



Sen. James F. Clayborne Jr.

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09600HB3854sam001

LRB096 11716 MJR 26081 a

1 AMENDMENT TO HOUSE BILL 3854

2 AMENDMENT NO. _____. Amend House Bill 3854 by replacing
3 everything after the enacting clause with the following:

4 "Article 1.

5 Section 1-1. Short title. This Act may be cited as the
6 Illinois Energy to Jobs Act.

7 Article 5.

8 Section 5-1. Short title. This Article may be cited as the
9 Carbon Capture and Sequestration Legislation Commission Law.

10 Section 5-5. Definitions. For purposes of this Article:

11 "CO₂" means carbon dioxide.

12 "Commission" means the Carbon Capture and Sequestration
13 Legislation Commission.

1 "Director" means the Director of the Illinois Power Agency.

2 Section 5-10. Creation. An advisory commission, to be known
3 as the Carbon Capture and Sequestration Legislation
4 Commission, is created. The Commission shall consist of 16
5 members, including the Director, who shall serve as the
6 ex-officio chairperson of the Commission. The remaining 15
7 members of the Commission shall be appointed as follows: 3
8 members shall be appointed by the Speaker of the House of
9 Representatives, 3 members shall be appointed by the President
10 of the Senate, 2 members shall be appointed by the Minority
11 Leader of the House of Representatives, 2 members shall be
12 appointed by the Minority Leader of the Senate, and 5 members
13 shall be appointed by the Governor. The appointments made by
14 the Governor shall include one member with expertise in
15 geology, one member with expertise in civil law, one member
16 with expertise in pipeline technology, one member with
17 expertise in energy-related engineering, and one member with
18 expertise in environmental science.

19 Section 5-15. Report on carbon capture and sequestration
20 legislation.

21 (a) The Commission shall file a report no later than
22 December 31, 2010 with the General Assembly on all issues
23 related to carbon capture and sequestration legislation,
24 including, but not limited to, the following:

- 1 (1) Ownership of the CO₂.
- 2 (2) Liability for release of CO₂.
- 3 (3) Acquisition and ownership of pore space.
- 4 (4) Procedures and safeguards for the transportation
5 and sequestration of CO₂.
- 6 (5) Methodology to establish any necessary fees,
7 costs, or offsets.
- 8 (6) Potential use of CO₂.
- 9 (7) Construction of pipelines.
- 10 (8) Coordination with applicable federal law or
11 regulatory commissions.
- 12 (b) The Commission shall be abolished upon filing its
13 report with the General Assembly.

14 Section 5-20. Repealer. This Article is repealed on January
15 1, 2011.

16 Article 7.

17 Section 7-1. Short title. This Article may be cited as the
18 Renewable Energy Production District Law.

19 Section 7-5. Definition. "Renewable energy facility" means
20 a generator powered by solar electric energy, wind, dedicated
21 crops grown for electricity generation, anaerobic digestion of
22 livestock or food processing waste, fuel cells or microturbines

1 powered by renewable fuels, or hydroelectric energy.

2 Section 7-10. Renewable energy production district. Any
3 area within the boundaries of a single county may be
4 incorporated as a renewable energy production district.

5 Fifty or more of the legal voters resident within the
6 limits of the proposed district or a majority if there are
7 fewer than 100 legal voters, may petition the circuit court for
8 the county in which the proposed district is located to cause
9 the question to be submitted to the legal voters of the
10 proposed district whether the proposed territory shall be
11 organized as a renewable energy production district under this
12 Law. The petition shall be addressed to the court and shall
13 contain a definite description of the boundaries of the
14 territory to be embraced in the proposed district and the name
15 of the proposed district. The territory incorporated in any
16 district formed under this Law shall be contiguous and may
17 contain any territory not previously included in any renewable
18 energy production district.

19 Upon filing a petition, in the office of the circuit clerk
20 of the county in which the petition is made, the court shall
21 consider the boundaries of the renewable energy production
22 district whether the same shall be those stated in the petition
23 or otherwise.

24 Notice shall be given by the court of the time and place of
25 a hearing upon the subject of the petition. The notice shall be

1 inserted in one or more daily or weekly papers published within
2 the proposed renewable energy production district or, if no
3 daily or weekly newspaper is published within the proposed
4 renewable energy production district, then by posting at least
5 10 copies in the proposed district at least 20 days before the
6 meeting in conspicuous places as far separated from each other
7 as consistently possible.

8 At the hearing, all persons in the proposed renewable
9 energy production district shall have an opportunity to be
10 heard touching the location and boundary of the proposed
11 district and make suggestions regarding the same, and the
12 court, after hearing statements, evidence, and suggestions,
13 shall fix and determine the limits and boundaries of the
14 proposed district, and for that purpose and to that extent, may
15 alter and amend the petition. After the determination by the
16 court the limits and boundaries shall be incorporated in an
17 order, and the order shall be filed in the records of the
18 court. Upon the entering of the order, the court shall certify
19 the order and the proposition to the proper election officials,
20 who shall submit the proposition to the voters at an election
21 in accordance with the general election law. In addition to the
22 requirements of the general election law, notice of the
23 referendum shall include a description of the proposed district
24 and the name of the proposed district.

25 The proposition shall be in substantially the following
26 form:

1 Shall a renewable energy production district be
2 incorporated?

3 Votes shall be recorded as "YES" or "NO".

4 The court shall cause a statement of the results of the
5 election to be filed in the records of the court. If a majority
6 of the votes cast upon the question are in favor of the
7 incorporation of the proposed renewable energy production
8 district, the district shall thenceforth be an organized
9 renewable energy production district under this Act, and the
10 court shall enter an order accordingly and cause the same to be
11 filed in the records of the court and shall also cause to be
12 sent to the county clerk a certified copy of the order
13 organizing the district.

14 Section 7-15. Board of trustees. A renewable energy
15 production district shall be governed by a board of trustees.
16 The board of trustees shall consist of 5 members. Within 90
17 days after the order is entered organizing the district, the
18 county board in which the renewable energy production district
19 is located shall appoint the members of the board. The members
20 of the board shall serve for a period of 5 years. Vacancies
21 shall be filled in the same manner as appointments. The members
22 of the board shall annually elect one member to serve as the
23 chairperson. Members of the board shall serve without
24 compensation but may receive the reasonable cost of their
25 travel expenses.

1 "Agency" means the Illinois Power Agency.

2 "Agency loan agreement" means any agreement pursuant to
3 which the Illinois Finance Authority agrees to loan the
4 proceeds of revenue bonds issued with respect to a project to
5 the Agency upon terms providing for loan repayment installments
6 at least sufficient to pay when due all principal of, interest
7 and premium, if any, on those revenue bonds, and providing for
8 maintenance, insurance, and other matters in respect of the
9 project.

10 "Authority" means the Illinois Finance Authority.

11 "Clean coal facility" means an electric generating
12 facility that uses primarily coal as a feedstock and that
13 captures and sequesters carbon emissions at the following
14 levels: at least 50% of the total carbon emissions that the
15 facility would otherwise emit if, at the time construction
16 commences, the facility is scheduled to commence operation
17 before 2016, at least 70% of the total carbon emissions that
18 the facility would otherwise emit if, at the time construction
19 commences, the facility is scheduled to commence operation
20 during 2016 or 2017, and at least 90% of the total carbon
21 emissions that the facility would otherwise emit if, at the
22 time construction commences, the facility is scheduled to
23 commence operation after 2017. The power block of the clean
24 coal facility shall not exceed allowable emission rates for
25 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
26 and mercury for a natural gas-fired combined-cycle facility the

1 same size as and in the same location as the clean coal
2 facility at the time the clean coal facility obtains an
3 approved air permit. All coal used by a clean coal facility
4 shall have high volatile bituminous rank and greater than 1.7
5 pounds of sulfur per million btu content, unless the clean coal
6 facility does not use gasification technology and was operating
7 as a conventional coal-fired electric generating facility on
8 June 1, 2009 (the effective date of Public Act 95-1027).

9 "Clean coal SNG facility" means a facility that uses a
10 gasification process to produce substitute natural gas, that
11 sequesters at least 90% of the total carbon emissions that the
12 facility would otherwise emit and that uses coal as a
13 feedstock, with all such coal having a high bituminous rank and
14 greater than 1.7 pounds of sulfur per million btu content.

15 "Coal to liquid facility" means a facility that produces
16 fuels by processes that convert coal, waste coal, or biomass
17 resources or extract oil from oil shale to produce fuels for
18 powering vehicles, aircraft, and machinery and that sequesters
19 carbon emissions consistent with federal and State standards.

20 These fuels may include, but are not limited to, petroleum, jet
21 fuel, gasoline, diesel fuel, hydrogen derived from coal, and
22 diesel fuel and ethanol derived from biomass resources.

23 "Biomass resources" means any organic matter that is available
24 on a renewable or recurring basis, including (1) agricultural
25 crops and trees, (2) wood and wood residues, (3) plants,
26 aquatic plants, and plant oils, (4) grasses, (5) animal fats

1 and animal by-products, (6) animal manure, (7) residue
2 materials, and (8) waste products.

3 "Commission" means the Illinois Commerce Commission.

4 "Costs incurred in connection with the development and
5 construction of a facility" means:

6 (1) the cost of acquisition of all real property and
7 improvements in connection therewith and equipment and
8 other property, rights, and easements acquired that are
9 deemed necessary for the operation and maintenance of the
10 facility;

11 (2) financing costs with respect to bonds, notes, and
12 other evidences of indebtedness of the Agency;

13 (3) all origination, commitment, utilization,
14 facility, placement, underwriting, syndication, credit
15 enhancement, and rating agency fees;

16 (4) engineering, design, procurement, consulting,
17 legal, accounting, title insurance, survey, appraisal,
18 escrow, trustee, collateral agency, interest rate hedging,
19 interest rate swap, capitalized interest and other
20 financing costs, and other expenses for professional
21 services; and

22 (5) the costs of plans, specifications, site study and
23 investigation, installation, surveys, other Agency costs
24 and estimates of costs, and other expenses necessary or
25 incidental to determining the feasibility of any project,
26 together with such other expenses as may be necessary or

1 incidental to the financing, insuring, acquisition, and
2 construction of a specific project and placing that project
3 in operation.

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

6 "Director" means the Director of the Illinois Power Agency.

7 "Demand-response" means measures that decrease peak
8 electricity demand or shift demand from peak to off-peak
9 periods.

10 "Energy efficiency" means measures that reduce the amount
11 of electricity required to achieve a given end use.

12 "Energy facility" includes a clean coal power facility, a
13 clean coal SNG facility, a nuclear facility, a facility that
14 produces renewable energy, including, but not limited to, wind,
15 solar, and biomass, lines for the transmission of electric
16 power, smart-grid equipment and facilities, a fossil
17 fuel-fired electric generation facility existing on the
18 effective date of this amendatory Act of the 96th General
19 Assembly that is regulated by the Illinois Environmental
20 Protection Agency and has been issued permits required by the
21 Environmental Protection Act, a coal to liquid facility, a
22 refinery to produce fuel or energy, common carriers by pipeline
23 that transport oil or gas to or from refineries in Illinois,
24 and a coal mine or a facility for the exploration or production
25 of oil or gas, and all linear facilities, including railroads,
26 road pipelines, or transmission lines necessary to the

1 operation of that facility.

2 "Electric utility" has the same definition as found in
3 Section 16-102 of the Public Utilities Act.

4 "Facility", when used in reference to an electric
5 generation facility, means an electric generating unit or a
6 co-generating unit that produces electricity along with
7 related equipment necessary to connect the facility to an
8 electric transmission or distribution system.

9 "Feedstock" means any raw material supplied to an energy
10 facility from which other end products can be made.

11 "Governmental aggregator" means one or more units of local
12 government that individually or collectively procure
13 electricity to serve residential retail electrical loads
14 located within its or their jurisdiction.

15 "Local government" means a unit of local government as
16 defined in Article VII of Section 1 of the Illinois
17 Constitution.

18 "Municipality" means a city, village, or incorporated
19 town.

20 "Person" means any natural person, firm, partnership,
21 corporation, either domestic or foreign, company, association,
22 limited liability company, joint stock company, or association
23 and includes any trustee, receiver, assignee, or personal
24 representative thereof.

25 "Project" means the planning, bidding, and construction of
26 a facility.

1 "Public utility" has the same definition as found in
2 Section 3-105 of the Public Utilities Act.

3 "Real property" means any interest in land together with
4 all structures, fixtures, and improvements thereon, including
5 lands under water and riparian rights, any easements,
6 covenants, licenses, leases, rights-of-way, uses, and other
7 interests, together with any liens, judgments, mortgages, or
8 other claims or security interests related to real property.

9 "Renewable energy credit" means a tradable credit that
10 represents the environmental attributes of a certain amount of
11 energy produced from a renewable energy resource.

12 "Renewable energy resources" includes energy and its
13 associated renewable energy credit or renewable energy credits
14 from wind, solar thermal energy, photovoltaic cells and panels,
15 biodiesel, crops and untreated and unadulterated organic waste
16 biomass, trees and tree trimmings, hydropower that does not
17 involve new construction or significant expansion of
18 hydropower dams, and other alternative sources of
19 environmentally preferable energy. For purposes of this Act,
20 landfill gas produced in the State is considered a renewable
21 energy resource. "Renewable energy resources" does not include
22 the incineration or burning of tires, garbage, general
23 household, institutional, and commercial waste, industrial
24 lunchroom or office waste, landscape waste other than trees and
25 tree trimmings, railroad crossties, utility poles, or
26 construction or demolition debris, other than untreated and

1 unadulterated waste wood.

2 "Revenue bond" means any bond, note, or other evidence of
3 indebtedness issued by the Authority, the principal and
4 interest of which is payable solely from revenues or income
5 derived from any project or activity of the Agency.

6 "Sequester" means permanent storage of carbon dioxide by
7 injecting it into a saline aquifer, a depleted gas reservoir,
8 or an oil reservoir, directly or through an enhanced oil
9 recovery process that may involve intermediate storage in a
10 salt dome.

11 "Servicing agreement" means (i) in the case of an electric
12 utility, an agreement between the owner of a clean coal
13 facility and such electric utility, which agreement shall have
14 terms and conditions meeting the requirements of paragraph (3)
15 of subsection (d) of Section 1-75, and (ii) in the case of an
16 alternative retail electric supplier, an agreement between the
17 owner of a clean coal facility and such alternative retail
18 electric supplier, which agreement shall have terms and
19 conditions meeting the requirements of Section 16-115(d) (5) of
20 the Public Utilities Act.

21 "Substitute natural gas" or "SNG" means a gas manufactured
22 by gasification of hydrocarbon feedstock, which is
23 substantially interchangeable in use and distribution with
24 conventional natural gas.

25 "Total resource cost test" or "TRC test" means a standard
26 that is met if, for an investment in energy efficiency or

1 demand-response measures, the benefit-cost ratio is greater
2 than one. The benefit-cost ratio is the ratio of the net
3 present value of the total benefits of the program to the net
4 present value of the total costs as calculated over the
5 lifetime of the measures. A total resource cost test compares
6 the sum of avoided electric utility costs, representing the
7 benefits that accrue to the system and the participant in the
8 delivery of those efficiency measures, to the sum of all
9 incremental costs of end-use measures that are implemented due
10 to the program (including both utility and participant
11 contributions), plus costs to administer, deliver, and
12 evaluate each demand-side program, to quantify the net savings
13 obtained by substituting the demand-side program for supply
14 resources. In calculating avoided costs of power and energy
15 that an electric utility would otherwise have had to acquire,
16 reasonable estimates shall be included of financial costs
17 likely to be imposed by future regulations and legislation on
18 emissions of greenhouse gases.

19 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

20 (Text of Section after amendment by P.A. 95-1027)

21 Sec. 1-10. Definitions.

22 "Agency" means the Illinois Power Agency.

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24 which the Illinois Finance Authority agrees to loan the
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25 approved air permit. All coal used by a clean coal facility
26 shall have high volatile bituminous rank and greater than 1.7

1 pounds of sulfur per million btu content, unless the clean coal
2 facility does not use gasification technology and was operating
3 as a conventional coal-fired electric generating facility on
4 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
5 ~~amendatory Act of the 95th General Assembly.~~

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25 than one. The benefit-cost ratio is the ratio of the net
26 present value of the total benefits of the program to the net

1 present value of the total costs as calculated over the
2 lifetime of the measures. A total resource cost test compares
3 the sum of avoided electric utility costs, representing the
4 benefits that accrue to the system and the participant in the
5 delivery of those efficiency measures, to the sum of all
6 incremental costs of end-use measures that are implemented due
7 to the program (including both utility and participant
8 contributions), plus costs to administer, deliver, and
9 evaluate each demand-side program, to quantify the net savings
10 obtained by substituting the demand-side program for supply
11 resources. In calculating avoided costs of power and energy
12 that an electric utility would otherwise have had to acquire,
13 reasonable estimates shall be included of financial costs
14 likely to be imposed by future regulations and legislation on
15 emissions of greenhouse gases.

16 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
17 95-1027, eff. 6-1-09; revised 1-14-09.)

18 (20 ILCS 3855/1-21)

19 Sec. 1-21. Eminent domain. The Agency may take and acquire
20 possession by eminent domain of any property or interest in
21 property that the Agency is authorized to acquire under this
22 Act for the construction, maintenance, or operation of an
23 energy ~~a~~ facility with the consent in writing of the Governor,
24 after following the provisions of Section 1-85(a) of this Act,
25 to acquire by private purchase, or by condemnation in the

1 manner provided for the exercise of the power of eminent domain
2 under the Eminent Domain Act. The power of condemnation shall
3 be exercised, however, solely for the purposes of one or more
4 of the following: siting, rights of way, and easements
5 appurtenant. In addition, the Agency may acquire by eminent
6 domain permanent easements for the delivery, transportation,
7 and storage of CO₂ and may lease those easements to any energy
8 facility on reasonable terms and conditions, as determined by
9 the Agency. The Agency shall not exercise its powers of
10 condemnation until it has used reasonable good faith efforts to
11 acquire the property before filing a petition for condemnation
12 and may thereafter use those powers when it determines that the
13 condemnation of the property rights is necessary to avoid
14 unreasonable delay or economic hardship to the progress of
15 activities carried out in the exercise of powers granted under
16 this Act. Before use of the power of condemnation for projects,
17 the Agency shall hold a public hearing to receive comments on
18 the exercise of the power of condemnation. The Agency shall use
19 the information received at the hearing in making its final
20 decision on the exercise of the power of condemnation. The
21 hearing shall be held in a location reasonably accessible to
22 the public interested in the decision. The Agency shall
23 promulgate guidelines for the conduct of the hearing. The
24 Agency shall conduct a feasibility study showing that the
25 taking is necessary to accomplish the purposes of this Act and
26 that is adequate to meet the environmental standards set forth

1 by the State and the federal governments. The Agency may not
2 exercise the authority provided in Article 20 of the Eminent
3 Domain Act (quick-take procedure) providing for immediate
4 possession in those proceedings. The Agency does not have the
5 power to exercise eminent domain over the property of any
6 public utility or any person owning an electric generating
7 plant.

8 (Source: P.A. 95-481, eff. 8-28-07.)

9 (20 ILCS 3855/1-80)

10 (Text of Section before amendment by P.A. 95-1027)

11 Sec. 1-80. Resource Development Bureau. The Resource
12 Development Bureau has the following duties and
13 responsibilities:

14 (a) At the Agency's discretion, conduct feasibility
15 studies on the construction of any facility. Funding for a
16 study shall come from either:

17 (i) fees assessed by the Agency on municipal
18 electric systems, governmental aggregators, unit or
19 units of local government, or rural electric
20 cooperatives requesting the feasibility study; or

21 (ii) an appropriation from the General Assembly.

22 (b) If the Agency undertakes the construction of a
23 facility, moneys generated from the sale of revenue bonds
24 by the Authority for the facility shall be used to
25 reimburse the source of the money used for the facility's

1 feasibility study.

2 (c) The Agency may develop, finance, construct, or
3 operate electric generation and co-generation facilities
4 that use indigenous coal or renewable resources, or both,
5 financed with bonds issued by the Authority on behalf of
6 the Agency. Any such facility that uses coal must be a
7 clean coal facility and must be constructed in a location
8 where the geology is suitable for carbon sequestration. The
9 Agency may also develop, finance, construct, or operate a
10 carbon sequestration facility, including necessary
11 pipelines, transmission lines, or both. Preference shall
12 ~~be given to technologies that enable carbon capture and~~
13 ~~sites in locations where the geology is suitable for carbon~~
14 ~~sequestration.~~

15 (1) The Agency may enter into contractual
16 arrangements with private and public entities,
17 including but not limited to municipal electric
18 systems, governmental aggregators, and rural electric
19 cooperatives, to plan, site, construct, improve,
20 rehabilitate, and operate those electric generation
21 and co-generation facilities. No contract shall be
22 entered into by the Agency that would jeopardize the
23 tax-exempt status of any bond issued in connection with
24 a project for which the Agency entered into the
25 contract.

26 (2) The Agency shall hold at least one public

1 hearing before entering into any such contractual
2 arrangements. At least 30-days' notice of the hearing
3 shall be given by publication once in each week during
4 that period in 6 newspapers within the State, at least
5 one of which has a circulation area that includes the
6 location of the proposed facility.

7 (3) The first facility that the Agency develops,
8 finances, or constructs shall be a facility that uses
9 coal produced in Illinois. The Agency may, however,
10 also develop, finance, or construct renewable energy
11 facilities after work on the first facility has
12 commenced.

13 (4) The Agency may not develop, finance, or
14 construct a nuclear power plant.

15 (5) The Agency shall assess fees to applicants
16 seeking to partner with the Agency on projects.

17 (d) Use of electricity generated by the Agency's
18 facilities. The Agency may supply electricity produced by
19 the Agency's facilities to municipal electric systems,
20 governmental aggregators, or rural electric cooperatives
21 in Illinois. The electricity shall be supplied at cost.

22 (1) Contracts to supply power and energy from the
23 Agency's facilities shall provide for the effectuation
24 of the policies set forth in this Act.

25 (2) The contracts shall also provide that,
26 notwithstanding any provision in the Public Utilities

1 Act, entities supplied with power and energy from an
2 Agency facility shall supply the power and energy to
3 retail customers at the same price paid to purchase
4 power and energy from the Agency.

5 (e) Electric utilities shall not be required to purchase
6 electricity directly or indirectly from facilities developed
7 or sponsored by the Agency.

8 (f) The Agency may sell excess capacity and excess energy
9 into the wholesale electric market at prevailing market rates;
10 provided, however, the Agency may not sell excess capacity or
11 excess energy through the procurement process described in
12 Section 16-111.5 of the Public Utilities Act.

13 (g) The Agency shall not directly sell electric power and
14 energy to retail customers. Nothing in this paragraph shall be
15 construed to prohibit sales to municipal electric systems,
16 governmental aggregators, or rural electric cooperatives.

17 (Source: P.A. 95-481, eff. 8-28-07.)

18 (Text of Section after amendment by P.A. 95-1027)

19 Sec. 1-80. Resource Development Bureau. The Resource
20 Development Bureau has the following duties and
21 responsibilities:

22 (a) At the Agency's discretion, conduct feasibility
23 studies on the construction of any facility. Funding for a
24 study shall come from either:

25 (i) fees assessed by the Agency on municipal

1 electric systems, governmental aggregators, unit or
2 units of local government, or rural electric
3 cooperatives requesting the feasibility study; or

4 (ii) an appropriation from the General Assembly.

5 (b) If the Agency undertakes the construction of a
6 facility, moneys generated from the sale of revenue bonds
7 by the Authority for the facility shall be used to
8 reimburse the source of the money used for the facility's
9 feasibility study.

10 (c) The Agency may develop, finance, construct, or
11 operate electric generation and co-generation facilities
12 that use indigenous coal or renewable resources, or both,
13 financed with bonds issued by the Authority on behalf of
14 the Agency. Any such facility that uses coal must be a
15 clean coal facility and must be constructed in a location
16 where the geology is suitable for carbon sequestration. The
17 Agency may also develop, finance, construct, or operate a
18 carbon sequestration facility, including necessary
19 pipelines, transmission lines, or both.

20 (1) The Agency may enter into contractual
21 arrangements with private and public entities,
22 including but not limited to municipal electric
23 systems, governmental aggregators, and rural electric
24 cooperatives, to plan, site, construct, improve,
25 rehabilitate, and operate those electric generation
26 and co-generation facilities. No contract shall be

1 entered into by the Agency that would jeopardize the
2 tax-exempt status of any bond issued in connection with
3 a project for which the Agency entered into the
4 contract.

5 (2) The Agency shall hold at least one public
6 hearing before entering into any such contractual
7 arrangements. At least 30-days' notice of the hearing
8 shall be given by publication once in each week during
9 that period in 6 newspapers within the State, at least
10 one of which has a circulation area that includes the
11 location of the proposed facility.

12 (3) The first facility that the Agency develops,
13 finances, or constructs shall be a facility that uses
14 coal produced in Illinois. The Agency may, however,
15 also develop, finance, or construct renewable energy
16 facilities after work on the first facility has
17 commenced.

18 (4) The Agency may not develop, finance, or
19 construct a nuclear power plant.

20 (5) The Agency shall assess fees to applicants
21 seeking to partner with the Agency on projects.

22 (d) Use of electricity generated by the Agency's
23 facilities. The Agency may supply electricity produced by
24 the Agency's facilities to municipal electric systems,
25 governmental aggregators, or rural electric cooperatives
26 in Illinois. The electricity shall be supplied at cost.

1 (1) Contracts to supply power and energy from the
2 Agency's facilities shall provide for the effectuation
3 of the policies set forth in this Act.

4 (2) The contracts shall also provide that,
5 notwithstanding any provision in the Public Utilities
6 Act, entities supplied with power and energy from an
7 Agency facility shall supply the power and energy to
8 retail customers at the same price paid to purchase
9 power and energy from the Agency.

10 (e) Electric utilities shall not be required to purchase
11 electricity directly or indirectly from facilities developed
12 or sponsored by the Agency.

13 (f) The Agency may sell excess capacity and excess energy
14 into the wholesale electric market at prevailing market rates;
15 provided, however, the Agency may not sell excess capacity or
16 excess energy through the procurement process described in
17 Section 16-111.5 of the Public Utilities Act.

18 (g) The Agency shall not directly sell electric power and
19 energy to retail customers. Nothing in this paragraph shall be
20 construed to prohibit sales to municipal electric systems,
21 governmental aggregators, or rural electric cooperatives.

22 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

23 Section 10-10. The Public Utilities Act is amended by
24 changing Sections 8-406, 9-220, and 15-401 and by adding
25 Section 4-105 as follows:

1 (220 ILCS 5/4-105 new)

2 Sec. 4-105. Expedited permitting. The rules of the
3 Commission must include a process for expediting the issuance
4 of permits and licenses for projects at energy facilities that
5 are subject to Commission regulation as of January 1, 2009, as
6 that term is used in Section 1-10 of the Illinois Power Agency
7 Act. The Commission may engage the experts and additional
8 resources that are reasonably necessary for implementing this
9 process. An applicant must request the use of an expedited
10 process, and any additional costs for using that process shall
11 be borne by the applicant.

12 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

13 Sec. 8-406. Certificate of public convenience and
14 necessity.

15 (a) No public utility not owning any city or village
16 franchise nor engaged in performing any public service or in
17 furnishing any product or commodity within this State as of
18 July 1, 1921 and not possessing a certificate of public
19 convenience and necessity from the Illinois Commerce
20 Commission, the State Public Utilities Commission or the Public
21 Utilities Commission, at the time this amendatory Act of 1985
22 goes into effect, shall transact any business in this State
23 until it shall have obtained a certificate from the Commission
24 that public convenience and necessity require the transaction

1 of such business.

2 (b) No public utility shall begin the construction of any
3 new plant, equipment, property or facility which is not in
4 substitution of any existing plant, equipment, property or
5 facility or any extension or alteration thereof or in addition
6 thereto, unless and until it shall have obtained from the
7 Commission a certificate that public convenience and necessity
8 require such construction. Whenever after a hearing the
9 Commission determines that any new construction or the
10 transaction of any business by a public utility will promote
11 the public convenience and is necessary thereto, it shall have
12 the power to issue certificates of public convenience and
13 necessity. The Commission shall determine that proposed
14 construction will promote the public convenience and necessity
15 only if the utility demonstrates: (1) that the proposed
16 construction is necessary to provide adequate, reliable, and
17 efficient service to its customers and is the least-cost means
18 of satisfying the service needs of its customers or that the
19 proposed construction will promote the development of an
20 effectively competitive electricity market that operates
21 efficiently, is equitable to all customers, and is the least
22 cost means of satisfying those objectives; (2) that the utility
23 is capable of efficiently managing and supervising the
24 construction process and has taken sufficient action to ensure
25 adequate and efficient construction and supervision thereof;
26 and (3) that the utility is capable of financing the proposed

1 construction without significant adverse financial
2 consequences for the utility or its customers.

3 (c) (Blank). ~~After the effective date of this amendatory~~
4 ~~Act of 1987, no construction shall commence on any new nuclear~~
5 ~~power plant to be located within this State, and no certificate~~
6 ~~of public convenience and necessity or other authorization~~
7 ~~shall be issued therefor by the Commission, until the Director~~
8 ~~of the Illinois Environmental Protection Agency finds that the~~
9 ~~United States Government, through its authorized agency, has~~
10 ~~identified and approved a demonstrable technology or means for~~
11 ~~the disposal of high level nuclear waste, or until such~~
12 ~~construction has been specifically approved by a statute~~
13 ~~enacted by the General Assembly.~~

14 ~~As used in this Section, "high level nuclear waste" means~~
15 ~~those aqueous wastes resulting from the operation of the first~~
16 ~~cycle of the solvent extraction system or equivalent and the~~
17 ~~concentrated wastes of the subsequent extraction cycles or~~
18 ~~equivalent in a facility for reprocessing irradiated reactor~~
19 ~~fuel and shall include spent fuel assemblies prior to fuel~~
20 ~~reprocessing.~~

21 (d) In making its determination, the Commission shall
22 attach primary weight to the cost or cost savings to the
23 customers of the utility. The Commission may consider any or
24 all factors which will or may affect such cost or cost savings.

25 (e) The Commission may issue a temporary certificate which
26 shall remain in force not to exceed one year in cases of

1 emergency, to assure maintenance of adequate service or to
2 serve particular customers, without notice or hearing, pending
3 the determination of an application for a certificate, and may
4 by regulation exempt from the requirements of this Section
5 temporary acts or operations for which the issuance of a
6 certificate will not be required in the public interest.

7 A public utility shall not be required to obtain but may
8 apply for and obtain a certificate of public convenience and
9 necessity pursuant to this Section with respect to any matter
10 as to which it has received the authorization or order of the
11 Commission under the Electric Supplier Act, and any such
12 authorization or order granted a public utility by the
13 Commission under that Act shall as between public utilities be
14 deemed to be, and shall have except as provided in that Act the
15 same force and effect as, a certificate of public convenience
16 and necessity issued pursuant to this Section.

17 No electric cooperative shall be made or shall become a
18 party to or shall be entitled to be heard or to otherwise
19 appear or participate in any proceeding initiated under this
20 Section for authorization of power plant construction and as to
21 matters as to which a remedy is available under The Electric
22 Supplier Act.

23 (f) Such certificates may be altered or modified by the
24 Commission, upon its own motion or upon application by the
25 person or corporation affected. Unless exercised within a
26 period of 2 years from the grant thereof authority conferred by

1 a certificate of convenience and necessity issued by the
2 Commission shall be null and void.

3 No certificate of public convenience and necessity shall be
4 construed as granting a monopoly or an exclusive privilege,
5 immunity or franchise.

6 (Source: P.A. 95-700, eff. 11-9-07.)

7 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

8 (Text of Section before amendment by P.A. 95-1027)

9 Sec. 9-220. Rate changes based on changes in fuel costs.

10 (a) Notwithstanding the provisions of Section 9-201, the
11 Commission may authorize the increase or decrease of rates and
12 charges based upon changes in the cost of fuel used in the
13 generation or production of electric power, changes in the cost
14 of purchased power, or changes in the cost of purchased gas
15 through the application of fuel adjustment clauses or purchased
16 gas adjustment clauses. The Commission may also authorize the
17 increase or decrease of rates and charges based upon
18 expenditures or revenues resulting from the purchase or sale of
19 emission allowances created under the federal Clean Air Act
20 Amendments of 1990, through such fuel adjustment clauses, as a
21 cost of fuel. For the purposes of this paragraph, cost of fuel
22 used in the generation or production of electric power shall
23 include the amount of any fees paid by the utility for the
24 implementation and operation of a process for the
25 desulfurization of the flue gas when burning high sulfur coal

1 at any location within the State of Illinois irrespective of
2 the attainment status designation of such location; but shall
3 not include transportation costs of coal (i) except to the
4 extent that for contracts entered into on and after the
5 effective date of this amendatory Act of 1997, the cost of the
6 coal, including transportation costs, constitutes the lowest
7 cost for adequate and reliable fuel supply reasonably available
8 to the public utility in comparison to the cost, including
9 transportation costs, of other adequate and reliable sources of
10 fuel supply reasonably available to the public utility, or (ii)
11 except as otherwise provided in the next 3 sentences of this
12 paragraph. Such costs of fuel shall, when requested by a
13 utility or at the conclusion of the utility's next general
14 electric rate proceeding, whichever shall first occur, include
15 transportation costs of coal purchased under existing coal
16 purchase contracts. For purposes of this paragraph "existing
17 coal purchase contracts" means contracts for the purchase of
18 coal in effect on the effective date of this amendatory Act of
19 1991, as such contracts may thereafter be amended, but only to
20 the extent that any such amendment does not increase the
21 aggregate quantity of coal to be purchased under such contract.
22 Nothing herein shall authorize an electric utility to recover
23 through its fuel adjustment clause any amounts of
24 transportation costs of coal that were included in the revenue
25 requirement used to set base rates in its most recent general
26 rate proceeding. Cost shall be based upon uniformly applied

1 accounting principles. Annually, the Commission shall initiate
2 public hearings to determine whether the clauses reflect actual
3 costs of fuel, gas, power, or coal transportation purchased to
4 determine whether such purchases were prudent, and to reconcile
5 any amounts collected with the actual costs of fuel, power,
6 gas, or coal transportation prudently purchased. In each such
7 proceeding, the burden of proof shall be upon the utility to
8 establish the prudence of its cost of fuel, power, gas, or coal
9 transportation purchases and costs. The Commission shall issue
10 its final order in each such annual proceeding for an electric
11 utility by December 31 of the year immediately following the
12 year to which the proceeding pertains, provided, that the
13 Commission shall issue its final order with respect to such
14 annual proceeding for the years 1996 and earlier by December
15 31, 1998.

16 (b) A public utility providing electric service, other than
17 a public utility described in subsections (e) or (f) of this
18 Section, may at any time during the mandatory transition period
19 file with the Commission proposed tariff sheets that eliminate
20 the public utility's fuel adjustment clause and adjust the
21 public utility's base rate tariffs by the amount necessary for
22 the base fuel component of the base rates to recover the public
23 utility's average fuel and power supply costs per kilowatt-hour
24 for the 2 most recent years for which the Commission has issued
25 final orders in annual proceedings pursuant to subsection (a),
26 where the average fuel and power supply costs per kilowatt-hour

1 shall be calculated as the sum of the public utility's prudent
2 and allowable fuel and power supply costs as found by the
3 Commission in the 2 proceedings divided by the public utility's
4 actual jurisdictional kilowatt-hour sales for those 2 years.
5 Notwithstanding any contrary or inconsistent provisions in
6 Section 9-201 of this Act, in subsection (a) of this Section or
7 in any rules or regulations promulgated by the Commission
8 pursuant to subsection (g) of this Section, the Commission
9 shall review and shall by order approve, or approve as
10 modified, the proposed tariff sheets within 60 days after the
11 date of the public utility's filing. The Commission may modify
12 the public utility's proposed tariff sheets only to the extent
13 the Commission finds necessary to achieve conformance to the
14 requirements of this subsection (b). During the 5 years
15 following the date of the Commission's order, but in any event
16 no earlier than January 1, 2007, a public utility whose fuel
17 adjustment clause has been eliminated pursuant to this
18 subsection shall not file proposed tariff sheets seeking, or
19 otherwise petition the Commission for, reinstatement of a fuel
20 adjustment clause.

21 (c) Notwithstanding any contrary or inconsistent
22 provisions in Section 9-201 of this Act, in subsection (a) of
23 this Section or in any rules or regulations promulgated by the
24 Commission pursuant to subsection (g) of this Section, a public
25 utility providing electric service, other than a public utility
26 described in subsection (e) or (f) of this Section, may at any

1 time during the mandatory transition period file with the
2 Commission proposed tariff sheets that establish the rate per
3 kilowatt-hour to be applied pursuant to the public utility's
4 fuel adjustment clause at the average value for such rate
5 during the preceding 24 months, provided that such average rate
6 results in a credit to customers' bills, without making any
7 revisions to the public utility's base rate tariffs. The
8 proposed tariff sheets shall establish the fuel adjustment rate
9 for a specific time period of at least 3 years but not more
10 than 5 years, provided that the terms and conditions for any
11 reinstatement earlier than 5 years shall be set forth in the
12 proposed tariff sheets and subject to modification or approval
13 by the Commission. The Commission shall review and shall by
14 order approve the proposed tariff sheets if it finds that the
15 requirements of this subsection are met. The Commission shall
16 not conduct the annual hearings specified in the last 3
17 sentences of subsection (a) of this Section for the utility for
18 the period that the factor established pursuant to this
19 subsection is in effect.

20 (d) A public utility providing electric service, or a
21 public utility providing gas service may file with the
22 Commission proposed tariff sheets that eliminate the public
23 utility's fuel or purchased gas adjustment clause and adjust
24 the public utility's base rate tariffs to provide for recovery
25 of power supply costs or gas supply costs that would have been
26 recovered through such clause; provided, that the provisions of

1 this subsection (d) shall not be available to a public utility
2 described in subsections (e) or (f) of this Section to
3 eliminate its fuel adjustment clause. Notwithstanding any
4 contrary or inconsistent provisions in Section 9-201 of this
5 Act, in subsection (a) of this Section, or in any rules or
6 regulations promulgated by the Commission pursuant to
7 subsection (g) of this Section, the Commission shall review and
8 shall by order approve, or approve as modified in the
9 Commission's order, the proposed tariff sheets within 240 days
10 after the date of the public utility's filing. The Commission's
11 order shall approve rates and charges that the Commission,
12 based on information in the public utility's filing or on the
13 record if a hearing is held by the Commission, finds will
14 recover the reasonable, prudent and necessary jurisdictional
15 power supply costs or gas supply costs incurred or to be
16 incurred by the public utility during a 12 month period found
17 by the Commission to be appropriate for these purposes,
18 provided, that such period shall be either (i) a 12 month
19 historical period occurring during the 15 months ending on the
20 date of the public utility's filing, or (ii) a 12 month future
21 period ending no later than 15 months following the date of the
22 public utility's filing. The public utility shall include with
23 its tariff filing information showing both (1) its actual
24 jurisdictional power supply costs or gas supply costs for a 12
25 month historical period conforming to (i) above and (2) its
26 projected jurisdictional power supply costs or gas supply costs

1 for a future 12 month period conforming to (ii) above. If the
2 Commission's order requires modifications in the tariff sheets
3 filed by the public utility, the public utility shall have 7
4 days following the date of the order to notify the Commission
5 whether the public utility will implement the modified tariffs
6 or elect to continue its fuel or purchased gas adjustment
7 clause in force as though no order had been entered. The
8 Commission's order shall provide for any reconciliation of
9 power supply costs or gas supply costs, as the case may be, and
10 associated revenues through the date that the public utility's
11 fuel or purchased gas adjustment clause is eliminated. During
12 the 5 years following the date of the Commission's order, a
13 public utility whose fuel or purchased gas adjustment clause
14 has been eliminated pursuant to this subsection shall not file
15 proposed tariff sheets seeking, or otherwise petition the
16 Commission for, reinstatement or adoption of a fuel or
17 purchased gas adjustment clause. Nothing in this subsection (d)
18 shall be construed as limiting the Commission's authority to
19 eliminate a public utility's fuel adjustment clause or
20 purchased gas adjustment clause in accordance with any other
21 applicable provisions of this Act.

22 (e) Notwithstanding any contrary or inconsistent
23 provisions in Section 9-201 of this Act, in subsection (a) of
24 this Section, or in any rules promulgated by the Commission
25 pursuant to subsection (g) of this Section, a public utility
26 providing electric service to more than 1,000,000 customers in

1 this State may, within the first 6 months after the effective
2 date of this amendatory Act of 1997, file with the Commission
3 proposed tariff sheets that eliminate, effective January 1,
4 1997, the public utility's fuel adjustment clause without
5 adjusting its base rates, and such tariff sheets shall be
6 effective upon filing. To the extent the application of the
7 fuel adjustment clause had resulted in net charges to customers
8 after January 1, 1997, the utility shall also file a tariff
9 sheet that provides for a refund stated on a per kilowatt-hour
10 basis of such charges over a period not to exceed 6 months;
11 provided however, that such refund shall not include the
12 proportional amounts of taxes paid under the Use Tax Act,
13 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
14 Occupation Tax Act on fuel used in generation. The Commission
15 shall issue an order within 45 days after the date of the
16 public utility's filing approving or approving as modified such
17 tariff sheet. If the fuel adjustment clause is eliminated
18 pursuant to this subsection, the Commission shall not conduct
19 the annual hearings specified in the last 3 sentences of
20 subsection (a) of this Section for the utility for any period
21 after December 31, 1996 and prior to any reinstatement of such
22 clause. A public utility whose fuel adjustment clause has been
23 eliminated pursuant to this subsection shall not file a
24 proposed tariff sheet seeking, or otherwise petition the
25 Commission for, reinstatement of the fuel adjustment clause
26 prior to January 1, 2007.

1 (f) Notwithstanding any contrary or inconsistent
2 provisions in Section 9-201 of this Act, in subsection (a) of
3 this Section, or in any rules or regulations promulgated by the
4 Commission pursuant to subsection (g) of this Section, a public
5 utility providing electric service to more than 500,000
6 customers but fewer than 1,000,000 customers in this State may,
7 within the first 6 months after the effective date of this
8 amendatory Act of 1997, file with the Commission proposed
9 tariff sheets that eliminate, effective January 1, 1997, the
10 public utility's fuel adjustment clause and adjust its base
11 rates by the amount necessary for the base fuel component of
12 the base rates to recover 91% of the public utility's average
13 fuel and power supply costs for the 2 most recent years for
14 which the Commission, as of January 1, 1997, has issued final
15 orders in annual proceedings pursuant to subsection (a), where
16 the average fuel and power supply costs per kilowatt-hour shall
17 be calculated as the sum of the public utility's prudent and
18 allowable fuel and power supply costs as found by the
19 Commission in the 2 proceedings divided by the public utility's
20 actual jurisdictional kilowatt-hour sales for those 2 years,
21 provided, that such tariff sheets shall be effective upon
22 filing. To the extent the application of the fuel adjustment
23 clause had resulted in net charges to customers after January
24 1, 1997, the utility shall also file a tariff sheet that
25 provides for a refund stated on a per kilowatt-hour basis of
26 such charges over a period not to exceed 6 months. Provided

1 however, that such refund shall not include the proportional
2 amounts of taxes paid under the Use Tax Act, Service Use Tax
3 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
4 Act on fuel used in generation. The Commission shall issue an
5 order within 45 days after the date of the public utility's
6 filing approving or approving as modified such tariff sheet. If
7 the fuel adjustment clause is eliminated pursuant to this
8 subsection, the Commission shall not conduct the annual
9 hearings specified in the last 3 sentences of subsection (a) of
10 this Section for the utility for any period after December 31,
11 1996 and prior to any reinstatement of such clause. A public
12 utility whose fuel adjustment clause has been eliminated
13 pursuant to this subsection shall not file a proposed tariff
14 sheet seeking, or otherwise petition the Commission for,
15 reinstatement of the fuel adjustment clause prior to January 1,
16 2007.

17 (g) The Commission shall have authority to promulgate rules
18 and regulations to carry out the provisions of this Section.

19 (h) Any gas utility may enter into a contract for up to 20
20 years of supply with any company for the purchase of substitute
21 natural gas (SNG) produced from coal through the gasification
22 process if the company has commenced construction of a coal
23 gasification facility by July 1, 2010. The cost for the SNG is
24 reasonable and prudent and recoverable through the purchased
25 gas adjustment clause for years one through 10 of the contract
26 if: (i) the only coal used in the gasification process has high

1 volatile bituminous rank and greater than 1.7 pounds of sulfur
2 per million Btu content; (ii) at the time the contract term
3 commences, the price per million Btu does not exceed \$7.95 in
4 2008 dollars, adjusted annually based on the change in the
5 Annual Consumer Price Index for All Urban Consumers for the
6 Midwest Region as published in April by the United States
7 Department of Labor, Bureau of Labor Statistics (or a suitable
8 Consumer Price Index calculation if this Consumer Price Index
9 is not available) for the previous calendar year; provided that
10 the price per million Btu shall not exceed \$9.95 at any time
11 during the contract; (iii) the utility's aggregate long-term
12 supply contracts for the purchase of SNG does not exceed 25% of
13 the annual system supply requirements of the utility at the
14 time the contract is entered into and the quantity of SNG
15 supplied to a utility by any one producer may not exceed 20
16 billion cubic feet per year; and (iv) the contract is entered
17 into within 120 days after the effective date of this
18 amendatory Act of the 96th General Assembly and terminates no
19 more than 20 years after the commencement of the commercial
20 production of SNG at the facility. Contracts greater than 10
21 years shall provide that if, at any time during supply years 11
22 through 20 of the contract, the Commission determines that the
23 cost for the synthetic natural gas purchased under the contract
24 during supply years 11 through 20 is not reasonable and
25 prudent, then the company shall reimburse the utility for the
26 difference between the cost deemed reasonable and prudent by

1 the Commission and the cost imposed under the contract. All
2 such contracts, regardless of duration, shall require the owner
3 of any facility supplying SNG under the contract to provide
4 documentation to the Commission each year, starting in the
5 facility's first year of commercial operation, accurately
6 reporting the quantity of carbon dioxide emissions from the
7 facility that have been captured and sequestered and reporting
8 any quantities of carbon dioxide released from the site or
9 sites at which carbon dioxide emissions were sequestered in
10 prior years, based on continuous monitoring of those sites. If,
11 in any year, the owner of the facility fails to demonstrate
12 that the SNG facility captured and sequestered at least 90% of
13 the total carbon dioxide emissions that the facility would
14 otherwise emit or that sequestration of emissions from prior
15 years has failed, resulting in the release of carbon dioxide
16 into the atmosphere, then the owner of the facility must offset
17 excess emissions. Any such carbon dioxide offsets must be
18 permanent, additional, verifiable, real, located within the
19 State of Illinois, and legally and practicably enforceable. The
20 costs of such offsets shall not exceed \$40 million in any given
21 year. No costs of any purchases of carbon offsets may be
22 recovered from a utility or its customers. All carbon offsets
23 purchased for this purpose must be permanently retired. In
24 addition, carbon dioxide emission credits equivalent to 50% of
25 the amount of credits associated with the required
26 sequestration of carbon dioxide from the facility must be

1 permanently retired. Compliance with the sequestration
2 requirements and the offset purchase requirements specified in
3 this subsection (h) shall be assessed annually by an
4 independent expert retained by the owner of the SNG facility,
5 with the advance written approval of the Attorney General. An
6 SNG facility operating pursuant to this subsection (h) shall
7 not forfeit its designation as a clean coal SNG facility if the
8 facility fails to fully comply with the applicable carbon
9 sequestration requirements in any given year, provided the
10 requisite offsets are purchased. However, the Attorney
11 General, on behalf of the People of the State of Illinois, may
12 specifically enforce the facility's sequestration
13 requirements. Except for an initial clean coal facility, as
14 that term is used in item (3) of subsection (d) of Section 1-75
15 of the Illinois Power Agency Act, an energy facility and a gas
16 facility may enter into a 20-year supply contract, with a
17 company that has commenced construction of a coal gasification
18 facility after July 1, 2010, that shall not be subject to any
19 subsequent prudency review by the Commission if the contract
20 was found prudent at the time the contract was agreed upon by
21 the parties. Any gas utility may enter into a 20-year supply
22 contract with any company for synthetic natural gas produced
23 from coal through the gasification process if the company has
24 commenced construction of a coal gasification facility by July
25 1, 2008. The cost for the synthetic natural gas is reasonable
26 and prudent and recoverable through the purchased gas

1 ~~adjustment clause for years one through 10 of the contract if:~~
2 ~~(i) the only coal used in the gasification process has high~~
3 ~~volatile bituminous rank and greater than 1.7 pounds of sulfur~~
4 ~~per million Btu content; (ii) at the time the contract term~~
5 ~~commences, the price per million Btu does not exceed \$5 in 2004~~
6 ~~dollars, adjusted annually based on the change in the Annual~~
7 ~~Consumer Price Index for All Urban Consumers for the Midwest~~
8 ~~Region as published in April by the United States Department of~~
9 ~~Labor, Bureau of Labor Statistics (or a suitable Consumer Price~~
10 ~~Index calculation if this Consumer Price Index is not~~
11 ~~available) for the previous calendar year; provided that the~~
12 ~~price per million Btu shall not exceed \$5.50 at any time during~~
13 ~~the contract; (iii) the utility's aggregate long term supply~~
14 ~~contracts for the purchase of synthetic natural gas produced~~
15 ~~from coal through the gasification process does not exceed 25%~~
16 ~~of the annual system supply requirements of the utility at the~~
17 ~~time the contract is entered into; and (iv) the contract is~~
18 ~~entered into within one year after the effective date of this~~
19 ~~amendatory Act of the 94th General Assembly and terminates 20~~
20 ~~years after the commencement of the production of synthetic~~
21 ~~natural gas. The contract shall provide that if, at any time~~
22 ~~during years 11 through 20 of the contract, the Commission~~
23 ~~determines that the cost for the synthetic natural gas under~~
24 ~~the contract is not reasonable and prudent, then the company~~
25 ~~shall reimburse the utility for the difference between the cost~~
26 ~~deemed reasonable and prudent by the Commission and the cost~~

1 ~~imposed under the contract.~~

2 (i) If a gas utility or an affiliate of a gas utility has
3 an ownership interest in any entity that produces or sells
4 synthetic natural gas, Article VII of this Act shall apply.

5 (Source: P.A. 94-63, eff. 6-21-05.)

6 (Text of Section after amendment by P.A. 95-1027)

7 Sec. 9-220. Rate changes based on changes in fuel costs.

8 (a) Notwithstanding the provisions of Section 9-201, the
9 Commission may authorize the increase or decrease of rates and
10 charges based upon changes in the cost of fuel used in the
11 generation or production of electric power, changes in the cost
12 of purchased power, or changes in the cost of purchased gas
13 through the application of fuel adjustment clauses or purchased
14 gas adjustment clauses. The Commission may also authorize the
15 increase or decrease of rates and charges based upon
16 expenditures or revenues resulting from the purchase or sale of
17 emission allowances created under the federal Clean Air Act
18 Amendments of 1990, through such fuel adjustment clauses, as a
19 cost of fuel. For the purposes of this paragraph, cost of fuel
20 used in the generation or production of electric power shall
21 include the amount of any fees paid by the utility for the
22 implementation and operation of a process for the
23 desulfurization of the flue gas when burning high sulfur coal
24 at any location within the State of Illinois irrespective of
25 the attainment status designation of such location; but shall

1 not include transportation costs of coal (i) except to the
2 extent that for contracts entered into on and after the
3 effective date of this amendatory Act of 1997, the cost of the
4 coal, including transportation costs, constitutes the lowest
5 cost for adequate and reliable fuel supply reasonably available
6 to the public utility in comparison to the cost, including
7 transportation costs, of other adequate and reliable sources of
8 fuel supply reasonably available to the public utility, or (ii)
9 except as otherwise provided in the next 3 sentences of this
10 paragraph. Such costs of fuel shall, when requested by a
11 utility or at the conclusion of the utility's next general
12 electric rate proceeding, whichever shall first occur, include
13 transportation costs of coal purchased under existing coal
14 purchase contracts. For purposes of this paragraph "existing
15 coal purchase contracts" means contracts for the purchase of
16 coal in effect on the effective date of this amendatory Act of
17 1991, as such contracts may thereafter be amended, but only to
18 the extent that any such amendment does not increase the
19 aggregate quantity of coal to be purchased under such contract.
20 Nothing herein shall authorize an electric utility to recover
21 through its fuel adjustment clause any amounts of
22 transportation costs of coal that were included in the revenue
23 requirement used to set base rates in its most recent general
24 rate proceeding. Cost shall be based upon uniformly applied
25 accounting principles. Annually, the Commission shall initiate
26 public hearings to determine whether the clauses reflect actual

1 costs of fuel, gas, power, or coal transportation purchased to
2 determine whether such purchases were prudent, and to reconcile
3 any amounts collected with the actual costs of fuel, power,
4 gas, or coal transportation prudently purchased. In each such
5 proceeding, the burden of proof shall be upon the utility to
6 establish the prudence of its cost of fuel, power, gas, or coal
7 transportation purchases and costs. The Commission shall issue
8 its final order in each such annual proceeding for an electric
9 utility by December 31 of the year immediately following the
10 year to which the proceeding pertains, provided, that the
11 Commission shall issue its final order with respect to such
12 annual proceeding for the years 1996 and earlier by December
13 31, 1998.

14 (b) A public utility providing electric service, other than
15 a public utility described in subsections (e) or (f) of this
16 Section, may at any time during the mandatory transition period
17 file with the Commission proposed tariff sheets that eliminate
18 the public utility's fuel adjustment clause and adjust the
19 public utility's base rate tariffs by the amount necessary for
20 the base fuel component of the base rates to recover the public
21 utility's average fuel and power supply costs per kilowatt-hour
22 for the 2 most recent years for which the Commission has issued
23 final orders in annual proceedings pursuant to subsection (a),
24 where the average fuel and power supply costs per kilowatt-hour
25 shall be calculated as the sum of the public utility's prudent
26 and allowable fuel and power supply costs as found by the

1 Commission in the 2 proceedings divided by the public utility's
2 actual jurisdictional kilowatt-hour sales for those 2 years.
3 Notwithstanding any contrary or inconsistent provisions in
4 Section 9-201 of this Act, in subsection (a) of this Section or
5 in any rules or regulations promulgated by the Commission
6 pursuant to subsection (g) of this Section, the Commission
7 shall review and shall by order approve, or approve as
8 modified, the proposed tariff sheets within 60 days after the
9 date of the public utility's filing. The Commission may modify
10 the public utility's proposed tariff sheets only to the extent
11 the Commission finds necessary to achieve conformance to the
12 requirements of this subsection (b). During the 5 years
13 following the date of the Commission's order, but in any event
14 no earlier than January 1, 2007, a public utility whose fuel
15 adjustment clause has been eliminated pursuant to this
16 subsection shall not file proposed tariff sheets seeking, or
17 otherwise petition the Commission for, reinstatement of a fuel
18 adjustment clause.

19 (c) Notwithstanding any contrary or inconsistent
20 provisions in Section 9-201 of this Act, in subsection (a) of
21 this Section or in any rules or regulations promulgated by the
22 Commission pursuant to subsection (g) of this Section, a public
23 utility providing electric service, other than a public utility
24 described in subsection (e) or (f) of this Section, may at any
25 time during the mandatory transition period file with the
26 Commission proposed tariff sheets that establish the rate per

1 kilowatt-hour to be applied pursuant to the public utility's
2 fuel adjustment clause at the average value for such rate
3 during the preceding 24 months, provided that such average rate
4 results in a credit to customers' bills, without making any
5 revisions to the public utility's base rate tariffs. The
6 proposed tariff sheets shall establish the fuel adjustment rate
7 for a specific time period of at least 3 years but not more
8 than 5 years, provided that the terms and conditions for any
9 reinstatement earlier than 5 years shall be set forth in the
10 proposed tariff sheets and subject to modification or approval
11 by the Commission. The Commission shall review and shall by
12 order approve the proposed tariff sheets if it finds that the
13 requirements of this subsection are met. The Commission shall
14 not conduct the annual hearings specified in the last 3
15 sentences of subsection (a) of this Section for the utility for
16 the period that the factor established pursuant to this
17 subsection is in effect.

18 (d) A public utility providing electric service, or a
19 public utility providing gas service may file with the
20 Commission proposed tariff sheets that eliminate the public
21 utility's fuel or purchased gas adjustment clause and adjust
22 the public utility's base rate tariffs to provide for recovery
23 of power supply costs or gas supply costs that would have been
24 recovered through such clause; provided, that the provisions of
25 this subsection (d) shall not be available to a public utility
26 described in subsections (e) or (f) of this Section to

1 eliminate its fuel adjustment clause. Notwithstanding any
2 contrary or inconsistent provisions in Section 9-201 of this
3 Act, in subsection (a) of this Section, or in any rules or
4 regulations promulgated by the Commission pursuant to
5 subsection (g) of this Section, the Commission shall review and
6 shall by order approve, or approve as modified in the
7 Commission's order, the proposed tariff sheets within 240 days
8 after the date of the public utility's filing. The Commission's
9 order shall approve rates and charges that the Commission,
10 based on information in the public utility's filing or on the
11 record if a hearing is held by the Commission, finds will
12 recover the reasonable, prudent and necessary jurisdictional
13 power supply costs or gas supply costs incurred or to be
14 incurred by the public utility during a 12 month period found
15 by the Commission to be appropriate for these purposes,
16 provided, that such period shall be either (i) a 12 month
17 historical period occurring during the 15 months ending on the
18 date of the public utility's filing, or (ii) a 12 month future
19 period ending no later than 15 months following the date of the
20 public utility's filing. The public utility shall include with
21 its tariff filing information showing both (1) its actual
22 jurisdictional power supply costs or gas supply costs for a 12
23 month historical period conforming to (i) above and (2) its
24 projected jurisdictional power supply costs or gas supply costs
25 for a future 12 month period conforming to (ii) above. If the
26 Commission's order requires modifications in the tariff sheets

1 filed by the public utility, the public utility shall have 7
2 days following the date of the order to notify the Commission
3 whether the public utility will implement the modified tariffs
4 or elect to continue its fuel or purchased gas adjustment
5 clause in force as though no order had been entered. The
6 Commission's order shall provide for any reconciliation of
7 power supply costs or gas supply costs, as the case may be, and
8 associated revenues through the date that the public utility's
9 fuel or purchased gas adjustment clause is eliminated. During
10 the 5 years following the date of the Commission's order, a
11 public utility whose fuel or purchased gas adjustment clause
12 has been eliminated pursuant to this subsection shall not file
13 proposed tariff sheets seeking, or otherwise petition the
14 Commission for, reinstatement or adoption of a fuel or
15 purchased gas adjustment clause. Nothing in this subsection (d)
16 shall be construed as limiting the Commission's authority to
17 eliminate a public utility's fuel adjustment clause or
18 purchased gas adjustment clause in accordance with any other
19 applicable provisions of this Act.

20 (e) Notwithstanding any contrary or inconsistent
21 provisions in Section 9-201 of this Act, in subsection (a) of
22 this Section, or in any rules promulgated by the Commission
23 pursuant to subsection (g) of this Section, a public utility
24 providing electric service to more than 1,000,000 customers in
25 this State may, within the first 6 months after the effective
26 date of this amendatory Act of 1997, file with the Commission

1 proposed tariff sheets that eliminate, effective January 1,
2 1997, the public utility's fuel adjustment clause without
3 adjusting its base rates, and such tariff sheets shall be
4 effective upon filing. To the extent the application of the
5 fuel adjustment clause had resulted in net charges to customers
6 after January 1, 1997, the utility shall also file a tariff
7 sheet that provides for a refund stated on a per kilowatt-hour
8 basis of such charges over a period not to exceed 6 months;
9 provided however, that such refund shall not include the
10 proportional amounts of taxes paid under the Use Tax Act,
11 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
12 Occupation Tax Act on fuel used in generation. The Commission
13 shall issue an order within 45 days after the date of the
14 public utility's filing approving or approving as modified such
15 tariff sheet. If the fuel adjustment clause is eliminated
16 pursuant to this subsection, the Commission shall not conduct
17 the annual hearings specified in the last 3 sentences of
18 subsection (a) of this Section for the utility for any period
19 after December 31, 1996 and prior to any reinstatement of such
20 clause. A public utility whose fuel adjustment clause has been
21 eliminated pursuant to this subsection shall not file a
22 proposed tariff sheet seeking, or otherwise petition the
23 Commission for, reinstatement of the fuel adjustment clause
24 prior to January 1, 2007.

25 (f) Notwithstanding any contrary or inconsistent
26 provisions in Section 9-201 of this Act, in subsection (a) of

1 this Section, or in any rules or regulations promulgated by the
2 Commission pursuant to subsection (g) of this Section, a public
3 utility providing electric service to more than 500,000
4 customers but fewer than 1,000,000 customers in this State may,
5 within the first 6 months after the effective date of this
6 amendatory Act of 1997, file with the Commission proposed
7 tariff sheets that eliminate, effective January 1, 1997, the
8 public utility's fuel adjustment clause and adjust its base
9 rates by the amount necessary for the base fuel component of
10 the base rates to recover 91% of the public utility's average
11 fuel and power supply costs for the 2 most recent years for
12 which the Commission, as of January 1, 1997, has issued final
13 orders in annual proceedings pursuant to subsection (a), where
14 the average fuel and power supply costs per kilowatt-hour shall
15 be calculated as the sum of the public utility's prudent and
16 allowable fuel and power supply costs as found by the
17 Commission in the 2 proceedings divided by the public utility's
18 actual jurisdictional kilowatt-hour sales for those 2 years,
19 provided, that such tariff sheets shall be effective upon
20 filing. To the extent the application of the fuel adjustment
21 clause had resulted in net charges to customers after January
22 1, 1997, the utility shall also file a tariff sheet that
23 provides for a refund stated on a per kilowatt-hour basis of
24 such charges over a period not to exceed 6 months. Provided
25 however, that such refund shall not include the proportional
26 amounts of taxes paid under the Use Tax Act, Service Use Tax

1 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
2 Act on fuel used in generation. The Commission shall issue an
3 order within 45 days after the date of the public utility's
4 filing approving or approving as modified such tariff sheet. If
5 the fuel adjustment clause is eliminated pursuant to this
6 subsection, the Commission shall not conduct the annual
7 hearings specified in the last 3 sentences of subsection (a) of
8 this Section for the utility for any period after December 31,
9 1996 and prior to any reinstatement of such clause. A public
10 utility whose fuel adjustment clause has been eliminated
11 pursuant to this subsection shall not file a proposed tariff
12 sheet seeking, or otherwise petition the Commission for,
13 reinstatement of the fuel adjustment clause prior to January 1,
14 2007.

15 (g) The Commission shall have authority to promulgate rules
16 and regulations to carry out the provisions of this Section.

17 (h) Any gas utility may enter into a contract for up to 20
18 years of supply with any company for the purchase of substitute
19 natural gas (SNG) produced from coal through the gasification
20 process if the company has commenced construction of a coal
21 gasification facility by July 1, 2010. The cost for the SNG is
22 reasonable and prudent and recoverable through the purchased
23 gas adjustment clause for years one through 10 of the contract
24 if: (i) the only coal used in the gasification process has high
25 volatile bituminous rank and greater than 1.7 pounds of sulfur
26 per million Btu content; (ii) at the time the contract term

1 commences, the price per million Btu does not exceed \$7.95 in
2 2008 dollars, adjusted annually based on the change in the
3 Annual Consumer Price Index for All Urban Consumers for the
4 Midwest Region as published in April by the United States
5 Department of Labor, Bureau of Labor Statistics (or a suitable
6 Consumer Price Index calculation if this Consumer Price Index
7 is not available) for the previous calendar year; provided that
8 the price per million Btu shall not exceed \$9.95 at any time
9 during the contract; (iii) the utility's aggregate long-term
10 supply contracts for the purchase of SNG does not exceed 25% of
11 the annual system supply requirements of the utility at the
12 time the contract is entered into and the quantity of SNG
13 supplied to a utility by any one producer may not exceed 20
14 billion cubic feet per year; and (iv) the contract is entered
15 into within 120 days after the effective date of this
16 amendatory Act of the 95th General Assembly and terminates no
17 more than 20 years after the commencement of the commercial
18 production of SNG at the facility. Contracts greater than 10
19 years shall provide that if, at any time during supply years 11
20 through 20 of the contract, the Commission determines that the
21 cost for the synthetic natural gas purchased under the contract
22 during supply years 11 through 20 is not reasonable and
23 prudent, then the company shall reimburse the utility for the
24 difference between the cost deemed reasonable and prudent by
25 the Commission and the cost imposed under the contract. All
26 such contracts, regardless of duration, shall require the owner

1 of any facility supplying SNG under the contract to provide
2 documentation to the Commission each year, starting in the
3 facility's first year of commercial operation, accurately
4 reporting the quantity of carbon dioxide emissions from the
5 facility that have been captured and sequestered and reporting
6 any quantities of carbon dioxide released from the site or
7 sites at which carbon dioxide emissions were sequestered in
8 prior years, based on continuous monitoring of those sites. If,
9 in any year, the owner of the facility fails to demonstrate
10 that the SNG facility captured and sequestered at least 90% of
11 the total carbon dioxide emissions that the facility would
12 otherwise emit or that sequestration of emissions from prior
13 years has failed, resulting in the release of carbon dioxide
14 into the atmosphere, then the owner of the facility must offset
15 excess emissions. Any such carbon dioxide offsets must be
16 permanent, additional, verifiable, real, located within the
17 State of Illinois, and legally and practicably enforceable. The
18 costs of such offsets shall not exceed \$40 million in any given
19 year. No costs of any purchases of carbon offsets may be
20 recovered from a utility or its customers. All carbon offsets
21 purchased for this purpose must be permanently retired. In
22 addition, carbon dioxide emission credits equivalent to 50% of
23 the amount of credits associated with the required
24 sequestration of carbon dioxide from the facility must be
25 permanently retired. Compliance with the sequestration
26 requirements and the offset purchase requirements specified in

1 this subsection (h) shall be assessed annually by an
2 independent expert retained by the owner of the SNG facility,
3 with the advance written approval of the Attorney General. An
4 SNG facility operating pursuant to this subsection (h) shall
5 not forfeit its designation as a clean coal SNG facility if the
6 facility fails to fully comply with the applicable carbon
7 sequestration requirements in any given year, provided the
8 requisite offsets are purchased. However, the Attorney
9 General, on behalf of the People of the State of Illinois, may
10 specifically enforce the facility's sequestration
11 requirements. Except for an initial clean coal facility, as
12 that term is used in item (3) of subsection (d) of Section 1-75
13 of the Illinois Power Agency Act, an energy facility and a gas
14 facility may enter into a 20-year supply contract, with a
15 company that has commenced construction of a coal gasification
16 facility after July 1, 2010, that shall not be subject to any
17 subsequent prudency review by the Commission if the contract
18 was found prudent at the time the contract was agreed upon by
19 the parties.

20 (i) If a gas utility or an affiliate of a gas utility has
21 an ownership interest in any entity that produces or sells
22 synthetic natural gas, Article VII of this Act shall apply.

23 (Source: P.A. 94-63, eff. 6-21-05; 95-1027, eff. 6-1-09.)

24 (220 ILCS 5/15-401)

25 Sec. 15-401. Licensing.

1 (a) No person shall operate as a common carrier by pipeline
2 unless the person possesses a certificate in good standing
3 authorizing it to operate as a common carrier by pipeline. No
4 person shall begin or continue construction of a pipeline or
5 other facility, other than the repair or replacement of an
6 existing pipeline or facility, for use in operations as a
7 common carrier by pipeline unless the person possesses a
8 certificate in good standing. A common carrier by pipeline that
9 requests and receives a certificate of good standing related to
10 the proposed construction of a pipeline or other facility under
11 this Section may enter upon, take or damage private property in
12 the manner provided for by the law of eminent domain.

13 (b) Requirements for issuance. The Commission, after a
14 hearing, shall grant an application for a certificate
15 authorizing operations as a common carrier by pipeline, in
16 whole or in part, to the extent that it finds that the
17 application was properly filed; a public need for the service
18 exists; the applicant is fit, willing, and able to provide the
19 service in compliance with this Act, Commission regulations,
20 and orders; and the public convenience and necessity requires
21 issuance of the certificate. Evidence encompassing the factors
22 set forth in paragraphs (4) and (6) through (9) of this
23 subsection (b) that is submitted by the applicant, any other
24 party, or the Commission's staff, shall be considered by the
25 Commission in determining whether a public need for the service
26 exists under either current or expected conditions.

1 In its determination of public convenience and necessity
2 for a proposed pipeline or facility designed or intended to
3 transport crude oil and any alternate locations for such
4 proposed pipeline or facility, the Commission shall consider,
5 but not be limited to, the following:

6 (1) any evidence presented by the Illinois
7 Environmental Protection Agency regarding the
8 environmental impact of the proposed pipeline or other
9 facility;

10 (2) any evidence presented by the Illinois Department
11 of Transportation regarding the impact of the proposed
12 pipeline or facility on traffic safety, road construction,
13 or other transportation issues;

14 (3) any evidence presented by the Department of Natural
15 Resources regarding the impact of the proposed pipeline or
16 facility on any conservation areas, forest preserves,
17 wildlife preserves, wetlands, or any other natural
18 resource;

19 (4) any evidence of the effect of the pipeline upon the
20 economy, infrastructure, and public safety presented by
21 local governmental units that will be affected by the
22 proposed pipeline or facility;

23 (5) any evidence of the effect of the pipeline upon
24 property values presented by property owners who will be
25 affected by the proposed pipeline or facility, provided,
26 however, that the Commission need not hear evidence as to

1 the actual valuation of property such as that as would be
2 presented to and determined by the courts under the Eminent
3 Domain Act;

4 (6) any evidence presented by the Department of
5 Commerce and Economic Opportunity regarding the current
6 and future local, State-wide, or regional economic effect,
7 direct or indirect, of the proposed pipeline or facility
8 including, but not limited to, property values, employment
9 rates, and residential and business development; ~~and~~

10 (7) evidence presented by a State agency or unit of
11 State or local government as to the current and future
12 national, State-wide, or regional economic effects of the
13 proposed pipeline, direct or indirect, as they affect
14 residents or businesses in Illinois, including, but not
15 limited to, such impacts as the ability of manufacturers in
16 Illinois to meet public demand for related services and
17 products and to compete in the national and regional
18 economies, improved access of suppliers to regional and
19 national shipping grids, the ability of the State to access
20 funds made available for energy infrastructure by the
21 federal government, mitigation of foreseeable spikes in
22 price affecting Illinois residents or businesses due to
23 sudden changes in supply or transportation capacity, and
24 the likelihood that the proposed construction will
25 substantially encourage related investment in the State's
26 energy infrastructure and the creation of energy-related

1 jobs;

2 (8) evidence presented by any state or federal
3 governmental entity as to how the proposed pipeline or
4 facility will affect the security, stability, and
5 reliability of energy in the State or in the region; and

6 (9) ~~(7)~~ any evidence addressing the above or other
7 relevant factors that is presented by any other State
8 agency or entity that participates in the proceeding,
9 including evidence presented by the Commission's Staff.

10 In its written order, the Commission shall address all of
11 the evidence presented, and if the order is contrary to any of
12 the evidence, the Commission shall state the reasons for its
13 determination with regard to that evidence. The provisions of
14 this amendatory Act of 1996 apply to any certificate granted or
15 denied after the effective date of this amendatory Act of 1996.

16 The Commission shall make its determination on any
17 application filed pursuant to this Section and issue its final
18 order within 9 months after the date that the application is
19 filed, unless all parties to the proceeding agree in writing to
20 a period of greater than 9 months, and provided that any
21 agreement to extend the 9-month period must be for a specified
22 period of time, not exceeding 60 days. The parties may enter
23 into more than one agreement to extend time. In the event the
24 Commission fails to enter its order within 9 months after the
25 filing of the application, or upon the expiration of the last
26 agreement to extend time, any party may file a complaint in the

1 circuit court for an emergency order of mandamus to direct and
2 compel the Commission to enter its order within 60 days after
3 the expiration of the 9-month period or within 60 days after
4 the expiration of the last agreement to extend time, and the
5 court shall set a schedule to enable the Commission to complete
6 the case and enter an order within the specified time frame.
7 Summons upon the complaint shall be returnable within 5 days.
8 The complaint for an order of mandamus shall be brought in the
9 circuit court in which the pipeline is situated or, if the
10 subject matter of the hearing is situated in more than one
11 circuit, then in any one of those circuits.

12 (c) An application filed pursuant to this Section may
13 request review of a "project route width" that identifies the
14 areas in which the pipeline would be located, with such width
15 ranging from the minimum width required for a pipeline
16 right-of-way up to 500 feet in width, thus allowing increased
17 flexibility to accommodate specific landowner requests, avoid
18 environmentally sensitive areas, or address special
19 environmental permitting requirements. The applicant must
20 notify all potentially affected landowners within the defined
21 "project route width" of the application using the notification
22 procedures set forth in the Commission's rules for applications
23 under this Section. Upon receiving approval of the "project
24 route width", the common carrier by pipeline must, as it
25 finalizes the actual pipeline alignment within the route, file
26 its final list of affected landowners with the Commission, at

1 least 14 days in advance of beginning construction on any tract
2 within the project route width, and also provide the Commission
3 with at least 14 days notice before filing a complaint for
4 eminent domain in the circuit court with regard to any tract
5 within the project route width.

6 (d) Within 6 months after the Commission's entry of an
7 order approving a specific "project route width", the common
8 carrier by pipeline that receives such order may file
9 supplemental applications for minor route deviations outside
10 the approved "project route width", allowing for additions or
11 changes to the approved route to address environmental concerns
12 encountered during construction or to accommodate landowner
13 requests. Such route deviations shall be approved by the
14 Commission within 14 days unless a written objection is filed
15 to the supplemental application. Hearings on any supplemental
16 application shall be limited to the reasonableness of the
17 specific variance proposed, and the issues of public need or
18 public convenience or necessity for the project, or fitness of
19 the applicant, shall not be reopened in such supplemental
20 proceeding.

21 (e) ~~(e)~~ Duties and obligations of common carriers by
22 pipeline. Each common carrier by pipeline shall provide
23 adequate service to the public at reasonable rates and without
24 discrimination.

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

1 Article 15.

2 Section 15-4. The Illinois Enterprise Zone Act is amended
3 by changing Section 5.5 as follows:

4 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

5 Sec. 5.5. High Impact Business.

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

12 (1) such applications may be submitted at any time
13 during the year;

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

17 (3) the business intends to do one or more of the
18 following:

19 (A) the business intends to make a minimum
20 investment of \$12,000,000 which will be placed in
21 service in qualified property and intends to create 500
22 full-time equivalent jobs at a designated location in
23 Illinois or intends to make a minimum investment of
24 \$30,000,000 which will be placed in service in

1 qualified property and intends to retain 1,500
2 full-time jobs at a designated location in Illinois.
3 The business must certify in writing that the
4 investments would not be placed in service in qualified
5 property and the job creation or job retention would
6 not occur without the tax credits and exemptions set
7 forth in subsection (b) of this Section. The terms
8 "placed in service" and "qualified property" have the
9 same meanings as described in subsection (h) of Section
10 201 of the Illinois Income Tax Act; or

11 (B) the business intends to establish a new
12 electric generating facility at a designated location
13 in Illinois. "New electric generating facility", for
14 purposes of this Section, means a newly-constructed
15 electric generation plant or a newly-constructed
16 generation capacity expansion at an existing electric
17 generation plant, including the transmission lines and
18 associated equipment that transfers electricity from
19 points of supply to points of delivery, and for which
20 such new foundation construction commenced not sooner
21 than July 1, 2001. Such facility shall be designed to
22 provide baseload electric generation and shall operate
23 on a continuous basis throughout the year; and (i)
24 shall have an aggregate rated generating capacity of at
25 least 1,000 megawatts for all new units at one site if
26 it uses natural gas as its primary fuel and foundation

1 construction of the facility is commenced on or before
2 December 31, 2004, or shall have an aggregate rated
3 generating capacity of at least 400 megawatts for all
4 new units at one site if it uses coal or gases derived
5 from coal as its primary fuel and shall support the
6 creation of at least 150 new Illinois coal mining jobs,
7 or (ii) shall be funded through a federal Department of
8 Energy grant before December 31, 2010 and shall support
9 the creation of Illinois coal-mining jobs, or (iii)
10 shall use coal gasification or integrated
11 gasification-combined cycle units that generate
12 electricity or chemicals, or both, and shall support
13 the creation of Illinois coal-mining jobs. The
14 business must certify in writing that the investments
15 necessary to establish a new electric generating
16 facility would not be placed in service and the job
17 creation in the case of a coal-fueled plant would not
18 occur without the tax credits and exemptions set forth
19 in subsection (b-5) of this Section. The term "placed
20 in service" has the same meaning as described in
21 subsection (h) of Section 201 of the Illinois Income
22 Tax Act; or

23 (B-5) the business intends to establish a new
24 gasification facility at a designated location in
25 Illinois. As used in this Section, "new gasification
26 facility" means a newly constructed coal gasification

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

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

1 subsection (b-5) of this Section. The term "placed in
2 service" has the same meaning as described in
3 subsection (h) of Section 201 of the Illinois Income
4 Tax Act; or

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

26 (4) no later than 90 days after an application is

1 submitted, the Department shall notify the applicant of the
2 Department's determination of the qualification of the
3 proposed High Impact Business under this Section.

4 (b) Businesses designated as High Impact Businesses
5 pursuant to subdivision (a) (3) (A) of this Section shall qualify
6 for the credits and exemptions described in the following Acts:
7 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
8 subsection (h) of Section 201 of the Illinois Income Tax Act,
9 and Section 1d of the Retailers' Occupation Tax Act; provided
10 that these credits and exemptions described in these Acts shall
11 not be authorized until the minimum investments set forth in
12 subdivision (a) (3) (A) of this Section have been placed in
13 service in qualified properties and, in the case of the
14 exemptions described in the Public Utilities Act and Section 1d
15 of the Retailers' Occupation Tax Act, the minimum full-time
16 equivalent jobs or full-time jobs set forth in subdivision
17 (a) (3) (A) of this Section have been created or retained.
18 Businesses designated as High Impact Businesses under this
19 Section shall also qualify for the exemption described in
20 Section 5l of the Retailers' Occupation Tax Act. The credit
21 provided in subsection (h) of Section 201 of the Illinois
22 Income Tax Act shall be applicable to investments in qualified
23 property as set forth in subdivision (a) (3) (A) of this Section.

24 (b-5) Businesses designated as High Impact Businesses
25 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
26 and (a) (3) (D) of this Section shall qualify for the credits and

1 exemptions described in the following Acts: Section 51 of the
2 Retailers' Occupation Tax Act, Section 9-222 and Section
3 9-222.1A of the Public Utilities Act, and subsection (h) of
4 Section 201 of the Illinois Income Tax Act; however, the
5 credits and exemptions authorized under Section 9-222 and
6 Section 9-222.1A of the Public Utilities Act, and subsection
7 (h) of Section 201 of the Illinois Income Tax Act shall not be
8 authorized until the new electric generating facility, the new
9 gasification facility, the new transmission facility, or the
10 new, expanded, or reopened coal mine is operational, except
11 that a new electric generating facility whose primary fuel
12 source is natural gas is eligible only for the exemption under
13 Section 51 of the Retailers' Occupation Tax Act.

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

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

25 (e) New proposed facilities which apply for designation as
26 High Impact Business must provide the Department with proof of

1 alternative non-Illinois sites which would receive the
2 proposed investment and job creation in the event that the
3 business is not designated as a High Impact Business.

4 (f) In the event that a business is designated a High
5 Impact Business and it is later determined after reasonable
6 notice and an opportunity for a hearing as provided under the
7 Illinois Administrative Procedure Act, that the business would
8 have placed in service in qualified property the investments
9 and created or retained the requisite number of jobs without
10 the benefits of the High Impact Business designation, the
11 Department shall be required to immediately revoke the
12 designation and notify the Director of the Department of
13 Revenue who shall begin proceedings to recover all wrongfully
14 exempted State taxes with interest. The business shall also be
15 ineligible for all State funded Department programs for a
16 period of 10 years.

17 (g) The Department shall revoke a High Impact Business
18 designation if the participating business fails to comply with
19 the terms and conditions of the designation.

20 (h) Prior to designating a business, the Department shall
21 provide the members of the General Assembly and Commission on
22 Government Forecasting and Accountability with a report
23 setting forth the terms and conditions of the designation and
24 guarantees that have been received by the Department in
25 relation to the proposed business being designated.

26 (Source: P.A. 94-65, eff. 6-21-05; 95-18, eff. 7-30-07.)

1 Section 15-5. The Department of Natural Resources
2 (Conservation) Law of the Civil Administrative Code of Illinois
3 is amended by changing Section 805-15 as follows:

4 (20 ILCS 805/805-15) (was 20 ILCS 805/63a37)

5 Sec. 805-15. Rules ~~and regulations~~.

6 (a) The Department has the power to adopt and enforce rules
7 ~~and regulations~~ necessary to the performance of its statutory
8 duties.

9 (b) These rules must include a process for expediting the
10 issuance of permits and licenses for projects at energy
11 facilities that are subject to regulation by the Department as
12 of January 1, 2009, as that term is defined in Section 1-10 of
13 the Illinois Power Agency Act. The Department may engage the
14 experts and additional resources that are reasonably necessary
15 for implementing this process. An applicant must request the
16 use of an expedited process, and any additional costs for using
17 that process shall be borne by the applicant.

18 (Source: P.A. 91-239, eff. 1-1-00.)

19 Section 15-10. The Department of Transportation Law of the
20 Civil Administrative Code of Illinois is amended by adding
21 Section 2705-20 as follows:

22 (20 ILCS 2705/2705-20 new)

1 Sec. 2705-20. Administrative rules.

2 (a) The Department has the power to adopt and enforce rules
3 necessary to the performance of its statutory duties.

4 (b) These rules must include a process for expediting the
5 issuance of permits and licenses for projects at energy
6 facilities that are subject to regulation by the Department as
7 of January 1, 2009, as that term is defined in the Illinois
8 Power Agency Act. The Department may engage the experts and
9 additional resources that are reasonably necessary for
10 implementing this process. An applicant must request the use of
11 an expedited process, and any additional costs for using that
12 process shall be borne by the applicant.

13 Section 15-15. The State Fire Marshal Act is amended by
14 changing Section 2 as follows:

15 (20 ILCS 2905/2) (from Ch. 127 1/2, par. 2)

16 Sec. 2. The Office shall have the following powers and
17 duties:

18 1. To exercise the rights, powers and duties which have
19 been vested by law in the Department of State Police as the
20 successor of the Department of Public Safety, State Fire
21 Marshal, inspectors, officers and employees of the State
22 Fire Marshal, including arson investigation. Arson
23 investigations conducted by the State Fire Marshal's
24 Office shall be conducted by State Fire Marshal Arson

1 Investigator Special Agents, who shall be peace officers as
2 provided in the Peace Officer Fire Investigation Act.

3 2. To keep a record, as may be required by law, of all
4 fires occurring in the State, together with all facts,
5 statistics and circumstances, including the origin of
6 fires.

7 3. To exercise the rights, powers and duties which have
8 been vested in the Department of State Police by the
9 "Boiler and Pressure Vessel Safety Act", approved August 7,
10 1951, as amended.

11 4. To administer the Illinois Fire Protection Training
12 Act.

13 5. To aid in the establishment and maintenance of the
14 training facilities and programs of the Illinois Fire
15 Service Institute.

16 6. To disburse Federal grants for fire protection
17 purposes to units of local government.

18 7. To pay to or in behalf of the City of Chicago for
19 the maintenance, expenses, facilities and structures
20 directly incident to the Chicago Fire Department training
21 program. Such payments may be made either as reimbursements
22 for expenditures previously made by the City, or as
23 payments at the time the City has incurred an obligation
24 which is then due and payable for such expenditures.
25 Payments for the Chicago Fire Department training program
26 shall be made only for those expenditures which are not

1 claimable by the City under "An Act relating to fire
2 protection training", certified November 9, 1971, as
3 amended.

4 8. To administer General Revenue Fund grants to areas
5 not located in a fire protection district or in a
6 municipality which provides fire protection services, to
7 defray the organizational expenses of forming a fire
8 protection district.

9 9. In cooperation with the Illinois Environmental
10 Protection Agency, to administer the Illinois Leaking
11 Underground Storage Tank program in accordance with
12 Section 4 of this Act and Section 22.12 of the
13 Environmental Protection Act.

14 10. To expend state and federal funds as appropriated
15 by the General Assembly.

16 11. To provide technical assistance, to areas not
17 located in a fire protection district or in a municipality
18 which provides fire protection service, to form a fire
19 protection district, to join an existing district, or to
20 establish a municipal fire department, whichever is
21 applicable.

22 12. To exercise such other powers and duties as may be
23 vested in the Office by law.

24 13. To adopt rules for the purpose of creating a
25 process for expediting the issuance of permits and licenses
26 for projects at energy facilities, as that term is defined

1 in the Illinois Power Agency Act. The Office may engage the
2 experts and additional resources that are reasonably
3 necessary for implementing this process. An applicant must
4 request the use of an expedited process, and any additional
5 costs for using that process shall be borne by the
6 applicant.

7 (Source: P.A. 94-178, eff. 1-1-06; 95-502, eff. 8-28-07.)

8 Section 15-20. The Illinois Income Tax Act is amended by
9 adding Section 218 as follows:

10 (35 ILCS 5/218 new)

11 Sec. 218. Tax credit for equipment used at an energy
12 facility. For taxable years ending on or after December 31,
13 2009, each corporation subject to this Act shall be entitled to
14 a credit against the tax imposed by subsections (a) and (b) of
15 Section 201 of this Act in an amount equal to 10% of the amount
16 spent during the taxable year by the corporation on equipment
17 purchased for use at an energy facility, as that term is
18 defined in Section 1-10 of the Illinois Power Agency Act. For
19 purposes of this credit, the amount spent on the equipment
20 shall be defined as the basis of the equipment used to compute
21 the depreciation deduction for federal income tax purposes.

22 The credit shall be allowed for the taxable year in which
23 the equipment purchased is placed in service, or, if the amount
24 of the credit exceeds the tax liability for that year, whether

1 it exceeds the original liability or the liability as later
2 amended, the excess may be carried forward and applied to the
3 tax liability of the 10 taxable years following the excess
4 credit years. The credit shall be applied to the earliest year
5 for which there is a liability. If there is credit from more
6 than one taxable year that is available to offset a liability,
7 the earlier credit shall be applied first. This Section is
8 exempt from the provisions of Section 250 of this Act.

9 Section 15-25. The Use Tax Act is amended by changing
10 Section 3-5 as follows:

11 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

12 Sec. 3-5. Exemptions. Use of the following tangible
13 personal property is exempt from the tax imposed by this Act:

14 (1) Personal property purchased from a corporation,
15 society, association, foundation, institution, or
16 organization, other than a limited liability company, that is
17 organized and operated as a not-for-profit service enterprise
18 for the benefit of persons 65 years of age or older if the
19 personal property was not purchased by the enterprise for the
20 purpose of resale by the enterprise.

21 (2) Personal property purchased by a not-for-profit
22 Illinois county fair association for use in conducting,
23 operating, or promoting the county fair.

24 (3) Personal property purchased by a not-for-profit arts or

1 cultural organization that establishes, by proof required by
2 the Department by rule, that it has received an exemption under
3 Section 501(c)(3) of the Internal Revenue Code and that is
4 organized and operated primarily for the presentation or
5 support of arts or cultural programming, activities, or
6 services. These organizations include, but are not limited to,
7 music and dramatic arts organizations such as symphony
8 orchestras and theatrical groups, arts and cultural service
9 organizations, local arts councils, visual arts organizations,
10 and media arts organizations. On and after the effective date
11 of this amendatory Act of the 92nd General Assembly, however,
12 an entity otherwise eligible for this exemption shall not make
13 tax-free purchases unless it has an active identification
14 number issued by the Department.

15 (4) Personal property purchased by a governmental body, by
16 a corporation, society, association, foundation, or
17 institution organized and operated exclusively for charitable,
18 religious, or educational purposes, or by a not-for-profit
19 corporation, society, association, foundation, institution, or
20 organization that has no compensated officers or employees and
21 that is organized and operated primarily for the recreation of
22 persons 55 years of age or older. A limited liability company
23 may qualify for the exemption under this paragraph only if the
24 limited liability company is organized and operated
25 exclusively for educational purposes. On and after July 1,
26 1987, however, no entity otherwise eligible for this exemption

1 shall make tax-free purchases unless it has an active exemption
2 identification number issued by the Department.

3 (5) Until July 1, 2003, a passenger car that is a
4 replacement vehicle to the extent that the purchase price of
5 the car is subject to the Replacement Vehicle Tax.

6 (6) Until July 1, 2003 and beginning again on September 1,
7 2004, graphic arts machinery and equipment, including repair
8 and replacement parts, both new and used, and including that
9 manufactured on special order, certified by the purchaser to be
10 used primarily for graphic arts production, and including
11 machinery and equipment purchased for lease. Equipment
12 includes chemicals or chemicals acting as catalysts but only if
13 the chemicals or chemicals acting as catalysts effect a direct
14 and immediate change upon a graphic arts product.

15 (7) Farm chemicals.

16 (8) Legal tender, currency, medallions, or gold or silver
17 coinage issued by the State of Illinois, the government of the
18 United States of America, or the government of any foreign
19 country, and bullion.

20 (9) Personal property purchased from a teacher-sponsored
21 student organization affiliated with an elementary or
22 secondary school located in Illinois.

23 (10) A motor vehicle of the first division, a motor vehicle
24 of the second division that is a self-contained motor vehicle
25 designed or permanently converted to provide living quarters
26 for recreational, camping, or travel use, with direct walk

1 through to the living quarters from the driver's seat, or a
2 motor vehicle of the second division that is of the van
3 configuration designed for the transportation of not less than
4 7 nor more than 16 passengers, as defined in Section 1-146 of
5 the Illinois Vehicle Code, that is used for automobile renting,
6 as defined in the Automobile Renting Occupation and Use Tax
7 Act.

8 (11) Farm machinery and equipment, both new and used,
9 including that manufactured on special order, certified by the
10 purchaser to be used primarily for production agriculture or
11 State or federal agricultural programs, including individual
12 replacement parts for the machinery and equipment, including
13 machinery and equipment purchased for lease, and including
14 implements of husbandry defined in Section 1-130 of the
15 Illinois Vehicle Code, farm machinery and agricultural
16 chemical and fertilizer spreaders, and nurse wagons required to
17 be registered under Section 3-809 of the Illinois Vehicle Code,
18 but excluding other motor vehicles required to be registered
19 under the Illinois Vehicle Code. Horticultural polyhouses or
20 hoop houses used for propagating, growing, or overwintering
21 plants shall be considered farm machinery and equipment under
22 this item (11). Agricultural chemical tender tanks and dry
23 boxes shall include units sold separately from a motor vehicle
24 required to be licensed and units sold mounted on a motor
25 vehicle required to be licensed if the selling price of the
26 tender is separately stated.

1 Farm machinery and equipment shall include precision
2 farming equipment that is installed or purchased to be
3 installed on farm machinery and equipment including, but not
4 limited to, tractors, harvesters, sprayers, planters, seeders,
5 or spreaders. Precision farming equipment includes, but is not
6 limited to, soil testing sensors, computers, monitors,
7 software, global positioning and mapping systems, and other
8 such equipment.

9 Farm machinery and equipment also includes computers,
10 sensors, software, and related equipment used primarily in the
11 computer-assisted operation of production agriculture
12 facilities, equipment, and activities such as, but not limited
13 to, the collection, monitoring, and correlation of animal and
14 crop data for the purpose of formulating animal diets and
15 agricultural chemicals. This item (11) is exempt from the
16 provisions of Section 3-90.

17 (12) Fuel and petroleum products sold to or used by an air
18 common carrier, certified by the carrier to be used for
19 consumption, shipment, or storage in the conduct of its
20 business as an air common carrier, for a flight destined for or
21 returning from a location or locations outside the United
22 States without regard to previous or subsequent domestic
23 stopovers.

24 (13) Proceeds of mandatory service charges separately
25 stated on customers' bills for the purchase and consumption of
26 food and beverages purchased at retail from a retailer, to the

1 extent that the proceeds of the service charge are in fact
2 turned over as tips or as a substitute for tips to the
3 employees who participate directly in preparing, serving,
4 hosting or cleaning up the food or beverage function with
5 respect to which the service charge is imposed.

6 (14) Until July 1, 2003, and beginning again on the
7 effective date of this amendatory Act of the 96th General
8 Assembly and thereafter, oil field exploration, drilling, and
9 production equipment, including (i) rigs and parts of rigs,
10 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
11 tubular goods, including casing and drill strings, (iii) pumps
12 and pump-jack units, (iv) storage tanks and flow lines, (v) any
13 individual replacement part for oil field exploration,
14 drilling, and production equipment, and (vi) machinery and
15 equipment purchased for lease; but excluding motor vehicles
16 required to be registered under the Illinois Vehicle Code.

17 (15) Photoprocessing machinery and equipment, including
18 repair and replacement parts, both new and used, including that
19 manufactured on special order, certified by the purchaser to be
20 used primarily for photoprocessing, and including
21 photoprocessing machinery and equipment purchased for lease.

22 (16) Until July 1, 2003, and beginning again on the
23 effective date of this amendatory Act of the 96th General
24 Assembly and thereafter, coal exploration, mining, offhighway
25 hauling, processing, maintenance, and reclamation equipment,
26 including replacement parts and equipment, and including

1 equipment purchased for lease, but excluding motor vehicles
2 required to be registered under the Illinois Vehicle Code. For
3 purposes of this item (16), equipment includes roof bolts and
4 explosives.

5 (17) Until July 1, 2003, distillation machinery and
6 equipment, sold as a unit or kit, assembled or installed by the
7 retailer, certified by the user to be used only for the
8 production of ethyl alcohol that will be used for consumption
9 as motor fuel or as a component of motor fuel for the personal
10 use of the user, and not subject to sale or resale.

11 (18) Manufacturing and assembling machinery and equipment
12 used primarily in the process of manufacturing or assembling
13 tangible personal property for wholesale or retail sale or
14 lease, whether that sale or lease is made directly by the
15 manufacturer or by some other person, whether the materials
16 used in the process are owned by the manufacturer or some other
17 person, or whether that sale or lease is made apart from or as
18 an incident to the seller's engaging in the service occupation
19 of producing machines, tools, dies, jigs, patterns, gauges, or
20 other similar items of no commercial value on special order for
21 a particular purchaser.

22 (19) Personal property delivered to a purchaser or
23 purchaser's donee inside Illinois when the purchase order for
24 that personal property was received by a florist located
25 outside Illinois who has a florist located inside Illinois
26 deliver the personal property.

1 (20) Semen used for artificial insemination of livestock
2 for direct agricultural production.

3 (21) Horses, or interests in horses, registered with and
4 meeting the requirements of any of the Arabian Horse Club
5 Registry of America, Appaloosa Horse Club, American Quarter
6 Horse Association, United States Trotting Association, or
7 Jockey Club, as appropriate, used for purposes of breeding or
8 racing for prizes. This item (21) is exempt from the provisions
9 of Section 3-90, and the exemption provided for under this item
10 (21) applies for all periods beginning May 30, 1995, but no
11 claim for credit or refund is allowed on or after January 1,
12 2008 for such taxes paid during the period beginning May 30,
13 2000 and ending on January 1, 2008.

14 (22) Computers and communications equipment utilized for
15 any hospital purpose and equipment used in the diagnosis,
16 analysis, or treatment of hospital patients purchased by a
17 lessor who leases the equipment, under a lease of one year or
18 longer executed or in effect at the time the lessor would
19 otherwise be subject to the tax imposed by this Act, to a
20 hospital that has been issued an active tax exemption
21 identification number by the Department under Section 1g of the
22 Retailers' Occupation Tax Act. If the equipment is leased in a
23 manner that does not qualify for this exemption or is used in
24 any other non-exempt manner, the lessor shall be liable for the
25 tax imposed under this Act or the Service Use Tax Act, as the
26 case may be, based on the fair market value of the property at

1 the time the non-qualifying use occurs. No lessor shall collect
2 or attempt to collect an amount (however designated) that
3 purports to reimburse that lessor for the tax imposed by this
4 Act or the Service Use Tax Act, as the case may be, if the tax
5 has not been paid by the lessor. If a lessor improperly
6 collects any such amount from the lessee, the lessee shall have
7 a legal right to claim a refund of that amount from the lessor.
8 If, however, that amount is not refunded to the lessee for any
9 reason, the lessor is liable to pay that amount to the
10 Department.

11 (23) Personal property purchased by a lessor who leases the
12 property, under a lease of one year or longer executed or in
13 effect at the time the lessor would otherwise be subject to the
14 tax imposed by this Act, to a governmental body that has been
15 issued an active sales tax exemption identification number by
16 the Department under Section 1g of the Retailers' Occupation
17 Tax Act. If the property is leased in a manner that does not
18 qualify for this exemption or used in any other non-exempt
19 manner, the lessor shall be liable for the tax imposed under
20 this Act or the Service Use Tax Act, as the case may be, based
21 on the fair market value of the property at the time the
22 non-qualifying use occurs. No lessor shall collect or attempt
23 to collect an amount (however designated) that purports to
24 reimburse that lessor for the tax imposed by this Act or the
25 Service Use Tax Act, as the case may be, if the tax has not been
26 paid by the lessor. If a lessor improperly collects any such

1 amount from the lessee, the lessee shall have a legal right to
2 claim a refund of that amount from the lessor. If, however,
3 that amount is not refunded to the lessee for any reason, the
4 lessor is liable to pay that amount to the Department.

5 (24) Beginning with taxable years ending on or after
6 December 31, 1995 and ending with taxable years ending on or
7 before December 31, 2004, personal property that is donated for
8 disaster relief to be used in a State or federally declared
9 disaster area in Illinois or bordering Illinois by a
10 manufacturer or retailer that is registered in this State to a
11 corporation, society, association, foundation, or institution
12 that has been issued a sales tax exemption identification
13 number by the Department that assists victims of the disaster
14 who reside within the declared disaster area.

15 (25) Beginning with taxable years ending on or after
16 December 31, 1995 and ending with taxable years ending on or
17 before December 31, 2004, personal property that is used in the
18 performance of infrastructure repairs in this State, including
19 but not limited to municipal roads and streets, access roads,
20 bridges, sidewalks, waste disposal systems, water and sewer
21 line extensions, water distribution and purification
22 facilities, storm water drainage and retention facilities, and
23 sewage treatment facilities, resulting from a State or
24 federally declared disaster in Illinois or bordering Illinois
25 when such repairs are initiated on facilities located in the
26 declared disaster area within 6 months after the disaster.

1 (26) Beginning July 1, 1999, game or game birds purchased
2 at a "game breeding and hunting preserve area" or an "exotic
3 game hunting area" as those terms are used in the Wildlife Code
4 or at a hunting enclosure approved through rules adopted by the
5 Department of Natural Resources. This paragraph is exempt from
6 the provisions of Section 3-90.

7 (27) A motor vehicle, as that term is defined in Section
8 1-146 of the Illinois Vehicle Code, that is donated to a
9 corporation, limited liability company, society, association,
10 foundation, or institution that is determined by the Department
11 to be organized and operated exclusively for educational
12 purposes. For purposes of this exemption, "a corporation,
13 limited liability company, society, association, foundation,
14 or institution organized and operated exclusively for
15 educational purposes" means all tax-supported public schools,
16 private schools that offer systematic instruction in useful
17 branches of learning by methods common to public schools and
18 that compare favorably in their scope and intensity with the
19 course of study presented in tax-supported schools, and
20 vocational or technical schools or institutes organized and
21 operated exclusively to provide a course of study of not less
22 than 6 weeks duration and designed to prepare individuals to
23 follow a trade or to pursue a manual, technical, mechanical,
24 industrial, business, or commercial occupation.

25 (28) Beginning January 1, 2000, personal property,
26 including food, purchased through fundraising events for the

1 benefit of a public or private elementary or secondary school,
2 a group of those schools, or one or more school districts if
3 the events are sponsored by an entity recognized by the school
4 district that consists primarily of volunteers and includes
5 parents and teachers of the school children. This paragraph
6 does not apply to fundraising events (i) for the benefit of
7 private home instruction or (ii) for which the fundraising
8 entity purchases the personal property sold at the events from
9 another individual or entity that sold the property for the
10 purpose of resale by the fundraising entity and that profits
11 from the sale to the fundraising entity. This paragraph is
12 exempt from the provisions of Section 3-90.

13 (29) Beginning January 1, 2000 and through December 31,
14 2001, new or used automatic vending machines that prepare and
15 serve hot food and beverages, including coffee, soup, and other
16 items, and replacement parts for these machines. Beginning
17 January 1, 2002 and through June 30, 2003, machines and parts
18 for machines used in commercial, coin-operated amusement and
19 vending business if a use or occupation tax is paid on the
20 gross receipts derived from the use of the commercial,
21 coin-operated amusement and vending machines. This paragraph
22 is exempt from the provisions of Section 3-90.

23 (30) Beginning January 1, 2001 and through June 30, 2011,
24 food for human consumption that is to be consumed off the
25 premises where it is sold (other than alcoholic beverages, soft
26 drinks, and food that has been prepared for immediate

1 consumption) and prescription and nonprescription medicines,
2 drugs, medical appliances, and insulin, urine testing
3 materials, syringes, and needles used by diabetics, for human
4 use, when purchased for use by a person receiving medical
5 assistance under Article 5 of the Illinois Public Aid Code who
6 resides in a licensed long-term care facility, as defined in
7 the Nursing Home Care Act.

8 (31) Beginning on the effective date of this amendatory Act
9 of the 92nd General Assembly, computers and communications
10 equipment utilized for any hospital purpose and equipment used
11 in the diagnosis, analysis, or treatment of hospital patients
12 purchased by a lessor who leases the equipment, under a lease
13 of one year or longer executed or in effect at the time the
14 lessor would otherwise be subject to the tax imposed by this
15 Act, to a hospital that has been issued an active tax exemption
16 identification number by the Department under Section 1g of the
17 Retailers' Occupation Tax Act. If the equipment is leased in a
18 manner that does not qualify for this exemption or is used in
19 any other nonexempt manner, the lessor shall be liable for the
20 tax imposed under this Act or the Service Use Tax Act, as the
21 case may be, based on the fair market value of the property at
22 the time the nonqualifying use occurs. No lessor shall collect
23 or attempt to collect an amount (however designated) that
24 purports to reimburse that lessor for the tax imposed by this
25 Act or the Service Use Tax Act, as the case may be, if the tax
26 has not been paid by the lessor. If a lessor improperly

1 collects any such amount from the lessee, the lessee shall have
2 a legal right to claim a refund of that amount from the lessor.
3 If, however, that amount is not refunded to the lessee for any
4 reason, the lessor is liable to pay that amount to the
5 Department. This paragraph is exempt from the provisions of
6 Section 3-90.

7 (32) Beginning on the effective date of this amendatory Act
8 of the 92nd General Assembly, personal property purchased by a
9 lessor who leases the property, under a lease of one year or
10 longer executed or in effect at the time the lessor would
11 otherwise be subject to the tax imposed by this Act, to a
12 governmental body that has been issued an active sales tax
13 exemption identification number by the Department under
14 Section 1g of the Retailers' Occupation Tax Act. If the
15 property is leased in a manner that does not qualify for this
16 exemption or used in any other nonexempt manner, the lessor
17 shall be liable for the tax imposed under this Act or the
18 Service Use Tax Act, as the case may be, based on the fair
19 market value of the property at the time the nonqualifying use
20 occurs. No lessor shall collect or attempt to collect an amount
21 (however designated) that purports to reimburse that lessor for
22 the tax imposed by this Act or the Service Use Tax Act, as the
23 case may be, if the tax has not been paid by the lessor. If a
24 lessor improperly collects any such amount from the lessee, the
25 lessee shall have a legal right to claim a refund of that
26 amount from the lessor. If, however, that amount is not

1 refunded to the lessee for any reason, the lessor is liable to
2 pay that amount to the Department. This paragraph is exempt
3 from the provisions of Section 3-90.

4 (33) On and after July 1, 2003 and through June 30, 2004,
5 the use in this State of motor vehicles of the second division
6 with a gross vehicle weight in excess of 8,000 pounds and that
7 are subject to the commercial distribution fee imposed under
8 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
9 1, 2004 and through June 30, 2005, the use in this State of
10 motor vehicles of the second division: (i) with a gross vehicle
11 weight rating in excess of 8,000 pounds; (ii) that are subject
12 to the commercial distribution fee imposed under Section
13 3-815.1 of the Illinois Vehicle Code; and (iii) that are
14 primarily used for commercial purposes. Through June 30, 2005,
15 this exemption applies to repair and replacement parts added
16 after the initial purchase of such a motor vehicle if that
17 motor vehicle is used in a manner that would qualify for the
18 rolling stock exemption otherwise provided for in this Act. For
19 purposes of this paragraph, the term "used for commercial
20 purposes" means the transportation of persons or property in
21 furtherance of any commercial or industrial enterprise,
22 whether for-hire or not.

23 (34) Beginning January 1, 2008, tangible personal property
24 used in the construction or maintenance of a community water
25 supply, as defined under Section 3.145 of the Environmental
26 Protection Act, that is operated by a not-for-profit

1 corporation that holds a valid water supply permit issued under
2 Title IV of the Environmental Protection Act. This paragraph is
3 exempt from the provisions of Section 3-90.

4 (35) Beginning on the effective date of this amendatory Act
5 of the 96th General Assembly, equipment used at an energy
6 facility, as that term is defined in Section 1-10 of the
7 Illinois Power Agency Act, located within the State, including
8 replacement parts and equipment and including equipment
9 purchased for lease, but excluding motor vehicles required to
10 be registered under the Illinois Vehicle Code.

11 (36) Beginning on the effective date of this amendatory Act
12 of the 96th General Assembly, feedstock used at an energy
13 facility, as that term is defined in Section 1-10 of the
14 Illinois Power Agency Act, located in this State.

15 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
16 eff. 1-1-08; 95-876, eff. 8-21-08.)

17 Section 15-30. The Service Use Tax Act is amended by
18 changing Section 3-5 as follows:

19 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

20 Sec. 3-5. Exemptions. Use of the following tangible
21 personal property is exempt from the tax imposed by this Act:

22 (1) Personal property purchased from a corporation,
23 society, association, foundation, institution, or
24 organization, other than a limited liability company, that is

1 organized and operated as a not-for-profit service enterprise
2 for the benefit of persons 65 years of age or older if the
3 personal property was not purchased by the enterprise for the
4 purpose of resale by the enterprise.

5 (2) Personal property purchased by a non-profit Illinois
6 county fair association for use in conducting, operating, or
7 promoting the county fair.

8 (3) Personal property purchased by a not-for-profit arts or
9 cultural organization that establishes, by proof required by
10 the Department by rule, that it has received an exemption under
11 Section 501(c)(3) of the Internal Revenue Code and that is
12 organized and operated primarily for the presentation or
13 support of arts or cultural programming, activities, or
14 services. These organizations include, but are not limited to,
15 music and dramatic arts organizations such as symphony
16 orchestras and theatrical groups, arts and cultural service
17 organizations, local arts councils, visual arts organizations,
18 and media arts organizations. On and after the effective date
19 of this amendatory Act of the 92nd General Assembly, however,
20 an entity otherwise eligible for this exemption shall not make
21 tax-free purchases unless it has an active identification
22 number issued by the Department.

23 (4) Legal tender, currency, medallions, or gold or silver
24 coinage issued by the State of Illinois, the government of the
25 United States of America, or the government of any foreign
26 country, and bullion.

1 (5) Until July 1, 2003 and beginning again on September 1,
2 2004, graphic arts machinery and equipment, including repair
3 and replacement parts, both new and used, and including that
4 manufactured on special order or purchased for lease, certified
5 by the purchaser to be used primarily for graphic arts
6 production. Equipment includes chemicals or chemicals acting
7 as catalysts but only if the chemicals or chemicals acting as
8 catalysts effect a direct and immediate change upon a graphic
9 arts product.

10 (6) Personal property purchased from a teacher-sponsored
11 student organization affiliated with an elementary or
12 secondary school located in Illinois.

13 (7) Farm machinery and equipment, both new and used,
14 including that manufactured on special order, certified by the
15 purchaser to be used primarily for production agriculture or
16 State or federal agricultural programs, including individual
17 replacement parts for the machinery and equipment, including
18 machinery and equipment purchased for lease, and including
19 implements of husbandry defined in Section 1-130 of the
20 Illinois Vehicle Code, farm machinery and agricultural
21 chemical and fertilizer spreaders, and nurse wagons required to
22 be registered under Section 3-809 of the Illinois Vehicle Code,
23 but excluding other motor vehicles required to be registered
24 under the Illinois Vehicle Code. Horticultural polyhouses or
25 hoop houses used for propagating, growing, or overwintering
26 plants shall be considered farm machinery and equipment under

1 this item (7). Agricultural chemical tender tanks and dry boxes
2 shall include units sold separately from a motor vehicle
3 required to be licensed and units sold mounted on a motor
4 vehicle required to be licensed if the selling price of the
5 tender is separately stated.

6 Farm machinery and equipment shall include precision
7 farming equipment that is installed or purchased to be
8 installed on farm machinery and equipment including, but not
9 limited to, tractors, harvesters, sprayers, planters, seeders,
10 or spreaders. Precision farming equipment includes, but is not
11 limited to, soil testing sensors, computers, monitors,
12 software, global positioning and mapping systems, and other
13 such equipment.

14 Farm machinery and equipment also includes computers,
15 sensors, software, and related equipment used primarily in the
16 computer-assisted operation of production agriculture
17 facilities, equipment, and activities such as, but not limited
18 to, the collection, monitoring, and correlation of animal and
19 crop data for the purpose of formulating animal diets and
20 agricultural chemicals. This item (7) is exempt from the
21 provisions of Section 3-75.

22 (8) Fuel and petroleum products sold to or used by an air
23 common carrier, certified by the carrier to be used for
24 consumption, shipment, or storage in the conduct of its
25 business as an air common carrier, for a flight destined for or
26 returning from a location or locations outside the United

1 States without regard to previous or subsequent domestic
2 stopovers.

3 (9) Proceeds of mandatory service charges separately
4 stated on customers' bills for the purchase and consumption of
5 food and beverages acquired as an incident to the purchase of a
6 service from a serviceman, to the extent that the proceeds of
7 the service charge are in fact turned over as tips or as a
8 substitute for tips to the employees who participate directly
9 in preparing, serving, hosting or cleaning up the food or
10 beverage function with respect to which the service charge is
11 imposed.

12 (10) Until July 1, 2003, and beginning again on the
13 effective date of this amendatory Act of the 96th General
14 Assembly and thereafter, oil field exploration, drilling, and
15 production equipment, including (i) rigs and parts of rigs,
16 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
17 tubular goods, including casing and drill strings, (iii) pumps
18 and pump-jack units, (iv) storage tanks and flow lines, (v) any
19 individual replacement part for oil field exploration,
20 drilling, and production equipment, and (vi) machinery and
21 equipment purchased for lease; but excluding motor vehicles
22 required to be registered under the Illinois Vehicle Code.

23 (11) Proceeds from the sale of photoprocessing machinery
24 and equipment, including repair and replacement parts, both new
25 and used, including that manufactured on special order,
26 certified by the purchaser to be used primarily for

1 photoprocessing, and including photoprocessing machinery and
2 equipment purchased for lease.

3 (12) Until July 1, 2003, and beginning again on the
4 effective date of this amendatory Act of the 96th General
5 Assembly and thereafter, coal exploration, mining, offhighway
6 hauling, processing, maintenance, and reclamation equipment,
7 including replacement parts and equipment, and including
8 equipment purchased for lease, but excluding motor vehicles
9 required to be registered under the Illinois Vehicle Code. For
10 purposes of this item (12), equipment includes roof bolts and
11 explosives.

12 (13) Semen used for artificial insemination of livestock
13 for direct agricultural production.

14 (14) Horses, or interests in horses, registered with and
15 meeting the requirements of any of the Arabian Horse Club
16 Registry of America, Appaloosa Horse Club, American Quarter
17 Horse Association, United States Trotting Association, or
18 Jockey Club, as appropriate, used for purposes of breeding or
19 racing for prizes. This item (14) is exempt from the provisions
20 of Section 3-75, and the exemption provided for under this item
21 (14) applies for all periods beginning May 30, 1995, but no
22 claim for credit or refund is allowed on or after the effective
23 date of this amendatory Act of the 95th General Assembly for
24 such taxes paid during the period beginning May 30, 2000 and
25 ending on the effective date of this amendatory Act of the 95th
26 General Assembly.

1 (15) Computers and communications equipment utilized for
2 any hospital purpose and equipment used in the diagnosis,
3 analysis, or treatment of hospital patients purchased by a
4 lessor who leases the equipment, under a lease of one year or
5 longer executed or in effect at the time the lessor would
6 otherwise be subject to the tax imposed by this Act, to a
7 hospital that has been issued an active tax exemption
8 identification number by the Department under Section 1g of the
9 Retailers' Occupation Tax Act. If the equipment is leased in a
10 manner that does not qualify for this exemption or is used in
11 any other non-exempt manner, the lessor shall be liable for the
12 tax imposed under this Act or the Use Tax Act, as the case may
13 be, based on the fair market value of the property at the time
14 the non-qualifying use occurs. No lessor shall collect or
15 attempt to collect an amount (however designated) that purports
16 to reimburse that lessor for the tax imposed by this Act or the
17 Use Tax Act, as the case may be, if the tax has not been paid by
18 the lessor. If a lessor improperly collects any such amount
19 from the lessee, the lessee shall have a legal right to claim a
20 refund of that amount from the lessor. If, however, that amount
21 is not refunded to the lessee for any reason, the lessor is
22 liable to pay that amount to the Department.

23 (16) Personal property purchased by a lessor who leases the
24 property, under a lease of one year or longer executed or in
25 effect at the time the lessor would otherwise be subject to the
26 tax imposed by this Act, to a governmental body that has been

1 issued an active tax exemption identification number by the
2 Department under Section 1g of the Retailers' Occupation Tax
3 Act. If the property is leased in a manner that does not
4 qualify for this exemption or is used in any other non-exempt
5 manner, the lessor shall be liable for the tax imposed under
6 this Act or the Use Tax Act, as the case may be, based on the
7 fair market value of the property at the time the
8 non-qualifying use occurs. No lessor shall collect or attempt
9 to collect an amount (however designated) that purports to
10 reimburse that lessor for the tax imposed by this Act or the
11 Use Tax Act, as the case may be, if the tax has not been paid by
12 the lessor. If a lessor improperly collects any such amount
13 from the lessee, the lessee shall have a legal right to claim a
14 refund of that amount from the lessor. If, however, that amount
15 is not refunded to the lessee for any reason, the lessor is
16 liable to pay that amount to the Department.

17 (17) Beginning with taxable years ending on or after
18 December 31, 1995 and ending with taxable years ending on or
19 before December 31, 2004, personal property that is donated for
20 disaster relief to be used in a State or federally declared
21 disaster area in Illinois or bordering Illinois by a
22 manufacturer or retailer that is registered in this State to a
23 corporation, society, association, foundation, or institution
24 that has been issued a sales tax exemption identification
25 number by the Department that assists victims of the disaster
26 who reside within the declared disaster area.

1 (18) Beginning with taxable years ending on or after
2 December 31, 1995 and ending with taxable years ending on or
3 before December 31, 2004, personal property that is used in the
4 performance of infrastructure repairs in this State, including
5 but not limited to municipal roads and streets, access roads,
6 bridges, sidewalks, waste disposal systems, water and sewer
7 line extensions, water distribution and purification
8 facilities, storm water drainage and retention facilities, and
9 sewage treatment facilities, resulting from a State or
10 federally declared disaster in Illinois or bordering Illinois
11 when such repairs are initiated on facilities located in the
12 declared disaster area within 6 months after the disaster.

13 (19) Beginning July 1, 1999, game or game birds purchased
14 at a "game breeding and hunting preserve area" or an "exotic
15 game hunting area" as those terms are used in the Wildlife Code
16 or at a hunting enclosure approved through rules adopted by the
17 Department of Natural Resources. This paragraph is exempt from
18 the provisions of Section 3-75.

19 (20) A motor vehicle, as that term is defined in Section
20 1-146 of the Illinois Vehicle Code, that is donated to a
21 corporation, limited liability company, society, association,
22 foundation, or institution that is determined by the Department
23 to be organized and operated exclusively for educational
24 purposes. For purposes of this exemption, "a corporation,
25 limited liability company, society, association, foundation,
26 or institution organized and operated exclusively for

1 educational purposes" means all tax-supported public schools,
2 private schools that offer systematic instruction in useful
3 branches of learning by methods common to public schools and
4 that compare favorably in their scope and intensity with the
5 course of study presented in tax-supported schools, and
6 vocational or technical schools or institutes organized and
7 operated exclusively to provide a course of study of not less
8 than 6 weeks duration and designed to prepare individuals to
9 follow a trade or to pursue a manual, technical, mechanical,
10 industrial, business, or commercial occupation.

11 (21) Beginning January 1, 2000, personal property,
12 including food, purchased through fundraising events for the
13 benefit of a public or private elementary or secondary school,
14 a group of those schools, or one or more school districts if
15 the events are sponsored by an entity recognized by the school
16 district that consists primarily of volunteers and includes
17 parents and teachers of the school children. This paragraph
18 does not apply to fundraising events (i) for the benefit of
19 private home instruction or (ii) for which the fundraising
20 entity purchases the personal property sold at the events from
21 another individual or entity that sold the property for the
22 purpose of resale by the fundraising entity and that profits
23 from the sale to the fundraising entity. This paragraph is
24 exempt from the provisions of Section 3-75.

25 (22) Beginning January 1, 2000 and through December 31,
26 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other
2 items, and replacement parts for these machines. Beginning
3 January 1, 2002 and through June 30, 2003, machines and parts
4 for machines used in commercial, coin-operated amusement and
5 vending business if a use or occupation tax is paid on the
6 gross receipts derived from the use of the commercial,
7 coin-operated amusement and vending machines. This paragraph
8 is exempt from the provisions of Section 3-75.

9 (23) Beginning August 23, 2001 and through June 30, 2011,
10 food for human consumption that is to be consumed off the
11 premises where it is sold (other than alcoholic beverages, soft
12 drinks, and food that has been prepared for immediate
13 consumption) and prescription and nonprescription medicines,
14 drugs, medical appliances, and insulin, urine testing
15 materials, syringes, and needles used by diabetics, for human
16 use, when purchased for use by a person receiving medical
17 assistance under Article 5 of the Illinois Public Aid Code who
18 resides in a licensed long-term care facility, as defined in
19 the Nursing Home Care Act.

20 (24) Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly, computers and communications
22 equipment utilized for any hospital purpose and equipment used
23 in the diagnosis, analysis, or treatment of hospital patients
24 purchased by a lessor who leases the equipment, under a lease
25 of one year or longer executed or in effect at the time the
26 lessor would otherwise be subject to the tax imposed by this

1 Act, to a hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of the
3 Retailers' Occupation Tax Act. If the equipment is leased in a
4 manner that does not qualify for this exemption or is used in
5 any other nonexempt manner, the lessor shall be liable for the
6 tax imposed under this Act or the Use Tax Act, as the case may
7 be, based on the fair market value of the property at the time
8 the nonqualifying use occurs. No lessor shall collect or
9 attempt to collect an amount (however designated) that purports
10 to reimburse that lessor for the tax imposed by this Act or the
11 Use Tax Act, as the case may be, if the tax has not been paid by
12 the lessor. If a lessor improperly collects any such amount
13 from the lessee, the lessee shall have a legal right to claim a
14 refund of that amount from the lessor. If, however, that amount
15 is not refunded to the lessee for any reason, the lessor is
16 liable to pay that amount to the Department. This paragraph is
17 exempt from the provisions of Section 3-75.

18 (25) Beginning on the effective date of this amendatory Act
19 of the 92nd General Assembly, personal property purchased by a
20 lessor who leases the property, under a lease of one year or
21 longer executed or in effect at the time the lessor would
22 otherwise be subject to the tax imposed by this Act, to a
23 governmental body that has been issued an active tax exemption
24 identification number by the Department under Section 1g of the
25 Retailers' Occupation Tax Act. If the property is leased in a
26 manner that does not qualify for this exemption or is used in

1 any other nonexempt manner, the lessor shall be liable for the
2 tax imposed under this Act or the Use Tax Act, as the case may
3 be, based on the fair market value of the property at the time
4 the nonqualifying use occurs. No lessor shall collect or
5 attempt to collect an amount (however designated) that purports
6 to reimburse that lessor for the tax imposed by this Act or the
7 Use Tax Act, as the case may be, if the tax has not been paid by
8 the lessor. If a lessor improperly collects any such amount
9 from the lessee, the lessee shall have a legal right to claim a
10 refund of that amount from the lessor. If, however, that amount
11 is not refunded to the lessee for any reason, the lessor is
12 liable to pay that amount to the Department. This paragraph is
13 exempt from the provisions of Section 3-75.

14 (26) Beginning January 1, 2008, tangible personal property
15 used in the construction or maintenance of a community water
16 supply, as defined under Section 3.145 of the Environmental
17 Protection Act, that is operated by a not-for-profit
18 corporation that holds a valid water supply permit issued under
19 Title IV of the Environmental Protection Act. This paragraph is
20 exempt from the provisions of Section 3-75.

21 (27) Beginning on the effective date of this amendatory Act
22 of the 96th General Assembly, equipment used at an energy
23 facility, as that term is defined in Section 1-10 of the
24 Illinois Power Agency Act, located within the State, including
25 replacement parts and equipment and including equipment
26 purchased for lease, but excluding motor vehicles required to

1 be registered under the Illinois Vehicle Code.

2 (28) Beginning on the effective date of this amendatory Act
3 of the 96th General Assembly, feedstock used at an energy
4 facility, as that term is defined in Section 1-10 of the
5 Illinois Power Agency Act, located in this State.

6 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
7 eff. 1-1-08; 95-876, eff. 8-21-08.)

8 Section 15-35. The Service Occupation Tax Act is amended by
9 changing Section 3-5 as follows:

10 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

11 Sec. 3-5. Exemptions. The following tangible personal
12 property is exempt from the tax imposed by this Act:

13 (1) Personal property sold by a corporation, society,
14 association, foundation, institution, or organization, other
15 than a limited liability company, that is organized and
16 operated as a not-for-profit service enterprise for the benefit
17 of persons 65 years of age or older if the personal property
18 was not purchased by the enterprise for the purpose of resale
19 by the enterprise.

20 (2) Personal property purchased by a not-for-profit
21 Illinois county fair association for use in conducting,
22 operating, or promoting the county fair.

23 (3) Personal property purchased by any not-for-profit arts
24 or cultural organization that establishes, by proof required by

1 the Department by rule, that it has received an exemption under
2 Section 501(c)(3) of the Internal Revenue Code and that is
3 organized and operated primarily for the presentation or
4 support of arts or cultural programming, activities, or
5 services. These organizations include, but are not limited to,
6 music and dramatic arts organizations such as symphony
7 orchestras and theatrical groups, arts and cultural service
8 organizations, local arts councils, visual arts organizations,
9 and media arts organizations. On and after the effective date
10 of this amendatory Act of the 92nd General Assembly, however,
11 an entity otherwise eligible for this exemption shall not make
12 tax-free purchases unless it has an active identification
13 number issued by the Department.

14 (4) Legal tender, currency, medallions, or gold or silver
15 coinage issued by the State of Illinois, the government of the
16 United States of America, or the government of any foreign
17 country, and bullion.

18 (5) Until July 1, 2003 and beginning again on September 1,
19 2004, graphic arts machinery and equipment, including repair
20 and replacement parts, both new and used, and including that
21 manufactured on special order or purchased for lease, certified
22 by the purchaser to be used primarily for graphic arts
23 production. Equipment includes chemicals or chemicals acting
24 as catalysts but only if the chemicals or chemicals acting as
25 catalysts effect a direct and immediate change upon a graphic
26 arts product.

1 (6) Personal property sold by a teacher-sponsored student
2 organization affiliated with an elementary or secondary school
3 located in Illinois.

4 (7) Farm machinery and equipment, both new and used,
5 including that manufactured on special order, certified by the
6 purchaser to be used primarily for production agriculture or
7 State or federal agricultural programs, including individual
8 replacement parts for the machinery and equipment, including
9 machinery and equipment purchased for lease, and including
10 implements of husbandry defined in Section 1-130 of the
11 Illinois Vehicle Code, farm machinery and agricultural
12 chemical and fertilizer spreaders, and nurse wagons required to
13 be registered under Section 3-809 of the Illinois Vehicle Code,
14 but excluding other motor vehicles required to be registered
15 under the Illinois Vehicle Code. Horticultural polyhouses or
16 hoop houses used for propagating, growing, or overwintering
17 plants shall be considered farm machinery and equipment under
18 this item (7). Agricultural chemical tender tanks and dry boxes
19 shall include units sold separately from a motor vehicle
20 required to be licensed and units sold mounted on a motor
21 vehicle required to be licensed if the selling price of the
22 tender is separately stated.

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

5 Farm machinery and equipment also includes computers,
6 sensors, software, and related equipment used primarily in the
7 computer-assisted operation of production agriculture
8 facilities, equipment, and activities such as, but not limited
9 to, the collection, monitoring, and correlation of animal and
10 crop data for the purpose of formulating animal diets and
11 agricultural chemicals. This item (7) is exempt from the
12 provisions of Section 3-55.

13 (8) Fuel and petroleum products sold to or used by an air
14 common carrier, certified by the carrier to be used for
15 consumption, shipment, or storage in the conduct of its
16 business as an air common carrier, for a flight destined for or
17 returning from a location or locations outside the United
18 States without regard to previous or subsequent domestic
19 stopovers.

20 (9) Proceeds of mandatory service charges separately
21 stated on customers' bills for the purchase and consumption of
22 food and beverages, to the extent that the proceeds of the
23 service charge are in fact turned over as tips or as a
24 substitute for tips to the employees who participate directly
25 in preparing, serving, hosting or cleaning up the food or
26 beverage function with respect to which the service charge is

1 imposed.

2 (10) Until July 1, 2003, and beginning again on the
3 effective date of this amendatory Act of the 96th General
4 Assembly and thereafter, oil field exploration, drilling, and
5 production equipment, including (i) rigs and parts of rigs,
6 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
7 tubular goods, including casing and drill strings, (iii) pumps
8 and pump-jack units, (iv) storage tanks and flow lines, (v) any
9 individual replacement part for oil field exploration,
10 drilling, and production equipment, and (vi) machinery and
11 equipment purchased for lease; but excluding motor vehicles
12 required to be registered under the Illinois Vehicle Code.

13 (11) Photoprocessing machinery and equipment, including
14 repair and replacement parts, both new and used, including that
15 manufactured on special order, certified by the purchaser to be
16 used primarily for photoprocessing, and including
17 photoprocessing machinery and equipment purchased for lease.

18 (12) Until July 1, 2003, and beginning again on the
19 effective date of this amendatory Act of the 96th General
20 Assembly and thereafter, coal exploration, mining, offhighway
21 hauling, processing, maintenance, and reclamation equipment,
22 including replacement parts and equipment, and including
23 equipment purchased for lease, but excluding motor vehicles
24 required to be registered under the Illinois Vehicle Code. For
25 purposes of this item (12), equipment includes roof bolts and
26 explosives.

1 (13) Beginning January 1, 1992 and through June 30, 2011,
2 food for human consumption that is to be consumed off the
3 premises where it is sold (other than alcoholic beverages, soft
4 drinks and food that has been prepared for immediate
5 consumption) and prescription and non-prescription medicines,
6 drugs, medical appliances, and insulin, urine testing
7 materials, syringes, and needles used by diabetics, for human
8 use, when purchased for use by a person receiving medical
9 assistance under Article 5 of the Illinois Public Aid Code who
10 resides in a licensed long-term care facility, as defined in
11 the Nursing Home Care Act.

12 (14) Semen used for artificial insemination of livestock
13 for direct agricultural production.

14 (15) Horses, or interests in horses, registered with and
15 meeting the requirements of any of the Arabian Horse Club
16 Registry of America, Appaloosa Horse Club, American Quarter
17 Horse Association, United States Trotting Association, or
18 Jockey Club, as appropriate, used for purposes of breeding or
19 racing for prizes. This item (15) is exempt from the provisions
20 of Section 3-55, and the exemption provided for under this item
21 (15) applies for all periods beginning May 30, 1995, but no
22 claim for credit or refund is allowed on or after January 1,
23 2008 (the effective date of Public Act 95-88) for such taxes
24 paid during the period beginning May 30, 2000 and ending on
25 January 1, 2008 (the effective date of Public Act 95-88).

26 (16) Computers and communications equipment utilized for

1 any hospital purpose and equipment used in the diagnosis,
2 analysis, or treatment of hospital patients sold to a lessor
3 who leases the equipment, under a lease of one year or longer
4 executed or in effect at the time of the purchase, to a
5 hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of the
7 Retailers' Occupation Tax Act.

8 (17) Personal property sold to a lessor who leases the
9 property, under a lease of one year or longer executed or in
10 effect at the time of the purchase, to a governmental body that
11 has been issued an active tax exemption identification number
12 by the Department under Section 1g of the Retailers' Occupation
13 Tax Act.

14 (18) Beginning with taxable years ending on or after
15 December 31, 1995 and ending with taxable years ending on or
16 before December 31, 2004, personal property that is donated for
17 disaster relief to be used in a State or federally declared
18 disaster area in Illinois or bordering Illinois by a
19 manufacturer or retailer that is registered in this State to a
20 corporation, society, association, foundation, or institution
21 that has been issued a sales tax exemption identification
22 number by the Department that assists victims of the disaster
23 who reside within the declared disaster area.

24 (19) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is used in the

1 performance of infrastructure repairs in this State, including
2 but not limited to municipal roads and streets, access roads,
3 bridges, sidewalks, waste disposal systems, water and sewer
4 line extensions, water distribution and purification
5 facilities, storm water drainage and retention facilities, and
6 sewage treatment facilities, resulting from a State or
7 federally declared disaster in Illinois or bordering Illinois
8 when such repairs are initiated on facilities located in the
9 declared disaster area within 6 months after the disaster.

10 (20) Beginning July 1, 1999, game or game birds sold at a
11 "game breeding and hunting preserve area" or an "exotic game
12 hunting area" as those terms are used in the Wildlife Code or
13 at a hunting enclosure approved through rules adopted by the
14 Department of Natural Resources. This paragraph is exempt from
15 the provisions of Section 3-55.

16 (21) A motor vehicle, as that term is defined in Section
17 1-146 of the Illinois Vehicle Code, that is donated to a
18 corporation, limited liability company, society, association,
19 foundation, or institution that is determined by the Department
20 to be organized and operated exclusively for educational
21 purposes. For purposes of this exemption, "a corporation,
22 limited liability company, society, association, foundation,
23 or institution organized and operated exclusively for
24 educational purposes" means all tax-supported public schools,
25 private schools that offer systematic instruction in useful
26 branches of learning by methods common to public schools and

1 that compare favorably in their scope and intensity with the
2 course of study presented in tax-supported schools, and
3 vocational or technical schools or institutes organized and
4 operated exclusively to provide a course of study of not less
5 than 6 weeks duration and designed to prepare individuals to
6 follow a trade or to pursue a manual, technical, mechanical,
7 industrial, business, or commercial occupation.

8 (22) Beginning January 1, 2000, personal property,
9 including food, purchased through fundraising events for the
10 benefit of a public or private elementary or secondary school,
11 a group of those schools, or one or more school districts if
12 the events are sponsored by an entity recognized by the school
13 district that consists primarily of volunteers and includes
14 parents and teachers of the school children. This paragraph
15 does not apply to fundraising events (i) for the benefit of
16 private home instruction or (ii) for which the fundraising
17 entity purchases the personal property sold at the events from
18 another individual or entity that sold the property for the
19 purpose of resale by the fundraising entity and that profits
20 from the sale to the fundraising entity. This paragraph is
21 exempt from the provisions of Section 3-55.

22 (23) Beginning January 1, 2000 and through December 31,
23 2001, new or used automatic vending machines that prepare and
24 serve hot food and beverages, including coffee, soup, and other
25 items, and replacement parts for these machines. Beginning
26 January 1, 2002 and through June 30, 2003, machines and parts

1 for machines used in commercial, coin-operated amusement and
2 vending business if a use or occupation tax is paid on the
3 gross receipts derived from the use of the commercial,
4 coin-operated amusement and vending machines. This paragraph
5 is exempt from the provisions of Section 3-55.

6 (24) Beginning on the effective date of this amendatory Act
7 of the 92nd General Assembly, computers and communications
8 equipment utilized for any hospital purpose and equipment used
9 in the diagnosis, analysis, or treatment of hospital patients
10 sold to a lessor who leases the equipment, under a lease of one
11 year or longer executed or in effect at the time of the
12 purchase, to a hospital that has been issued an active tax
13 exemption identification number by the Department under
14 Section 1g of the Retailers' Occupation Tax Act. This paragraph
15 is exempt from the provisions of Section 3-55.

16 (25) Beginning on the effective date of this amendatory Act
17 of the 92nd General Assembly, personal property sold to a
18 lessor who leases the property, under a lease of one year or
19 longer executed or in effect at the time of the purchase, to a
20 governmental body that has been issued an active tax exemption
21 identification number by the Department under Section 1g of the
22 Retailers' Occupation Tax Act. This paragraph is exempt from
23 the provisions of Section 3-55.

24 (26) Beginning on January 1, 2002 and through June 30,
25 2011, tangible personal property purchased from an Illinois
26 retailer by a taxpayer engaged in centralized purchasing

1 activities in Illinois who will, upon receipt of the property
2 in Illinois, temporarily store the property in Illinois (i) for
3 the purpose of subsequently transporting it outside this State
4 for use or consumption thereafter solely outside this State or
5 (ii) for the purpose of being processed, fabricated, or
6 manufactured into, attached to, or incorporated into other
7 tangible personal property to be transported outside this State
8 and thereafter used or consumed solely outside this State. The
9 Director of Revenue shall, pursuant to rules adopted in
10 accordance with the Illinois Administrative Procedure Act,
11 issue a permit to any taxpayer in good standing with the
12 Department who is eligible for the exemption under this
13 paragraph (26). The permit issued under this paragraph (26)
14 shall authorize the holder, to the extent and in the manner
15 specified in the rules adopted under this Act, to purchase
16 tangible personal property from a retailer exempt from the
17 taxes imposed by this Act. Taxpayers shall maintain all
18 necessary books and records to substantiate the use and
19 consumption of all such tangible personal property outside of
20 the State of Illinois.

21 (27) Beginning January 1, 2008, tangible personal property
22 used in the construction or maintenance of a community water
23 supply, as defined under Section 3.145 of the Environmental
24 Protection Act, that is operated by a not-for-profit
25 corporation that holds a valid water supply permit issued under
26 Title IV of the Environmental Protection Act. This paragraph is

1 exempt from the provisions of Section 3-55.

2 (28) Beginning on the effective date of this amendatory Act
3 of the 96th General Assembly, equipment used at an energy
4 facility, as that term is defined in Section 1-10 of the
5 Illinois Power Agency Act, located within the State, including
6 replacement parts and equipment and including equipment
7 purchased for lease, but excluding motor vehicles required to
8 be registered under the Illinois Vehicle Code.

9 (29) Beginning on the effective date of this amendatory Act
10 of the 96th General Assembly, feedstock used at an energy
11 facility, as that term is defined in Section 1-10 of the
12 Illinois Power Agency Act, located in this State.

13 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
14 eff. 1-1-08; 95-876, eff. 8-21-08.)

15 Section 15-40. The Retailers' Occupation Tax Act is amended
16 by changing Sections 2-5 as follows:

17 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

18 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
19 sale of the following tangible personal property are exempt
20 from the tax imposed by this Act:

21 (1) Farm chemicals.

22 (2) Farm machinery and equipment, both new and used,
23 including that manufactured on special order, certified by the
24 purchaser to be used primarily for production agriculture or

1 State or federal agricultural programs, including individual
2 replacement parts for the machinery and equipment, including
3 machinery and equipment purchased for lease, and including
4 implements of husbandry defined in Section 1-130 of the
5 Illinois Vehicle Code, farm machinery and agricultural
6 chemical and fertilizer spreaders, and nurse wagons required to
7 be registered under Section 3-809 of the Illinois Vehicle Code,
8 but excluding other motor vehicles required to be registered
9 under the Illinois Vehicle Code. Horticultural polyhouses or
10 hoop houses used for propagating, growing, or overwintering
11 plants shall be considered farm machinery and equipment under
12 this item (2). Agricultural chemical tender tanks and dry boxes
13 shall include units sold separately from a motor vehicle
14 required to be licensed and units sold mounted on a motor
15 vehicle required to be licensed, if the selling price of the
16 tender is separately stated.

17 Farm machinery and equipment shall include precision
18 farming equipment that is installed or purchased to be
19 installed on farm machinery and equipment including, but not
20 limited to, tractors, harvesters, sprayers, planters, seeders,
21 or spreaders. Precision farming equipment includes, but is not
22 limited to, soil testing sensors, computers, monitors,
23 software, global positioning and mapping systems, and other
24 such equipment.

25 Farm machinery and equipment also includes computers,
26 sensors, software, and related equipment used primarily in the

1 computer-assisted operation of production agriculture
2 facilities, equipment, and activities such as, but not limited
3 to, the collection, monitoring, and correlation of animal and
4 crop data for the purpose of formulating animal diets and
5 agricultural chemicals. This item (7) is exempt from the
6 provisions of Section 2-70.

7 (3) Until July 1, 2003, distillation machinery and
8 equipment, sold as a unit or kit, assembled or installed by the
9 retailer, certified by the user to be used only for the
10 production of ethyl alcohol that will be used for consumption
11 as motor fuel or as a component of motor fuel for the personal
12 use of the user, and not subject to sale or resale.

13 (4) Until July 1, 2003 and beginning again September 1,
14 2004, graphic arts machinery and equipment, including repair
15 and replacement parts, both new and used, and including that
16 manufactured on special order or purchased for lease, certified
17 by the purchaser to be used primarily for graphic arts
18 production. Equipment includes chemicals or chemicals acting
19 as catalysts but only if the chemicals or chemicals acting as
20 catalysts effect a direct and immediate change upon a graphic
21 arts product.

22 (5) A motor vehicle of the first division, a motor vehicle
23 of the second division that is a self contained motor vehicle
24 designed or permanently converted to provide living quarters
25 for recreational, camping, or travel use, with direct walk
26 through access to the living quarters from the driver's seat,

1 or a motor vehicle of the second division that is of the van
2 configuration designed for the transportation of not less than
3 7 nor more than 16 passengers, as defined in Section 1-146 of
4 the Illinois Vehicle Code, that is used for automobile renting,
5 as defined in the Automobile Renting Occupation and Use Tax
6 Act. This paragraph is exempt from the provisions of Section
7 2-70.

8 (6) Personal property sold by a teacher-sponsored student
9 organization affiliated with an elementary or secondary school
10 located in Illinois.

11 (7) Until July 1, 2003, proceeds of that portion of the
12 selling price of a passenger car the sale of which is subject
13 to the Replacement Vehicle Tax.

14 (8) Personal property sold to an Illinois county fair
15 association for use in conducting, operating, or promoting the
16 county fair.

17 (9) Personal property sold to a not-for-profit arts or
18 cultural organization that establishes, by proof required by
19 the Department by rule, that it has received an exemption under
20 Section 501(c)(3) of the Internal Revenue Code and that is
21 organized and operated primarily for the presentation or
22 support of arts or cultural programming, activities, or
23 services. These organizations include, but are not limited to,
24 music and dramatic arts organizations such as symphony
25 orchestras and theatrical groups, arts and cultural service
26 organizations, local arts councils, visual arts organizations,

1 and media arts organizations. On and after the effective date
2 of this amendatory Act of the 92nd General Assembly, however,
3 an entity otherwise eligible for this exemption shall not make
4 tax-free purchases unless it has an active identification
5 number issued by the Department.

6 (10) Personal property sold by a corporation, society,
7 association, foundation, institution, or organization, other
8 than a limited liability company, that is organized and
9 operated as a not-for-profit service enterprise for the benefit
10 of persons 65 years of age or older if the personal property
11 was not purchased by the enterprise for the purpose of resale
12 by the enterprise.

13 (11) Personal property sold to a governmental body, to a
14 corporation, society, association, foundation, or institution
15 organized and operated exclusively for charitable, religious,
16 or educational purposes, or to a not-for-profit corporation,
17 society, association, foundation, institution, or organization
18 that has no compensated officers or employees and that is
19 organized and operated primarily for the recreation of persons
20 55 years of age or older. A limited liability company may
21 qualify for the exemption under this paragraph only if the
22 limited liability company is organized and operated
23 exclusively for educational purposes. On and after July 1,
24 1987, however, no entity otherwise eligible for this exemption
25 shall make tax-free purchases unless it has an active
26 identification number issued by the Department.

1 (12) Tangible personal property sold to interstate
2 carriers for hire for use as rolling stock moving in interstate
3 commerce or to lessors under leases of one year or longer
4 executed or in effect at the time of purchase by interstate
5 carriers for hire for use as rolling stock moving in interstate
6 commerce and equipment operated by a telecommunications
7 provider, licensed as a common carrier by the Federal
8 Communications Commission, which is permanently installed in
9 or affixed to aircraft moving in interstate commerce.

10 (12-5) On and after July 1, 2003 and through June 30, 2004,
11 motor vehicles of the second division with a gross vehicle
12 weight in excess of 8,000 pounds that are subject to the
13 commercial distribution fee imposed under Section 3-815.1 of
14 the Illinois Vehicle Code. Beginning on July 1, 2004 and
15 through June 30, 2005, the use in this State of motor vehicles
16 of the second division: (i) with a gross vehicle weight rating
17 in excess of 8,000 pounds; (ii) that are subject to the
18 commercial distribution fee imposed under Section 3-815.1 of
19 the Illinois Vehicle Code; and (iii) that are primarily used
20 for commercial purposes. Through June 30, 2005, this exemption
21 applies to repair and replacement parts added after the initial
22 purchase of such a motor vehicle if that motor vehicle is used
23 in a manner that would qualify for the rolling stock exemption
24 otherwise provided for in this Act. For purposes of this
25 paragraph, "used for commercial purposes" means the
26 transportation of persons or property in furtherance of any

1 commercial or industrial enterprise whether for-hire or not.

2 (13) Proceeds from sales to owners, lessors, or shippers of
3 tangible personal property that is utilized by interstate
4 carriers for hire for use as rolling stock moving in interstate
5 commerce and equipment operated by a telecommunications
6 provider, licensed as a common carrier by the Federal
7 Communications Commission, which is permanently installed in
8 or affixed to aircraft moving in interstate commerce.

9 (14) Machinery and equipment that will be used by the
10 purchaser, or a lessee of the purchaser, primarily in the
11 process of manufacturing or assembling tangible personal
12 property for wholesale or retail sale or lease, whether the
13 sale or lease is made directly by the manufacturer or by some
14 other person, whether the materials used in the process are
15 owned by the manufacturer or some other person, or whether the
16 sale or lease is made apart from or as an incident to the
17 seller's engaging in the service occupation of producing
18 machines, tools, dies, jigs, patterns, gauges, or other similar
19 items of no commercial value on special order for a particular
20 purchaser.

21 (15) Proceeds of mandatory service charges separately
22 stated on customers' bills for purchase and consumption of food
23 and beverages, to the extent that the proceeds of the service
24 charge are in fact turned over as tips or as a substitute for
25 tips to the employees who participate directly in preparing,
26 serving, hosting or cleaning up the food or beverage function

1 with respect to which the service charge is imposed.

2 (16) Petroleum products sold to a purchaser if the seller
3 is prohibited by federal law from charging tax to the
4 purchaser.

5 (17) Tangible personal property sold to a common carrier by
6 rail or motor that receives the physical possession of the
7 property in Illinois and that transports the property, or
8 shares with another common carrier in the transportation of the
9 property, out of Illinois on a standard uniform bill of lading
10 showing the seller of the property as the shipper or consignor
11 of the property to a destination outside Illinois, for use
12 outside Illinois.

13 (18) Legal tender, currency, medallions, or gold or silver
14 coinage issued by the State of Illinois, the government of the
15 United States of America, or the government of any foreign
16 country, and bullion.

17 (19) Until July 1 2003, and beginning again on the
18 effective date of this amendatory Act of the 96th General
19 Assembly and thereafter, oil field exploration, drilling, and
20 production equipment, including (i) rigs and parts of rigs,
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
22 tubular goods, including casing and drill strings, (iii) pumps
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any
24 individual replacement part for oil field exploration,
25 drilling, and production equipment, and (vi) machinery and
26 equipment purchased for lease; but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code.

2 (20) Photoprocessing machinery and equipment, including
3 repair and replacement parts, both new and used, including that
4 manufactured on special order, certified by the purchaser to be
5 used primarily for photoprocessing, and including
6 photoprocessing machinery and equipment purchased for lease.

7 (21) Until July 1, 2003, and beginning again on the
8 effective date of this amendatory Act of the 96th General
9 Assembly and thereafter, coal exploration, mining, offhighway
10 hauling, processing, maintenance, and reclamation equipment,
11 including replacement parts and equipment, and including
12 equipment purchased for lease, but excluding motor vehicles
13 required to be registered under the Illinois Vehicle Code. For
14 purposes of this item (21), equipment includes roof bolts and
15 explosives.

16 (22) Fuel and petroleum products sold to or used by an air
17 carrier, certified by the carrier to be used for consumption,
18 shipment, or storage in the conduct of its business as an air
19 common carrier, for a flight destined for or returning from a
20 location or locations outside the United States without regard
21 to previous or subsequent domestic stopovers.

22 (23) A transaction in which the purchase order is received
23 by a florist who is located outside Illinois, but who has a
24 florist located in Illinois deliver the property to the
25 purchaser or the purchaser's donee in Illinois.

26 (24) Fuel consumed or used in the operation of ships,

1 barges, or vessels that are used primarily in or for the
2 transportation of property or the conveyance of persons for
3 hire on rivers bordering on this State if the fuel is delivered
4 by the seller to the purchaser's barge, ship, or vessel while
5 it is afloat upon that bordering river.

6 (25) Except as provided in item (25-5) of this Section, a
7 motor vehicle sold in this State to a nonresident even though
8 the motor vehicle is delivered to the nonresident in this
9 State, if the motor vehicle is not to be titled in this State,
10 and if a drive-away permit is issued to the motor vehicle as
11 provided in Section 3-603 of the Illinois Vehicle Code or if
12 the nonresident purchaser has vehicle registration plates to
13 transfer to the motor vehicle upon returning to his or her home
14 state. The issuance of the drive-away permit or having the
15 out-of-state registration plates to be transferred is prima
16 facie evidence that the motor vehicle will not be titled in
17 this State.

18 (25-5) The exemption under item (25) does not apply if the
19 state in which the motor vehicle will be titled does not allow
20 a reciprocal exemption for a motor vehicle sold and delivered
21 in that state to an Illinois resident but titled in Illinois.
22 The tax collected under this Act on the sale of a motor vehicle
23 in this State to a resident of another state that does not
24 allow a reciprocal exemption shall be imposed at a rate equal
25 to the state's rate of tax on taxable property in the state in
26 which the purchaser is a resident, except that the tax shall

1 not exceed the tax that would otherwise be imposed under this
2 Act. At the time of the sale, the purchaser shall execute a
3 statement, signed under penalty of perjury, of his or her
4 intent to title the vehicle in the state in which the purchaser
5 is a resident within 30 days after the sale and of the fact of
6 the payment to the State of Illinois of tax in an amount
7 equivalent to the state's rate of tax on taxable property in
8 his or her state of residence and shall submit the statement to
9 the appropriate tax collection agency in his or her state of
10 residence. In addition, the retailer must retain a signed copy
11 of the statement in his or her records. Nothing in this item
12 shall be construed to require the removal of the vehicle from
13 this state following the filing of an intent to title the
14 vehicle in the purchaser's state of residence if the purchaser
15 titles the vehicle in his or her state of residence within 30
16 days after the date of sale. The tax collected under this Act
17 in accordance with this item (25-5) shall be proportionately
18 distributed as if the tax were collected at the 6.25% general
19 rate imposed under this Act.

20 (25-7) Beginning on July 1, 2007, no tax is imposed under
21 this Act on the sale of an aircraft, as defined in Section 3 of
22 the Illinois Aeronautics Act, if all of the following
23 conditions are met:

24 (1) the aircraft leaves this State within 15 days after
25 the later of either the issuance of the final billing for
26 the sale of the aircraft, or the authorized approval for

1 return to service, completion of the maintenance record
2 entry, and completion of the test flight and ground test
3 for inspection, as required by 14 C.F.R. 91.407;

4 (2) the aircraft is not based or registered in this
5 State after the sale of the aircraft; and

6 (3) the seller retains in his or her books and records
7 and provides to the Department a signed and dated
8 certification from the purchaser, on a form prescribed by
9 the Department, certifying that the requirements of this
10 item (25-7) are met. The certificate must also include the
11 name and address of the purchaser, the address of the
12 location where the aircraft is to be titled or registered,
13 the address of the primary physical location of the
14 aircraft, and other information that the Department may
15 reasonably require.

16 For purposes of this item (25-7):

17 "Based in this State" means hangared, stored, or otherwise
18 used, excluding post-sale customizations as defined in this
19 Section, for 10 or more days in each 12-month period
20 immediately following the date of the sale of the aircraft.

21 "Registered in this State" means an aircraft registered
22 with the Department of Transportation, Aeronautics Division,
23 or titled or registered with the Federal Aviation
24 Administration to an address located in this State.

25 This paragraph (25-7) is exempt from the provisions of
26 Section 2-70.

1 (26) Semen used for artificial insemination of livestock
2 for direct agricultural production.

3 (27) Horses, or interests in horses, registered with and
4 meeting the requirements of any of the Arabian Horse Club
5 Registry of America, Appaloosa Horse Club, American Quarter
6 Horse Association, United States Trotting Association, or
7 Jockey Club, as appropriate, used for purposes of breeding or
8 racing for prizes. This item (27) is exempt from the provisions
9 of Section 2-70, and the exemption provided for under this item
10 (27) applies for all periods beginning May 30, 1995, but no
11 claim for credit or refund is allowed on or after January 1,
12 2008 (the effective date of Public Act 95-88) for such taxes
13 paid during the period beginning May 30, 2000 and ending on
14 January 1, 2008 (the effective date of Public Act 95-88) .

15 (28) Computers and communications equipment utilized for
16 any hospital purpose and equipment used in the diagnosis,
17 analysis, or treatment of hospital patients sold to a lessor
18 who leases the equipment, under a lease of one year or longer
19 executed or in effect at the time of the purchase, to a
20 hospital that has been issued an active tax exemption
21 identification number by the Department under Section 1g of
22 this Act.

23 (29) Personal property sold to a lessor who leases the
24 property, under a lease of one year or longer executed or in
25 effect at the time of the purchase, to a governmental body that
26 has been issued an active tax exemption identification number

1 by the Department under Section 1g of this Act.

2 (30) Beginning with taxable years ending on or after
3 December 31, 1995 and ending with taxable years ending on or
4 before December 31, 2004, personal property that is donated for
5 disaster relief to be used in a State or federally declared
6 disaster area in Illinois or bordering Illinois by a
7 manufacturer or retailer that is registered in this State to a
8 corporation, society, association, foundation, or institution
9 that has been issued a sales tax exemption identification
10 number by the Department that assists victims of the disaster
11 who reside within the declared disaster area.

12 (31) Beginning with taxable years ending on or after
13 December 31, 1995 and ending with taxable years ending on or
14 before December 31, 2004, personal property that is used in the
15 performance of infrastructure repairs in this State, including
16 but not limited to municipal roads and streets, access roads,
17 bridges, sidewalks, waste disposal systems, water and sewer
18 line extensions, water distribution and purification
19 facilities, storm water drainage and retention facilities, and
20 sewage treatment facilities, resulting from a State or
21 federally declared disaster in Illinois or bordering Illinois
22 when such repairs are initiated on facilities located in the
23 declared disaster area within 6 months after the disaster.

24 (32) Beginning July 1, 1999, game or game birds sold at a
25 "game breeding and hunting preserve area" or an "exotic game
26 hunting area" as those terms are used in the Wildlife Code or

1 at a hunting enclosure approved through rules adopted by the
2 Department of Natural Resources. This paragraph is exempt from
3 the provisions of Section 2-70.

4 (33) A motor vehicle, as that term is defined in Section
5 1-146 of the Illinois Vehicle Code, that is donated to a
6 corporation, limited liability company, society, association,
7 foundation, or institution that is determined by the Department
8 to be organized and operated exclusively for educational
9 purposes. For purposes of this exemption, "a corporation,
10 limited liability company, society, association, foundation,
11 or institution organized and operated exclusively for
12 educational purposes" means all tax-supported public schools,
13 private schools that offer systematic instruction in useful
14 branches of learning by methods common to public schools and
15 that compare favorably in their scope and intensity with the
16 course of study presented in tax-supported schools, and
17 vocational or technical schools or institutes organized and
18 operated exclusively to provide a course of study of not less
19 than 6 weeks duration and designed to prepare individuals to
20 follow a trade or to pursue a manual, technical, mechanical,
21 industrial, business, or commercial occupation.

22 (34) Beginning January 1, 2000, personal property,
23 including food, purchased through fundraising events for the
24 benefit of a public or private elementary or secondary school,
25 a group of those schools, or one or more school districts if
26 the events are sponsored by an entity recognized by the school

1 district that consists primarily of volunteers and includes
2 parents and teachers of the school children. This paragraph
3 does not apply to fundraising events (i) for the benefit of
4 private home instruction or (ii) for which the fundraising
5 entity purchases the personal property sold at the events from
6 another individual or entity that sold the property for the
7 purpose of resale by the fundraising entity and that profits
8 from the sale to the fundraising entity. This paragraph is
9 exempt from the provisions of Section 2-70.

10 (35) Beginning January 1, 2000 and through December 31,
11 2001, new or used automatic vending machines that prepare and
12 serve hot food and beverages, including coffee, soup, and other
13 items, and replacement parts for these machines. Beginning
14 January 1, 2002 and through June 30, 2003, machines and parts
15 for machines used in commercial, coin-operated amusement and
16 vending business if a use or occupation tax is paid on the
17 gross receipts derived from the use of the commercial,
18 coin-operated amusement and vending machines. This paragraph
19 is exempt from the provisions of Section 2-70.

20 (35-5) Beginning August 23, 2001 and through June 30, 2011,
21 food for human consumption that is to be consumed off the
22 premises where it is sold (other than alcoholic beverages, soft
23 drinks, and food that has been prepared for immediate
24 consumption) and prescription and nonprescription medicines,
25 drugs, medical appliances, and insulin, urine testing
26 materials, syringes, and needles used by diabetics, for human

1 use, when purchased for use by a person receiving medical
2 assistance under Article 5 of the Illinois Public Aid Code who
3 resides in a licensed long-term care facility, as defined in
4 the Nursing Home Care Act.

5 (36) Beginning August 2, 2001, computers and
6 communications equipment utilized for any hospital purpose and
7 equipment used in the diagnosis, analysis, or treatment of
8 hospital patients sold to a lessor who leases the equipment,
9 under a lease of one year or longer executed or in effect at
10 the time of the purchase, to a hospital that has been issued an
11 active tax exemption identification number by the Department
12 under Section 1g of this Act. This paragraph is exempt from the
13 provisions of Section 2-70.

14 (37) Beginning August 2, 2001, personal property sold to a
15 lessor who leases the property, under a lease of one year or
16 longer executed or in effect at the time of the purchase, to a
17 governmental body that has been issued an active tax exemption
18 identification number by the Department under Section 1g of
19 this Act. This paragraph is exempt from the provisions of
20 Section 2-70.

21 (38) Beginning on January 1, 2002 and through June 30,
22 2011, tangible personal property purchased from an Illinois
23 retailer by a taxpayer engaged in centralized purchasing
24 activities in Illinois who will, upon receipt of the property
25 in Illinois, temporarily store the property in Illinois (i) for
26 the purpose of subsequently transporting it outside this State

1 for use or consumption thereafter solely outside this State or
2 (ii) for the purpose of being processed, fabricated, or
3 manufactured into, attached to, or incorporated into other
4 tangible personal property to be transported outside this State
5 and thereafter used or consumed solely outside this State. The
6 Director of Revenue shall, pursuant to rules adopted in
7 accordance with the Illinois Administrative Procedure Act,
8 issue a permit to any taxpayer in good standing with the
9 Department who is eligible for the exemption under this
10 paragraph (38). The permit issued under this paragraph (38)
11 shall authorize the holder, to the extent and in the manner
12 specified in the rules adopted under this Act, to purchase
13 tangible personal property from a retailer exempt from the
14 taxes imposed by this Act. Taxpayers shall maintain all
15 necessary books and records to substantiate the use and
16 consumption of all such tangible personal property outside of
17 the State of Illinois.

18 (39) Beginning January 1, 2008, tangible personal property
19 used in the construction or maintenance of a community water
20 supply, as defined under Section 3.145 of the Environmental
21 Protection Act, that is operated by a not-for-profit
22 corporation that holds a valid water supply permit issued under
23 Title IV of the Environmental Protection Act. This paragraph is
24 exempt from the provisions of Section 2-70.

25 (40) Beginning on the effective date of this amendatory Act
26 of the 96th General Assembly, equipment used at an energy

1 facility, as that term is defined in Section 1-10 of the
2 Illinois Power Agency Act, located within the State, including
3 replacement parts and equipment and including equipment
4 purchased for lease, but excluding motor vehicles required to
5 be registered under the Illinois Vehicle Code.

6 (41) Beginning on the effective date of this amendatory Act
7 of the 96th General Assembly, feedstock used at an energy
8 facility, as that term is defined in Section 1-10 of the
9 Illinois Power Agency Act, located in this State.

10 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,
11 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;
12 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

13 Section 15-43. The Property Tax Code is amended by adding
14 Section 10-203 as follows:

15 (35 ILCS 200/10-203 new)

16 Sec. 10-203. Real property tax; energy facilities. Any real
17 property used by an energy facility, as that term is defined in
18 Section 1-10 of the Illinois Power Agency Act, may be the
19 subject of a real property tax assessment voluntarily entered
20 into between the taxpayer and thee taxing districts in which
21 the property is situated. Governing bodies and other
22 appropriate authorities, including county and State board or
23 officials, may be parties to an agreement. Any agreement may
24 provide that an assessment of the real property subject to the

1 agreement, determined in accordance with applicable valuation
2 procedures of this Code, be fixed for a term of years,
3 beginning with the assessment date of the year in which the
4 energy facility begins commercial operations. An agreement may
5 be for a term of years up to, but not exceeding, 20 years. The
6 agreement may also provide that the parties agree not to
7 challenge the assessment as provided in the agreement.

8 If an agreement is entered into between the parties after
9 the assessment date of the year in which the energy facility
10 begins commercial operations, then the agreement shall not
11 provide for a revision of assessment of the property subject to
12 the agreement for any years prior to the year in which the
13 agreement was entered into by the parties. An agreement may
14 also provide that the parties agree not to initiate revision of
15 assessments of property subject to the agreement for prior
16 assessment years not subject to the agreement for reasons
17 related to the entering into an agreement.

18 Section 15-45. The Environmental Protection Act is amended
19 by adding Section 28.7 as follows:

20 (415 ILCS 5/28.7 new)

21 Sec. 28.7. Expedited process. The rules of the Agency and
22 Board must include a process for expediting the issuance of
23 permits and licenses for projects at energy facilities, as that
24 term is used in Section 1-10 the Illinois Power Agency Act. The

1 Agency and Board may engage the experts and additional
2 resources that are reasonably necessary for implementing this
3 process. An applicant must request the use of an expedited
4 process, and any additional costs for using that process shall
5 be borne by the applicant.

6 Section 15-50. The Eminent Domain Act is amended by
7 changing Sections 5-5-5, 15-5-5, and 15-5-25 as follows:

8 (735 ILCS 30/5-5-5)

9 Sec. 5-5-5. Exercise of the power of eminent domain; public
10 use; blight.

11 (a) In addition to all other limitations and requirements,
12 a condemning authority may not take or damage property by the
13 exercise of the power of eminent domain unless it is for a
14 public use, as set forth in this Section.

15 (a-5) Subsections (b), (c), (d), (e), and (f) of this
16 Section do not apply to the acquisition of property under the
17 O'Hare Modernization Act. A condemning authority may exercise
18 the power of eminent domain for the acquisition or damaging of
19 property under the O'Hare Modernization Act as provided for by
20 law in effect prior to the effective date of this Act.

21 (a-10) Subsections (b), (c), (d), (e), and (f) of this
22 Section do not apply to the acquisition or damaging of property
23 in furtherance of the goals and objectives of an existing tax
24 increment allocation redevelopment plan. A condemning

1 authority may exercise the power of eminent domain for the
2 acquisition of property in furtherance of an existing tax
3 increment allocation redevelopment plan as provided for by law
4 in effect prior to the effective date of this Act.

5 As used in this subsection, "existing tax increment
6 allocation redevelopment plan" means a redevelopment plan that
7 was adopted under the Tax Increment Allocation Redevelopment
8 Act (Article 11, Division 74.4 of the Illinois Municipal Code)
9 prior to April 15, 2006 and for which property assembly costs
10 were, before that date, included as a budget line item in the
11 plan or described in the narrative portion of the plan as part
12 of the redevelopment project, but does not include (i) any
13 additional area added to the redevelopment project area on or
14 after April 15, 2006, (ii) any subsequent extension of the
15 completion date of a redevelopment plan beyond the estimated
16 completion date established in that plan prior to April 15,
17 2006, (iii) any acquisition of property in a conservation area
18 for which the condemnation complaint is filed more than 12
19 years after the effective date of this Act, or (iv) any
20 acquisition of property in an industrial park conservation
21 area.

22 As used in this subsection, "conservation area" and
23 "industrial park conservation area" have the same meanings as
24 under Section 11-74.4-3 of the Illinois Municipal Code.

25 (b) If the exercise of eminent domain authority is to
26 acquire property for public ownership and control, then the

1 condemning authority must prove that (i) the acquisition of the
2 property is necessary for a public purpose and (ii) the
3 acquired property will be owned and controlled by the
4 condemning authority or another governmental entity.

5 (c) Except when the acquisition is governed by subsection
6 (b) or is primarily for one of the purposes specified in
7 subsection (d), (e), or (f) and the condemning authority elects
8 to proceed under one of those subsections, if the exercise of
9 eminent domain authority is to acquire property for private
10 ownership or control, or both, then the condemning authority
11 must prove by clear and convincing evidence that the
12 acquisition of the property for private ownership or control is
13 (i) primarily for the benefit, use, or enjoyment of the public
14 and (ii) necessary for a public purpose.

15 An acquisition of property primarily for the purpose of the
16 elimination of blight is rebuttably presumed to be for a public
17 purpose and primarily for the benefit, use, or enjoyment of the
18 public under this subsection.

19 Any challenge to the existence of blighting factors alleged
20 in a complaint to condemn under this subsection shall be raised
21 within 6 months of the filing date of the complaint to condemn,
22 and if not raised within that time the right to challenge the
23 existence of those blighting factors shall be deemed waived.

24 Evidence that the Illinois Commerce Commission has granted
25 a certificate or otherwise made a finding of public convenience
26 and necessity for an acquisition of property (or any right or

1 interest in property) for private ownership or control
2 (including, without limitation, an acquisition for which the
3 use of eminent domain is authorized under the Public Utilities
4 Act, the Telephone Company Act, the Common Carrier by Pipeline
5 Law, or the Electric Supplier Act) to be used for utility
6 purposes, including common carrier purposes, creates a
7 presumption rebuttable only by clear and convincing evidence
8 not available at the time of the proceeding before the
9 Commission, ~~rebuttable presumption~~ that such acquisition of
10 that property (or right or interest in property) is (i)
11 primarily for the benefit, use, or enjoyment of the public and
12 (ii) necessary for a public purpose.

13 In the case of an acquisition of property (or any right or
14 interest in property) for private ownership or control to be
15 used for utility, pipeline, or railroad purposes for which no
16 certificate or finding of public convenience and necessity by
17 the Illinois Commerce Commission is required, evidence that the
18 acquisition is one for which the use of eminent domain is
19 authorized under one of the following laws creates a rebuttable
20 presumption that the acquisition of that property (or right or
21 interest in property) is (i) primarily for the benefit, use, or
22 enjoyment of the public and (ii) necessary for a public
23 purpose:

- 24 (1) the Public Utilities Act,
25 (2) the Telephone Company Act,
26 (3) the Electric Supplier Act,

- 1 (4) the Railroad Terminal Authority Act,
- 2 (5) the Grand Avenue Railroad Relocation Authority
- 3 Act,
- 4 (6) the West Cook Railroad Relocation and Development
- 5 Authority Act,
- 6 (7) Section 4-505 of the Illinois Highway Code,
- 7 (8) Section 17 or 18 of the Railroad Incorporation Act,
- 8 (9) Section 18c-7501 of the Illinois Vehicle Code, or
- 9 (10) Section 1-21 of the Illinois Power Agency Act.

10 (d) If the exercise of eminent domain authority is to
11 acquire property for private ownership or control and if the
12 primary basis for the acquisition is the elimination of blight
13 and the condemning authority elects to proceed under this
14 subsection, then the condemning authority must: (i) prove by a
15 preponderance of the evidence that acquisition of the property
16 for private ownership or control is necessary for a public
17 purpose; (ii) prove by a preponderance of the evidence that the
18 property to be acquired is located in an area that is currently
19 designated as a blighted area or conservation area under an
20 applicable statute; (iii) if the existence of blight or
21 blighting factors is challenged in an appropriate motion filed
22 within 6 months after the date of filing of the complaint to
23 condemn, prove by a preponderance of the evidence that the
24 required blighting factors existed in the area so designated
25 (but not necessarily in the particular property to be acquired)
26 at the time of the designation under item (ii) or at any time

1 thereafter; and (iv) prove by a preponderance of the evidence
2 at least one of the following:

3 (A) that it has entered into an express written
4 agreement in which a private person or entity agrees to
5 undertake a development project within the blighted area
6 that specifically details the reasons for which the
7 property or rights in that property are necessary for the
8 development project;

9 (B) that the exercise of eminent domain power and the
10 proposed use of the property by the condemning authority
11 are consistent with a regional plan that has been adopted
12 within the past 5 years in accordance with Section 5-14001
13 of the Counties Code or Section 11-12-6 of the Illinois
14 Municipal Code or with a local land resource management
15 plan adopted under Section 4 of the Local Land Resource
16 Management Planning Act; or

17 (C) that (1) the acquired property will be used in the
18 development of a project that is consistent with the land
19 uses set forth in a comprehensive redevelopment plan
20 prepared in accordance with the applicable statute
21 authorizing the condemning authority to exercise the power
22 of eminent domain and is consistent with the goals and
23 purposes of that comprehensive redevelopment plan, and (2)
24 an enforceable written agreement, deed restriction, or
25 similar encumbrance has been or will be executed and
26 recorded against the acquired property to assure that the

1 project and the use of the property remain consistent with
2 those land uses, goals, and purposes for a period of at
3 least 40 years, which execution and recording shall be
4 included as a requirement in any final order entered in the
5 condemnation proceeding.

6 The existence of an ordinance, resolution, or other
7 official act designating an area as blighted is not prima facie
8 evidence of the existence of blight. A finding by the court in
9 a condemnation proceeding that a property or area has not been
10 proven to be blighted does not apply to any other case or
11 undermine the designation of a blighted area or conservation
12 area or the determination of the existence of blight for any
13 other purpose or under any other statute, including without
14 limitation under the Tax Increment Allocation Redevelopment
15 Act (Article 11, Division 74.4 of the Illinois Municipal Code).

16 Any challenge to the existence of blighting factors alleged
17 in a complaint to condemn under this subsection shall be raised
18 within 6 months of the filing date of the complaint to condemn,
19 and if not raised within that time the right to challenge the
20 existence of those blighting factors shall be deemed waived.

21 (e) If the exercise of eminent domain authority is to
22 acquire property for private ownership or control and if the
23 primary purpose of the acquisition is one of the purposes
24 specified in item (iii) of this subsection and the condemning
25 authority elects to proceed under this subsection, then the
26 condemning authority must prove by a preponderance of the

1 evidence that: (i) the acquisition of the property is necessary
2 for a public purpose; (ii) an enforceable written agreement,
3 deed restriction, or similar encumbrance has been or will be
4 executed and recorded against the acquired property to assure
5 that the project and the use of the property remain consistent
6 with the applicable purpose specified in item (iii) of this
7 subsection for a period of at least 40 years, which execution
8 and recording shall be included as a requirement in any final
9 order entered in the condemnation proceeding; and (iii) the
10 acquired property will be one of the following:

11 (1) included in the project site for a residential
12 project, or a mixed-use project including residential
13 units, where not less than 20% of the residential units in
14 the project are made available, for at least 15 years, by
15 deed restriction, long-term lease, regulatory agreement,
16 extended use agreement, or a comparable recorded
17 encumbrance, to low-income households and very low-income
18 households, as defined in Section 3 of the Illinois
19 Affordable Housing Act;

20 (2) used primarily for public airport, road, parking,
21 or mass transportation purposes and sold or leased to a
22 private party in a sale-leaseback, lease-leaseback, or
23 similar structured financing;

24 (3) owned or used by a public utility or electric
25 cooperative for utility purposes;

26 (4) owned or used by a railroad for passenger or

1 freight transportation purposes;

2 (5) sold or leased to a private party that operates a
3 water supply, waste water, recycling, waste disposal,
4 waste-to-energy, or similar facility;

5 (6) sold or leased to a not-for-profit corporation
6 whose purposes include the preservation of open space, the
7 operation of park space, and similar public purposes;

8 (7) used as a library, museum, or related facility, or
9 as infrastructure related to such a facility;

10 (8) used by a private party for the operation of a
11 charter school open to the general public; or

12 (9) a historic resource, as defined in Section 3 of the
13 Illinois State Agency Historic Resources Preservation Act,
14 a landmark designated as such under a local ordinance, or a
15 contributing structure within a local landmark district
16 listed on the National Register of Historic Places, that is
17 being acquired for purposes of preservation or
18 rehabilitation.

19 (f) If the exercise of eminent domain authority is to
20 acquire property for public ownership and private control and
21 if the primary purpose of the acquisition is one of the
22 purposes specified in item (iii) of this subsection and the
23 condemning authority elects to proceed under this subsection,
24 then the condemning authority must prove by a preponderance of
25 the evidence that: (i) the acquisition of the property is
26 necessary for a public purpose; (ii) the acquired property will

1 be owned by the condemning authority or another governmental
2 entity; and (iii) the acquired property will be controlled by a
3 private party that operates a business or facility related to
4 the condemning authority's operation of a university, medical
5 district, hospital, exposition or convention center, mass
6 transportation facility, or airport, including, but not
7 limited to, a medical clinic, research and development center,
8 food or commercial concession facility, social service
9 facility, maintenance or storage facility, cargo facility,
10 rental car facility, bus facility, taxi facility, flight
11 kitchen, fixed based operation, parking facility, refueling
12 facility, water supply facility, and railroad tracks and
13 stations.

14 (g) This Article is a limitation on the exercise of the
15 power of eminent domain, but is not an independent grant of
16 authority to exercise the power of eminent domain.

17 (Source: P.A. 94-1055, eff. 1-1-07.)

18 (735 ILCS 30/15-5-5)

19 Sec. 15-5-5. Eminent domain powers in ILCS Chapters 5
20 through 40. The following provisions of law may include express
21 grants of the power to acquire property by condemnation or
22 eminent domain:

23 (5 ILCS 220/3.1); Intergovernmental Cooperation Act;
24 cooperating entities; for Municipal Joint Action Water

1 Agency purposes.

2 (5 ILCS 220/3.2); Intergovernmental Cooperation Act;
3 cooperating entities; for Municipal Joint Action Agency
4 purposes.

5 (5 ILCS 585/1); National Forest Land Act; United States of
6 America; for national forests.

7 (15 ILCS 330/2); Secretary of State Buildings in Cook County
8 Act; Secretary of State; for office facilities in Cook
9 County.

10 (20 ILCS 5/5-675); Civil Administrative Code of Illinois; the
11 Secretary of Transportation, the Director of Natural
12 Resources, and the Director of Central Management
13 Services; for lands, buildings, and grounds for which an
14 appropriation is made by the General Assembly.

15 (20 ILCS 620/9); Economic Development Area Tax Increment
16 Allocation Act; municipalities; to achieve the objectives
17 of the economic development project.

18 (20 ILCS 685/1); Particle Accelerator Land Acquisition Act;
19 Department of Commerce and Economic Opportunity; for a
20 federal high energy BEV Particle Accelerator.

21 (20 ILCS 835/2); State Parks Act; Department of Natural
22 Resources; for State parks.

23 (20 ILCS 1110/3); Illinois Coal and Energy Development Bond
24 Act; Department of Commerce and Economic Opportunity; for
25 coal projects.

26 (20 ILCS 1920/2.06); Abandoned Mined Lands and Water

1 Reclamation Act; Department of Natural Resources; for
2 reclamation purposes.

3 (20 ILCS 1920/2.08); Abandoned Mined Lands and Water
4 Reclamation Act; Department of Natural Resources; for
5 reclamation purposes and for the construction or
6 rehabilitation of housing.

7 (20 ILCS 1920/2.11); Abandoned Mined Lands and Water
8 Reclamation Act; Department of Natural Resources; for
9 eliminating hazards.

10 (20 ILCS 3105/9.08a); Capital Development Board Act; Capital
11 Development Board; for lands, buildings and grounds for
12 which an appropriation is made by the General Assembly.

13 (20 ILCS 3110/5); Building Authority Act; Capital Development
14 Board; for purposes declared by the General Assembly to be
15 in the public interest.

16 (20 ILCS 3855/1-21) Illinois Power Agency Act; Illinois Power
17 Agency; for construction, maintenance, and operations of
18 energy facilities, and for the purpose of acquiring
19 easements for the delivery, transportation, and storage of
20 CO₂.

21 (40 ILCS 5/15-167); Illinois Pension Code; State Universities
22 Retirement System; for real estate acquired for the use of
23 the System.

24 (Source: P.A. 94-1055, eff. 1-1-07.)

25 (735 ILCS 30/15-5-25)

1 Sec. 15-5-25. Eminent domain powers in ILCS Chapters 205
2 through 430. The following provisions of law may include
3 express grants of the power to acquire property by condemnation
4 or eminent domain:

5 (220 ILCS 5/8-509); Public Utilities Act; public utilities; for
6 construction of certain improvements.

7 (220 ICLS 5/15-401); Common Carrier by Pipeline Law; common
8 carriers by pipeline for construction of certain pipelines
9 and facilities.

10 (220 ILCS 15/1); Gas Storage Act; corporations engaged in the
11 distribution, transportation, or storage of natural gas or
12 manufactured gas; for their operations.

13 (220 ILCS 15/2 and 15/6); Gas Storage Act; corporations engaged
14 in the distribution, transportation, or storage of natural
15 gas or manufactured gas; for use of an underground
16 geological formation for gas storage.

17 (220 ILCS 30/13); Electric Supplier Act; electric
18 cooperatives; for general purposes.

19 (220 ILCS 55/3); Telegraph Act; telegraph companies; for
20 telegraph lines.

21 (220 ILCS 65/4); Telephone Company Act; telecommunications
22 carriers; for telephone company purposes.

23 (225 ILCS 435/23); Ferries Act; ferry operators; for a landing,
24 ferryhouse, or approach.

25 (225 ILCS 440/9); Highway Advertising Control Act of 1971;

1 Department of Transportation; for removal of signs
2 adjacent to highways.

3 (310 ILCS 5/6 and 5/38); State Housing Act; housing
4 corporations; for general purposes.

5 (310 ILCS 10/8.3); Housing Authorities Act; housing
6 authorities; for general purposes.

7 (310 ILCS 10/8.15); Housing Authorities Act; housing
8 authorities; for implementation of conservation plans and
9 demolition.

10 (310 ILCS 10/9); Housing Authorities Act; housing authorities;
11 for general purposes.

12 (310 ILCS 20/5); Housing Development and Construction Act;
13 housing authorities; for development or redevelopment.

14 (310 ILCS 35/2); House Relocation Act; political subdivisions
15 and municipal corporations; for relocation of dwellings
16 for highway construction.

17 (315 ILCS 5/14); Blighted Areas Redevelopment Act of 1947; land
18 clearance commissions; for redevelopment projects.

19 (315 ILCS 10/5); Blighted Vacant Areas Development Act of 1949;
20 State of Illinois; for housing development.

21 (315 ILCS 20/9 and 20/42); Neighborhood Redevelopment
22 Corporation Law; neighborhood redevelopment corporations;
23 for general purposes.

24 (315 ILCS 25/4 and 25/6); Urban Community Conservation Act;
25 municipal conservation boards; for conservation areas.

26 (315 ILCS 30/12); Urban Renewal Consolidation Act of 1961;

1 municipal departments of urban renewal; for blighted area
2 redevelopment projects.

3 (315 ILCS 30/20 and 30/22); Urban Renewal Consolidation Act of
4 1961; municipal departments of urban renewal; for
5 implementing conservation areas.

6 (315 ILCS 30/24); Urban Renewal Consolidation Act of 1961;
7 municipal departments of urban renewal; for general
8 purposes.

9 (415 ILCS 95/6); Junkyard Act; Department of Transportation;
10 for junkyards or scrap processing facilities.

11 (420 ILCS 35/1); Radioactive Waste Storage Act; Illinois
12 Emergency Management Agency; for radioactive by-product
13 and waste storage.

14 (Source: P.A. 94-1055, eff. 1-1-07.)

15 Article 99.

16 Section 99-995. No acceleration or delay. Where this Act
17 makes changes in a statute that is represented in this Act by
18 text that is not yet or no longer in effect (for example, a
19 Section represented by multiple versions), the use of that text
20 does not accelerate or delay the taking effect of (i) the
21 changes made by this Act or (ii) provisions derived from any
22 other Public Act.

23 Section 99-997. Severability. The provisions of this Act

1 are severable under Section 1.31 of the Statute on Statutes.

2 Section 99-999. Effective date. This Act takes effect July
3 1, 2009.".