

1 AMENDMENT TO SENATE BILL 75

2 AMENDMENT NO. _____. Amend Senate Bill 75 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance is amended by adding
5 Section 5.545 as follows:

6 (30 ILCS 105/5.545 new)

7 Sec. 5.545. The Distressed Communities and Industries
8 Fund. Subsections (b) and (c) of Section 5 of this Act do not
9 apply to this Fund.

10 Section 10. The Illinois Income Tax Act is amended by
11 changing Section 201 as follows:

12 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

13 Sec. 201. Tax Imposed.

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

1 (b) Rates. The tax imposed by subsection (a) of this
2 Section shall be determined as follows, except as adjusted by
3 subsection (d-1):

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

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

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

19 (4) (Blank).

20 (5) (Blank).

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

24 (7) In the case of a corporation, for taxable years
25 beginning prior to July 1, 1989 and ending after June 30,
26 1989, an amount equal to the sum of (i) 4% of the
27 taxpayer's net income for the period prior to July 1,
28 1989, as calculated under Section 202.3, and (ii) 4.8% of
29 the taxpayer's net income for the period after June 30,
30 1989, as calculated under Section 202.3.

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

34 (c) Beginning on July 1, 1979 and thereafter, in

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

13 (d) Additional Personal Property Tax Replacement Income
14 Tax Rates. The personal property tax replacement income tax
15 imposed by this subsection and subsection (c) of this Section
16 in the case of a corporation, other than a Subchapter S
17 corporation and except as adjusted by subsection (d-1), shall
18 be an additional amount equal to 2.85% of such taxpayer's net
19 income for the taxable year, except that beginning on January
20 1, 1981, and thereafter, the rate of 2.85% specified in this
21 subsection shall be reduced to 2.5%, and in the case of a
22 partnership, trust or a Subchapter S corporation shall be an
23 additional amount equal to 1.5% of such taxpayer's net income
24 for the taxable year.

25 (d-1) Rate reduction for certain foreign insurers. In
26 the case of a foreign insurer, as defined by Section 35A-5 of
27 the Illinois Insurance Code, whose state or country of
28 domicile imposes on insurers domiciled in Illinois a
29 retaliatory tax (excluding any insurer whose premiums from
30 reinsurance assumed are 50% or more of its total insurance
31 premiums as determined under paragraph (2) of subsection (b)
32 of Section 304, except that for purposes of this
33 determination premiums from reinsurance do not include
34 premiums from inter-affiliate reinsurance arrangements),

1 beginning with taxable years ending on or after December 31,
2 1999, the sum of the rates of tax imposed by subsections (b)
3 and (d) shall be reduced (but not increased) to the rate at
4 which the total amount of tax imposed under this Act, net of
5 all credits allowed under this Act, shall equal (i) the total
6 amount of tax that would be imposed on the foreign insurer's
7 net income allocable to Illinois for the taxable year by such
8 foreign insurer's state or country of domicile if that net
9 income were subject to all income taxes and taxes measured by
10 net income imposed by such foreign insurer's state or country
11 of domicile, net of all credits allowed or (ii) a rate of
12 zero if no such tax is imposed on such income by the foreign
13 insurer's state of domicile. For the purposes of this
14 subsection (d-1), an inter-affiliate includes a mutual
15 insurer under common management.

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

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

23 (B) the privilege tax imposed by Section 409
24 of the Illinois Insurance Code, the fire insurance
25 company tax imposed by Section 12 of the Fire
26 Investigation Act, and the fire department taxes
27 imposed under Section 11-10-1 of the Illinois
28 Municipal Code,

29 equals 1.25% of the net taxable premiums written for the
30 taxable year, as described by subsection (1) of Section
31 409 of the Illinois Insurance Code. This paragraph will
32 in no event increase the rates imposed under subsections
33 (b) and (d).

34 (2) Any reduction in the rates of tax imposed by

1 this subsection shall be applied first against the rates
2 imposed by subsection (b) and only after the tax imposed
3 by subsection (a) net of all credits allowed under this
4 Section other than the credit allowed under subsection
5 (i) has been reduced to zero, against the rates imposed
6 by subsection (d).

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

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

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

1 The investment credit shall not be allowed to the extent
2 that it would reduce a taxpayer's liability in any tax
3 year below zero, nor may any credit for qualified
4 property be allowed for any year other than the year in
5 which the property was placed in service in Illinois. For
6 tax years ending on or after December 31, 1987, and on or
7 before December 31, 1988, the credit shall be allowed for
8 the tax year in which the property is placed in service,
9 or, if the amount of the credit exceeds the tax liability
10 for that year, whether it exceeds the original liability
11 or the liability as later amended, such excess may be
12 carried forward and applied to the tax liability of the 5
13 taxable years following the excess credit years if the
14 taxpayer (i) makes investments which cause the creation
15 of a minimum of 2,000 full-time equivalent jobs in
16 Illinois, (ii) is located in an enterprise zone
17 established pursuant to the Illinois Enterprise Zone Act
18 and (iii) is certified by the Department of Commerce and
19 Community Affairs as complying with the requirements
20 specified in clause (i) and (ii) by July 1, 1986. The
21 Department of Commerce and Community Affairs shall notify
22 the Department of Revenue of all such certifications
23 immediately. For tax years ending after December 31,
24 1988, the credit shall be allowed for the tax year in
25 which the property is placed in service, or, if the
26 amount of the credit exceeds the tax liability for that
27 year, whether it exceeds the original liability or the
28 liability as later amended, such excess may be carried
29 forward and applied to the tax liability of the 5 taxable
30 years following the excess credit years. The credit shall
31 be applied to the earliest year for which there is a
32 liability. If there is credit from more than one tax year
33 that is available to offset a liability, earlier credit
34 shall be applied first.

1 (2) The term "qualified property" means property
2 which:

3 (A) is tangible, whether new or used,
4 including buildings and structural components of
5 buildings and signs that are real property, but not
6 including land or improvements to real property that
7 are not a structural component of a building such as
8 landscaping, sewer lines, local access roads,
9 fencing, parking lots, and other appurtenances;

10 (B) is depreciable pursuant to Section 167 of
11 the Internal Revenue Code, except that "3-year
12 property" as defined in Section 168(c)(2)(A) of that
13 Code is not eligible for the credit provided by this
14 subsection (e);

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

17 (D) is used in Illinois by a taxpayer who is
18 primarily engaged in manufacturing, or in mining
19 coal or fluorite, or in retailing; and

20 (E) has not previously been used in Illinois
21 in such a manner and by such a person as would
22 qualify for the credit provided by this subsection
23 (e) or subsection (f).

24 (3) For purposes of this subsection (e),
25 "manufacturing" means the material staging and production
26 of tangible personal property by procedures commonly
27 regarded as manufacturing, processing, fabrication, or
28 assembling which changes some existing material into new
29 shapes, new qualities, or new combinations. For purposes
30 of this subsection (e) the term "mining" shall have the
31 same meaning as the term "mining" in Section 613(c) of
32 the Internal Revenue Code. For purposes of this
33 subsection (e), the term "retailing" means the sale of
34 tangible personal property or services rendered in

1 conjunction with the sale of tangible consumer goods or
2 commodities.

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

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

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

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

31 (8) Unless the investment credit is extended by
32 law, the basis of qualified property shall not include
33 costs incurred after December 31, 2003, except for costs
34 incurred pursuant to a binding contract entered into on

1 or before December 31, 2003.

2 (9) Each taxable year ending before December 31,
3 2000, a partnership may elect to pass through to its
4 partners the credits to which the partnership is entitled
5 under this subsection (e) for the taxable year. A
6 partner may use the credit allocated to him or her under
7 this paragraph only against the tax imposed in
8 subsections (c) and (d) of this Section. If the
9 partnership makes that election, those credits shall be
10 allocated among the partners in the partnership in
11 accordance with the rules set forth in Section 704(b) of
12 the Internal Revenue Code, and the rules promulgated
13 under that Section, and the allocated amount of the
14 credits shall be allowed to the partners for that taxable
15 year. The partnership shall make this election on its
16 Personal Property Tax Replacement Income Tax return for
17 that taxable year. The election to pass through the
18 credits shall be irrevocable.

19 For taxable years ending on or after December 31,
20 2000, a partner that qualifies its partnership for a
21 subtraction under subparagraph (I) of paragraph (2) of
22 subsection (d) of Section 203 or a shareholder that
23 qualifies a Subchapter S corporation for a subtraction
24 under subparagraph (S) of paragraph (2) of subsection (b)
25 of Section 203 shall be allowed a credit under this
26 subsection (e) equal to its share of the credit earned
27 under this subsection (e) during the taxable year by the
28 partnership or Subchapter S corporation, determined in
29 accordance with the determination of income and
30 distributive share of income under Sections 702 and 704
31 and Subchapter S of the Internal Revenue Code. This
32 paragraph is exempt from the provisions of Section 250.

33 (f) Investment credit; Enterprise Zone.

34 (1) A taxpayer shall be allowed a credit against

1 the tax imposed by subsections (a) and (b) of this
2 Section for investment in qualified property which is
3 placed in service in an Enterprise Zone created pursuant
4 to the Illinois Enterprise Zone Act. For partners,
5 shareholders of Subchapter S corporations, and owners of
6 limited liability companies, if the liability company is
7 treated as a partnership for purposes of federal and
8 State income taxation, there shall be allowed a credit
9 under this subsection (f) to be determined in accordance
10 with the determination of income and distributive share
11 of income under Sections 702 and 704 and Subchapter S of
12 the Internal Revenue Code. The credit shall be .5% of the
13 basis for such property. The credit shall be available
14 only in the taxable year in which the property is placed
15 in service in the Enterprise Zone and shall not be
16 allowed to the extent that it would reduce a taxpayer's
17 liability for the tax imposed by subsections (a) and (b)
18 of this Section to below zero. For tax years ending on or
19 after December 31, 1985, the credit shall be allowed for
20 the tax year in which the property is placed in service,
21 or, if the amount of the credit exceeds the tax liability
22 for that year, whether it exceeds the original liability
23 or the liability as later amended, such excess may be
24 carried forward and applied to the tax liability of the 5
25 taxable years following the excess credit year. The
26 credit shall be applied to the earliest year for which
27 there is a liability. If there is credit from more than
28 one tax year that is available to offset a liability, the
29 credit accruing first in time shall be applied first.

30 (2) The term qualified property means property
31 which:

32 (A) is tangible, whether new or used,
33 including buildings and structural components of
34 buildings;

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

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

8 (D) is used in the Enterprise Zone by the
9 taxpayer; and

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

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

17 (4) If the basis of the property for federal income
18 tax depreciation purposes is increased after it has been
19 placed in service in the Enterprise Zone by the taxpayer,
20 the amount of such increase shall be deemed property
21 placed in service on the date of such increase in basis.

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

25 (6) If during any taxable year, any property ceases
26 to be qualified property in the hands of the taxpayer
27 within 48 months after being placed in service, or the
28 situs of any qualified property is moved outside the
29 Enterprise Zone within 48 months after being placed in
30 service, the tax imposed under subsections (a) and (b) of
31 this Section for such taxable year shall be increased.
32 Such increase shall be determined by (i) recomputing the
33 investment credit which would have been allowed for the
34 year in which credit for such property was originally

1 allowed by eliminating such property from such
2 computation, and (ii) subtracting such recomputed credit
3 from the amount of credit previously allowed. For the
4 purposes of this paragraph (6), a reduction of the basis
5 of qualified property resulting from a redetermination of
6 the purchase price shall be deemed a disposition of
7 qualified property to the extent of such reduction.

8 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
9 Zone or Sub-Zone.

10 (1) A taxpayer conducting a trade or business in an
11 enterprise zone or a High Impact Business designated by
12 the Department of Commerce and Community Affairs
13 conducting a trade or business in a federally designated
14 Foreign Trade Zone or Sub-Zone shall be allowed a credit
15 against the tax imposed by subsections (a) and (b) of
16 this Section in the amount of \$500 per eligible employee
17 hired to work in the zone during the taxable year.

18 (2) To qualify for the credit:

19 (A) the taxpayer must hire 5 or more eligible
20 employees to work in an enterprise zone or federally
21 designated Foreign Trade Zone or Sub-Zone during the
22 taxable year;

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

31 (C) the eligible employees must be employed
32 180 consecutive days in order to be deemed hired for
33 purposes of this subsection.

34 (3) An "eligible employee" means an employee who

1 is:

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

9 (B) Hired after the enterprise zone or
10 federally designated Foreign Trade Zone or Sub-Zone
11 was designated or the trade or business was located
12 in that zone, whichever is later.

13 (C) Employed in the enterprise zone or Foreign
14 Trade Zone or Sub-Zone. An employee is employed in
15 an enterprise zone or federally designated Foreign
16 Trade Zone or Sub-Zone if his services are rendered
17 there or it is the base of operations for the
18 services performed.

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

21 (4) For tax years ending on or after December 31,
22 1985 and prior to December 31, 1988, the credit shall be
23 allowed for the tax year in which the eligible employees
24 are hired. For tax years ending on or after December 31,
25 1988, the credit shall be allowed for the tax year
26 immediately following the tax year in which the eligible
27 employees are hired. If the amount of the credit exceeds
28 the tax liability for that year, whether it exceeds the
29 original liability or the liability as later amended,
30 such excess may be carried forward and applied to the tax
31 liability of the 5 taxable years following the excess
32 credit year. The credit shall be applied to the earliest
33 year for which there is a liability. If there is credit
34 from more than one tax year that is available to offset a

1 liability, earlier credit shall be applied first.

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

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

7 (h) Investment credit; High Impact Business.

8 (1) Subject to subsection (b) of Section 5.5 of the
9 Illinois Enterprise Zone Act, a taxpayer shall be allowed
10 a credit against the tax imposed by subsections (a) and
11 (b) of this Section for investment in qualified property
12 which is placed in service by a Department of Commerce
13 and Community Affairs designated High Impact Business.
14 The credit shall be .5% of the basis for such property.
15 The credit shall not be available until the minimum
16 investments in qualified property set forth in Section
17 5.5 of the Illinois Enterprise Zone Act have been
18 satisfied and shall not be allowed to the extent that it
19 would reduce a taxpayer's liability for the tax imposed
20 by subsections (a) and (b) of this Section to below zero.
21 The credit applicable to such minimum investments shall
22 be taken in the taxable year in which such minimum
23 investments have been completed. The credit for
24 additional investments beyond the minimum investment by a
25 designated high impact business shall be available only
26 in the taxable year in which the property is placed in
27 service and shall not be allowed to the extent that it
28 would reduce a taxpayer's liability for the tax imposed
29 by subsections (a) and (b) of this Section to below zero.
30 For tax years ending on or after December 31, 1987, the
31 credit shall be allowed for the tax year in which the
32 property is placed in service, or, if the amount of the
33 credit exceeds the tax liability for that year, whether
34 it exceeds the original liability or the liability as

1 later amended, such excess may be carried forward and
2 applied to the tax liability of the 5 taxable years
3 following the excess credit year. The credit shall be
4 applied to the earliest year for which there is a
5 liability. If there is credit from more than one tax
6 year that is available to offset a liability, the credit
7 accruing first in time shall be applied first.

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

11 (2) The term qualified property means property
12 which:

13 (A) is tangible, whether new or used,
14 including buildings and structural components of
15 buildings;

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

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

23 (D) is not eligible for the Enterprise Zone
24 Investment Credit provided by subsection (f) of this
25 Section.

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

29 (4) If the basis of the property for federal income
30 tax depreciation purposes is increased after it has been
31 placed in service in a federally designated Foreign Trade
32 Zone or Sub-Zone located in Illinois by the taxpayer, the
33 amount of such increase shall be deemed property placed
34 in service on the date of such increase in basis.

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

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

22 (7) Beginning with tax years ending after December
23 31, 1996, if a taxpayer qualifies for the credit under
24 this subsection (h) and thereby is granted a tax
25 abatement and the taxpayer relocates its entire facility
26 in violation of the explicit terms and length of the
27 contract under Section 18-183 of the Property Tax Code,
28 the tax imposed under subsections (a) and (b) of this
29 Section shall be increased for the taxable year in which
30 the taxpayer relocated its facility by an amount equal to
31 the amount of credit received by the taxpayer under this
32 subsection (h).

33 (i) A credit shall be allowed against the tax imposed by
34 subsections (a) and (b) of this Section for the tax imposed

1 by subsections (c) and (d) of this Section. This credit
2 shall be computed by multiplying the tax imposed by
3 subsections (c) and (d) of this Section by a fraction, the
4 numerator of which is base income allocable to Illinois and
5 the denominator of which is Illinois base income, and further
6 multiplying the product by the tax rate imposed by
7 subsections (a) and (b) of this Section.

8 Any credit earned on or after December 31, 1986 under
9 this subsection which is unused in the year the credit is
10 computed because it exceeds the tax liability imposed by
11 subsections (a) and (b) for that year (whether it exceeds the
12 original liability or the liability as later amended) may be
13 carried forward and applied to the tax liability imposed by
14 subsections (a) and (b) of the 5 taxable years following the
15 excess credit year. This credit shall be applied first to
16 the earliest year for which there is a liability. If there
17 is a credit under this subsection from more than one tax year
18 that is available to offset a liability the earliest credit
19 arising under this subsection shall be applied first.

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

30 (j) Training expense credit. Beginning with tax years
31 ending on or after December 31, 1986, a taxpayer shall be
32 allowed a credit against the tax imposed by subsection (a)
33 and (b) under this Section for all amounts paid or accrued,
34 on behalf of all persons employed by the taxpayer in Illinois

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

15 Any credit allowed under this subsection which is unused
16 in the year the credit is earned may be carried forward to
17 each of the 5 taxable years following the year for which the
18 credit is first computed until it is used. This credit shall
19 be applied first to the earliest year for which there is a
20 liability. If there is a credit under this subsection from
21 more than one tax year that is available to offset a
22 liability the earliest credit arising under this subsection
23 shall be applied first.

24 (k) Research and development credit.

25 Beginning with tax years ending after July 1, 1990, a
26 taxpayer shall be allowed a credit against the tax imposed by
27 subsections (a) and (b) of this Section for increasing
28 research activities in this State. The credit allowed
29 against the tax imposed by subsections (a) and (b) shall be
30 equal to 6 1/2% of the qualifying expenditures for increasing
31 research activities in this State. For partners, shareholders
32 of subchapter S corporations, and owners of limited liability
33 companies, if the liability company is treated as a
34 partnership for purposes of federal and State income

1 taxation, there shall be allowed a credit under this
2 subsection to be determined in accordance with the
3 determination of income and distributive share of income
4 under Sections 702 and 704 and subchapter S of the Internal
5 Revenue Code.

6 For purposes of this subsection, "qualifying
7 expenditures" means the qualifying expenditures as defined
8 for the federal credit for increasing research activities
9 which would be allowable under Section 41 of the Internal
10 Revenue Code and which are conducted in this State,
11 "qualifying expenditures for increasing research activities
12 in this State" means the excess of qualifying expenditures
13 for the taxable year in which incurred over qualifying
14 expenditures for the base period, "qualifying expenditures
15 for the base period" means the average of the qualifying
16 expenditures for each year in the base period, and "base
17 period" means the 3 taxable years immediately preceding the
18 taxable year for which the determination is being made.

19 Any credit in excess of the tax liability for the taxable
20 year may be carried forward. A taxpayer may elect to have the
21 unused credit shown on its final completed return carried
22 over as a credit against the tax liability for the following
23 5 taxable years or until it has been fully used, whichever
24 occurs first.

25 If an unused credit is carried forward to a given year
26 from 2 or more earlier years, that credit arising in the
27 earliest year will be applied first against the tax liability
28 for the given year. If a tax liability for the given year
29 still remains, the credit from the next earliest year will
30 then be applied, and so on, until all credits have been used
31 or no tax liability for the given year remains. Any
32 remaining unused credit or credits then will be carried
33 forward to the next following year in which a tax liability
34 is incurred, except that no credit can be carried forward to

1 a year which is more than 5 years after the year in which the
2 expense for which the credit is given was incurred.

3 Unless extended by law, the credit shall not include
4 costs incurred after December 31, 2004, except for costs
5 incurred pursuant to a binding contract entered into on or
6 before December 31, 2004.

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

10 (1) Environmental Remediation Tax Credit.

11 (i) For tax years ending after December 31, 1997
12 and on or before December 31, 2006 ~~2004~~, a taxpayer shall
13 be allowed a credit against the tax imposed by
14 subsections (a) and (b) of this Section for certain
15 amounts paid for unreimbursed eligible remediation costs,
16 as specified in this subsection. For purposes of this
17 Section, "unreimbursed eligible remediation costs" means
18 costs approved by the Illinois Environmental Protection
19 Agency ("Agency") under Section 58.14 of the
20 Environmental Protection Act that were paid in performing
21 environmental remediation at a site accepted into the
22 Site Remediation Program that meets the criteria set
23 forth in Section 58.14 of the Illinois Environmental
24 Protection Act. The credit applies only to costs
25 incurred during the 10-year period following the
26 acceptance of the site into the Site Remediation Program
27 unless an extension of this period is granted by the
28 Department of Commerce and Community Affairs for which a
29 No Further Remediation Letter was issued by the Agency
30 and recorded under Section 58.10 of the Environmental
31 Protection Act. The credit must be claimed for the
32 taxable year in which Agency approval of the eligible
33 remediation costs is granted. The credit is available for
34 only those sites that are determined by the Department of

1 Commerce and Community Affairs to be abandoned or
2 underutilized properties pursuant to Section 58.14 of the
3 Environmental Protection Act. The credit is not available
4 to any taxpayer if the taxpayer or any related party
5 caused or contributed to, in any material respect, a
6 release of regulated substances on, in, or under the site
7 that is being was identified and addressed by the
8 remedial action pursuant to the Site Remediation Program
9 of the Environmental Protection Act. ~~After-the-Pollution~~
10 ~~Control--Board-rules-are-adopted-pursuant-to-the-Illinois~~
11 ~~Administrative-Procedure-Act-for-the--administration--and~~
12 ~~enforcement---of---Section---58.9--of--the--Environmental~~
13 ~~Protection-Act,~~ Determinations as to credit availability
14 for purposes of this Section shall be made consistent
15 with these rules adopted by the Pollution Control Board
16 for the administration and enforcement of Section 58.9 of
17 the Environmental Protection Act. For purposes of this
18 Section, "taxpayer" includes a person whose tax
19 attributes the taxpayer has succeeded to under Section
20 381 of the Internal Revenue Code and "related party"
21 includes the persons disallowed a deduction for losses by
22 paragraphs (b), (c), and (f)(1) of Section 267 of the
23 Internal Revenue Code by virtue of being a related
24 taxpayer, as well as any of its partners. The credit
25 allowed against the tax imposed by subsections (a) and
26 (b) shall be equal to 100% 25% of the unreimbursed
27 eligible remediation costs, as set forth in Section 58.14
28 of the Environmental Protection Act and shall not exceed
29 the net economic benefit of the remediation, as
30 determined by the Department of Commerce and Community
31 Affairs in--excess-of-\$100,000-per-site,-except-that-the
32 \$100,000-threshold-shall-not-apply-to-any-site--contained
33 in--an-enterprise-zone-as-determined-by-the-Department-of
34 Commerce-and-Community-Affairs.--The-total-credit-allowed

1 shall-not-exceed-\$40,000-per-year-with-a-maximum-total-of
 2 \$150,000-per-site. For partners and shareholders of
 3 subchapter S corporations, there shall be allowed a
 4 credit under this subsection to be determined in
 5 accordance with the determination of income and
 6 distributive share of income under Sections 702 and 704
 7 and of subchapter S of the Internal Revenue Code.

8 (ii) For a Remediation Applicant seeking a credit
 9 under subsection (b-5) of Section 58.14 of the
 10 Environmental Protection Act, until the Agency issues a
 11 No Further Remediation Letter for the site, no more than
 12 75% of the allowed credit may be claimed by the eligible
 13 taxpayer. The remaining 25% in allowed tax credits may
 14 be claimed following the issuance by the Agency of a No
 15 Further Remediation Letter for the site. For a
 16 Remediation Applicant seeking a credit under subsection
 17 (b) of Section 58.14 of the Environmental Protection Act,
 18 until the Agency issues a No Further Remediation Letter
 19 for the site, no credit may be claimed by the eligible
 20 taxpayer.

21 (iii) (ii) A credit allowed under this subsection
 22 that is unused in the year the credit is earned may be
 23 carried forward to each of the 5 taxable years following
 24 the year for which the credit is first earned until it is
 25 used. The--term--"unused--credit"--does--not--include--any
 26 amounts--of--unreimbursed--eligible--remediation--costs--in
 27 excess--of--the--maximum--credit--per--site--authorized--under
 28 paragraph-(i): This credit shall be applied first to the
 29 earliest year for which there is a liability. If there
 30 is a credit under this subsection from more than one tax
 31 year that is available to offset a liability, the
 32 earliest credit arising under this subsection shall be
 33 applied first. The recipient of credits may assign, sell,
 34 or transfer, in whole or in part, the tax credit allowed

1 under this subsection to any other person. A credit
 2 allowed under this subsection may be sold to a buyer as
 3 part of a sale of all or part of the remediation site for
 4 which the credit was granted. The purchaser of a
 5 remediation site and the tax credit shall succeed to the
 6 unused credit and remaining carry-forward period of the
 7 seller. To perfect the transfer, the assignor shall
 8 record the transfer in the chain of title for the site
 9 and provide written notice to the Director of the
 10 Illinois Department of Revenue of (i) the assignor's
 11 intent to transfer the tax credits to the assignee, (ii)
 12 the date the transfer is effective, (iii) the assignee's
 13 name and address, (iv) the assignee's tax period, and (v)
 14 the amount of tax credits to be transferred. The number
 15 of taxable years during which the assignee may
 16 subsequently claim the tax credits shall not exceed 5
 17 taxable years, less the number of taxable years the
 18 assignor previously claimed the credits before the
 19 transfer occurred sell the remediation site and the
 20 amount of the tax credit to be transferred as a portion
 21 of the sale. In no event may a credit be transferred to
 22 any taxpayer if the taxpayer or a related party would not
 23 be eligible under the provisions of subsection (i).

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

27 The changes made to this subsection (l) by this
 28 amendatory Act of the 92nd General Assembly apply to taxable
 29 years ending on or after December 31, 2001.

30 (m) Education expense credit.

31 Beginning with tax years ending after December 31, 1999,
 32 a taxpayer who is the custodian of one or more qualifying
 33 pupils shall be allowed a credit against the tax imposed by
 34 subsections (a) and (b) of this Section for qualified

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

9 For purposes of this subsection;

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

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

21 "School" means any public or nonpublic elementary or
22 secondary school in Illinois that is in compliance with Title
23 VI of the Civil Rights Act of 1964 and attendance at which
24 satisfies the requirements of Section 26-1 of the School
25 Code, except that nothing shall be construed to require a
26 child to attend any particular public or nonpublic school to
27 qualify for the credit under this Section.

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

31 (Source: P.A. 90-123, eff. 7-21-97; 90-458, eff. 8-17-97;
32 90-605, eff. 6-30-98; 90-655, eff. 7-30-98; 90-717, eff.
33 8-7-98; 90-792, eff. 1-1-99; 91-9, eff. 1-1-00; 91-357, eff.
34 7-29-99; 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860,

1 eff. 6-22-00; 91-913, eff. 1-1-01; revised 10-24-00.)

2 Section 15. The Environmental Protection Act is amended
3 by changing Sections 58.13 and 58.14 as follows:

4 (415 ILCS 5/58.13)

5 Sec. 58.13. Brownfields Redevelopment Grant Program.

6 (a)(1) The Agency shall establish and administer a
7 program of grants to be known as the Brownfields
8 Redevelopment Grant Program to provide municipalities in
9 Illinois with financial assistance to be used for
10 coordination of activities related to brownfields
11 redevelopment, including but not limited to
12 identification of brownfields sites, site investigation
13 and determination of remediation objectives and related
14 plans and reports, and development of remedial action
15 plans, but not including the implementation of remedial
16 action plans and remedial action completion reports. The
17 plans and reports shall be developed in accordance with
18 Title XVII of this Act.

19 (2) Grants shall be awarded on a competitive basis
20 subject to availability of funding. Criteria for
21 awarding grants shall include, but shall not be limited
22 to the following:

- 23 (A) problem statement and needs assessment;
- 24 (B) community-based planning and involvement;
- 25 (C) implementation planning; and
- 26 (D) long-term benefits and sustainability.

27 (3) The Agency may give weight to geographic
28 location to enhance geographic distribution of grants
29 across this State.

30 (4) Grants shall be limited to a maximum of
31 \$120,000 and no municipality shall receive more than 2
32 grants ~~one-grant~~ under this Section.

1 (5) Grant amounts shall not exceed 70% of the
2 project amount, with the remainder to be provided by the
3 municipality as local matching funds.

4 (b) The Agency shall have the authority to enter into
5 any contracts or agreements that may be necessary to carry
6 out its duties or responsibilities under this Section. The
7 Agency shall have the authority to adopt rules setting forth
8 procedures and criteria for administering the Brownfields
9 Redevelopment Grant Program. The rules adopted by the Agency
10 may include but shall not be limited to the following:

11 (1) purposes for which grants are available;

12 (2) application periods and content of
13 applications;

14 (3) procedures and criteria for Agency review of
15 grant applications, grant approvals and denials, and
16 grantee acceptance;

17 (4) grant payment schedules;

18 (5) grantee responsibilities for work schedules,
19 work plans, reports, and record keeping;

20 (6) evaluation of grantee performance, including
21 but not limited to auditing and access to sites and
22 records;

23 (7) requirements applicable to contracting and
24 subcontracting by the grantee;

25 (8) penalties for noncompliance with grant
26 requirements and conditions, including stop-work orders,
27 termination of grants, and recovery of grant funds;

28 (9) indemnification of this State and the Agency by
29 the grantee; and

30 (10) manner of compliance with the Local Government
31 Professional Services Selection Act.

32 (Source: P.A. 90-123, eff. 7-21-97.)

33 (415 ILCS 5/58.14)

1 Sec. 58.14. Environmental Remediation Tax Credit review.

2 (a) Prior to applying for the Environmental Remediation
3 Tax Credit under Section 201 of the Illinois Income Tax Act,
4 Remediation Applicants shall satisfy the requirements of this
5 Section. The Remediation Applicant shall first submit to the
6 Department of Commerce and Community Affairs an application
7 for review of eligibility for the tax credit. If the
8 Department determines the Remediation Applicant is eligible,
9 the Remediation Applicant shall submit to the Agency an
10 application for review of remediation costs. The application
11 and review process shall be conducted in accordance with the
12 requirements of this Section and the rules adopted under
13 subsections subsection (g) and (h). A preliminary review of
14 the estimated remediation costs for development and
15 implementation of the Remedial Action Plan may be obtained in
16 accordance with subsection (d).

17 (a-3) The Department of Commerce and Community Affairs
18 shall review the eligibility application to determine whether
19 the remediation applicant is eligible for the tax credit.
20 The application shall be on forms prescribed and provided by
21 the Department. At a minimum, the application shall include
22 the following:

23 (1) Information identifying the Remediation
24 Applicant and the site for which the tax credit is being
25 sought.

26 (2) Information demonstrating that the site for
27 which the credit is being sought is abandoned or
28 underutilized property. "Abandoned property" is real
29 property previously used for, or which has the potential
30 to be used for, commercial or industrial purposes that
31 reverted to the ownership of the State, a county or
32 municipal government, or an agency thereof through
33 donation, purchase, tax delinquency, foreclosure,
34 default, or settlement, including conveyance by deed in

1 lieu of foreclosure; or a privately owned property that
2 has been vacant for a period of not less than 3 years
3 from the time an application is made to the Department.
4 "Underutilized property" is real property of which less
5 than 35% of the commercially usable space of the property
6 and improvements thereon are used for their most
7 commercially profitable and economically productive uses.

8 (3) Information demonstrating that remediation of
9 the site for which the credit is being sought will result
10 in net economic benefit to the State of Illinois. The
11 "net economic benefit" shall be determined based on
12 factors including, but not limited to, the capital
13 investment, the number of jobs created, the number of
14 jobs retained if it is demonstrated the jobs would
15 otherwise be lost, capital improvements, the number of
16 construction-related jobs, increased sales, material
17 purchases, other increases in service and operational
18 expenditures, and other factors established by the
19 Department. Priority shall be given to sites located in
20 areas with high levels of poverty, where the unemployment
21 rate exceeds the State average, where an enterprise zone
22 exists, or where the area is otherwise economically
23 depressed as determined by the Department.

24 (4) An application fee in the amount set forth in
25 subsection (e-5) for each site for which review of an
26 application is being sought.

27 (a-5) Within 60 days after receipt by the Department of
28 Commerce and Community Affairs of an application meeting the
29 requirements of subsection (a-3), the Department shall issue
30 a letter to the applicant approving or disapproving the
31 application for tax credits. If the application is approved,
32 the Department's letter shall also include its determination
33 of the net economic benefit of the remediation project and
34 the amount of tax credits to be made available to the

1 applicant for remediation costs. The amount of tax credits
2 awarded under this Section shall not exceed the net economic
3 benefit of the remediation project, as determined by the
4 Department.

5 (a-7) No application for review of remediation costs
6 shall be submitted to the Agency unless the Department has
7 determined the Remediation Applicant is eligible under
8 subsection (a-5).

9 (b) Except as provided in subsection (b-5), no
10 application for review of remediation costs shall be
11 submitted until a No Further Remediation Letter has been
12 issued by the Agency and recorded in the chain of title for
13 the site in accordance with Section 58.10. The Agency shall
14 review the application to determine whether the costs
15 submitted are remediation costs, and whether the costs
16 incurred are reasonable. The application shall be on forms
17 prescribed and provided by the Agency. At a minimum, the
18 application shall include the following:

19 (1) information identifying the Remediation
20 Applicant and the site for which the tax credit is being
21 sought and the date of acceptance of the site into the
22 Site Remediation Program;

23 (2) A copy of the No Further Remediation Letter
24 with official verification that the letter has been
25 recorded in the chain of title for the site and a
26 demonstration that the site for which the application is
27 submitted is the same site as the one for which the No
28 Further Remediation Letter is issued;

29 (3) a demonstration that the release of the
30 regulated substances of concern for which the No Further
31 Remediation Letter was issued were not caused or
32 contributed to in any material respect by the Remediation
33 Applicant. ~~After--the--Pollution-Control-Board-rules-are~~
34 ~~adopted-pursuant-to-the-Illinois-Administrative-Procedure~~

1 ~~Act-for-the-administration--and--enforcement--of--Section~~
2 ~~58.9--of-the-Environmental-Protection-Act,~~ Determinations
3 as to credit availability shall be made consistent with
4 these rules adopted by the Pollution Control Board for
5 the administration and enforcement of Section 58.9 of
6 this Act;

7 (3.5) a copy of the Department of Commerce and
8 Community Affairs' letter approving eligibility,
9 including the net economic benefit of the remediation
10 project;

11 (4) an itemization and documentation, including
12 receipts, of the remediation costs incurred;

13 (5) a demonstration that the costs incurred are
14 remediation costs as defined in this Act and its rules;

15 (6) a demonstration that the costs submitted for
16 review were incurred by the Remediation Applicant who
17 ~~received-the-No-Further-Remediation-Letter;~~

18 (7) an application fee in the amount set forth in
19 subsection (e) for each site for which review of
20 remediation costs is requested and, ~~--if--applicable,~~
21 ~~certification--from--the--Department--of--Commerce--and~~
22 ~~Community--Affairs--that--the--site--is--located--in--an~~
23 ~~enterprise-zone; and~~

24 (8) any other information deemed appropriate by the
25 Agency.

26 (b-5) An application for review of remediation costs may
27 be submitted to the Agency prior to the issuance of a No
28 Further Remediation Letter if the Remediation Applicant has a
29 Remedial Action Plan approved by the Agency under the terms
30 of which the Remediation Applicant will remediate groundwater
31 for more than one year. The Agency shall review the
32 application to determine whether the costs submitted are
33 remediation costs, and whether the costs incurred are
34 reasonable. The application shall be on forms prescribed and

1 provided by the Agency. At a minimum, the application shall
2 include the following:

3 (1) Information identifying the Remediation
4 Applicant and the site for which the tax credit is being
5 sought and the date of acceptance of the site into the
6 Site Remediation Program.

7 (2) A copy of the Agency letter approving the
8 Remedial Action Plan.

9 (3) A demonstration that the release of the
10 regulated substances of concern for which the Remedial
11 Action Plan was approved were not caused or contributed
12 to in any material respect by the Remediation Applicant.
13 Determinations as to credit availability shall be made
14 consistent with rules adopted by the Pollution Control
15 Board for the administration and enforcement of Section
16 58.9 of this Act.

17 (4) A copy of the Department of Commerce and
18 Community Affairs' letter approving eligibility,
19 including the net economic benefit of the remediation
20 project.

21 (5) An itemization and documentation, including
22 receipts, of the remediation costs incurred.

23 (6) A demonstration that the costs incurred are
24 remediation costs as defined in this Act and rules
25 adopted under this Act.

26 (7) A demonstration that the costs submitted for
27 review were incurred by the Remediation Applicant who
28 received approval of the Remediation Action Plan.

29 (8) An application fee in the amount set forth in
30 subsection (e) for each site for which review of
31 remediation costs is requested.

32 (9) Any other information deemed appropriate by the
33 Agency.

34 (c) Within 60 days after receipt by the Agency of an

1 application meeting the requirements of subsections
2 subsection (b) or (b-5), the Agency shall issue a letter to
3 the applicant approving, disapproving, or modifying the
4 remediation costs submitted in the application. ~~If the~~
5 ~~remediation costs are approved as submitted, the Agency's~~
6 ~~letter shall state the amount of the remediation costs to be~~
7 ~~applied toward the Environmental Remediation Tax Credit.~~ If
8 an application is disapproved or approved with modification
9 of remediation costs, the Agency's letter shall set forth the
10 reasons for the disapproval or modification ~~and state the~~
11 ~~amount of the remediation costs, if any, to be applied toward~~
12 ~~the Environmental Remediation Tax Credit.~~

13 If a preliminary review of a budget plan has been
14 obtained under subsection (d), the Remediation Applicant may
15 submit, with the application and supporting documentation
16 under subsections subsection (b) or (b-5), a copy of the
17 Agency's final determination accompanied by a certification
18 that the actual remediation costs incurred for the
19 development and implementation of the Remedial Action Plan
20 are equal to or less than the costs approved in the Agency's
21 final determination on the budget plan. The certification
22 shall be signed by the Remediation Applicant and notarized.
23 Based on that submission, the Agency shall not be required to
24 conduct further review of the costs incurred for development
25 and implementation of the Remedial Action Plan and may
26 approve costs as submitted.

27 Within 35 days after receipt of an Agency letter
28 disapproving or modifying an application for approval of
29 remediation costs, the Remediation Applicant may appeal the
30 Agency's decision to the Board in the manner provided for the
31 review of permits in Section 40 of this Act.

32 (d) (1) A Remediation Applicant may obtain a preliminary
33 review of estimated remediation costs for the development
34 and implementation of the Remedial Action Plan by

1 submitting a budget plan along with the Remedial Action
2 Plan. The budget plan shall be set forth on forms
3 prescribed and provided by the Agency and shall include
4 but shall not be limited to line item estimates of the
5 costs associated with each line item (such as personnel,
6 equipment, and materials) that the Remediation Applicant
7 anticipates will be incurred for the development and
8 implementation of the Remedial Action Plan. The Agency
9 shall review the budget plan along with the Remedial
10 Action Plan to determine whether the estimated costs
11 submitted are remediation costs and whether the costs
12 estimated for the activities are reasonable.

13 (2) If the Remedial Action Plan is amended by the
14 Remediation Applicant or as a result of Agency action,
15 the corresponding budget plan shall be revised
16 accordingly and resubmitted for Agency review.

17 (3) The budget plan shall be accompanied by the
18 applicable fee as set forth in subsection (e).

19 (4) Submittal of a budget plan shall be deemed an
20 automatic 60-day waiver of the Remedial Action Plan
21 review deadlines set forth in this Section and its rules.

22 (5) Within the applicable period of review, the
23 Agency shall issue a letter to the Remediation Applicant
24 approving, disapproving, or modifying the estimated
25 remediation costs submitted in the budget plan. If a
26 budget plan is disapproved or approved with modification
27 of estimated remediation costs, the Agency's letter shall
28 set forth the reasons for the disapproval or
29 modification.

30 (6) Within 35 days after receipt of an Agency
31 letter disapproving or modifying a budget plan, the
32 Remediation Applicant may appeal the Agency's decision to
33 the Board in the manner provided for the review of
34 permits in Section 40 of this Act.

1 (e) The fees for reviews conducted by the Agency under
2 this Section are in addition to any other fees or payments
3 for Agency services rendered pursuant to the Site Remediation
4 Program and shall be as follows:

5 (1) The fee for an application for review of
6 remediation costs shall be \$1,000 for each site reviewed.

7 (2) The fee for the review of the budget plan
8 submitted under subsection (d) shall be \$500 for each
9 site reviewed.

10 ~~(3) In the case of a Remediation Applicant~~
11 ~~submitting for review total remediation costs of \$100,000~~
12 ~~or less for a site located within an enterprise zone (as~~
13 ~~set forth in paragraph (i) of subsection (1) of Section~~
14 ~~201 of the Illinois Income Tax Act), the fee for an~~
15 ~~application for review of remediation costs shall be \$250~~
16 ~~for each site reviewed. For those sites, there shall be~~
17 ~~no fee for review of a budget plan under subsection (d).~~

18 The application fee shall be made payable to the State of
19 Illinois, for deposit into the Hazardous Waste Fund.

20 Pursuant to appropriation, the Agency shall use the fees
21 collected under this subsection for development and
22 administration of the review program.

23 (e-5) The fee for eligibility reviews conducted by the
24 Department of Commerce and Community Affairs under this
25 Section shall be \$1,000 for each site reviewed. The
26 application fee shall be made payable to the Department of
27 Commerce and Community Affairs for deposit into the
28 Distressed Communities and Industries Fund. Subject to
29 appropriation, the Department of Commerce and Community
30 Affairs shall use the fees collected under this subsection
31 for development and administration of the review program.

32 (f) The Department of Commerce and Community Affairs and
33 the Agency shall have the authority to enter into any
34 contracts or agreements that may be necessary to carry out

1 their its duties and responsibilities under this Section.

2 (f-5) The Distressed Communities and Industries Fund.

3 (1) The Distressed Communities and Industries Fund
4 is created as a special fund in the State treasury to be
5 used exclusively for the purposes of this Section,
6 including payment for the costs of administering this
7 Act. The Fund shall be administered by the Department.

8 (2) The Fund consists of collected fees,
9 appropriations from the General Assembly, and gifts and
10 grants to the Fund.

11 (3) The State Treasurer shall invest the money in
12 the Fund not currently needed to meet the obligations of
13 the Fund in the same manner as other public funds may be
14 invested. All interest earned on moneys in the Fund
15 shall be deposited into the Fund.

16 (4) The money in the Fund at the end of a State
17 fiscal year must remain in the Fund to be used
18 exclusively for the purposes of this Section.
19 Expenditures from the Fund are subject to appropriation
20 by the General Assembly.

21 (g) Within 6 months after the effective date of this
22 amendatory Act of 1997, the Agency shall propose rules
23 prescribing procedures and standards for its administration
24 of this Section. Within 6 months after receipt of the
25 Agency's proposed rules, the Board shall adopt on second
26 notice, pursuant to Sections 27 and 28 of this Act and the
27 Illinois Administrative Procedure Act, rules that are
28 consistent with this Section. Prior to the effective date of
29 rules adopted under this Section, the Agency may conduct
30 reviews of applications under this Section and the Agency is
31 further authorized to distribute guidance documents on costs
32 that are eligible or ineligible as remediation costs.

33 (h) Within 6 months after the effective date of this
34 amendatory Act of the 92nd General Assembly, the Agency and

1 the Department of Commerce and Community Affairs shall
 2 propose rules prescribing procedures and standards for the
 3 administration of this Section as changed by this amendatory
 4 Act of the 92nd General Assembly. Within 6 months after
 5 receipt of the proposed rules, the Board shall adopt on
 6 second notice, pursuant to Sections 27 and 28 of this Act and
 7 the Illinois Administrative Procedure Act, rules that are
 8 consistent with this Section as changed by this amendatory
 9 Act of the 92nd General Assembly. Prior to the effective
 10 date of rules adopted under this subsection (h), the Agency
 11 and the Department of Commerce and Community Affairs may
 12 conduct reviews of applications under this Section and the
 13 Agency is further authorized to distribute guidance documents
 14 on costs that are eligible or ineligible as remediation
 15 costs.

16 (i) The changes relating to taxes made to this Section
 17 by this amendatory Act of the 92nd General Assembly apply to
 18 taxable years ending on or after December 31, 2001.

19 (Source: P.A. 90-123, eff. 7-21-97; 90-792, eff. 1-1-99.)

20 Section 30. The Response Action Contractor
 21 Indemnification Act is amended by changing Section 5 as
 22 follows:

23 (415 ILCS 100/5) (from Ch. 111 1/2, par. 7205)

24 Sec. 5. Response Contractors Indemnification Fund.

25 (a) There is hereby created the Response Contractors
 26 Indemnification Fund. The State Treasurer, ex officio, shall
 27 be custodian of the Fund, and the Comptroller shall direct
 28 payments from the Fund upon vouchers properly certified by
 29 the Attorney General in accordance with Section 4. The
 30 Treasurer shall credit interest on the Fund to the Fund.

31 (b) Every State response action contract shall provide
 32 that 5% of each payment to be made by the State under the

1 contract shall be paid by the State directly into the
2 Response Contractors Indemnification Fund rather than to the
3 contractor, except that when there is more than \$2,000,000
4 \$4,000,000 in the Fund at the beginning of a State fiscal
5 year, State response action contracts during that fiscal year
6 need not provide that 5% of each payment made under the
7 contract be paid into the Fund. When only a portion of a
8 contract relates to a remedial or response action, or to the
9 identification, handling, storage, treatment or disposal of a
10 pollutant, the contract shall provide that only that portion
11 is subject to this subsection.

12 (c) Within 30 days after the effective date of this
13 amendatory Act of 1997, the Comptroller shall order
14 transferred and the Treasurer shall transfer \$1,200,000 from
15 the Response Contractors Indemnification Fund to the
16 Brownfields Redevelopment Fund. The Comptroller shall order
17 transferred and the Treasurer shall transfer \$1,200,000 from
18 the Response Contractors Indemnification Fund to the
19 Brownfields Redevelopment Fund on the first day of fiscal
20 years 1999, 2000, 2001, and 2002, 2003, 2004, and 2005.

21 (d) Within 30 days after the effective date of this
22 amendatory Act of the 91st General Assembly, the Comptroller
23 shall order transferred and the Treasurer shall transfer
24 \$2,000,000 from the Response Contractors Indemnification Fund
25 to the Asbestos Abatement Fund.

26 (Source: P.A. 90-123, eff. 7-21-97; 91-704, eff. 7-1-00.)".