

1 AN ACT concerning finance.

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

4 Section 5. The Department of Commerce and Economic  
5 Opportunity Law of the Civil Administrative Code of Illinois is  
6 amended by changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation  
9 facilities.

10 (a) As used in this Section:

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

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

25 (2) is ~~(i)~~ funded through a federal Department of  
26 Energy grant before July 1, 2006 and supports the creation  
27 of Illinois coal-mining jobs; or 2005, and ~~(ii)~~

28 (3) uses coal gasification or integrated  
29 gasification-combined cycle units that generate  
30 electricity or chemicals, or both, and ~~that~~ supports the  
31 creation of Illinois coal-mining jobs.

32 "New gasification facility" means a newly constructed coal

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

10 "New facility" means a new electric generating facility or  
11 a new gasification facility. A new facility does not include a  
12 pilot project located within Jefferson County or within a  
13 county adjacent to Jefferson County for synthetic natural gas  
14 from coal.

15 "Eligible business" means an entity that proposes to  
16 construct a new ~~electric generating~~ facility and that has  
17 applied to the Department to receive financial assistance  
18 pursuant to this Section. With respect to use and occupation  
19 taxes, wherever there is a reference to taxes, that reference  
20 means only those taxes paid on Illinois-mined coal used in a  
21 new ~~electric generating~~ facility.

22 "Department" means the Illinois Department of Commerce and  
23 Economic Opportunity.

24 (b) The Department is authorized to provide financial  
25 assistance to eligible businesses for new ~~electric generating~~  
26 facilities from funds appropriated by the General Assembly as  
27 further provided in this Section.

28 An eligible business seeking qualification for financial  
29 assistance for a new ~~electric generating~~ facility, for purposes  
30 of this Section only, shall apply to the Department in the  
31 manner specified by the Department. Any projections provided by  
32 an eligible business as part of the application shall be  
33 independently verified in a manner as set forth by the  
34 Department. An application shall include, but not be limited  
35 to:

36 (1) the projected or actual completion date of the new

1 ~~electric-generating~~ facility for which financial  
2 assistance is sought;

3 (2) copies of documentation deemed acceptable by the  
4 Department establishing either (i) the total State  
5 occupation and use taxes paid on Illinois-mined coal used  
6 at the new ~~electric-generating~~ facility for a minimum of 4  
7 preceding calendar quarters or (ii) the projected amount of  
8 State occupation and use taxes paid on Illinois-mined coal  
9 used at the new ~~electric-generating~~ facility in 4 calendar  
10 year quarters after completion of the new ~~electric~~  
11 ~~generating~~ facility. Bond proceeds subject to this Section  
12 shall not be allocated to an eligible business until the  
13 eligible business has demonstrated the revenue stream  
14 sufficient to service the debt on the bonds; and

15 (3) the actual or projected amount of capital  
16 investment by the eligible business in the new ~~electric~~  
17 ~~generating~~ facility.

18 The Department shall determine the maximum amount of  
19 financial assistance for eligible businesses in accordance  
20 with this paragraph. The Department shall not provide financial  
21 assistance from general obligation bond funds to any eligible  
22 business unless it receives a written certification from the  
23 Director of the Bureau of the Budget (now Governor's Office of  
24 Management and Budget) that 80% of the State occupation and use  
25 tax receipts for a minimum of the preceding 4 calendar quarters  
26 for all eligible businesses or as included in projections on  
27 approved applications by eligible businesses equal or exceed  
28 110% of the maximum annual debt service required with respect  
29 to general obligation bonds issued for that purpose. The  
30 Department may provide financial assistance not to exceed the  
31 amount of State general obligation debt calculated as above,  
32 the amount of actual or projected capital investment in the  
33 ~~energy-generation~~ facility, or \$100,000,000, whichever is  
34 less. Financial assistance received pursuant to this Section  
35 may be used for capital facilities consisting of buildings,  
36 structures, durable equipment, and land at the new ~~electric~~

1 ~~generating~~ facility. Subject to the provisions of the agreement  
2 covering the financial assistance, a portion of the financial  
3 assistance may be required to be repaid to the State if certain  
4 conditions for the governmental purpose of the assistance were  
5 not met.

6 An eligible business shall file a monthly report with the  
7 Illinois Department of Revenue stating the amount of  
8 Illinois-mined coal purchased during the previous month for use  
9 in the new ~~electric generating~~ facility, the purchase price of  
10 that coal, the amount of State occupation and use taxes paid on  
11 that purchase to the seller of the Illinois-mined coal, and  
12 such other information as that Department may reasonably  
13 require. In sales of Illinois-mined coal between related  
14 parties, the purchase price of the coal must have been  
15 determined in an arms-length transaction. The report shall be  
16 filed with the Illinois Department of Revenue on or before the  
17 20th day of each month on a form provided by that Department.  
18 However, no report need be filed by an eligible business in a  
19 month when it made no reportable purchases of coal in the  
20 previous month. The Illinois Department of Revenue shall  
21 provide a summary of such reports to the Governor's Office of  
22 Management and Budget.

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

32 (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03;  
33 93-1064, eff. 1-13-05.)

34 Section 10. The Illinois Enterprise Zone Act is amended by  
35 changing Section 5.5 as follows:

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

2 Sec. 5.5. High Impact Business.

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

9 (1) such applications may be submitted at any time  
10 during the year;

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

14 (3) the business intends to do one or more of the  
15 following:

16 (A) the business intends to make a minimum  
17 investment of \$12,000,000 which will be placed in  
18 service in qualified property and intends to create 500  
19 full-time equivalent jobs at a designated location in  
20 Illinois or intends to make a minimum investment of  
21 \$30,000,000 which will be placed in service in  
22 qualified property and intends to retain 1,500  
23 full-time jobs at a designated location in Illinois.  
24 The business must certify in writing that the  
25 investments would not be placed in service in qualified  
26 property and the job creation or job retention would  
27 not occur without the tax credits and exemptions set  
28 forth in subsection (b) of this Section. The terms  
29 "placed in service" and "qualified property" have the  
30 same meanings as described in subsection (h) of Section  
31 201 of the Illinois Income Tax Act; or

32 (B) the business intends to establish a new  
33 electric generating facility at a designated location  
34 in Illinois. "New electric generating facility", for  
35 purposes of this Section, means a newly-constructed

1 electric generation plant or a newly-constructed  
2 generation capacity expansion at an existing electric  
3 generation plant, including the transmission lines and  
4 associated equipment that transfers electricity from  
5 points of supply to points of delivery, and for which  
6 such new foundation construction commenced not sooner  
7 than July 1, 2001. Such facility shall be designed to  
8 provide baseload electric generation and shall operate  
9 on a continuous basis throughout the year; and (i)  
10 shall have an aggregate rated generating capacity of at  
11 least 1,000 megawatts for all new units at one site if  
12 it uses natural gas as its primary fuel and foundation  
13 construction of the facility is commenced on or before  
14 December 31, 2004, or shall have an aggregate rated  
15 generating capacity of at least 400 megawatts for all  
16 new units at one site if it uses coal or gases derived  
17 from coal as its primary fuel and shall support the  
18 creation of at least 150 new Illinois coal mining jobs,  
19 ~~or, (ii) shall be is (i)~~ funded through a federal  
20 Department of Energy grant before July 1, 2006 and  
21 shall support the creation of Illinois coal-mining  
22 jobs, or (iii) shall use 2005, and (ii) uses coal  
23 gasification or integrated gasification-combined cycle  
24 units that generate electricity or chemicals, or both,  
25 and shall support the creation of Illinois coal-mining  
26 jobs. The business must certify in writing that the  
27 investments necessary to establish a new electric  
28 generating facility would not be placed in service and  
29 the job creation in the case of a coal-fueled plant  
30 would not occur without the tax credits and exemptions  
31 set forth in subsection (b-5) of this Section. The term  
32 "placed in service" has the same meaning as described  
33 in subsection (h) of Section 201 of the Illinois Income  
34 Tax Act; or

35 (B-5) the business intends to establish a new  
36 gasification facility at a designated location in

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

14 (C) the business intends to establish production  
15 operations at a new coal mine, re-establish production  
16 operations at a closed coal mine, or expand production  
17 at an existing coal mine at a designated location in  
18 Illinois not sooner than July 1, 2001; provided that  
19 the production operations result in the creation of 150  
20 new Illinois coal mining jobs as described in  
21 subdivision (a)(3)(B) of this Section, and further  
22 provided that the coal extracted from such mine is  
23 utilized as the predominant source for a new electric  
24 generating facility. The business must certify in  
25 writing that the investments necessary to establish a  
26 new, expanded, or reopened coal mine would not be  
27 placed in service and the job creation would not occur  
28 without the tax credits and exemptions set forth in  
29 subsection (b-5) of this Section. The term "placed in  
30 service" has the same meaning as described in  
31 subsection (h) of Section 201 of the Illinois Income  
32 Tax Act; or

33 (D) the business intends to construct new  
34 transmission facilities or upgrade existing  
35 transmission facilities at designated locations in  
36 Illinois, for which construction commenced not sooner

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

18 (4) no later than 90 days after an application is  
19 submitted, the Department shall notify the applicant of the  
20 Department's determination of the qualification of the  
21 proposed High Impact Business under this Section.

22 (b) Businesses designated as High Impact Businesses  
23 pursuant to subdivision (a) (3) (A) of this Section shall qualify  
24 for the credits and exemptions described in the following Acts:  
25 Section 9-222 and Section 9-222.1A of the Public Utilities Act,  
26 subsection (h) of Section 201 of the Illinois Income Tax Act,  
27 and Section 1d of the Retailers' Occupation Tax Act; provided  
28 that these credits and exemptions described in these Acts shall  
29 not be authorized until the minimum investments set forth in  
30 subdivision (a) (3) (A) of this Section have been placed in  
31 service in qualified properties and, in the case of the  
32 exemptions described in the Public Utilities Act and Section 1d  
33 of the Retailers' Occupation Tax Act, the minimum full-time  
34 equivalent jobs or full-time jobs set forth in subdivision  
35 (a) (3) (A) of this Section have been created or retained.  
36 Businesses designated as High Impact Businesses under this

1 Section shall also qualify for the exemption described in  
2 Section 51 of the Retailers' Occupation Tax Act. The credit  
3 provided in subsection (h) of Section 201 of the Illinois  
4 Income Tax Act shall be applicable to investments in qualified  
5 property as set forth in subdivision (a) (3) (A) of this Section.

6 (b-5) Businesses designated as High Impact Businesses  
7 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),  
8 and (a) (3) (D) of this Section shall qualify for the credits and  
9 exemptions described in the following Acts: Section 51 of the  
10 Retailers' Occupation Tax Act, Section 9-222 and Section  
11 9-222.1A of the Public Utilities Act, and subsection (h) of  
12 Section 201 of the Illinois Income Tax Act; however, the  
13 credits and exemptions authorized under Section 9-222 and  
14 Section 9-222.1A of the Public Utilities Act, and subsection  
15 (h) of Section 201 of the Illinois Income Tax Act shall not be  
16 authorized until the new electric generating facility, the new  
17 gasification facility, the new transmission facility, or the  
18 new, expanded, or reopened coal mine is operational, except  
19 that a new electric generating facility whose primary fuel  
20 source is natural gas is eligible only for the exemption under  
21 Section 51 of the Retailers' Occupation Tax Act.

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

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

33 (e) New proposed facilities which apply for designation as  
34 High Impact Business must provide the Department with proof of  
35 alternative non-Illinois sites which would receive the  
36 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. 92-12, eff. 7-1-01; 93-1064, eff. 1-13-05;  
25 93-1067, eff. 1-15-05; revised 1-25-05.)

26 Section 99. Effective date. This Act takes effect upon  
27 becoming law.