
22 imposed by this subsection and subsection (c) of this Section
23 in the case of a corporation, other than a Subchapter S
24 corporation and except as adjusted by subsection (d-1), shall
25 be an additional amount equal to 2.85% of such taxpayer's net
26 income for the taxable year, except that beginning on January

1 1, 1981, and thereafter, the rate of 2.85% specified in this
2 subsection shall be reduced to 2.5%, and in the case of a
3 partnership, trust or a Subchapter S corporation shall be an
4 additional amount equal to 1.5% of such taxpayer's net income
5 for the taxable year.

6 (d-1) Rate reduction for certain foreign insurers. In the
7 case of a foreign insurer, as defined by Section 35A-5 of the
8 Illinois Insurance Code, whose state or country of domicile
9 imposes on insurers domiciled in Illinois a retaliatory tax
10 (excluding any insurer whose premiums from reinsurance assumed
11 are 50% or more of its total insurance premiums as determined
12 under paragraph (2) of subsection (b) of Section 304, except
13 that for purposes of this determination premiums from
14 reinsurance do not include premiums from inter-affiliate
15 reinsurance arrangements), beginning with taxable years ending
16 on or after December 31, 1999, the sum of the rates of tax
17 imposed by subsections (b) and (d) shall be reduced (but not
18 increased) to the rate at which the total amount of tax imposed
19 under this Act, net of all credits allowed under this Act,
20 shall equal (i) the total amount of tax that would be imposed
21 on the foreign insurer's net income allocable to Illinois for
22 the taxable year by such foreign insurer's state or country of
23 domicile if that net income were subject to all income taxes
24 and taxes measured by net income imposed by such foreign
25 insurer's state or country of domicile, net of all credits
26 allowed or (ii) a rate of zero if no such tax is imposed on such

1 income by the foreign insurer's state of domicile. For the
2 purposes of this subsection (d-1), an inter-affiliate includes
3 a mutual insurer under common management.

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

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

10 (B) the privilege tax imposed by Section 409 of the
11 Illinois Insurance Code, the fire insurance company
12 tax imposed by Section 12 of the Fire Investigation
13 Act, and the fire department taxes imposed under
14 Section 11-10-1 of the Illinois Municipal Code,
15 equals 1.25% for taxable years ending prior to December 31,
16 2003, or 1.75% for taxable years ending on or after
17 December 31, 2003, of the net taxable premiums written for
18 the taxable year, as described by subsection (1) of Section
19 409 of the Illinois Insurance Code. This paragraph will in
20 no event increase the rates imposed under subsections (b)
21 and (d).

22 (2) Any reduction in the rates of tax imposed by this
23 subsection shall be applied first against the rates imposed
24 by subsection (b) and only after the tax imposed by
25 subsection (a) net of all credits allowed under this
26 Section other than the credit allowed under subsection (i)

1 has been reduced to zero, against the rates imposed by
2 subsection (d).

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

5 (e) Investment credit. A taxpayer shall be allowed a credit
6 against the Personal Property Tax Replacement Income Tax for
7 investment in qualified property.

8 (1) A taxpayer shall be allowed a credit equal to .5%
9 of the basis of qualified property placed in service during
10 the taxable year, provided such property is placed in
11 service on or after July 1, 1984. There shall be allowed an
12 additional credit equal to .5% of the basis of qualified
13 property placed in service during the taxable year,
14 provided such property is placed in service on or after
15 July 1, 1986, and the taxpayer's base employment within
16 Illinois has increased by 1% or more over the preceding
17 year as determined by the taxpayer's employment records
18 filed with the Illinois Department of Employment Security.
19 Taxpayers who are new to Illinois shall be deemed to have
20 met the 1% growth in base employment for the first year in
21 which they file employment records with the Illinois
22 Department of Employment Security. The provisions added to
23 this Section by Public Act 85-1200 (and restored by Public
24 Act 87-895) shall be construed as declaratory of existing
25 law and not as a new enactment. If, in any year, the
26 increase in base employment within Illinois over the

1 preceding year is less than 1%, the additional credit shall
2 be limited to that percentage times a fraction, the
3 numerator of which is .5% and the denominator of which is
4 1%, but shall not exceed .5%. The investment credit shall
5 not be allowed to the extent that it would reduce a
6 taxpayer's liability in any tax year below zero, nor may
7 any credit for qualified property be allowed for any year
8 other than the year in which the property was placed in
9 service in Illinois. For tax years ending on or after
10 December 31, 1987, and on or before December 31, 1988, the
11 credit shall be allowed for the tax year in which the
12 property is placed in service, or, if the amount of the
13 credit exceeds the tax liability for that year, whether it
14 exceeds the original liability or the liability as later
15 amended, such excess may be carried forward and applied to
16 the tax liability of the 5 taxable years following the
17 excess credit years if the taxpayer (i) makes investments
18 which cause the creation of a minimum of 2,000 full-time
19 equivalent jobs in Illinois, (ii) is located in an
20 enterprise zone established pursuant to the Illinois
21 Enterprise Zone Act and (iii) is certified by the
22 Department of Commerce and Community Affairs (now
23 Department of Commerce and Economic Opportunity) as
24 complying with the requirements specified in clause (i) and
25 (ii) by July 1, 1986. The Department of Commerce and
26 Community Affairs (now Department of Commerce and Economic

1 Opportunity) shall notify the Department of Revenue of all
2 such certifications immediately. For tax years ending
3 after December 31, 1988, the credit shall be allowed for
4 the tax year in which the property is placed in service,
5 or, if the amount of the credit exceeds the tax liability
6 for that year, whether it exceeds the original liability or
7 the liability as later amended, such excess may be carried
8 forward and applied to the tax liability of the 5 taxable
9 years following the excess credit years. The credit shall
10 be applied to the earliest year for which there is a
11 liability. If there is credit from more than one tax year
12 that is available to offset a liability, earlier credit
13 shall be applied first.

14 (2) The term "qualified property" means property
15 which:

16 (A) is tangible, whether new or used, including
17 buildings and structural components of buildings and
18 signs that are real property, but not including land or
19 improvements to real property that are not a structural
20 component of a building such as landscaping, sewer
21 lines, local access roads, fencing, parking lots, and
22 other appurtenances;

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

1 (e);

2 (C) is acquired by purchase as defined in Section
3 179(d) of the Internal Revenue Code;

4 (D) is used in Illinois by a taxpayer who is
5 primarily engaged in manufacturing, or in mining coal
6 or fluorite, or in retailing, or was placed in service
7 on or after July 1, 2006 in a River Edge Redevelopment
8 Zone established pursuant to the River Edge
9 Redevelopment Zone Act; and

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

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

26 (4) The basis of qualified property shall be the basis

1 used to compute the depreciation deduction for federal
2 income tax purposes.

3 (5) If the basis of the property for federal income tax
4 depreciation purposes is increased after it has been placed
5 in service in Illinois by the taxpayer, the amount of such
6 increase shall be deemed property placed in service on the
7 date of such increase in basis.

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

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

26 (8) Unless the investment credit is extended by law,

1 the basis of qualified property shall not include costs
2 incurred after December 31, 2008, except for costs incurred
3 pursuant to a binding contract entered into on or before
4 December 31, 2008.

5 (9) Each taxable year ending before December 31, 2000,
6 a partnership may elect to pass through to its partners the
7 credits to which the partnership is entitled under this
8 subsection (e) for the taxable year. A partner may use the
9 credit allocated to him or her under this paragraph only
10 against the tax imposed in subsections (c) and (d) of this
11 Section. If the partnership makes that election, those
12 credits shall be allocated among the partners in the
13 partnership in accordance with the rules set forth in
14 Section 704(b) of the Internal Revenue Code, and the rules
15 promulgated under that Section, and the allocated amount of
16 the credits shall be allowed to the partners for that
17 taxable year. The partnership shall make this election on
18 its Personal Property Tax Replacement Income Tax return for
19 that taxable year. The election to pass through the credits
20 shall be irrevocable.

21 For taxable years ending on or after December 31, 2000,
22 a partner that qualifies its partnership for a subtraction
23 under subparagraph (I) of paragraph (2) of subsection (d)
24 of Section 203 or a shareholder that qualifies a Subchapter
25 S corporation for a subtraction under subparagraph (S) of
26 paragraph (2) of subsection (b) of Section 203 shall be

1 allowed a credit under this subsection (e) equal to its
2 share of the credit earned under this subsection (e) during
3 the taxable year by the partnership or Subchapter S
4 corporation, determined in accordance with the
5 determination of income and distributive share of income
6 under Sections 702 and 704 and Subchapter S of the Internal
7 Revenue Code. This paragraph is exempt from the provisions
8 of Section 250.

9 (f) Investment credit; Enterprise Zone; River Edge
10 Redevelopment Zone.

11 (1) A taxpayer shall be allowed a credit against the
12 tax imposed by subsections (a) and (b) of this Section for
13 investment in qualified property which is placed in service
14 in an Enterprise Zone created pursuant to the Illinois
15 Enterprise Zone Act or, for property placed in service on
16 or after July 1, 2006, a River Edge Redevelopment Zone
17 established pursuant to the River Edge Redevelopment Zone
18 Act. For partners, shareholders of Subchapter S
19 corporations, and owners of limited liability companies,
20 if the liability company is treated as a partnership for
21 purposes of federal and State income taxation, there shall
22 be allowed a credit under this subsection (f) to be
23 determined in accordance with the determination of income
24 and distributive share of income under Sections 702 and 704
25 and Subchapter S of the Internal Revenue Code. The credit
26 shall be .5% of the basis for such property. The credit

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

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

19 (A) is tangible, whether new or used, including
20 buildings and structural components of buildings;

21 (B) is depreciable pursuant to Section 167 of the
22 Internal Revenue Code, except that "3-year property"
23 as defined in Section 168(c)(2)(A) of that Code is not
24 eligible for the credit provided by this subsection
25 (f);

26 (C) is acquired by purchase as defined in Section

1 179(d) of the Internal Revenue Code;

2 (D) is used in the Enterprise Zone or River Edge
3 Redevelopment Zone by the taxpayer; and

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

8 (3) The basis of qualified property shall be the basis
9 used to compute the depreciation deduction for federal
10 income tax purposes.

11 (4) If the basis of the property for federal income tax
12 depreciation purposes is increased after it has been placed
13 in service in the Enterprise Zone or River Edge
14 Redevelopment Zone by the taxpayer, the amount of such
15 increase shall be deemed property placed in service on the
16 date of such increase in basis.

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

19 (6) If during any taxable year, any property ceases to
20 be qualified property in the hands of the taxpayer within
21 48 months after being placed in service, or the situs of
22 any qualified property is moved outside the Enterprise Zone
23 or River Edge Redevelopment Zone within 48 months after
24 being placed in service, the tax imposed under subsections
25 (a) and (b) of this Section for such taxable year shall be
26 increased. Such increase shall be determined by (i)

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

10 (7) There shall be allowed an additional credit equal
11 to 0.5% of the basis of qualified property placed in
12 service during the taxable year in a River Edge
13 Redevelopment Zone, provided such property is placed in
14 service on or after July 1, 2006, and the taxpayer's base
15 employment within Illinois has increased by 1% or more over
16 the preceding year as determined by the taxpayer's
17 employment records filed with the Illinois Department of
18 Employment Security. Taxpayers who are new to Illinois
19 shall be deemed to have met the 1% growth in base
20 employment for the first year in which they file employment
21 records with the Illinois Department of Employment
22 Security. If, in any year, the increase in base employment
23 within Illinois over the preceding year is less than 1%,
24 the additional credit shall be limited to that percentage
25 times a fraction, the numerator of which is 0.5% and the
26 denominator of which is 1%, but shall not exceed 0.5%.

1 (g) Jobs Tax Credit; Enterprise Zone, River Edge
2 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

3 (1) A taxpayer conducting a trade or business in an
4 enterprise zone or a High Impact Business designated by the
5 Department of Commerce and Economic Opportunity or for
6 taxable years ending on or after December 31, 2006, in a
7 River Edge Redevelopment Zone conducting a trade or
8 business in a federally designated Foreign Trade Zone or
9 Sub-Zone shall be allowed a credit against the tax imposed
10 by subsections (a) and (b) of this Section in the amount of
11 \$500 per eligible employee hired to work in the zone during
12 the taxable year.

13 (2) To qualify for the credit:

14 (A) the taxpayer must hire 5 or more eligible
15 employees to work in an enterprise zone, River Edge
16 Redevelopment Zone, or federally designated Foreign
17 Trade Zone or Sub-Zone during the taxable year;

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

1 (C) the eligible employees must be employed 180
2 consecutive days in order to be deemed hired for
3 purposes of this subsection.

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

5 (A) Certified by the Department of Commerce and
6 Economic Opportunity as "eligible for services"
7 pursuant to regulations promulgated in accordance with
8 Title II of the Job Training Partnership Act, Training
9 Services for the Disadvantaged or Title III of the Job
10 Training Partnership Act, Employment and Training
11 Assistance for Dislocated Workers Program.

12 (B) Hired after the enterprise zone, River Edge
13 Redevelopment Zone, or federally designated Foreign
14 Trade Zone or Sub-Zone was designated or the trade or
15 business was located in that zone, whichever is later.

16 (C) Employed in the enterprise zone, River Edge
17 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
18 An employee is employed in an enterprise zone or
19 federally designated Foreign Trade Zone or Sub-Zone if
20 his services are rendered there or it is the base of
21 operations for the services performed.

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

24 (4) For tax years ending on or after December 31, 1985
25 and prior to December 31, 1988, the credit shall be allowed
26 for the tax year in which the eligible employees are hired.

1 For tax years ending on or after December 31, 1988, the
2 credit shall be allowed for the tax year immediately
3 following the tax year in which the eligible employees are
4 hired. If the amount of the credit exceeds the tax
5 liability for that year, whether it exceeds the original
6 liability or the liability as later amended, such excess
7 may be carried forward and applied to the tax liability of
8 the 5 taxable years following the excess credit year. The
9 credit shall be applied to the earliest year for which
10 there is a liability. If there is credit from more than one
11 tax year that is available to offset a liability, earlier
12 credit shall be applied first.

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

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

18 (h) Investment credit; High Impact Business; Green Energy
19 Business.

20 (1) Subject to subsection (a) of Section 10 of the
21 Green Energy Business Act, or subsections (b) and (b-5) of
22 Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer
23 shall be allowed a credit against the tax imposed by
24 subsections (a) and (b) of this Section for investment in
25 qualified property which is placed in service by a
26 Department of Commerce and Economic Opportunity designated

1 Green Energy Business or High Impact Business. The credit
2 shall be .5% of the basis for such property. The credit
3 shall not be available (i) until the minimum investments in
4 qualified property set forth in subdivision (a)(3)(A) of
5 Section 5.5 of the Illinois Enterprise Zone Act have been
6 satisfied or (ii) until the Department of Commerce and
7 Economic Opportunity designates the business as a Green
8 Energy Business under the Green Energy Business Act, or
9 until the time authorized in subsection (b-5) of the
10 Illinois Enterprise Zone Act for entities designated as
11 High Impact Businesses under subdivisions (a)(3)(B),
12 (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois
13 Enterprise Zone Act, and shall not be allowed to the extent
14 that it would reduce a taxpayer's liability for the tax
15 imposed by subsections (a) and (b) of this Section to below
16 zero. The credit applicable to such investments shall be
17 taken in the taxable year in which such investments have
18 been completed. The credit for additional investments
19 beyond the minimum investment by a designated high impact
20 business authorized under subdivision (a)(3)(A) of Section
21 5.5 of the Illinois Enterprise Zone Act shall be available
22 only in the taxable year in which the property is placed in
23 service and shall not be allowed to the extent that it
24 would reduce a taxpayer's liability for the tax imposed by
25 subsections (a) and (b) of this Section to below zero. For
26 tax years ending on or after December 31, 1987, the credit

1 shall be allowed for the tax year in which the property is
2 placed in service, or, if the amount of the credit exceeds
3 the tax liability for that year, whether it exceeds the
4 original liability or the liability as later amended, such
5 excess may be carried forward and applied to the tax
6 liability of the 5 taxable years following the excess
7 credit year. The credit shall be applied to the earliest
8 year for which there is a liability. If there is credit
9 from more than one tax year that is available to offset a
10 liability, the credit accruing first in time shall be
11 applied first.

12 Changes made in this subdivision (h) (1) by Public Act
13 88-670 restore changes made by Public Act 85-1182 and
14 reflect existing law.

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

16 (A) is tangible, whether new or used, including
17 buildings and structural components of buildings;

18 (B) is depreciable pursuant to Section 167 of the
19 Internal Revenue Code, except that "3-year property"
20 as defined in Section 168(c) (2) (A) of that Code is not
21 eligible for the credit provided by this subsection
22 (h);

23 (C) is acquired by purchase as defined in Section
24 179(d) of the Internal Revenue Code; and

25 (D) is not eligible for the Enterprise Zone
26 Investment Credit provided by subsection (f) of this

1 Section.

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

5 (4) If the basis of the property for federal income tax
6 depreciation purposes is increased after it has been placed
7 in service in a federally designated Foreign Trade Zone or
8 Sub-Zone located in Illinois by the taxpayer, the amount of
9 such increase shall be deemed property placed in service on
10 the date of such increase in basis.

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

13 (6) If during any taxable year ending on or before
14 December 31, 1996, any property ceases to be qualified
15 property in the hands of the taxpayer within 48 months
16 after being placed in service, or the situs of any
17 qualified property is moved outside Illinois within 48
18 months after being placed in service, the tax imposed under
19 subsections (a) and (b) of this Section for such taxable
20 year shall be increased. Such increase shall be determined
21 by (i) recomputing the investment credit which would have
22 been allowed for the year in which credit for such property
23 was originally allowed by eliminating such property from
24 such computation, and (ii) subtracting such recomputed
25 credit from the amount of credit previously allowed. For
26 the purposes of this paragraph (6), a reduction of the

1 basis of qualified property resulting from a
2 redetermination of the purchase price shall be deemed a
3 disposition of qualified property to the extent of such
4 reduction.

5 (7) Beginning with tax years ending after December 31,
6 1996, if a taxpayer qualifies for the credit under this
7 subsection (h) and thereby is granted a tax abatement and
8 the taxpayer relocates its entire facility in violation of
9 the explicit terms and length of the contract under Section
10 18-183 of the Property Tax Code, the tax imposed under
11 subsections (a) and (b) of this Section shall be increased
12 for the taxable year in which the taxpayer relocated its
13 facility by an amount equal to the amount of credit
14 received by the taxpayer under this subsection (h).

15 (i) Credit for Personal Property Tax Replacement Income
16 Tax. For tax years ending prior to December 31, 2003, a credit
17 shall be allowed against the tax imposed by subsections (a) and
18 (b) of this Section for the tax imposed by subsections (c) and
19 (d) of this Section. This credit shall be computed by
20 multiplying the tax imposed by subsections (c) and (d) of this
21 Section by a fraction, the numerator of which is base income
22 allocable to Illinois and the denominator of which is Illinois
23 base income, and further multiplying the product by the tax
24 rate imposed by subsections (a) and (b) of this Section.

25 Any credit earned on or after December 31, 1986 under this
26 subsection which is unused in the year the credit is computed

1 because it exceeds the tax liability imposed by subsections (a)
2 and (b) for that year (whether it exceeds the original
3 liability or the liability as later amended) may be carried
4 forward and applied to the tax liability imposed by subsections
5 (a) and (b) of the 5 taxable years following the excess credit
6 year, provided that no credit may be carried forward to any
7 year ending on or after December 31, 2003. This credit shall be
8 applied first to the earliest year for which there is a
9 liability. If there is a credit under this subsection from more
10 than one tax year that is available to offset a liability the
11 earliest credit arising under this subsection shall be applied
12 first.

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

23 (j) Training expense credit. Beginning with tax years
24 ending on or after December 31, 1986 and prior to December 31,
25 2003, a taxpayer shall be allowed a credit against the tax
26 imposed by subsections (a) and (b) under this Section for all

1 amounts paid or accrued, on behalf of all persons employed by
2 the taxpayer in Illinois or Illinois residents employed outside
3 of Illinois by a taxpayer, for educational or vocational
4 training in semi-technical or technical fields or semi-skilled
5 or skilled fields, which were deducted from gross income in the
6 computation of taxable income. The credit against the tax
7 imposed by subsections (a) and (b) shall be 1.6% of such
8 training expenses. For partners, shareholders of subchapter S
9 corporations, and owners of limited liability companies, if the
10 liability company is treated as a partnership for purposes of
11 federal and State income taxation, there shall be allowed a
12 credit under this subsection (j) to be determined in accordance
13 with the determination of income and distributive share of
14 income under Sections 702 and 704 and subchapter S of the
15 Internal Revenue Code.

16 Any credit allowed under this subsection which is unused in
17 the year the credit is earned may be carried forward to each of
18 the 5 taxable years following the year for which the credit is
19 first computed until it is used. This credit shall be applied
20 first to the earliest year for which there is a liability. If
21 there is a credit under this subsection from more than one tax
22 year that is available to offset a liability the earliest
23 credit arising under this subsection shall be applied first. No
24 carryforward credit may be claimed in any tax year ending on or
25 after December 31, 2003.

26 (k) Research and development credit.

1 For tax years ending after July 1, 1990 and prior to
2 December 31, 2003, and beginning again for tax years ending on
3 or after December 31, 2004, a taxpayer shall be allowed a
4 credit against the tax imposed by subsections (a) and (b) of
5 this Section for increasing research activities in this State.
6 The credit allowed against the tax imposed by subsections (a)
7 and (b) shall be equal to 6 1/2% of the qualifying expenditures
8 for increasing research activities in this State. For partners,
9 shareholders of subchapter S corporations, and owners of
10 limited liability companies, if the liability company is
11 treated as a partnership for purposes of federal and State
12 income taxation, there shall be allowed a credit under this
13 subsection to be determined in accordance with the
14 determination of income and distributive share of income under
15 Sections 702 and 704 and subchapter S of the Internal Revenue
16 Code.

17 For purposes of this subsection, "qualifying expenditures"
18 means the qualifying expenditures as defined for the federal
19 credit for increasing research activities which would be
20 allowable under Section 41 of the Internal Revenue Code and
21 which are conducted in this State, "qualifying expenditures for
22 increasing research activities in this State" means the excess
23 of qualifying expenditures for the taxable year in which
24 incurred over qualifying expenditures for the base period,
25 "qualifying expenditures for the base period" means the average
26 of the qualifying expenditures for each year in the base

1 period, and "base period" means the 3 taxable years immediately
2 preceding the taxable year for which the determination is being
3 made.

4 Any credit in excess of the tax liability for the taxable
5 year may be carried forward. A taxpayer may elect to have the
6 unused credit shown on its final completed return carried over
7 as a credit against the tax liability for the following 5
8 taxable years or until it has been fully used, whichever occurs
9 first; provided that no credit earned in a tax year ending
10 prior to December 31, 2003 may be carried forward to any year
11 ending on or after December 31, 2003.

12 If an unused credit is carried forward to a given year from
13 2 or more earlier years, that credit arising in the earliest
14 year will be applied first against the tax liability for the
15 given year. If a tax liability for the given year still
16 remains, the credit from the next earliest year will then be
17 applied, and so on, until all credits have been used or no tax
18 liability for the given year remains. Any remaining unused
19 credit or credits then will be carried forward to the next
20 following year in which a tax liability is incurred, except
21 that no credit can be carried forward to a year which is more
22 than 5 years after the year in which the expense for which the
23 credit is given was incurred.

24 No inference shall be drawn from this amendatory Act of the
25 91st General Assembly in construing this Section for taxable
26 years beginning before January 1, 1999.

1 (1) Environmental Remediation Tax Credit.

2 (i) For tax years ending after December 31, 1997 and on
3 or before December 31, 2001, a taxpayer shall be allowed a
4 credit against the tax imposed by subsections (a) and (b)
5 of this Section for certain amounts paid for unreimbursed
6 eligible remediation costs, as specified in this
7 subsection. For purposes of this Section, "unreimbursed
8 eligible remediation costs" means costs approved by the
9 Illinois Environmental Protection Agency ("Agency") under
10 Section 58.14 of the Environmental Protection Act that were
11 paid in performing environmental remediation at a site for
12 which a No Further Remediation Letter was issued by the
13 Agency and recorded under Section 58.10 of the
14 Environmental Protection Act. The credit must be claimed
15 for the taxable year in which Agency approval of the
16 eligible remediation costs is granted. The credit is not
17 available to any taxpayer if the taxpayer or any related
18 party caused or contributed to, in any material respect, a
19 release of regulated substances on, in, or under the site
20 that was identified and addressed by the remedial action
21 pursuant to the Site Remediation Program of the
22 Environmental Protection Act. After the Pollution Control
23 Board rules are adopted pursuant to the Illinois
24 Administrative Procedure Act for the administration and
25 enforcement of Section 58.9 of the Environmental
26 Protection Act, determinations as to credit availability

1 for purposes of this Section shall be made consistent with
2 those rules. For purposes of this Section, "taxpayer"
3 includes a person whose tax attributes the taxpayer has
4 succeeded to under Section 381 of the Internal Revenue Code
5 and "related party" includes the persons disallowed a
6 deduction for losses by paragraphs (b), (c), and (f)(1) of
7 Section 267 of the Internal Revenue Code by virtue of being
8 a related taxpayer, as well as any of its partners. The
9 credit allowed against the tax imposed by subsections (a)
10 and (b) shall be equal to 25% of the unreimbursed eligible
11 remediation costs in excess of \$100,000 per site, except
12 that the \$100,000 threshold shall not apply to any site
13 contained in an enterprise zone as determined by the
14 Department of Commerce and Community Affairs (now
15 Department of Commerce and Economic Opportunity). The
16 total credit allowed shall not exceed \$40,000 per year with
17 a maximum total of \$150,000 per site. For partners and
18 shareholders of subchapter S corporations, there shall be
19 allowed a credit under this subsection to be determined in
20 accordance with the determination of income and
21 distributive share of income under Sections 702 and 704 and
22 subchapter S of the Internal Revenue Code.

23 (ii) A credit allowed under this subsection that is
24 unused in the year the credit is earned may be carried
25 forward to each of the 5 taxable years following the year
26 for which the credit is first earned until it is used. The

1 term "unused credit" does not include any amounts of
2 unreimbursed eligible remediation costs in excess of the
3 maximum credit per site authorized under paragraph (i).
4 This credit shall be applied first to the earliest year for
5 which there is a liability. If there is a credit under this
6 subsection from more than one tax year that is available to
7 offset a liability, the earliest credit arising under this
8 subsection shall be applied first. A credit allowed under
9 this subsection may be sold to a buyer as part of a sale of
10 all or part of the remediation site for which the credit
11 was granted. The purchaser of a remediation site and the
12 tax credit shall succeed to the unused credit and remaining
13 carry-forward period of the seller. To perfect the
14 transfer, the assignor shall record the transfer in the
15 chain of title for the site and provide written notice to
16 the Director of the Illinois Department of Revenue of the
17 assignor's intent to sell the remediation site and the
18 amount of the tax credit to be transferred as a portion of
19 the sale. In no event may a credit be transferred to any
20 taxpayer if the taxpayer or a related party would not be
21 eligible under the provisions of subsection (i).

22 (iii) For purposes of this Section, the term "site"
23 shall have the same meaning as under Section 58.2 of the
24 Environmental Protection Act.

25 (m) Education expense credit. Beginning with tax years
26 ending after December 31, 1999, a taxpayer who is the custodian

1 of one or more qualifying pupils shall be allowed a credit
2 against the tax imposed by subsections (a) and (b) of this
3 Section for qualified education expenses incurred on behalf of
4 the qualifying pupils. The credit shall be equal to 25% of
5 qualified education expenses, but in no event may the total
6 credit under this subsection claimed by a family that is the
7 custodian of qualifying pupils exceed \$500. In no event shall a
8 credit under this subsection reduce the taxpayer's liability
9 under this Act to less than zero. This subsection is exempt
10 from the provisions of Section 250 of this Act.

11 For purposes of this subsection:

12 "Qualifying pupils" means individuals who (i) are
13 residents of the State of Illinois, (ii) are under the age of
14 21 at the close of the school year for which a credit is
15 sought, and (iii) during the school year for which a credit is
16 sought were full-time pupils enrolled in a kindergarten through
17 twelfth grade education program at any school, as defined in
18 this subsection.

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

23 "School" means any public or nonpublic elementary or
24 secondary school in Illinois that is in compliance with Title
25 VI of the Civil Rights Act of 1964 and attendance at which
26 satisfies the requirements of Section 26-1 of the School Code,

1 except that nothing shall be construed to require a child to
2 attend any particular public or nonpublic school to qualify for
3 the credit under this Section.

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

7 (n) River Edge Redevelopment Zone site remediation tax
8 credit.

9 (i) For tax years ending on or after December 31, 2006,
10 a taxpayer shall be allowed a credit against the tax
11 imposed by subsections (a) and (b) of this Section for
12 certain amounts paid for unreimbursed eligible remediation
13 costs, as specified in this subsection. For purposes of
14 this Section, "unreimbursed eligible remediation costs"
15 means costs approved by the Illinois Environmental
16 Protection Agency ("Agency") under Section 58.14a of the
17 Environmental Protection Act that were paid in performing
18 environmental remediation at a site within a River Edge
19 Redevelopment Zone for which a No Further Remediation
20 Letter was issued by the Agency and recorded under Section
21 58.10 of the Environmental Protection Act. The credit must
22 be claimed for the taxable year in which Agency approval of
23 the eligible remediation costs is granted. The credit is
24 not available to any taxpayer if the taxpayer or any
25 related party caused or contributed to, in any material
26 respect, a release of regulated substances on, in, or under

1 the site that was identified and addressed by the remedial
2 action pursuant to the Site Remediation Program of the
3 Environmental Protection Act. Determinations as to credit
4 availability for purposes of this Section shall be made
5 consistent with rules adopted by the Pollution Control
6 Board pursuant to the Illinois Administrative Procedure
7 Act for the administration and enforcement of Section 58.9
8 of the Environmental Protection Act. For purposes of this
9 Section, "taxpayer" includes a person whose tax attributes
10 the taxpayer has succeeded to under Section 381 of the
11 Internal Revenue Code and "related party" includes the
12 persons disallowed a deduction for losses by paragraphs
13 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
14 Code by virtue of being a related taxpayer, as well as any
15 of its partners. The credit allowed against the tax imposed
16 by subsections (a) and (b) shall be equal to 25% of the
17 unreimbursed eligible remediation costs in excess of
18 \$100,000 per site.

19 (ii) A credit allowed under this subsection that is
20 unused in the year the credit is earned may be carried
21 forward to each of the 5 taxable years following the year
22 for which the credit is first earned until it is used. This
23 credit shall be applied first to the earliest year for
24 which there is a liability. If there is a credit under this
25 subsection from more than one tax year that is available to
26 offset a liability, the earliest credit arising under this

1 subsection shall be applied first. A credit allowed under
2 this subsection may be sold to a buyer as part of a sale of
3 all or part of the remediation site for which the credit
4 was granted. The purchaser of a remediation site and the
5 tax credit shall succeed to the unused credit and remaining
6 carry-forward period of the seller. To perfect the
7 transfer, the assignor shall record the transfer in the
8 chain of title for the site and provide written notice to
9 the Director of the Illinois Department of Revenue of the
10 assignor's intent to sell the remediation site and the
11 amount of the tax credit to be transferred as a portion of
12 the sale. In no event may a credit be transferred to any
13 taxpayer if the taxpayer or a related party would not be
14 eligible under the provisions of subsection (i).

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

18 (iv) This subsection is exempt from the provisions of
19 Section 250.

20 (Source: P.A. 94-1021, eff. 7-12-06; 95-454, eff. 8-27-07.)

21 Section 25. The Retailers' Occupation Tax Act is amended by
22 changing Sections 1d, 1e, 1f, and 5l as follows:

23 (35 ILCS 120/1d) (from Ch. 120, par. 440d)

24 Sec. 1d. Subject to the provisions of Section 1f, all

1 tangible personal property to be used or consumed within an
2 enterprise zone established pursuant to the "Illinois
3 Enterprise Zone Act", as amended, or subject to the provisions
4 of Section 5.5 of the Illinois Enterprise Zone Act, or subject
5 to the provisions of Section 10 of the Green Energy Business
6 Act, all tangible personal property to be used or consumed by
7 any High Impact Business or Green Energy Business, in the
8 process of the manufacturing or assembly of tangible personal
9 property for wholesale or retail sale or lease or in the
10 process of graphic arts production if used or consumed at a
11 facility which is a Department of Commerce and Economic
12 Opportunity certified business and located in a county of more
13 than 4,000 persons and less than 45,000 persons is exempt from
14 the tax imposed by this Act. This exemption includes repair and
15 replacement parts for machinery and equipment used primarily in
16 the process of manufacturing or assembling tangible personal
17 property or in the process of graphic arts production if used
18 or consumed at a facility which is a Department of Commerce and
19 Economic Opportunity certified business and located in a county
20 of more than 4,000 persons and less than 45,000 persons for
21 wholesale or retail sale, or lease, and equipment,
22 manufacturing or graphic arts fuels, material and supplies for
23 the maintenance, repair or operation of such manufacturing or
24 assembling or graphic arts machinery or equipment.

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

1 (35 ILCS 120/1e) (from Ch. 120, par. 440e)

2 Sec. 1e. Subject to the provisions of Section 1f, or
3 subject to the provisions of Section 5.5 of the Illinois
4 Enterprise Zone Act, or subject to the provisions of Section 10
5 of the Green Energy Business Act, all tangible personal
6 property to be used or consumed in the operation of pollution
7 control facilities, as defined in Section 1a of this Act,
8 within an enterprise zone established pursuant to the "Illinois
9 Enterprise Zone Act", as amended, shall be exempt from the tax
10 imposed by this Act.

11 (Source: P.A. 85-1182.)

12 (35 ILCS 120/1f) (from Ch. 120, par. 440f)

13 Sec. 1f. Except for High Impact Businesses or Green Energy
14 Businesses, the exemption stated in Sections 1d and 1e of this
15 Act shall only apply to business enterprises which:

16 (1) either (i) make investments which cause the
17 creation of a minimum of 200 full-time equivalent jobs in
18 Illinois or (ii) make investments which cause the retention
19 of a minimum of 2000 full-time jobs in Illinois or (iii)
20 make investments of a minimum of \$40,000,000 and retain at
21 least 90% of the jobs in place on the date on which the
22 exemption is granted and for the duration of the exemption;
23 and

24 (2) are located in an Enterprise Zone established
25 pursuant to the Illinois Enterprise Zone Act; and

1 (3) are certified by the Department of Commerce and
2 Economic Opportunity as complying with the requirements
3 specified in clauses (1), (2) and (3).

4 Any business enterprise seeking to avail itself of the
5 exemptions stated in Sections 1d or 1e, or both, shall make
6 application to the Department of Commerce and Economic
7 Opportunity in such form and providing such information as may
8 be prescribed by the Department of Commerce and Economic
9 Opportunity. However, no business enterprise shall be
10 required, as a condition for certification under clause (4) of
11 this Section, to attest that its decision to invest under
12 clause (1) of this Section and to locate under clause (2) of
13 this Section is predicated upon the availability of the
14 exemptions authorized by Sections 1d or 1e.

15 The Department of Commerce and Economic Opportunity shall
16 determine whether the business enterprise meets the criteria
17 prescribed in this Section. If the Department of Commerce and
18 Economic Opportunity determines that such business enterprise
19 meets the criteria, it shall issue a certificate of eligibility
20 for exemption to the business enterprise in such form as is
21 prescribed by the Department of Revenue. The Department of
22 Commerce and Economic Opportunity shall act upon such
23 certification requests within 60 days after receipt of the
24 application, and shall file with the Department of Revenue a
25 copy of each certificate of eligibility for exemption.

26 The Department of Commerce and Economic Opportunity shall

1 have the power to promulgate rules and regulations to carry out
2 the provisions of this Section including the power to define
3 the amounts and types of eligible investments not specified in
4 this Section which business enterprises must make in order to
5 receive the exemptions stated in Sections 1d and 1e of this
6 Act; and to require that any business enterprise that is
7 granted a tax exemption repay the exempted tax if the business
8 enterprise fails to comply with the terms and conditions of the
9 certification.

10 Such certificate of eligibility for exemption shall be
11 presented by the business enterprise to its supplier when
12 making the initial purchase of tangible personal property for
13 which an exemption is granted by Section 1d or Section 1e, or
14 both, together with a certification by the business enterprise
15 that such tangible personal property is exempt from taxation
16 under Section 1d or Section 1e and by indicating the exempt
17 status of each subsequent purchase on the face of the purchase
18 order.

19 The Department of Commerce and Economic Opportunity shall
20 determine the period during which such exemption from the taxes
21 imposed under this Act is in effect which shall not exceed 20
22 years.

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

24 (35 ILCS 120/51) (from Ch. 120, par. 4441)

25 Sec. 51. Beginning January 1, 1995, each retailer who makes

1 a sale of building materials that will be incorporated into a
2 High Impact Business location as designated by the Department
3 of Commerce and Economic Opportunity under Section 5.5 of the
4 Illinois Enterprise Zone Act or Section 10 of the Green Energy
5 Business Act may deduct receipts from such sales when
6 calculating only the 6.25% State rate of tax imposed by this
7 Act. Beginning on the effective date of this amendatory Act of
8 1995, a retailer may also deduct receipts from such sales when
9 calculating any applicable local taxes. However, until the
10 effective date of this amendatory Act of 1995, a retailer may
11 file claims for credit or refund to recover the amount of any
12 applicable local tax paid on such sales. No retailer who is
13 eligible for the deduction or credit under Section 5k of this
14 Act for making a sale of building materials to be incorporated
15 into real estate in an enterprise zone by rehabilitation,
16 remodeling or new construction shall be eligible for the
17 deduction or credit authorized under this Section.

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

19 Section 30. The Public Utilities Act is amended by changing
20 Sections 9-222 and 9-222.1A as follows:

21 (220 ILCS 5/9-222) (from Ch. 111 2/3, par. 9-222)

22 Sec. 9-222. Whenever a tax is imposed upon a public utility
23 engaged in the business of distributing, supplying,
24 furnishing, or selling gas for use or consumption pursuant to

1 Section 2 of the Gas Revenue Tax Act, or whenever a tax is
2 required to be collected by a delivering supplier pursuant to
3 Section 2-7 of the Electricity Excise Tax Act, or whenever a
4 tax is imposed upon a public utility pursuant to Section 2-202
5 of this Act, such utility may charge its customers, other than
6 customers who are Green Energy Businesses under Section 10 of
7 the Green Energy Business Act, High Impact Businesses ~~high~~
8 ~~impact businesses~~ under Section 5.5 of the Illinois Enterprise
9 Zone Act, or certified business enterprises under Section
10 9-222.1 of this Act, to the extent of such exemption and during
11 the period in which such exemption is in effect, in addition to
12 any rate authorized by this Act, an additional charge equal to
13 the total amount of such taxes. The exemption of this Section
14 relating to High Impact Businesses ~~high impact businesses~~ shall
15 be subject to the provisions of subsections (a), (b), and (b-5)
16 of Section 5.5 of the Illinois Enterprise Zone Act. The
17 exemption of this Section relating to Green Energy Businesses
18 shall be subject to the provisions of subsection (a) of Section
19 10 of the Green Energy Business Act. This requirement shall not
20 apply to taxes on invested capital imposed pursuant to the
21 Messages Tax Act, the Gas Revenue Tax Act and the Public
22 Utilities Revenue Act. Such utility shall file with the
23 Commission a supplemental schedule which shall specify such
24 additional charge and which shall become effective upon filing
25 without further notice. Such additional charge shall be shown
26 separately on the utility bill to each customer. The Commission

1 shall have the power to investigate whether or not such
2 supplemental schedule correctly specifies such additional
3 charge, but shall have no power to suspend such supplemental
4 schedule. If the Commission finds, after a hearing, that such
5 supplemental schedule does not correctly specify such
6 additional charge, it shall by order require a refund to the
7 appropriate customers of the excess, if any, with interest, in
8 such manner as it shall deem just and reasonable, and in and by
9 such order shall require the utility to file an amended
10 supplemental schedule corresponding to the finding and order of
11 the Commission. Except with respect to taxes imposed on
12 invested capital, such tax liabilities shall be recovered from
13 customers solely by means of the additional charges authorized
14 by this Section.

15 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01.)

16 (220 ILCS 5/9-222.1A)

17 Sec. 9-222.1A. High impact business or green energy
18 business. Beginning on August 1, 1998 and thereafter, a
19 business enterprise that is certified as a High Impact Business
20 or a Green Energy Business by the Department of Commerce and
21 Economic Opportunity (formerly Department of Commerce and
22 Community Affairs) is exempt from the tax imposed by Section
23 2-4 of the Electricity Excise Tax Law, if the High Impact
24 Business or Green Energy Business is registered to self-assess
25 that tax, and is exempt from any additional charges added to

1 the business enterprise's utility bills as a pass-on of State
2 utility taxes under Section 9-222 of this Act, to the extent
3 the tax or charges are exempted by the percentage specified by
4 the Department of Commerce and Economic Opportunity for State
5 utility taxes, provided the business enterprise meets the
6 following criteria:

7 (1) (A) it intends either (i) to make a minimum
8 eligible investment of \$12,000,000 that will be placed
9 in service in qualified property in Illinois and is
10 intended to create at least 500 full-time equivalent
11 jobs at a designated location in Illinois; or (ii) to
12 make a minimum eligible investment of \$30,000,000 that
13 will be placed in service in qualified property in
14 Illinois and is intended to retain at least 1,500
15 full-time equivalent jobs at a designated location in
16 Illinois; or

17 (B) it meets the criteria of subdivision
18 (a) (3) (B), (a) (3) (C), ~~or~~ (a) (3) (D) of Section 5.5 of
19 the Illinois Enterprise Zone Act, or of subsection (a)
20 of Section 10 of the Green Energy Business Act;

21 (2) it is designated as a High Impact Business or Green
22 Energy Business by the Department of Commerce and Economic
23 Opportunity; and

24 (3) it is certified by the Department of Commerce and
25 Economic Opportunity as complying with the requirements
26 specified in clauses (1) and (2) of this Section.

1 The Department of Commerce and Economic Opportunity shall
2 determine the period during which the exemption from the
3 Electricity Excise Tax Law and the charges imposed under
4 Section 9-222 are in effect, which shall not exceed 20 years
5 from the date of initial certification, and shall specify the
6 percentage of the exemption from those taxes or additional
7 charges.

8 The Department of Commerce and Economic Opportunity is
9 authorized to promulgate rules and regulations to carry out the
10 provisions of this Section, including procedures for complying
11 with the requirements specified in clauses (1) and (2) of this
12 Section and procedures for applying for the exemptions
13 authorized under this Section; to define the amounts and types
14 of eligible investments that business enterprises must make in
15 order to receive State utility tax exemptions or exemptions
16 from the additional charges imposed under Section 9-222 and
17 this Section; to approve such utility tax exemptions for
18 business enterprises whose investments are not yet placed in
19 service; and to require that business enterprises granted tax
20 exemptions or exemptions from additional charges under Section
21 9-222 repay the exempted amount if the business enterprise
22 fails to comply with the terms and conditions of the
23 certification.

24 Upon certification of the business enterprises by the
25 Department of Commerce and Economic Opportunity, the
26 Department of Commerce and Economic Opportunity shall notify

1 the Department of Revenue of the certification. The Department
2 of Revenue shall notify the public utilities of the exemption
3 status of business enterprises from the tax or pass-on charges
4 of State utility taxes. The exemption status shall take effect
5 within 3 months after certification of the business enterprise.
6 (Source: P.A. 94-793, eff. 5-19-06.)

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