SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIFTH GENERAL ASSEMBLY

69TH LEGISLATIVE DAY

WEDNESDAY, JULY 18, 2007

10:40 O'CLOCK A.M.

NO. 69
[July 18, 2007]

SENATE
Daily Journal Index
69th Legislative Day

The Senate met pursuant to adjournment.
Senator Terry Link, Waukegan, Illinois, presiding.
Prayer by Pastor Florene Scott, Grace United Methodist Church, Springfield, Illinois.
Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, July 17, 2007, was being read when on motion of Senator Collins, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 291

Offered by Senator Koehler and all Senators:
Mourns the death of Willie Thomas of Peoria Heights.

SENATE RESOLUTION 292

Offered by Senator Harmon and all Senators:
Mourns the death of Harry Voigt of Oak Park.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Sandoval offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 293

WHEREAS, Dustin Shuler, world renowned sculptor, was commissioned to showcase his works in the Cermak Plaza in Berwyn; and

WHEREAS, The Spindle was erected for public display in 1989 by Dustin Shuler; and

WHEREAS, The Spindle has become recognized worldwide as an icon of American culture; and

WHEREAS, The Spindle has brought significant notoriety and economic prosperity to Berwyn due to its inclusion in the movie Wayne's World, in books such as *Oddball America* by Jerome Pohlen, travel guides, and such Internet sites as *Roadside America.com*, as well as being featured by the Illinois Bureau of Tourism on their promotional posters; and

WHEREAS, The Spindle has become a symbol of the landscape of the City of Berwyn; tourists, business patrons, and residents have come to revere the Spindle as a thought provoking sculpture that evokes emotion; and

WHEREAS, Concordia Realty Management has declared their intent to remove the sculpture for future commercial development; and

WHEREAS, The City of Berwyn has recently embarked on a marketing campaign to draw new residents that value fine arts, culture, and a rewarding urban lifestyle; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the City of Berwyn and Concordia Realty Management to find a way through negotiation to keep the Spindle as a permanent part of the Berwyn landscape at the Cermak Plaza; and be it further

RESOLVED, That a suitable copy of this resolution be presented to a representative of Concordia

Realty Management and to the Berwyn City Council.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 128

A bill for AN ACT concerning regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 128

House Amendment No. 2 to SENATE BILL NO. 128

Passed the House, as amended, July 17, 2007.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 128

AMENDMENT NO. 1. Amend Senate Bill 128 on page 27, by replacing lines 14 through 19 with the following:

"report, the ~~The~~ Board shall have at least 60 days after receipt of the report to review it and ~~to~~ present its findings of fact, conclusions of law and recommendation to the Secretary ~~Director~~. If the Board does not present its report within the 60 days period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners ~~the Director may issue an order based on the report of the hearing officer~~. If the Secretary ~~Director~~".

AMENDMENT NO. 2 TO SENATE BILL 128

AMENDMENT NO. 2. Amend Senate Bill 128 on page 29, immediately below line 3, by inserting the following:

"Section 15. If and only if House Bill 820 of the 95th General Assembly (as amended by Senate Amendment No. 1) becomes law, the Carnival and Amusement Rides Safety Act is amended by changing Sections 2-2 and 2-20 as follows:

(430 ILCS 85/2-2) (from Ch. 111 1/2, par. 4052)

Sec. 2-2. Definitions. As used in this Act, unless the context otherwise requires:

1. "Director" means the Director of Labor or his or her designee.

2. "Department" means Department of Labor.

3. "Amusement Attraction" means an enclosed building or structure, including electrical equipment which is an integral part of the building or structure, through which people walk without the aid of any moving device, that provides amusement, thrills or excitement at a fair or carnival, except any such enclosed building or structure which is subject to the jurisdiction of a local building code.

4. "Amusement ride" means:

(a) any mechanized device or combination of devices, including electrical equipment

which is an integral part of the device or devices, which carries passengers along, around, or over a fixed or restricted course for the primary purpose of giving its passengers amusement, pleasure, thrills, or excitement;

(b) any ski lift, rope tow, or other device used to transport snow skiers;

(c) (blank);

(d) any dry slide over 20 feet in height, alpine slide, or toboggan slide;

(e) any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the Secretary of State, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides; or

(f) any bungee cord or similar elastic device.

5. "Carnival" means an enterprise which offers amusement or entertainment to the public by means of one or more amusement attractions or amusement rides.

6. "Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with which amusement rides or amusement attractions are operated.

7. "Operator" means a person, or the agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or an amusement attraction at a carnival or fair. "Operator" includes an agency of the State or any of its political subdivisions.

8. "Carnival worker" means a person who is employed by a carnival or fair to manage, physically operate, or assist in the operation of an amusement ride or amusement attraction when it is open to the public ~~and who is not a volunteer~~.

(Source: P.A. 94-801, eff. 5-25-06; 95HB0820sam001.)

(430 ILCS 85/2-20)

Sec. 2-20. Employment of carnival workers.

(a) Beginning on January 1, 2008, no person, firm, corporation, or other entity that owns or operates a carnival or fair shall employ a carnival worker who (i) has been convicted of any offense set forth in Article 11 of the Criminal Code of 1961, (ii) is a registered sex offender, as defined in the Sex Offender Registration Act, or (iii) has ever been convicted of any offense set forth in Article 9 of the Criminal Code of 1961.

~~Any person, firm, corporation, or other entity that owns or operates a carnival and knowingly violates the provisions of this subsection (a) shall be assessed a civil penalty in an amount not less than $1,000 and not more than $5,000 for a first offense, and not less than $5,000 and not more than $10,000 for a second or subsequent offense.~~

(b) A ~~In the interest of compliance with the requirements of this Section, a~~ person, firm, corporation, or other entity that owns or operates a carnival or fair must conduct a criminal history records check for ~~each~~ carnival workers at the time they are hired ~~worker in its employ~~ consistent with the Illinois Uniform Conviction Information Act and perform a check of the Sex Offender Registry ~~maintained by the Department of State Police for each carnival worker in its employ~~.

In the case of carnival workers who are hired on a temporary basis to work at a specific event, the carnival or fair owner may work with local enforcement agencies in order expedite the criminal history records check required under this subsection (b).

Individuals who are under the age of 17 are exempt from the criminal history records check requirements set forth in this subsection (b).

(c) Any person, firm, corporation, or other entity that owns or operates a carnival or fair must have a substance abuse policy in place for its workers, which shall include random drug testing of carnival workers.

(d) Any person, firm, corporation, or other entity that owns or operates a carnival or fair that violates the provisions of subsection (a) of this Section or fails to conduct a criminal history records check or a sex offender registry check for carnival workers in its employ, as required by subsection (b) of this Section, shall be assessed a civil penalty in an amount not to exceed $1,000 for a first offense, not to exceed $5,000 for a second offense, and not to exceed $15,000 for a third or subsequent offense. The collection of these penalties shall be enforced in a civil action brought by the Attorney General on behalf of the Department.

(e) A carnival or fair owner is not responsible for:

(1) any personal information submitted by a carnival worker for criminal history records check purposes; or

(2) any information provided by a third party for a criminal history records check or a sex offender registry check.

A carnival or fair owner shall not be liable to any employee in carrying out the requirements of this Section.
(Source: 95HB0820sam001.)".

Under the rules, the foregoing **Senate Bill No. 128**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:
SENATE BILL NO. 1704
A bill for AN ACT concerning alternative energy.
Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 1704
House Amendment No. 2 to SENATE BILL NO. 1704
Passed the House, as amended, July 17, 2007.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1704

AMENDMENT NO. 1. Amend Senate Bill 1704 by replacing everything after the enacting clause with the following:

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

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

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

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

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

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

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

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

(6) the FutureGen Project provides an opportunity for the State of Illinois to partner with the Federal Department of Energy and the FutureGen Alliance in the development of these innovative clean-coal technologies;

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

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

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

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

"Agency" means the Illinois Environmental Protection Agency.

"Carbon capture and storage" means the process of capturing CO2 and other chemical constituents from coal combustion by-products for the purpose of injecting and storing the gas for permanent storage.

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

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

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

"Federal Department" means the federal Department of Energy.

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

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

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

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

"Post-injection" means after the captured gas has been successfully injected into the wellhead at the point at which the gas is transferred into the wellbore for carbon sequestration and storage into the Mount Simon Formation.

"Pre-injection" means all activities and occurrences prior to successful delivery into the wellhead at the point at which the gas is transferred into the wellbore for carbon sequestration and storage into the Mt. Simon Formation, including but not limited to, the operation of the FutureGen Project.

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

"Public liability action" or "action" means a written demand, lawsuit, or claim from any third party received by the Operator seeking a remedy or alleging liability on behalf of Operator resulting from any public liability.

"Sequestered gas" means the CO2 and other chemical constituents from the FutureGen Project operations that are injected into the Mount Simon Formation.

Section 20. Title to sequestered gas. If the FutureGen Project locates at either the Tuscola or Mattoon site in the State of Illinois, then the FutureGen Alliance agrees that the Operator shall transfer and convey and the State of Illinois shall accept and receive, with no payment due from the State of Illinois, all rights, title, and interest in and to and any liabilities associated with the sequestered gas, including any current or future environmental benefits, marketing claims, tradable credits, emissions allocations or offsets (voluntary or compliance based) associated therewith, upon such gas reaching the status of post-injection, which shall be verified by the Agency or other designated State of Illinois agency. The Operator shall retain all rights, title, and interest in and to and any liabilities associated with the pre-injection sequestered gas. The Illinois State Geological Survey of the Illinois Department of Natural Resources shall monitor, measure, and verify the permanent status of sequestered carbon dioxide and co-sequestered gases in which the State has acquired the right, title, and interest under this Section.

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

Section 25. Insurance against qualified losses.

(a) The Department shall procure an insurance policy from a private insurance carrier or carriers, if and to the extent that such a policy is available, that insures the Operator against any qualified loss stemming from a public liability action. The policy must be procured in accordance with the provisions of the Procurement Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) In the event that any public liability action covered under Section 30 of this Act is commenced against the Operator, the Attorney General shall, upon timely and appropriate notice to the Attorney General by the Operator, appear on behalf of the Operator and defend the action. Any such notice must be in writing, must be mailed within 15 days after the date of receipt by the Operator of service of process, and must authorize the Attorney General to represent and defend the Operator in the action. The delivery of this notice to the Attorney General constitutes an agreement by the Operator to cooperate with the Attorney General in defense of the action and a consent that the Attorney General shall conduct

the defense as the Attorney General deems advisable and in the best interests of the Operator and the State of Illinois, including settlement in the Attorney General's discretion. The Operator may appear in such action through private counsel to respond or object only to any aspect of a proposed settlement or proposed court order which would directly affect the day-to-day operations of the FutureGen Project. In any such action, the State of Illinois shall pay the court costs and litigation expenses of defending such action, to the extent approved by the Attorney General as reasonable, as they are incurred.

(b) In the event that the Attorney General determines either (i) that so appearing and defending the Operator involves an actual or potential conflict of interest or (ii) that the act or omission which gave rise to the claim was not within the scope of the indemnity as provided in Section 30 of this Act, the Attorney General shall decline in writing to appear or defend or shall promptly take appropriate action to withdraw as attorney for the Operator. Upon receipt of such declination or withdrawal by the Attorney General on the basis of an actual or potential conflict of interest, the Operator may employ its own attorney to appear and defend, in which event the State of Illinois shall pay the Operator's court costs, litigation expenses, and attorneys' fees, to the extent approved by the Attorney General as reasonable, as they are incurred.

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

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

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

(f) Any judgment subject to State of Illinois indemnification under this Section is not enforceable against the Operator, but shall be paid by the State of Illinois in the following manner: Upon receipt of a certified copy of the judgment, the Attorney General shall review it to determine if the judgment is (i) final, unreversed, and no longer subject to appeal and (ii) subject to indemnification under Section 30 of this Act. If the Attorney General determines that it is, then the Attorney General shall submit a voucher for the amount of the judgment and any interest thereon to the State of Illinois Comptroller and the amount must be paid by warrant from appropriation to the Department to the judgment creditor solely out of available appropriations.

Section 40. Permitting. The State of Illinois shall issue to the Operator all necessary and appropriate permits consistent with State and federal law and corresponding regulations. The State of Illinois must allow the Operator to combine applications when appropriate, and the State of Illinois must otherwise streamline the application process for timely permit issuance.

Section 43. Tax exemption. An operator is exempt from any tax imposed by the State of Illinois that is based upon the nameplate capacity of generating units.

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

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

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

(20 ILCS 605/605-332)

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

(a) As used in this Section:

"New electric generating facility" means a newly-constructed electric generation plant or a newly constructed generation capacity expansion at an existing facility, including the transmission lines and associated equipment that transfers electricity from points of supply to points of delivery, and for which foundation construction commenced not sooner than July 1, 2001, which is designed to provide baseload

electric generation operating on a continuous basis throughout the year and:

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

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

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

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

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

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

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

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

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

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

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

(3) the actual or projected amount of capital investment by the eligible business in the new facility.

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

An eligible business shall file a monthly report with the Illinois Department of Revenue stating the amount of Illinois-mined coal purchased during the previous month for use in the new facility, the purchase price of that coal, the amount of State occupation and use taxes paid on that purchase to the seller of the Illinois-mined coal, and such other information as that Department may reasonably require. In sales of Illinois-mined coal between related parties, the purchase price of the coal must have been determined in an arms-length transaction. The report shall be filed with the Illinois Department of

Revenue on or before the 20th day of each month on a form provided by that Department. However, no report need be filed by an eligible business in a month when it made no reportable purchases of coal in the previous month. The Illinois Department of Revenue shall provide a summary of such reports to the Governor's Office of Management and Budget.

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

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

Section 905. The Illinois Enterprise Zone Act is amended by changing Section 5.5 as follows:

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

Sec. 5.5. High Impact Business.

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

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

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

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

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

(B) the business intends to establish a new electric generating facility at a designated location in Illinois. "New electric generating facility", for purposes of this Section, means a newly-constructed electric generation plant or a newly-constructed generation capacity expansion at an existing electric generation plant, including the transmission lines and associated equipment that transfers electricity from points of supply to points of delivery, and for which such new foundation construction commenced not sooner than July 1, 2001. Such facility shall be designed to provide baseload electric generation and shall operate on a continuous basis throughout the year; and (i) shall have an aggregate rated generating capacity of at least 1,000 megawatts for all new units at one site if it uses natural gas as its primary fuel and foundation construction of the facility is commenced on or before December 31, 2004, or shall have an aggregate rated generating capacity of at least 400 megawatts for all new units at one site if it uses coal or gases derived from coal as its primary fuel and shall support the creation of at least 150 new Illinois coal mining jobs, or (ii) shall be funded through a federal Department of Energy grant before December 31, 2010 ~~July 1, 2006~~ and shall support the creation of Illinois coal-mining jobs, or (iii) shall use coal gasification or integrated gasification-combined cycle units that generate electricity or chemicals, or both, and shall support the creation of Illinois coal-mining jobs. The business must certify in writing that the investments necessary to establish a new electric generating facility would not be placed in service and the job creation in the case of a coal-fueled plant would not occur without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B-5) the business intends to establish a new gasification facility at a designated location in Illinois. As used in this Section, "new gasification facility" means a newly constructed coal gasification facility that generates chemical feedstocks or transportation fuels derived from coal (which may include, but are not limited to, methane, methanol, and nitrogen fertilizer), that supports the creation or retention of Illinois coal-mining jobs, and that qualifies for financial assistance from the Department before December 31, 2010 ~~2006~~. A new gasification facility does not include a pilot project located within Jefferson County or within a county adjacent to Jefferson

County for synthetic natural gas from coal; or

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

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

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

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

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

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

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

(e) New proposed facilities which apply for designation as High Impact Business must provide the Department with proof of alternative non-Illinois sites which would receive the proposed investment and job creation in the event that the business is not designated as a High Impact Business.

(f) In the event that a business is designated a High Impact Business and it is later determined after reasonable notice and an opportunity for a hearing as provided under the Illinois Administrative

Procedure Act, that the business would have placed in service in qualified property the investments and created or retained the requisite number of jobs without the benefits of the High Impact Business designation, the Department shall be required to immediately revoke the designation and notify the Director of the Department of Revenue who shall begin proceedings to recover all wrongfully exempted State taxes with interest. The business shall also be ineligible for all State funded Department programs for a period of 10 years.

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

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

(Source: P.A. 93-1064, eff. 1-13-05; 93-1067, eff. 1-15-05; 94-65, eff. 6-21-05.)

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

(705 ILCS 505/8.5 new)

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

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

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

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

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

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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

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

AMENDMENT NO. 2 TO SENATE BILL 1704

AMENDMENT NO. 2. Amend Senate Bill 1704, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, as follows:

on page 13, by replacing lines 8 through 11 with the following:

"Section 50. Jurisdiction. The Court of Claims has jurisdiction concerning any public liability action arising under this Act or arising from the operation of the FutureGen Project, except that a public liability action may be brought in the circuit court if the cause of action is one of personal injury or wrongful death and the injury or death was proximately caused by the storage, escape, release, or migration of the post-injection sequestered gas that was injected during the operation of the FutureGen Project by the FutureGen Alliance, and the circuit court is"; and

on page 26, by replacing lines 19 through 24 with the following:

"Sec. 8.5. Jurisdiction concerning the FutureGen Project. The Court of Claims has jurisdiction concerning any public liability action, as defined in the Clean Coal FutureGen for Illinois Act, arising under that Act or arising from the operation of the FutureGen Project, except that a public liability action may be brought in the circuit court if the cause of action is one of personal injury or wrongful death and the injury or death was proximately caused by the storage, escape, release, or migration of the post-injection sequestered gas that was injected during the operation of the FutureGen Project by the FutureGen Alliance, and the circuit court is granted jurisdiction over these matters."; and

on page 27, by deleting line 1.

Under the rules, the foregoing **Senate Bill No. 1704**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:

SENATE JOINT RESOLUTION NO. 43

Concurred in by the House, July 17, 2007.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 820

A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 820
Concurred in by the House, July 17, 2007.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 22

WHEREAS, The increased use of technological devices has created a distraction for drivers in the State of Illinois; and

WHEREAS, The number of traffic accidents resulting from drivers becoming distracted by such technological devices as cell phones, MP3 players, car stereos, navigation systems, and DVD players has increased in the State; and

WHEREAS, The safety of those using the roadways in Illinois is being compromised by those drivers who use these devices; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there is hereby created the Distracted Drivers Task Force that shall study the problem of distracted driving in Illinois, with particular attention to the impact of recent communications technology on this problem; and be it further

RESOLVED, That the Task Force shall consist of 10 members, consisting of the Secretary of State or his or her designee, who shall serve as chair; the Secretary of Transportation or his or her designee; the Director of the State Police or his or her designee; the President of the Illinois State Bar Association or his or her designee; the President of the Illinois State's Attorneys Association or his or her designee; the President of the Illinois Association of Chiefs of Police or his or her designee; one member appointed by the Speaker of the House of Representatives, one member appointed by the Minority Leader of the

House of Representatives, one member appointed by the President of the Senate, and one member appointed by the Minority Leader of the Senate; and be it further

RESOLVED, That the members of the Task Force shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties from funds appropriated to the Office of the Secretary of State for that purpose; and be it further

RESOLVED, That the Task Force shall meet no fewer than 3 times and shall present its report and recommendations to the General Assembly no later than July 1, 2008.

Adopted by the House, April 19, 2007.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 22 was referred to the Committee on Rules.

COMMITTEE MEETING ANNOUNCEMENT

Senator Demuzio, Vice-Chairperson of the Committee on Education, announced that the Education Committee will meet today in Room 212, at 11:00 o'clock a.m.

At the hour of 10:48 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, July 19, 2007, at 10:00 o'clock a.m.